

**DRAFT**

**CITY OF TORONTO  
HOUSING DEPARTMENT  
PLANNING AND DEVELOPMENT DEPARTMENT**

July 23, 1996

TO: City Council

SUBJECT: Analysis of the Province's Consultation Paper on the Proposed Tenant-Protection Legislation

ORIGIN:

**RECOMMENDATIONS:**

1. That City Council reaffirm its position strongly urging the Province of Ontario to abandon the proposed tenant-protection legislation and that the current Rent Control Act, Rental Housing Protection Act and Landlord and Tenant Act be maintained.
2. That, should the Province continue with its planned tenant-protection legislation in spite of the negative impacts that the proposed changes would have on tenants and rental units across Ontario, the government ensure that, at a minimum, the following elements are included in any new legislation:
  - a. With respect to rent control that:
    - it be consistently applied to both occupied and vacant units;
    - the existing statutory guideline for annual increases be maintained;
    - above-guideline rent increases for capital expenditures and extraordinary operating costs not exceed the current 3%;
    - the "costs no longer borne" calculation be continued and that any costs incurred for capital expenditures be deducted from the rents once the costs have been fully recovered; and
    - the rent registry or similar system be maintained to allow tenants to access information related to rent increases and that a mechanism be established to ensure that rents are adjusted accordingly to reflect any decreases in operating costs.
  - b. With respect to changes to the Rental Housing Protection Act that:
    - municipalities continue to have clear authority to control the loss of rental units due to conversions to other uses, demolitions, major renovations and severances; and,
    - municipalities retain the ability to impose conditions concerning matters such as rents to be charged and compensation for tenants when dealing with such proposals.

- c. With respect to maintenance and enforcement of property standards that:
  - the current system of using Orders for Prohibiting Rent Increases (OPRIs) as a means of ensuring compliance with property standards be maintained;
  - heavy fines be imposed on landlords who are found guilty of failing to meet legal maintenance standards, and that the City be given sufficient authority for ensuring that maintenance standards are met; and,
  - building-specific capital reserve funds be established by landlords out of the current rents and guideline increases, and that the generation of these funds not come from any extra charges being imposed on tenants.
- d. With respect to proposed changes to the Landlord and Tenant Act that:
  - the courts continue to have an important role in resolving landlord-tenant disputes; and
  - further clarification be made on any anti-harassment measures to be introduced.
- e. With respect to the creation of a dispute-resolution system that:
  - tenants have the right to appeal rent increases and other unfair decisions;
  - decision makers be impartial and independent and not selected by political appointment;
  - decision makers have extensive knowledge of landlord and tenant issues; and;
  - any system developed be accessible, and affordable to tenants.

## **EXECUTIVE SUMMARY:**

On June 25, 1996, the Ministry of Municipal Affairs and Housing released a consultation paper entitled "Tenant-Protection Legislation -- New Directions for Discussion". This consultation paper outlined the government's proposed directions for new legislation governing landlord and tenant relationships and is part of the government's larger proposal to consolidate the Rent Control Act, the Landlord Tenant Act, the Rental Housing Protection Act, the Municipal Amendment Act, the Residents' Rights Act, and the Land Lease Statute Law Amendment Act.

The government has stated its intention to introduce first reading of its tenant-protection legislation this fall with passage and implementation by the Spring of 1997. The consultation paper gives interested parties until August 30, 1996 to make submissions on the issues under discussion. A committee of the Legislative Assembly of Ontario will conduct hearings across the Province on the proposed changes, from August 19 to September 6, 1996.

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This report was prepared jointly by staff from the Housing, and Planning and Development Departments in consultation with the Buildings and Inspections, and Legal Departments. It was also prepared with assistance from Tim Welch of Tim Welch and Associates, the consultant who has been working with the City on this matter. This report will form the basis of the City's written submission to the Province.

In this report, the government's proposed changes are examined in the context of their stated goals and with regard to the implications for the City of Toronto. This report focuses largely on the Rent Control Act, the Rental Housing Protection Act and the Landlord and Tenant Act. The two major areas of changes that would have the greatest impact on the City of Toronto are the removal of rent control for vacant units and elimination of the Rental Housing Protection Act.

