

Attachment 3

Analysis Notes from the Engagement on Burnaby's Tenant Assistance Policy

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***Disclaimer** - The following notes are based on staff's interpretation of the verbal information provided by City of Burnaby staff, and not based on direct observations in the field. As such, they are provided as a background reference towards a more comprehensive understanding of Burnaby's Tenant Assistance Policy, but may not be fully representative of individual experience. Key findings will be further investigated when staff update related components of the City of New Westminster's Tenant Relocation Policy.*

A Work in Progress

Summary: The development and implementation of Burnaby's Tenant Assistance Policy is still a work in progress. Five years into adoption staff is still learning about the nuances of implementation and the need for gradual policy adaption.

No additional notes.

Flexibility, Autonomy and Choice

Summary: Burnaby's policy is moving away from a prescriptive approach to financial and moving compensation for displaced tenants and towards flexibility. Consistent feedback from tenants in Burnaby is that they value autonomy and choice in choosing between a lump-sum payment or a replacement unit and interim support if they wish to move into a replacement unit.

Additional Notes:

Financial compensation

- As of July 1, 2024, the Tenant Assistance Policy and Rental Use Zoning Policy applied to 34 rezoning applications, with 2,017 units eligible to be replaced
- The Burnaby Renters Office has shown that 43% of households have opted for a lump sum payment, while 37% are receiving tenant secured top ups, and 20% of households are receiving applicant secured monthly rent top ups.
- During the initial policy update, there was a restriction on lump sum payments; however, ongoing and consistent feedback from tenants was that they wanted flexibility and choice. A significant and increasing portion of households are now opting for the lump sum payment option.
- Staff does not formally record why tenants chose one option over another; however, many tenants have informally shared a mistrust of developers, that they do not want to be tracked, and appreciate the ability to manage their own financial compensation. Other factors informally shared is that several tenants are choosing to leave the province, or want to put money towards alternative

housing options in the future. Some tenants have shared that they didn't believe the City would be able to ensure developers would pay the top-ups.

- Developers have also informally communicated that they much prefer the lump sum options as it is less administratively intensive than the interim housing option.
- It is a requirement of Burnaby's policy that financial compensation options must be communicated neutrally with no coercion of tenants.

Moving compensation

- Option 2, or the flat rate payment is most popular, with 81 % of tenants choosing this option. Staff does not formally record the reasons for this preference, but tenants have informally shared that this provides them with independence and flexibility, particularly as they can request that flat-rate payment even before they are ready to move out.

Differing Policy Framework and Incentives

Summary: Burnaby's 2019 Rental Use Zoning Policy works in parallel with the Tenant Assistance Policy, and sets out a framework to support the replacement of rental units. Density offset incentives under the Rental Use Zoning Policy permit additional strata density that is intended to offset the cost of providing replacement rental units on a 1:1 basis. New Westminster does not currently contain a similar incentives framework.

Additional Notes:

- City of Burnaby's 2019 Rental Use Zoning Policy sets out the framework to support the replacement of rental units throughout the City, and is a key City policy that works in parallel with the Tenant Assistance Policy.
- Density offset development incentives under the Rental Use Zoning Policy (i.e. free strata density) are additional amounts of density intended to offset the cost of providing replacements rental units on a 1:1 basis. Tenants covered by the Tenant Assistance Policy are offered right of first refusal for these replacement rental units.
- These Rental Use Zoning Policy density provisions support the financial feasibility of realizing the replacement units. However, Burnaby has just adopted a development framework based on height instead of density, and City of Burnaby staff is reviewing the implications this will have on the density offset development incentives. Tenant assistance is currently not included in Burnaby's Community Amenity Contribution calculations.

Differing Development Context and Changing Market Conditions

Summary: Burnaby's Tenant Assistance Policy is moving forward where a significant density is permitted through community plans, such as the Metrotown Downtown Plan.

However, significant changes in the market have affected the viability of realizing policy requirements even under high-density entitlements.

Additional Notes:

- Burnaby's Tenant Assistance Policy appears to be moving forward because of the amount of development permitted through Community Plans. Specifically, this is most evident in the Metrotown neighborhood, which permits a lot of density that developers are able to take advantage of to offset the cost implications of delivering Tenant Assistance Policy requirements.
- There are significant commonalities between the rezoning applications where the Tenant Assistance Policy applies. Notably, most of the projects are in the Metrotown area, and on subject lots that were previously occupied by 2-4 story wood frame walkups built in the 60/70s era.
- There was a significant concentration of these older purpose-built rental homes in the Metrotown neighborhood, which was a geographic overlay of the Metrotown Downtown Plan that provided unprecedented density to that area, making it very attractive for redevelopment. This initially resulted in a flood of applications and significant demovictions and tenant displacement. This brought about a change of Council, and a subsequent moratorium on redevelopment until the Rental Use Zoning Policy and Tenant Assistance Policy were developed, both of which would apply to all future projects in the area.
- Under current market conditions, even with this amount of density permitted, some applications have communicated that they are struggling to realize Tenant Assistance Policy requirements.

