

June 15, 2022

To:

Councillors Glen Gower, Scott Moffatt,
Co-chairs, Planning Committee

Matthew Luloff,
Chair, Community & Protective Services Committee

City of Ottawa
110 Laurier Avenue West
Ottawa, ON K1P1J1

Dear Members of the Planning Committee, Community and Protective Services Committee (CPSC), and
Ottawa City Council

RE: Ottawa Renovictions Approach

I am writing on behalf of the Right to Housing Ottawa Coalition (R2HOttawa). We are a coalition of service providers and housing advocates working together to advance the right to housing in the City of Ottawa. The Coalition emerged in response to the housing affordability and homelessness crisis, recognized as an emergency by Ottawa City Council in January 2020, and recognition of housing as a human right by the Government of Canada through the National Housing Strategy Act. The work of the Coalition is undertaken in coordination with other efforts to advance access to equitable and affordable housing in the City of Ottawa.

Background:

Like many municipalities across Canada, Ottawa is in the midst of a rental housing affordability and homelessness crisis. While all residents are impacted, the housing affordability and homelessness crisis is most acutely felt by lower income renters. CMHC's 2021 Rental Housing Report found that only 15% of the City's rental housing stock is affordable to the 40% of renter households with the lowest annual incomes (annual incomes below \$42,000).¹ This means that there is a significant shortfall in supply of affordable rental housing, relative to demand. As a result, many of Ottawa's residents living on lower incomes are in core housing need.² A household in core housing need is living in housing that does not meet one or more of the standards for adequacy, suitability or affordability. People in core housing need have to spend 30% or more of their before-tax household income to access local housing that is adequate and suitable.³ As such, lower income renter households are being forced to make difficult decisions between paying unaffordable rents and paying for other necessities like food and

¹ <https://assets.cmhc-schl.gc.ca/sites/cmhc/professional/housing-markets-data-and-research/market-reports/rental-market-report/rental-market-report-2021-en.pdf?rev=a5a0eaac-6f70-4058-8aa3-e6d307685910>,
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² <https://twitter.com/ubcHART/status/1536408138022277120/photo/1>

³ <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/core-housing-need/identifying-core-housing-need>

transportation. In fact, recent reports indicate that 61% of Canadians see “cost of housing” as the largest financial obstacle preventing them from being able to afford food.⁴

In addition, experience from other jurisdictions indicates that in housing markets with a high degree of financialization, renovictions pose a threat to the protection of existing affordable rental stock. As articulated by City Staff, the term renoviction refers to evictions “that occur when a landlord undertakes renovations to a rental property and then replaced the evicted tenants with those who would pay higher rent after renovations.”⁵ In effect, tenants are pushed out of their existing neighbourhoods and communities, while resulting in the loss of the affordable housing stock. Similar trends in the loss of affordable rentals is taking place through “demovictions” – a process where tenants are evicted and the rental units are demolished and converted into higher rent rentals, condominiums or commercial spaces.

In this context, it is imperative that the City do everything within its authority to maintain Ottawa’s scarce supply of affordable rental housing and to protect lower income tenants from being displaced from their communities. This approach is in line with the principles of the right to housing where all residents can access housing that is secure, adequate and affordable.

The Coalition was encouraged by City of Ottawa’s initiative to “Review Tools to Prohibit or Prevent “Renovictions””, the results of which are currently under review by the Joint Community and Protective Services Committee and Planning Committee. However, we believe that the City’s findings fall short in recommending a comprehensive and proactive approach to addressing renovictions and demovictions that leverages the full range of regulatory and non-regulatory tools available to the City to address these critical issues. Outlined below are the Coalition’s recommendations to strengthen the City’s approach to prevent the loss of the city’s affordable rental housing stock.

Our Recommendations:

(1) Strengthening Ontario’s Residential Tenancies Act (RTA)

The Coalition commends the City for its efforts to work with the Provincial Government to strengthen the RTA and other relevant legislation to more effectively protect tenants’ security of tenure and maintain the affordable rental stock. While the RTA provides tenants impacted by legal renovictions with a right of first refusal, the current articulation imposes significant barriers to tenants exercising this right. For example:

1. The onus is on the tenant to give the landlord written notice to invoke their right of first refusal *before* they move out. Failure to do so will result in the tenant losing their unit as soon as they move out.
2. The landlord has little incentive to tell the tenant when the renovations are complete, especially if they would rather re-rent the unit to a different tenant for a higher rent.
3. When the tenant finds out the renovated unit is ready, they may not be able to accept it because they have a lease elsewhere or have made other commitments.
4. Where a landlord fails to afford a tenant their right of first refusal, the monetary compensation they owe the tenant does not fully compensate them for the loss of their home.