It is evident in reviewing the government's consultation paper that the proposed changes would erode options available to renters living in the City of Toronto and result in tenants being even more vulnerable. Specifically:

- it is anticipated that rent increases could conceivably be much higher than under the current system, as the allowance for capital expenditures has been increased, along with a new provision which permits increases for significant property taxes and utility costs;
- the Ministry itself recognizes that there will be greater pressure for evictions and tenant harassment, as evidenced by its proposal to develop anti-harassment measures;
- unlike the existing Rental Housing Protection Act which protects both tenants and units, the proposed legislation will eliminate the protection for units, and, in doing so, also substantially weaken the current protection for tenants; and,
- the proposals have marginalized tenants by eliminating reporting requirements for landlords and by removing their access to information through the Provincial Rent Registry office.

The Province has also suggested that the proposed changes will help to create a better climate for investment in maintenance and new rental construction. The Province in their consultation paper states that "one of the problems with the current system is that it discourages capital investment both in existing buildings and in new supply". The Province goes on to suggest that "the result is that many tenants are living in buildings that desperately need repair work but can not easily find another place to live because new buildings are not being built". This is not entirely accurate. Industry reports show that rental housing in Ontario is one of the most stable investments, delivering a 10% return on investment over the past ten years. Consequently, it

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would seem that money should be available for landlords to ensure that existing buildings are well maintained.

With respect to new rental construction, there are a number of factors to take into consideration. The Rental Industry report "Private Rental Construction: Barriers, Prospects, and Strategies" published last fall identified a list of impediments to the construction of new rental housing. This list included high economic costs, restrictive lending policies, and high interest rates. The removal of rent control and the changes currently being proposed by the government would have little impact in addressing these barriers and consequently would have little impact in stimulating new construction as the government is proposing.

Given the evidence that the changes proposed will not result in the construction of additional units and given the detrimental impact that these changes will have on the rental stock and for renters in Ontario, it is recommended that City Council reaffirm its position that the Province abandon its proposed tenant-protection legislation and that failing that, Council make specific recommendations to the Province concerning essential elements that should be incorporated into any new legislation that is developed.

## **BACKGROUND**

At its meeting on June 27, 1996, the Sub-Committee to Save Rent Control had before it the government's consultation paper. After some general discussion of the changes being proposed, staff were asked to report back to the Sub-Committee to Save Rent Control at their next meeting with a preliminary analysis of implications for the City of Toronto.

Given the timing of the government's consultation process and the deadline of August 30, 1996 for making written submissions to the Ministry, the Sub-Committee to Save Rent Control requested that the staff report be finalized and forwarded directly to Council for discussion at its meeting August 12, 1996.

This report was prepared in response to this request and provides a brief summary of the proposed changes as well as a discussion of the implications for the City of Toronto. The report looks at the government's proposed changes in six broad areas:

1. protection from unfair rent increases and changes to the Rent Control Act;
2. elimination of the Rental Housing Protection Act and new security of tenure provisions;
3. changes to the Landlord and Tenant Act and additional anti-harassment measures;
4. the creation of a dispute resolution system;
5. enforcement of property standards and maintenance; and
6. changes in the operation of care homes and the Residents' Rights Act.

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## 1. PROTECTION FROM UNFAIR RENT INCREASES AND CHANGES TO THE RENT CONTROL ACT

One of the goals of the government's new tenant-protection legislation is to protect tenants from unfair or double-digit rent increases, evictions, harassment and to provide strong security of tenure. At the same time, they are proposing:

- decontrolling rents for vacant units;
- raising above-guideline increases for capital expenditures to 4% and allowing additional increases based on higher than average increases in property taxes or utility costs;
- eliminating the requirement that repair costs which have already been paid for, or "costs no longer borne", be deducted from rents;
- eliminating the Provincial Rent Registry Office and other administrative requirements; and,
- eliminating rent control for new buildings.

The potential implications of these proposed changes are discussed below:

### 1.1.1 *Proposed Change - Vacancy Decontrol*

The current rent control legislation establishes annual guidelines to limit maximum rent increases for all units thereby protecting all tenants including both sitting tenants and new tenants moving into a vacant unit. Under the government's proposed changes, only sitting tenants would be protected by rent control. Specifically, when a tenant moves out of a rental unit, the incoming tenant could initially be charged whatever the landlord decides. Controls would be reinstated for new rents for only as long as the new tenant remains in the unit.

### 1.1.2 *Implications for the City of Toronto*

- A substantial number of units will be decontrolled within a short period of time, with the potential for resulting rents to be much higher than current levels.
- Based on an industry report published last fall, on average about 25% of the tenants in the Province move each year, with an estimated 70% of tenants moving once every five years. This means that the majority of the units currently under rent control will be

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decontrolled over the next five years, having significant implications on the available stock of affordable rental units.