Limited Information on Completed Projects

Summary: Since initial adoption of the updated Tenant Assistance Policy in 2020, only one project has been completed that has offered tenants a replacement unit. However, this was under the old compensation framework (2018) where tenants were not required to receive interim housing supports.

Burnaby does not have an example of a project that has gone through the full implementation of the updated policy, including financial compensation under the updated framework. This is a significant financial and administrative cost. Several projects under the updated policy are projected to be complete in the next 2 years, which will provide an additional learning opportunity to monitor and then examine as part of future updates to the policy

Additional Notes:

- Since initial adoption of the updated Tenant Assistance Policy (2020), only one project has been completed and has offered tenants a replacement unit, at 6525 Telford. However, at this site tenants were compensated under the 2018 version of the policy that required a minimum equivalent to 3 months' rent compensation.

These tenants were not receiving a top-up in the interim period, and presumably they could afford where they were living before getting an offer to move back to the Telford site.

- One of the requirements of the policy is that the developer submit a final report that outlines who moved in, why and why not. At 6525 Telford, only 63% of eligible tenants accepted a replacement unit. Key reasons shared as to why some tenants did not move back is: because they were happy where they were situated, were settled in new community, and could afford the rent; family grew and the policy of 1 for 1 replacement did not apply; and, some tenants had unfortunately become deceased in the interim.
- Several other projects are still moving forward, and at the time of the discussion approximately 700 tenants were in interim housing successfully receiving compensation.

Staffing Implications

Summary: Robust tenant protection can be intensive from a staffing perspective. Burnaby's policy is administratively time consuming and complex. With a high volume of eligible applications, administration of the policy requires dedicated and significant staffing resources across the planning department, and requires support from legal, financial services, and bylaws.

Additional Notes:

- Burnaby's Tenant Assistance Policy is administratively time consuming and complex, and requires a dedicated staff team.
- Burnaby has developed a policy implementation guide, which is 54 pages and still missing some details.
- The Burnaby Renter Office within the Housing Division is designed to field inquiries about the Tenant Assistance Policy and is currently solely managed by the Tenant Assistance Planner. The name is misleading as it is neither an office with a team of planners, or designed to field other types of tenancy inquiries and issues.
- The Burnaby Renter Office fields between 10 and 20 Tenant Assistance Policy inquiries per week. The challenge is balancing immediate inquiries, following up on the specific requirements of the policy with developers, supporting tenants, and all while considering long-term and strategic updates to the policy.
- A significant portion of the time consumed for the Tenant Assistance Planner, housed in the Community Planning division, involves working with development planners to implement policy. The Tenant Assistance Planner oversees all of the rezoning files where the Tenant Assistance Policy applies, ensuring requirements are being completed by TRC, following up with tenants, while building up policy implementation processes and recommending updates.

- Involvement by other divisions and departments at the City of Burnaby includes:
 - Legal prepares legal agreements and covenants. Legislative services manages numerous FOI requests.
 - Subdivision prepares the bonding amounts and payments.
 - Finance is involved when there is a default on payments and if the City has to pay top-up on behalf of the developer by cashing bonds.
 - The Mayor's office regularly coordinates responses to tenant inquiries.
- The key legal documents that secure the Tenant Assistance Policy are Housing Agreements and Section 219 covenants. The covenant secures the broad obligations of compensation, and outlines the bond amount, terms for return and circumstances where the bond can be cashed. The housing agreement secures details around the replacement units (e.g. number of units, affordability, terms of tenancy etc.)
- The Tenant Assistance Form is the main administrative document that is filled out by tenants which documents contact information and the type of compensation they would like to receive. Council directed staff to collect the Tenant Assistance Forms; however, this is a major administrative load that should be streamlined.
- The Subdivision Division prepares the Tentative Approval Letter (covers all conditions of final adoption) and shares the Housing Agreement templates, while the in-house legal team finalizes the documents.
- Tenant Relocation Coordinator (TRC) have the primarily responsible for tracking, administering and updating the provisions of the tenant agreements and other legal document; however City staff end up taking on a significant portion of this responsibility, even without clear internal systems in place.
- Coordination and implementation of a tenant assistance policy should be housed within the development planning division, which should primarily focus on implementation of the adopted policy/bylaw (e.g. overseeing specific rezoning Tenant Assistance Policy project requirements). Separate policy staff should be allocated to support ongoing and high-level policy evaluation, review and updates.
- Having an implementation strategy in place prior to policy adoption is paramount. This includes a good training program and guides for staff, developers, tenants and other parties.
- Cities should avoid rolling out new tenant assistance polices when there is a major backlog of development applications, as administering the policy under these conditions will consume significant staff time throughout the whole planning department.

