



Landlord's Self-Help Centre

A community legal clinic funded by Legal Aid Ontario

425 Adelaide Street West - Suite 400
Toronto, Ontario M5V 3C1

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The Standing Committee on Justice Policy
99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park
Toronto, Ontario
M7A 1A2

Committee Members,

Re: Bill 140, Strong Communities through Affordable Housing Act, 2010

Landlord's Self-Help Centre is a non-profit specialty clinic funded by Legal Aid Ontario to provide information and support service to Ontario's small-scale landlord community. Our comments and concerns related to Bill 140 will focus on proposed amendments to the *Planning Act* and the *Residential Tenancies Act, 2006* as these amendments will impact our client community and organization.

Landlord's Self-Help Centre was founded in 1975 and is mandated to provide information and support services for landlords and homeowners on a non-profit basis and to educate members of the community in landlord and tenant relations.

The Centre provides summary advice, information and referrals on issues ranging from abandonment to zoning. Generally inquiries relate to non-payment of rent, tenant screening, tenancy relations, navigating conflict and disputes, enforcing rights through notices of termination and applications to the Landlord and Tenant Board and collecting monies owed. Educational programs and initiatives are a key focus and often target new and would-be landlords to inform them of their rights and responsibilities. LSHC also involves itself in community development and law reform and manages a membership program consisting of 575 members. The Centre employs four full-time Community Legal Workers who provide individual assistance to 10,000 small-scale landlords annually.

The client constituency served by Landlord's Self-Help Centre reflects Ontario's secondary rental market and is comprised of landlords who rent houses, duplexes, triplexes, converted houses, apartments over stores as well as units in owner occupied houses which includes rooms, flats and second suites. The private rental accommodation provided by these small-scale landlords is vital to Ontario's rental housing landscape as it fills the gap created by the lack of government built and operated affordable housing. Canada Mortgage and Housing Corporation estimates secondary rental units represent 30% of the rental housing universe in the Toronto region and represent the range of 40% province-wide.

Telephone 416-504-5190 ♦ Toll Free 1-800-730-3218
www.landlordselfhelp.com

Planning Act Amendments

Bill 140 proposes the following amendment to the *Planning Act*:

Second unit policies

(3) Without limiting what an official plan is required to or may contain under subsection (1) or (2), an official plan shall contain policies that authorize the use of a second residential unit by authorizing,

(a) the use of two residential units in a detached house, semi-detached house or rowhouse if no building or structure ancillary to the detached house, semidetached house or rowhouse contains a residential unit; and

(b) the use of a residential unit in a building or structure ancillary to a detached house, semi-detached house or rowhouse if the detached house, semidetached house or rowhouse contains a single residential unit.

Amendments to the *Planning Act* authorizing the creation of second suite units in specific properties is a simple solution to the challenge of creating new affordable rental housing units. This approach utilizes the existing infrastructure of established neighbourhoods and communities, offers house rich cash-strapped owners the opportunity to generate extra income by creating an income unit and will provide affordable rental housing for tenants in the form of second suites which tend to rent 10 - 20% below the market rates for multi-unit complexes.

Bill 140 does not seem to contemplate the potential impact this amendment will have on the homeowners who become landlords and are governed by the same legislation as their large landlord counterparts.

Landlord's Self-Help Centre works with second suite landlords daily and has led a multi-year education project known as Second Suites in Toronto. We know that small-scale property owners are ill prepared to become landlords. Second suite landlords are a diverse group of individuals that reflect a combination of characteristics who, in the end, are simply property owners who are leveraging the investment in their home to generate income. They frequently fail to inform themselves of the statutory obligations of housing providers and do not develop a comprehensive understanding of the regulations which govern residential rental tenancies.

These second suite landlords often possess no formal property management training or experience and fail to realize they will be required to operate in a highly regulated legal environment and subject to numerous statutes, regulations and policies including the Ontario Human Rights Code, the Residential Tenancies Act, the Ontario Building Code, the Ontario Electrical Safety Code, the Fire Protection and Prevention Act, etc.