- Contrary to the government's belief that the proposed changes will give tenants more choices in where they live, tenants may be reluctant to move to other rental units for fear that they will lose the rent control protection that they now have. This may result in a situation where there is actually less choice available to tenants.
- There is the potential that landlords may try to coerce or harass tenants into moving out of their units, thereby allowing them to increase their rental revenue.

#### ***1.2.1. Proposed Change - Raising of the Above-guideline Increases***

The current rent control legislation limits rent increases above the guideline to 3%. The 3% limit applies to both capital repairs and extraordinary operating costs. Under the government's new proposal, landlords will be able to apply for and receive capital expenditure increases of up to 4% above the guideline, plus additional rent increases based on higher than average increases in property taxes and utility costs. In addition, the government is considering whether rent increases could also be applied to unnecessary capital expenditures or luxury renovations.

#### ***1.2.2. Implications for the City of Toronto***

- There is no doubt that the proposed changes will result in higher rents and less predictability for tenants than would occur under the current Rent Control Act.
- There is a higher likelihood of economic eviction of tenants.
- The lack of a limit on rent increases due to increases in property taxes could pose a concern if there are increases in the property taxes for rental properties as a result of the Province's proposed changes to the property tax system.

#### ***1.3.1. Proposed Change - The Elimination of the Provincial Rent Registry Office and Other Administrative Requirements***

In order to simplify administration, the government is proposing the elimination the Rent Registry Office and specific reporting requirements for landlords. Landlords will also no longer be required to provide tenants with operating cost information. In addition, maximum rents, which list the services included in the rents, will no longer be calculated.

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### *1.3.2 Implications for the City of Toronto*

- The elimination of the Provincial Rent Registry Office means that sitting tenants who are protected by rent control will no longer have access to essential information regarding rent increases nor will they be able to monitor the fairness of their landlord.
- Tenants will no longer have access to information about operating costs which have contributed to higher rents and therefore will be in a weaker position to appeal decisions or to receive a rent reduction in the event that operating costs decrease.
- Property taxes or utility cost information will no longer be readily available. If the government's proposed restructuring of the property tax system were to result in a decrease in property taxes, there would be no way of ensuring that rents are reduced accordingly.
- Without the Provincial Rent Registry office it will be more difficult to monitor the industry as a whole.

### *1.4.1 Proposed Change - The Elimination of The Requirement for the "costs no longer borne" calculation*

Under the current law, once tenants have paid for repairs through rent increases, their rents are reduced. This provision which is known as the "costs no longer borne" calculation will be eliminated under the proposed changes.

### *1.4.2 Implications for the City of Toronto*

- The elimination of the "costs no longer borne" calculation means that tenants will continue to pay a higher rent for capital repairs even if their rent increases have already paid for the cost of the repair item.

### *1.5.1 Proposed Change -- No Rent Control for New Buildings*

The government is proposing that there will be no rent control for new buildings. This proposal is based on the assumption that by removing rent control, there will be more capital investment in new rental housing construction.

### ***1.5.2 Implications for the City of Toronto***

- Currently, there is a five year exemption from rent control for newly constructed rental units and this has not resulted in additional rental construction.
- Given the costs to build rental housing are high, it is unlikely that the proposed changes will be enough to stimulate new rental construction. A report released last fall indicated that there are a number of impediments to new rental construction including high interest rates, restrictive lending policies, and high economic costs.
- The experience of other Provinces (i.e. British Columbia) would suggest that any new construction is likely to be in the form of higher-priced condominiums as opposed to new rental construction.

## **2. ELIMINATION OF THE RENTAL HOUSING PROTECTION ACT AND NEW PROVISIONS FOR SECURITY OF TENURE AND CONVERSIONS**

The Rental Housing Protection Act which limits the conversion, demolition, renovation and severance of rental property will be repealed, and replaced with some protection for tenants under the new Tenant-Protection Act.

### ***2.1 Proposed Changes***

- Demolitions, major renovations, and conversions of rental buildings to condominiums or cooperatives will no longer require municipal approval.
- The Province has stated that the focus of protection will change from protecting the unit to protecting sitting tenants.
- Sitting tenants will be given an extended tenure.
- Sitting tenants will have the right of first refusal to purchase their units in the case of conversion to condominiums.

### ***2.2 Implications for the City of Toronto***

- The removal of the RHPA would result in a substantial loss of rental units due to demolitions, conversions, extensive renovations and severances at a time when the rental vacancy rate is extremely low. Based on historical data many rental units were lost due to condominium conversions alone prior to the RHPA coming into effect (ie. 1,929 units



were converted from 1968 to 1985, as compared to only 20 units since the RHPA in 1986).