Impacts on Tenants

Summary: There is mixed reaction to Burnaby's strengthened policy, with a general sentiment that more can be done. Displacement for any period of time is difficult, as many affected tenants rely on established connections with surrounding community resources. A key concern for tenants is the insecurity associated with in-stream projects, which can last several years and sometimes with uncertain development viability.

Additional Notes:

- Overall there is mixed reaction to the strengthened Tenant Assistance Policy.
- Planners in other jurisdictions often report to Burnaby planners that tenants in their community would like to see the same level of compensation; however, even in Burnaby the general sentiment is that more can be done.
- Even with the compensation received, it still doesn't feel sufficient and the overall impact of displacement from established community is always difficult.
- A key concern of tenants is the uncertainty associated with the many in-stream projects (which can last several years). It is hard for tenants tied to projects that are stuck in the redevelopment process.
- There isn't a formal mechanism for tenants to provide feedback and directly inform policy administration; however, the Tenant Assistance Planner regularly received complaints and recommendations, and logs all correspondence to inform future updates.
- Burnaby's Tenant Assistance Policy does not currently contain a robust enforcement mechanisms (e.g. ticketing) to ensure that applicants abide by its requirements. This is a main reason why staff is looking to transition the policy to a bylaw through the enabling legislation of Bill 16.
- A common complaint from tenants pertains to what can be done when rezoning applicants are not paying on time. The Tenant Assistance Planner is the first line of defense to encourage applicants to abide by policy requirements.
- The main informal reinforcement mechanisms include: the policy requirements are a conditions of rezoning and an application can be impacted if policy obligations are not fulfilled; the covenant can require that policy obligations are met in order to receive occupancy permit; and, the City can cash the bond and start paying top-ups and lump sums on behalf of the applicant until they resume or there is a new owner.

Impacts on Developers

Summary: Burnaby's policy has not deterred experienced developers from adding to housing supply, for whom the policy is understood as the cost of doing business. However, less established developers, particularly those trying to break into the market

and who may have overpaid for land, are in a more challenging situation with regard to making projects financially viable, including related to policy requirements. In most cases, the developer is the property owner when beginning to engage with the policy.

Additional Notes:

- Burnaby staff is not of the opinion that the updated policy has deterred developers from working in Burnaby and from adding overall housing supply in the City. There is always a lot of applications on the go.
- Initially, some developers were not happy when the updated policy was introduced, but established developers have accepted the policy and understand this as the cost of doing business in Burnaby.
- Anecdotally, staff understand that the less established developers, particularly those who were trying to break into the market and who may have overpaid for land are in a more challenging situation with regard to making project financially viable.
- While staff has not formally undertaken a general Tenant Assistance Policy pro-forma analysis, it is overall understood that Inclusionary Housing policy and its level of affordability required has a larger financial impact on project viability. In the grand scheme of things, the Tenant Assistance Policy appears to be one of the smaller costs of doing development in Burnaby.
- In most cases, the developer is the landlord and owner of the property when it begins engaging with the Tenant Assistance Policy.
- Staff is not aware of any instances where landlords are choosing not to re-tenant units in order to avoid future requirements and costs associated with the strengthened Tenant Assistance Policy. However, this was occurring prior to the 2020 Tenant Assistance Policy, where landlords were emptying their buildings then submitting applications hoping for a more expedited rezoning and demolition.
- There is a Tenant Assistance Policy condition that if the City of Burnaby finds that a unit was vacated within 24 months prior to the rezoning being filed, the City can require that the last tenant in the unit be determined eligible. A challenge is that landlords or a rezoning applicant often do not record contact information for previous tenants. In response, the City publishes a list of all rezoning applications on the website to provide information on eligibility for those who lived in a building in a certain time period.
- When rezoning is in place and there is an expectation that demolition is on the horizon, staff has seen that maintenance can fall to the wayside. Sometimes rezoning limbo can take years. While the Tenant Assistance Policy specifies that maintenance is required through to demolition, Burnaby does not yet have a Standards of Maintenance Bylaw and lacks enforcement tools,

Policy Evolution and Anticipated Updates

Summary: Burnaby's policy is still recognized as one of the most progressive tenant assistance policies in the province. Since the initial comprehensive policy update in 2020, followed by minor amendments in 2022 and 2024, staff is not considering additional substantial tenant assistance provisions in the near future.

Additional Notes:

- It is still recognized that Burnaby's Tenant Assistance Policy is one of the most progressive policies in the province in terms of supporting and protecting tenants. Municipalities in the region continue to engage Burnaby on their approach. Most notably, Vancouver's recent Broadway Plan mirrored Burnaby's Tenant Assistance Policy requirements.
- Since the initial Tenant Assistance Policy update in 2020, and with subsequent updates in 2022 and 2024, staff has not undertaken any additional comparative policy analysis of similar policies in the region.
- Burnaby is not currently looking at any additional and significant tenant assistance provision to improve the current policy.
- Burnaby staff is considering the opportunities stemming from Bill 16 and the approach of transitioning requirements of the Tenant Assistance Policy into a bylaw.