Regardless of their knowledge or ignorance of such matters, second suite owners will be required to manage an array of common issues. These issues can be characterized as either

- *legislative requirements*, such as the obligation to maintain the property in a good state of repair and meet health, safety, housing and maintenance standards, address deficiencies, meet requirements for entering a unit, accommodate tenant disabilities,

- provide uninterrupted vital services (light, heat, hot and cold water), and deal with solid waste management;
- *tenancy management*, such as rent deposits, interest, tenant screening and selection, tenancy agreements, subletting and assignment;
- *dealing with tenant behaviour or activity*, such as impairing safety, smoking, pets, damage, overcrowding, disturbances, illegal activity, parking disputes, unpaid rent or utilities, tenants changing locks, abandonment, bed bugs, mould, marijuana grow ops and drug labs; or
- *procedural requirements* such as inspecting the unit, dealing with unauthorized occupants, providing proper notice of termination, application to the Landlord and Tenant Board, rent increases, mediation and Small Claims Court.

Second suite landlords also face challenges respecting “unlawful” rental units. As the Residential Tenancies Act now stands, there is no acknowledgment or remedy mechanism for a landlord to terminate a tenancy that exists in an “unlawful” rental unit, whether by being in non-compliance with the Fire Code, Zoning or other bylaws. The assumption from the province is that the unit should not be rented if it is in some way non-compliant, so accordingly there is no simple way to terminate the tenancy to achieve compliance. Paying the tenant to leave by signing an enforceable agreement to terminate is often the only way the landlord can avoid very heavy fines from the Fire Department or municipality. The fire and municipal inspectors simply do not care that the landlord has no legal way to achieve termination of the tenancy and bring the property into compliance; compliance is demanded by way of orders, threats of court action and fines that will greatly increase the property tax bill. Understanding this disconnect is an important first step in understanding the dilemma and working towards greater municipal and provincial harmonization.

Residential Tenancies Act Amendments

The issue that most commonly impacts the small-scale landlord community is non-payment of rent. Often, because these landlords are not skilled property managers and allow the tenant an opportunity to bring the rent into good standing, they postpone initiating action to enforce the obligation to pay rent. Landlords routinely wait three to four months before issuing a notice for non-payment of rent and completing the subsequent process of filing an application with the Landlord and Tenant Board, attending a hearing and, eventually, scheduling the eviction with the sheriff’s department which can realistically take an additional three months.

The amendments proposed under Bill 140 for the Residential Tenancies Act appear to address two issues which are commonly the source of delay, failure to deliver documents required by the Landlord and Tenant Board and lengthy delays for hearings which are often undisputed.

The amendment proposed for Sections 188 and 189 appear to remove the responsibility for serving the application on the respondent from the applicant and place it on the Landlord and Tenant Board. This amendment would mitigate delays which result from parties failing to serve the application, or claims they have not been served with the application.

The proposed amendment to add Section 206.1 is intended to create a pre-hearing process. This is akin to a procedure that was used under previous legislation, the Landlord and Tenant Act, to purge undisputed applications. While a pre-hearing process to manage undisputed applications is an excellent strategy that will likely improve the efficiency of Board hearing schedules, we are concerned that the process will compound delay by requiring applicants to attend an additional hearing.

Landlord's Self-Help Centre supports the policy to permit homeowners to create second suites province-wide. We offer the following policy recommendations, which are intended to encourage the creation of second suites by providing more balance and greater certainty for owners, these include:

- Create and provide provincially funded educational tools and resources to support property owners creating and operating second suite rental units;
- Amend the Ontario Human Rights Code to address the financial burden that is placed upon a second suite landlord who is required to accommodate a tenant's disability to the point of undue hardship;
- Amend the Residential Tenancies Act by looking at:
 - Establishing binding no pet rules;
 - A return to damage deposits ;
 - Requiring tenants on OW or ODSP to maintain pay-direct;
 - Protecting landlords when tenants contract directly with municipalities or utility companies and then don't pay their utility bills; and
 - Permitting landlords to use the LTB for recovery of arrears even after the tenant moves out, just as tenants can access the LTB post-tenancy;
- Implement service delivery targets at the Landlord and Tenant Board to ensure various applications are provided with a hearing within specific time lines as required under the Residential Tenancies Act,
 - Section 1: "to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes"; and
 - Section 183 "The Board shall adopt the most expeditious method of determining the questions arising in a proceeding that affords to all persons directly affected by the proceeding an adequate opportunity to know the issues and be heard on the matter"; and
- Ensure services such as the Landlord and Tenant Board, Investigation and Enforcement Unit, sheriff's office, electrical safety inspectors, etc., which currently appear to be at capacity, are provided with resources accordingly to meet the increased demand which will result from an influx of new rental housing stock.

Thank you for the opportunity to provide comments and for your consideration.

Yours truly,

LANDLORD'S SELF-HELP CENTRE

Susan Wankiewicz
Executive Director