- Not only will the proposed changes eliminate the current protection for units but tenant protection will also be greatly diminished. The existing RHPA protects both units and tenants. The Act allows municipalities to require the replacement of rental units at similar rents, and the relocation of tenants into units of similar rent and quality. In addition, the City can impose other conditions which could include among other things, compensation for tenants' moving costs, phasing of work to minimize tenant disruption, and the right of first refusal on new/renovated/converted units at similar rents.
- It is clear the tenants would have virtually no say about demolitions, substantial renovations, or conversions to other uses under the proposed legislation. The only protection tenants would be offered is extended tenure, and the right of first refusal for converted units.
- The Ministry's provisions for extended tenure is questionable if the RHPA is eliminated. The Landlord and Tenant Act requires that tenants be given 120 days notice before their units can be demolished, converted, or undergo major renovations. Prior to this notice, RHPA approval is required. This could take several months. If the RHPA is eliminated, then it is likely that the overall notice period will be shorter.
- The Ministry is also proposing that in the case of a conversion to condominiums, sitting tenants will have the right of first refusal to purchase their units. However, right of first refusal will provide little security for those tenants who are unable to afford the unit purchase prices and who are unable to find affordable accommodation.
- The Ministry is also considering that majority tenant approval may be required for conversion to condominiums. Even if majority tenant approval is obtained the minority tenants will be displaced. Once converted, condominiums offer less security of tenure to tenants as they may be evicted for the owner's use.
- Although it appears that Ministry also proposes to allow the severance of rental properties without RHPA approval, the consultation paper does not address this issue.

### **3. ENFORCEMENT OF PROPERTY STANDARDS AND MAINTENANCE**

According to the government's consultation paper the current system does not provide enough incentives for landlords to put money into maintenance. It suggests that by allowing landlords to establish new rents at "full market levels" once a unit is vacant, they will have greater

incentive to keep their buildings sound, in good repair and attractive. There are also a number of specific changes to the enforcement of property standards proposed. They include:

### **3.1 *Proposed Changes:***

- The Provincial Orders for Prohibiting Rent Increases (OPRIs), also known as "rent freezes", which are issued to landlords for non-compliance with municipal property standards work orders, will be eliminated.
- Property standards violations will be made an offence and Provincial courts will be given the power to issue prohibition orders that prohibit the continuation or repetition of an offence.
- Notice requirements will be streamlined and property standards officers will be given more powers, including the authority to have a property inspected by a qualified expert when an owner does not provide sufficient information. Property standards officers will also be able to obtain a search warrant where entry into a dwelling is refused.
- A municipality's ability to recover costs associated with remedial repairs or inspections of properties will be improved, by treating them as municipal taxes or placing a lien on the property.
- There will be increases in maximum fines which can be charged.

### **3.2 *Implications for the City of Toronto***

- The elimination of the Orders for Preventing Rent Increases (OPRIs) will have the greatest impact. OPRIs have proven to be an effective aid in gaining timely compliance from landlords given they provide a direct and continuous incentive to have the deficiency corrected.
- Records provided from 1992 to 1996 show that 5,289 OPRIs were issued for the City of Toronto and that of these 3791 were rescinded or withdrawn. Of the remaining 1498 OPRIs, over 51% were in effect for less than one year. This is a relatively short time period when dealing with property standards matters.
- Using the courts to deal with property standards violations can be a time-consuming and lengthy process. Some cases can take as long as one or two years before the problem is resolved. In the meantime, until a decision is reached, the building deficiency may go unaddressed.