⁴ [New Food Banks Canada Research Shows 7 Million Canadians Report Going Hungry \(newswire.ca\)](#)

⁵ [Subject matter - Report to Committee \(ottawa.ca\)](#)

5. Where a landlord fails to afford a tenant their right of first refusal, the financial penalties to the landlord are often much lower than the benefit they gain from re-renting the unit at higher rents. In some instances, it may be in the landlords' interest to violate tenants' rights (e.g. [2019 CanLII 87012 \(ON LTB\) | TST-90503-17 \(Re\) | CanLII](#)).

As such, strengthened provincial legislation that addresses the current barriers would set important standards for the protection of the rights of tenants impacted by renovictions in Ottawa, and across Ontario.

Recommendation 1: The Coalition recommends that the City advocate for the following amendments to the RTA, so that tenants can meaningfully exercise the right to keep their homes after a renovation:

1. Landlords should be automatically required to offer all tenants a right of first refusal after renovations (not dependent on tenants giving a notice).
2. The RTA should explicitly require landlords to keep tenants informed of the progress of the renovations, including expected completion date, and notify them of any delays or other changes. There should be meaningful penalties if a landlord fails to do so.
3. Once a unit is ready to be re-occupied, the landlord should be required to hold it for the tenant for a reasonable amount of time, so that the tenant can end an existing lease and make arrangements to move.
4. Where a landlord fails to afford a tenant their right of first refusal, they should be required to adequately compensate the tenant, based on a standardized formula.

The City also has an essential role in protecting renters in Ottawa and preserving the city's scarce affordable housing stock. Accordingly, it must take immediate actions to implement municipal measures to prohibit renovictions and protect tenants living in affordable rental housing – as addressed in recommendations two to five.

(2) Adopting a Rental Replacement By-Law

The Coalition also supports the City's recommendation to explore the adoption and implementation of a by-law under Section 99.1 of Ontario's Municipal Act, to prohibit the full or partial demolition or conversion of residential and rental housing without a permit. This would strengthen the City's existing Demolition and Rental Unit Conversion Control By-law, which currently does not require developers to rebuild a similar number of rental units or maintain affordability of re-built rental units. While this does not directly address the issue of renovictions, it is an integral component of a comprehensive approach to maintaining affordable rental housing stock and strengthening access to affordable housing for lower income tenants.

We encourage the City of Ottawa to consider by-laws adopted in other jurisdictions that have attempted to prevent the loss of rental housing and the displacement of residents. For example, the City of Toronto's Demolition and Rental Replacement Policy leverages the City's permitting process to ensure that rental units, in particular affordable rental units, are not lost in redevelopment. Critically, the policy is applied in conjunction with the City's Tenant Relocation and Assistance plan, which articulates the rights of tenants affected by redevelopment.⁶ This is important as the redevelopment process can often

⁶ [Housing – City of Toronto](#)

take years, and the City must implement a framework to support temporarily displaced tenants in the intervening period.

Recommendation 2: Accordingly, we recommend that Ottawa’s rental replacement by-law impose the following conditions in the development permitting process:

1. The developer replaces demolished rental units with an equal or greater number of the same type of units of a comparable size (i.e. with the same number of bedrooms).
2. The developer maintains the affordability of units at previous levels. In other words, rents should remain the same in units where previous rents were equal to or less than what the City defines as affordable, based on the definition outlined in the Official Plan.
3. Tenants displaced from their units as a result of re-development are given rights of first refusal to return to their unit after redevelopment to continue their tenancy at the same rent, in accordance with the RTA. If tenants are to be provided with a replacement unit, it must be of a comparable size and rental price to their original unit.
4. For new/unoccupied affordable units, the developer establishes and implements a fair and transparent process for the identification of new tenants, based on need/income testing.

Additionally, consistent monitoring, oversight and data collection is required to ensure that units are being replaced, tenant supports are in place, and the process for identification of new tenants for affordable units takes a needs-based and rights-based approach.

While the R2HOttawa coalition supports the City’s recommended responses, outlined in the report to the Joint CPSC and Planning Committee (16 June 2022), we believe that the City of Ottawa must implement additional regulatory and non-regulatory measures. These additional measures are key elements of a proactive and comprehensive response to renovictions and to protecting Ottawa’s affordable rental housing stock.

(3) Adopting a Renoviction By-law

Recognizing municipalities’ limited scope of authority, as articulated in Ontario’s Municipal Act, we recommend that Council leverage its existing permitting powers to strengthen protections and accommodations for tenants evicted as a result of renovations. We note that the RTA provides a definition of and framework to prohibit “illegal renovictions.” In addition, the Act states that building permits and vacant possession must be required in order for a landlord to issue a notice of termination of a tenancy for the purpose of repairing or renovating a unit.

