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Significant New Obligations Imposed on Apartment Buildings in Toronto: What Landlords Need to Know

By Seth Zuk

Effective July 1, 2017, pursuant to ByLaw 448-2017 passed by Toronto City Council on April 28, 2017, landlords of residential apartment buildings in the City of Toronto will be subject to a wide range of new obligations, including annual fees and registration requirements, monthly pest inspections, as well as required plans for waste management, cleaning and capital repairs for apartment buildings. The By-Law applies to “Apartment Building[s]” which are defined as a purpose-built rental building with 3 or more stories and 10 or more rental units.

Landlords that fail to comply with the By-Law may be found guilty of an offence and can face fines of up to \$100,000. Officers and directors of corporate landlords can be held personally liable for fines up to \$100,000. Additional fines can be imposed of up to \$10,000 a day for each day the offence continues until it is rectified.

The definition of Apartment Building does not include housing cooperatives, long-term care homes or licensed retirement homes. The By-Law also specifically exempts Toronto Community Housing Corporation, not-for-profit providers of assisted or social housing under a program administered by the City or dedicated supporting housing providers funded by the Province of Ontario.

While the By-Law itself does not provide for a transitional period regarding enforcement of the new requirements, the City of Toronto Municipal Licensing and Standards Division advises that there will be a 3 month transitional period prior to enforcement of the ByLaw, commencing July 1, 2017 and expiring on September 30, 2017. According to the City’s Municipal Licensing and Standards Division, as of the expiry of the transitional period, all Apartment Buildings must be registered with the City and landlords must be in compliance with the balance of the requirements set out in the By-Law.

The City further advises that it will soon be releasing additional information to property owners regarding how to comply with the By-Law, including details on how property owners are to set up a “RentSafeTO” account with the City and register their buildings online. In the interim, landlords are encouraged to review the City’s web page in order to obtain additional information on the new requirements, setting up accounts and registering their buildings with the City.

Below is a summary of some of the new obligations imposed by the By-Law in respect of Apartment Buildings in Toronto.

1. **Annual Registration with the City:** Apartment Buildings must be registered with the City on an annual basis. Registration will entail paying a registration fee of \$10.60 per rental unit and providing the City with specific information regarding the building, including owner/operator contact information and details related to the building's security features.
2. **Processes for receiving and tracking tenant requests:** Landlords must implement a process for receiving and tracking tenant requests if such a process is not already in existence. Urgent requests must be responded to within 24 hours and non-urgent requests within 7 days. Requests are considered "urgent" if they relate to the discontinuance of vital services, such as electricity, gas or water.
3. **Building notification boards and notices:** Landlords must install a notification board in a central location in the building and are required to post certain information, including, among other things, notices regarding planned or unplanned service disruptions, the building's capital plan, emergency contact information, the location of the nearest public air-conditioned place (either inside the building or outside the building), pest treatment activities and the building's cleaning plan.
4. **Pest inspections of common areas every 30 days:** Landlords must inspect building common areas for pests at least once every 30 days and within 72 hours of receiving any information indicating the presence of pests. If pests are detected, Landlords must take adequate measure to exterminate and prevent the spread of pests.
5. **Waste Management Plan, Cleaning Plan, and State of Good Repair Capital Plan:** Waste Management Plans must include information about how garbage and debris storage and disposal will be dealt with to comply with municipal standards, including providing literature on waste diversion. Cleaning Plans must include a list of common areas and indicate how frequently these areas will be cleaned. Common areas must be inspected at least once every day for cleanliness. State of Good Repair Capital Plans must include a list of capital elements of the building (e.g. roof, elevators, windows) and the date upon which the each element will be scheduled to be replaced or updated.
6. The By Law also provides for:
 - a) Record keeping obligations;
 - b) Municipal audits and site inspections;
 - c) Prohibitions on renting units where there are outstanding property standards issues, service disruptions or pests; and
 - d) Offences for non-compliance.

The Municipal Licensing and Standards Division can conduct routine site visits and inspections at reasonable times to ensure that buildings are in compliance with the By-Law. The City's website indicates that City staff will conduct inspections and complete "Building Evaluations" regarding every Apartment Building at least once every three years and that building owners will not be notified of this inspection in advance.

If a certain number of property standards issues are revealed by the inspection, the City will undertake an audit of the building. An audit requires an inspection of all common areas and will also include in-suite units for those tenants who file complaints. If an audit is undertaken by the City, building owners are charged an administrative fee of \$1,800.00 as well as an audit inspection fee (per hour, per inspector) of \$108.80. These fees, if not paid, will be added to the property tax account for the property.

The City can issue orders requiring compliance with the By-Law and, if a landlord fails to comply, the City can take remedial action (at the cost of the landlord, which, if not paid, could be added to the property tax account for the property).

Landlords that contravene the ByLaw will be guilty of an offence and, upon conviction, are liable to a fine of up to \$100,000. Additional fines can be imposed of up to \$10,000 a day for each day the offence continues until it is rectified. Where a corporation contravenes the By-Law every director or officer who concurs in the contravention is guilty of an offence as well and, upon conviction, are personally liable to a fine of up to \$100,000.

Landlords are encouraged to review the City's web page in order to obtain more information regarding registration and compliance with the By-Law. Landlords should also **review the By-Law** where in order to be fully aware of their new obligations and ensure they are in a position to comply effective July 1, 2017 or at the end of the transitional period.

As noted above, the By-Law itself does not provide for a transitional period, so landlords should be sure to watch out for additional information released by the City in this regard.

We would be pleased to answer any questions you may have regarding the new By-Law or otherwise. For more information, please contact Seth Zuk at 416-775-8822 or szuk@torkinmanes.com.

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