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- Under the proposed changes, it is possible that tenants could receive a rent increase while there are still outstanding work orders on a building. This does not seem fair to the tenants.
- The introduction of higher maximum fines will have little impact without the support of the courts. At the present time, the fines levied by the courts for property standards violations are relatively low. Records obtained from Buildings and Inspections for 1995 show that the average fine collected for property standards violations is \$370, even with the present maximum of \$5,000 in the case of the City's housing standards by-law.
- If fines are not sufficiently high to act as a deterrent, it may be less expensive for a landlord to accept a fine and make temporary repairs to a building system, knowing that system replacement is really required. This results in a situation where tenants face continuous inconvenience and disruption and the City has no ability to improve the situation.
- If the government is proposing the use of fines, they must ensure that the City has some way of collecting these fines. One possibility would be to allow for unpaid fines to be added to the municipal taxes. However, landlords should not be able to pass the cost of the fines through to the tenants. Under the government's current proposal, increases in property taxes can be passed on directly to the tenants through the rents.
- The government is proposing to improve a municipality's ability to recover costs associated with remedial repairs or inspections by allowing these costs to be added to the municipal taxes, or to be placed as a lien on the property. This is problematic in that the government is also proposing that any increases in property taxes can be passed on through the rents. Should the City have to make repairs then it would mean that there has been an ongoing, recurring and significant problem and that the landlord has failed to work with the City to find a solution. In such cases, it is questionable as to why the tenants should have to pay.
- There has to be more clarification regarding the proposed increased power and responsibilities proposed for enforcement officers and the expectations that will be placed on municipalities. Some of the government's proposed changes could have significant staffing and resource implications. For example, it is possible that proposed changes may require that City staff have additional training or technical expertise.
- Some of the proposed changes duplicate the City's existing enforcement powers outlined in the City's Housing Standards By-law (Municipal Code Chapter 210, Housing Standards) passed under The City of Toronto Act, 1936, as amended.

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- The government should ensure that any enforcement powers granted through changes to the Planning Act or Building Code Act also apply to the enforcement of property standards by-laws that are passed under any special Act, such as is the case for the City of Toronto.
- The City has been advocating the creation of building-specific capital reserve fund to ensure buildings are well maintained. The funds should be systematically set aside out of rental revenues and no extra charges should be imposed on tenants.
- A recent article in the Globe and Mail noted that based on industry reports, rental housing in Ontario is already one of the most stable investments, with Ontario's apartment sector delivering a 10% annual return on investment over the past ten years. Consequently, it would seem that there should be enough funds available to ensure that the existing stock is well maintained.

#### **4. CHANGES TO THE LANDLORD AND TENANT ACT AND ADDITIONAL ANTI-HARASSMENT MEASURES**

##### **4.1 *Proposed Changes***

The government's proposed changes to the Landlord and Tenant Act include clarification of specific parts of the Act, as well as strengthening the anti-harassment measures. Specifically the government is proposing:

- to make changes to allow for additional legislative certainty pertaining to specific landlord and tenant matters such as: subletting, abandoned property, privacy, sale of single family dwellings, and harassment.
- the creation of an anti-harassment unit to investigate tenant complaints of harassment and the imposition of fines or penalties for harassment.

##### **4.2 *Implications for the City of Toronto***

- The establishment of an anti-harassment unit as proposed by the government will not be an effective deterrent. Most tenants who have been harassed into moving will likely be more concerned with finding another place to live than spending time with investigators and court proceedings.
- As in the experience of British Columbia's arbitration process, taking a complaint to the anti-harassment unit requires knowledge of the system, the ability to articulate concerns

and confidence on the part of the tenant. This would discourage those with little knowledge of the system and those with fewer resources to use the anti-harassment unit and would result in a situation where only the most capable and determined tenants are successful.

- There will also be issues related to proving that the harassment took place.
- The creation of a special anti-harassment unit is largely required as a direct result of the government's proposed changes to decontrol rents on vacant units.

## **5. CREATION OF A DISPUTE-RESOLUTION SYSTEM**

### ***5.1 Proposed Changes***

The government is proposing to establish a new dispute-resolution system outside of the courts to deal with rent control and other landlord tenant matters. The Province has not yet developed a clear proposal as to the structure of this system.

### ***5.2 Implications for the City of Toronto***

- While the Province's proposed dispute-resolution system requires further clarification, it is important to ensure that tenants have the right to appeal rent increases and other unfair decisions to an independent body. However, the courts may be the most objective and impartial arena for resolving disputes.
- Whatever system is established should be streamlined and accessible to tenants.
- Tenants should not be forced to seek expensive legal advice in order to present their case.
- The impact of the weakening of the legal aid system and the reduction in funding to groups which provide advice and advocacy on behalf of tenants must also be considered. Tenants will no longer have access to these valuable resources.
- If a system outside of the courts is established, there should be no political appointments as is the case with some other government quasi-judicial boards or agencies. Appointees should have extensive knowledge of landlord and tenant issues.

## **6. CARE HOMES AND RESIDENTS' RIGHTS LEGISLATION**

The government is also proposing changes to the operation of care homes and the current Residents' Rights Legislation. These changes will not apply to facilities that offer temporary accommodation for therapeutic and rehabilitation reasons such as second stage shelters and drug rehabilitation centres.