In this context, there is additional scope for the City of Ottawa to enact a by-law that enhances the protections provided through the RTA, with the objective of developing a robust framework of tenant protections for those impacted by renovictions. In this way, the bylaw would not frustrate the provisions outlined in the RTA, but rather compliment them.

Recommendation 3: The City of Ottawa enact a by-law that imposes additional conditions on the permitting process for renovations that strengthen protections for tenants impacted by renovictions, with the objective of avoiding longer term displacement. A strong renovictions by-law would impose the following responsibilities on landlords undertaking renovictions, once the LTB has established that evictions will be necessary to undertake renovations:

1. The landlord must enter into a new lease agreement with the tenant at the same rent and in a comparable unit in the same building (or comparable building, with agreement from the tenant).
2. OR the landlord must enter into an agreement with the tenant that they will return to the renovated unit under the terms of the existing lease agreement and that they will be provided temporary accommodation during the renovation period.
3. The landlord must undertake meaningful and transparent engagement with all affected tenants to ensure they are aware of and fully understand available renovictions protections.

(4) Adopting a proactive Property Standards Enforcement By-law

While the City, with the support of Staff, has previously considered the implementation of a mechanism to proactively enforce property standards in larger multi-tenant buildings, such a by-law should be further explored and adopted by the City as a pilot program. Similar property standards enforcement by-laws have been adopted in other Ontario municipalities including Toronto, Mississauga, London, Waterloo, Oshawa and North Bay, and Ottawa has an existing by-law for landlord licencing applied to rooming houses. Thus, there is a strong precedent for municipalities to proactively enforce property standards. While this mechanism requires additional considerations to be effective, Ottawa has the advantage of leveraging the insights and good practices of other municipalities in developing its approach. To provide further scope for learning and adaptation of Ottawa's own property standards by-law, we recommend this program be implemented as a pilot project.

Recommendation 4: The City enact a proactive Property Standards Enforcement By-law pilot, building on the best practices from other municipalities in the province.

(5) Empowering impacted populations

In addition to the above outlined regulatory responses, the City has the authority to undertake important non-regulatory measures that would empower impacted populations - namely lower income tenants and those impacted by renovictions or demovictions - to effectively understand and claim their rights and responsibilities. The City should also meaningfully engage with impacted populations in the development of policies and programs, which is also a core component of a rights-based approach.

Furthermore, members of R2HOttawa coalition have been closely monitoring good practices and lessons from the City of Toronto to strengthen tenant supports and education.⁷ Notably, Toronto has a Tenant Defence Fund which provides legal information, support grants and outreach services for legal representation for eligible tenant groups to dispute certain landlord actions. The City has also established a permanent Tenant Advisory Committee to provide guidance and advice to the municipal government on actions impacting low-income tenants.

Recommendation 5: We recommend that the City of Ottawa immediately implement the following measures:

1. Introduce information and education initiatives to increase tenants' knowledge about their rights and available resources. These initiatives should include information about: changes of ownership; buy-outs and N13 notices; RTA accommodations; accountability and recourse

⁷ <https://right2housingto.ca/wp-content/uploads/2022/01/Rights-Review-Access-to-Justice-full.pdf>

mechanisms. The City should proactively initiate such education initiatives with tenants once a redevelopment or renovation permit has been granted.

2. Establish a funding stream that supports tenants, based on models from Toronto and Hamilton, which includes: a tenant hotline; financial/legal assistance to groups disputing above guideline rent increases, renovictions, demolitions and maintenance and repair issues.
3. Explore options for the establishment of a permanent tenant advisory group to support Council in future actions that impact lower income tenant communities.

These efforts should be further strengthened through ongoing outreach, engagement, education and monitoring of illegal renovictions and ensure that landlords are meeting their responsibilities to accommodate tenants during renovations, demolitions and replacements.

In sum, effectively regulating renovictions and demovictions is essential to maintaining Ottawa's scarce stock of affordable rental housing and stabilizing housing for lower-income tenants. The above outlined recommendations represent a comprehensive strategy to prevent renovictions and advance a rights-based response to Ottawa's housing affordability crisis.

We look forward to providing more of our housing expertise and welcome further discussions with the City to ensure its housing initiatives are effective and rights-based.

Sincerely,

A handwritten signature in blue ink that reads "Sean Keddy". The signature is written in a cursive style and is underlined with a single horizontal line.

Sean Keddy

On behalf of the Right to Housing Ottawa Coalition.