### **6.1 *Proposed Changes***

Under the Ministry's proposed changes, care home operators will be able to:

- convert, renovate, or demolish facilities as they see fit, on the condition that they find alternative, comparable accommodation for residents;
- increase rents for vacant units;
- enter residents' units without notice to provide care or perform bed checks if agreed to by the tenant;
- fast track evictions for residents who pose a threat to other residents; and
- transfer residents to other facilities when the level of care required changes.

### **6.2 *Implications for the City of Toronto***

- There needs to be more clarity from the Ministry as to how broadly they will define care homes and short stay facilities.
- The loss of the protection of the Rental Housing Protection Act and the Rent Control Act could have an impact on the number of available, affordable, care home units.
- Care home residents are already vulnerable and the government's proposed changes mean that they will be even more vulnerable.
- Care home residents already face potentially high increases in the cost of support services. The proposed deregulation of rents for vacant units will result in less predictability and add to the financial burden.

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- There needs to be more clarity as to how the government is proposing to relocate tenants who require a higher level of care or to evict tenants who pose a threat to other residents. There has to be consideration given to balancing the rights of all residents.

**CONCLUSION:**

Under the Province's proposed tenant-protection legislation, some of the major goals include: protecting tenants from unfair rent increases, evictions and harassment; providing strong security of tenure; shifting the focus from protecting units to protecting tenants; and creating a better climate for investment in maintenance and new construction. It is our view, however, that these goals will not be achieved. The proposed system of vacancy decontrol and the elimination of the Rental Housing Protection Act, in particular, will result in the loss of affordable rental housing in the City of Toronto and across Ontario. Furthermore, to date the government has made a number of other decisions which have been and will continue to be detrimental to tenants. These include the elimination of the non-profit housing programs, the possible sale of public housing and substantial cuts to social assistance. The cumulative impact of these changes has not only had negative consequences on tenants but has contributed to the worsening of the shortage of affordable housing in the City of Toronto. The implementation of the proposed tenant-protection legislation will further erode options available to renters in the City of Toronto and result in tenants being even more vulnerable.

David Peters  
Acting Commissioner of Housing

Robert E Millward  
Commissioner of Planning and Development

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## OVERVIEW OF THE PROVINCE'S CONSULTATION PAPER ON THE PROPOSED TENANT-PROTECTION LEGISLATION<sup>1</sup>

<i>Specific Details of Proposed Changes</i>	<i>Implications for the City of Toronto</i>
<p><i>Changes to Rent Control</i></p> <ul style="list-style-type: none"> <li>Rent control would apply to occupied units only. When a unit becomes vacant, controls would be lifted and the landlord could set the new rent at any level. Controls would be reinstated on the new rent only for as long as the new tenant remains living in the unit.</li> </ul>	<ul style="list-style-type: none"> <li>About 70% of tenants move once every five years. Therefore, within five years, the majority of the rental stock may be decontrolled, resulting in higher rents and a reduction of affordable units.</li> <li>Some landlords may harass tenants into moving in order to increase rents.</li> <li>Tenants may be reluctant to move because of the fear of losing their rent control protection. This could result in tenants having less choice in where they live.</li> </ul>
<ul style="list-style-type: none"> <li>Presently, landlords can increase rents by the statutory guideline of 2.8% without government approval. They can also apply for a maximum increase of 3% above the guideline for capital repairs and extraordinary operating costs. Under the proposed changes, the statutory guideline increase would remain the same but the above-guideline increase would be raised to 4% for capital expenditures, with additional increases for extraordinary increases in property taxes and utilities.</li> </ul>	<ul style="list-style-type: none"> <li>Rent increases for sitting tenants could be higher and less predictable, with no limit on increases due to utility costs or property taxes.</li> <li>There is greater potential for economic eviction of tenants.</li> </ul>
<ul style="list-style-type: none"> <li>Under the current law, rents are reduced once the cost of a capital repair has been paid for through rent increases. This provision which is known as the "costs no longer borne" calculation will be dropped in the government's proposal.</li> </ul>	<ul style="list-style-type: none"> <li>Tenants may continue to pay a higher rent for capital repairs even after the cost has been fully recovered through their rents.</li> </ul>

<sup>1</sup> These charts highlight the major changes being proposed. For a more detailed discussion of these and other changes refer to the report "Analysis of the Province's Consultation Paper on the Proposed Tenant-Protection Legislation" prepared by the Housing, and Planning and Development Departments in consultation with the Buildings and Inspections, and Legal Departments, which will be before Council at its meeting on August 12, 1996.



<i>Specific Details of Proposed Changes</i>	<i>Implications for the City of Toronto</i>
<ul style="list-style-type: none"> <li>Information pertaining to rent increases is currently available through the Provincial Rent Registry Office. The government is proposing that the Rent Registry Office be eliminated along with specific reporting requirements for landlords.</li> </ul>	<ul style="list-style-type: none"> <li>The elimination of the Provincial Rent Registry Office means that sitting tenants who are protected by rent control will no longer have access to important information regarding rent increases nor will they be able to monitor the fairness of their landlord.</li> <li>Important cost information (i.e. property taxes or utility information) will no longer be readily available. Therefore it will be more difficult for tenants to appeal rent increases or to receive a rent reduction based on a decrease in operating costs.</li> </ul>
<ul style="list-style-type: none"> <li>Currently, there is a five year exemption from rent control for newly constructed units. Under the proposed legislation there will be a permanent exemption for new buildings.</li> </ul>	<ul style="list-style-type: none"> <li>It is doubtful that this change would lead to new rental construction as the high economic cost of building rental housing has been identified as a significant barrier to new construction. The proposed changes do not address this problem.</li> <li>The current five year exemption for new buildings has not resulted in new construction.</li> <li>The experience of other Provinces (i.e. British Columbia) suggests that new construction is more likely to be in the form of higher priced condominiums.</li> </ul>
<p><i>The Elimination of the Rental Housing Protection Act</i></p> <ul style="list-style-type: none"> <li>Under the proposed changes, landlords will no longer be required to obtain municipal approval for the conversion, demolition, renovation and severance of rental property.</li> </ul>	<ul style="list-style-type: none"> <li>The elimination of the RHPA is likely to result in a substantial loss in rental units at a time when the rental vacancy rate is extremely low.</li> </ul>
<ul style="list-style-type: none"> <li>The current Rental Housing Protection Act protects both units and tenants. The government intends to shift the focus from the protection of units to the protection of tenants.</li> </ul>	<ul style="list-style-type: none"> <li>Almost all of the existing protection for units and tenants would be lost. The RHPA now allows municipalities to have units replaced at similar rents and tenants relocated to units of similar rent and similar quality.</li> <li>Through the RHPA the City can also impose a number of conditions to protect the tenant, including: compensation for moving costs, phasing of work to minimize disruption, and the right of first refusal on new/renovated/converted units at similar rents. Under the proposed legislation, these protections would be lost.</li> </ul>
<ul style="list-style-type: none"> <li>The government is proposing that sitting tenants will be given extended tenure and that they will have the right of first refusal to purchase their unit in the case of conversion.</li> </ul>	<ul style="list-style-type: none"> <li>It is unlikely that tenants would be given extended tenure before changes are made to a building. The Landlord and Tenant Act requires that tenants be given 120 days notice before their units can be demolished, converted or undergo major renovations. Prior to this notice, RHPA approval, which takes several months, is required. If the RHPA is removed then the overall notice period would likely be shorter.</li> <li>First right of refusal would provide little security for tenants who are unable to afford the unit purchase price and unable to find affordable accommodation.</li> </ul>

<i>Specific Details of Proposed Changes</i>	<i>Implications for the City of Toronto</i>
<p><i>Changes to the Enforcement of Property Standards and Maintenance</i></p> <ul style="list-style-type: none"> <li>• Orders for Prohibiting Rents Increases (OPRIs), commonly referred to as "rent freezes" are one of the most effective tools for gaining timely compliance from landlords on property standards matters. The government, however, is proposing to eliminate this tool.</li> </ul>	<ul style="list-style-type: none"> <li>• OPRIs provide landlords with a direct and continuous incentive to correct building deficiencies. Records provided from 1992 to 1996 show that 5298 OPRIs were issued for rental buildings in the City of Toronto. Of these, 3791 were rescinded or withdrawn before they took effect. Of the remaining 1498 OPRIs, over half were in effect for less than one year.</li> </ul>
<ul style="list-style-type: none"> <li>• The government is proposing to take a stronger position on property standards violations. The changes proposed include making property standards violations an offence. In addition, property standards officers will no longer be required to issue a notice of violation, prior to the issuance of a work order. They will also be able to obtain a search warrant when entry into a dwelling is refused. Maximum fines that can be charged will also be increased.</li> </ul>	<ul style="list-style-type: none"> <li>• Using the courts to enforce property standards can become a time-consuming and lengthy process. Some cases take between one to two years before a resolution is reached. While the case is delayed in the courts, the problem in the building can continue to go unaddressed.</li> <li>• The enforcement of fines would require the support of the courts. The average fine for property standards violations currently is \$370, even with the present maximum of \$5,000 in the case of the City's Housing Standards by-law.</li> <li>• It may be less expensive for a landlord to accept a fine and make temporary repairs to a building system as needed rather than replace it. Elevators are a good example. In many high-rise buildings the elevators are constantly requiring servicing. However, it is much less expensive for the landlord to have the elevators repaired (even if it is only a temporary measure) than to replace them. Consequently, tenants are forced to live with significant inconvenience and disruption on a continuous basis and there is very little the City can do to improve the situation.</li> </ul>
<ul style="list-style-type: none"> <li>• The government is proposing that a municipality's ability to recover costs associated with remedial repairs or inspections will be improved by treating them as municipal taxes, or placing a lien on the property.</li> </ul>	<ul style="list-style-type: none"> <li>• Provisions should be made to ensure that such costs are not passed on to the tenants. Under the proposed changes, it has been suggested that any increases in property taxes can be passed on in the form of rent increases.</li> </ul>
<ul style="list-style-type: none"> <li>• The government has argued that the current system does not provide enough incentives for landlords to put money into maintenance and suggests that by allowing landlords to establish new rents at "full market levels" there will be greater incentive to keep buildings sound, in good repair and attractive.</li> </ul>	<ul style="list-style-type: none"> <li>• A recent article in the Globe and Mail noted that based on industry reports, rental housing in Ontario is already one of the most stable investments, with recent statistics showing that Ontario's apartment sector has delivered a 10% annual return on investment over the past ten years, outpacing all other sectors. There is no evidence to suggest that increasing rents will lead to better maintained buildings.</li> <li>• Rather than allowing landlords to increase rents and thereby having tenants bear the cost of keeping buildings in good repair, the City has been advocating the creation of building-specific capital reserve funds, where funds are systematically set aside out of rental revenues and no additional charges are imposed on tenants.</li> </ul>

<i>Specific Details of Proposed Changes</i>	<i>Implications for the City of Toronto</i>
<p><i>Changes to the Landlord and Tenant Act and Additional Anti-Harassment Measures</i></p> <ul style="list-style-type: none"> <li>• The government's proposed changes to the Landlord and Tenant Act include clarification of specific parts of the Act as well as the creation of an anti-harassment unit and the imposition of fines and penalties for harassment.</li> </ul>	<ul style="list-style-type: none"> <li>• Most tenants who have been harassed into moving will be more concerned with finding another place to live rather than spending their time with investigators and court proceedings.</li> <li>• Taking a complaint to an anti-harassment unit requires knowledge of the system and the ability to articulate concerns. Access would be limited except for the most capable and determined tenants.</li> <li>• The creation of a special anti-harassment unit is largely required as a direct result of the government's proposed changes.</li> </ul>
<p><i>Creation of A Dispute Resolution Mechanism</i></p> <ul style="list-style-type: none"> <li>• The government is proposing to establish a new dispute-resolution system outside of the courts to deal with rent control and other landlord tenant matters. The government has not yet put forward a clear proposal as to the structure of this system.</li> </ul>	<ul style="list-style-type: none"> <li>• Tenants should have the right to appeal rent increases and other unfair decisions.</li> <li>• If a system outside of the courts is established, there should be no political appointments as has happened with some other quasi-judicial boards or agencies. Appointees should be impartial and have extensive knowledge of landlord and tenant issues.</li> <li>• Whatever system is established should be streamlined and accessible to tenants.</li> <li>• Tenants should not be forced to seek expensive legal advice in order to present their case.</li> <li>• The impact of the weakening of the legal aid system and the reduction in funding to groups which provide advice and advocacy on behalf of tenants must also be taken into consideration.</li> </ul>
<p><i>Care Homes and Changes to the Residents' Rights Legislation</i></p> <ul style="list-style-type: none"> <li>• The government's proposal will allow care home operators to convert, demolish or renovate facilities as they wish, without municipal approval. As well, care home operators will be able to increase rents to whatever level they would like for vacant units.</li> </ul>	<ul style="list-style-type: none"> <li>• There needs to be more clarification as to how broadly the government is defining care homes and short stay facilities. However, it is clear that the proposed changes mean less predictability in rents and in the availability of affordable housing for a population that is already extremely vulnerable.</li> </ul>