

NEWSLETTER

September 2012

Landlords get new noise control powers AND responsibilities

By John Dickie, EOLO Chair

Parties and loud music can be a lot of fun - if you are at the party. But often party-goers are so caught up in having fun, they don't realize how much of a disturbance their good time is causing neighbours around them. This is often the case for residents in Sandy Hill as reported in the Ottawa Sun on May 17: "Boozy, foul-mouthed, urine-spraying university students are running amok. [Sandy Hill] has become a 'free-for-all party destination' and it has roots in one problem: Booze and open drinking. It is part of the culture and it happens almost nightly in Sandy Hill," said residents at a City committee meeting."

In the past, the City noise by-law made it an offence for a person to make excessive noise. If the ticket was disputed, the bylaw officer had to prove who made the noise, which is often not practical when the noise is coming from a party.

In June 2012, City Council revised the noise by-law. In

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large part due to EOLO's input, the idea of placing the responsibility on the landlord was rejected in favour of making it an offense to make or permit excessive noise. The city staff say they will ticket tenants, or building owners who live in the unit where the excessive noise is coming from. Landlords will not be fined because they do

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What bi-weekly garbage collection means for landlords

In an attempt to encourage residents to increase organic recycling, the City of Ottawa will begin bi-weekly garbage collection this fall. Green bin (organic) waste will be collected on a weekly basis year round, and blue and black bin recycling pick up will continue as it was, but beginning the week of October 29, 2012, many properties will no longer receive weekly collection of residual waste.

To make the change as smooth as possible, landlords need to learn how the changes will impact them, and educate tenants about the new rules. Rental properties use one of three methods of waste collection. The new collection rules will affect each property differently depending on which collection method applies to them.

Container collection

Buildings that use containers (bins) for garbage collection

will have the fewest changes. Garbage and recycling will still be picked up on a weekly basis, although the day of the week may change. However, as of October 29 landlords will be required to offer tenants a means of recycling organic waste (i.e. to put a green bin program in place.) As well, bulky items such as discarded furniture and beds will be

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Green bin organic waste is now weekly, year-round.

2013 rent increase guideline set at 2.5%

Most Ontario residential accommodation built before November 1991 is subject to the rent increase guideline. Until June 2012 the guideline was set at the average increase in the Consumer Price Index for Ontario from June to May each year for the following year. The goal was to provide transparency, certainty and cost recovery close to the timing of the cost increases. For 2013 that process would have produced a guideline of 2.6%.

However, a new law enacted in June 2012, so that the guideline is now subject to a floor of 1.0% and a cap of 2.5%. This year the cap applied, producing a guideline of 2.5% even though the Consumer Price Index went up by 2.6%

While inflation stays low the new law will have only a minor effect on landlords. However, if inflation shoots up, the new law could have a very negative impact. The new law is to expire at the end of 2016.

Through the Federation of Rental-housing Providers of Ontario (FRPO), EOLO followed the announcement and legislative consideration of the new rules for the guideline. FRPO told the government how dissatisfied landlords are with the cap, and the dangers it brings. EOLO has also made that known to MPPs we deal with in the Ottawa area. However, given the political situation, FRPO did not consider it useful to object in a loud, public way. FRPO and EOLO will seek to ensure that the cap does not continue any longer than the minimum possible time.

New City of Ottawa Lobbyist Registry applies to landlords

As of September 1, 2012, certain communications between business people (including rental housing executives and employees) and City Councillors or staff must be reported to the new City of Ottawa Lobbyist Registry. Under the registry, lobbyists include both consultant lobbyists (the people you would normally think of as lobbyists) and anyone who communicates to advance the interests of a business.

Background

The Lobbyist Registry has been introduced to increase transparency and accountability as part of City Council's Accountability Framework. It requires "lobbyists" to register with the Lobbyist Registry and report communications within 15 days. Communications which need to be reported include:

- face-to-face meetings (whether formal or informal),
- telephone contact,
- written communications, and
- e-mails.

The registry is an online database that can be accessed and searched by the public and interested stakeholders. Information such as the name of the lobbyist, the business address, the means of contact, and the topic of discussion (in brief), will be publicly available.

What needs to be reported?

Under the Ottawa bylaw, lobbying includes any communication or meeting by a business (or business

executive or employee) with a public official with the goal of affecting city decisions about bylaws, programs or contracts. A lobbyist is any individual (paid or unpaid) who communicates with city officials to advance business interests. Subject to the exceptions listed below, any contact between a "lobbyist" and a public official which deals with a decision of the City needs to be reported.

Some examples include e-mails that were sent to oppose the imposition of landlord licensing in Ottawa, e-mails and telephone calls that were made to encourage Councillors to reduce the multi-residential tax ratio (and tax rates). Another example would be meeting to explain to councilors why it is not reasonable for the City to make landlords responsible for noise violations by our tenants.

What need not be reported?

Some activities are not required to be reported. Exempt communications include:

- Requests to the City for information
- Communication regarding the enforcement, or interpretation, of by-laws
- Compliments or complaints about City services
- Communication to a Councillor by a resident on a general neighbourhood issue or public policy issue
- Communications that are made publicly or are a matter of public record. This can be during a Committee, Council or Transit Commission meeting, or a public consultation event held by the City.
- Communication that advocates for a community benefit

Fall 2012 Boat Cruise

In celebration of EOLO's 15th semi-annual Networking event, our landlord and associate members will gather on Thursday, September 13, 2012 on board a boat. Members will enjoy a lovely evening including food catered by Prime 360, live music, good company, and views of the Ottawa River. An industry update and educational sessions will precede this event at the Best Western in Gatineau.

Spring 2012 Networking Event

Our previous Spring Networking event, held in March, was a great success for EOLO's landlord and associate members. EOLO would like to thank all of the landlords and suppliers who were in attendance. If you are interested in joining EOLO in order to attend future events, please contact Erin Wallace at (613) 235-9792 or by email at eofo@magma.ca.

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Noise control powers AND responsibilities (cont'd)

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not have control over tenant actions, such as how many guests the tenant allows in their apartment or how much noise the guests make.

However, it is the disturbances from students that led to landlord licensing in Oshawa, London and Waterloo. Therefore, to avoid pressure for landlord licensing, landlords need to try to prevent their tenants from disturbing their neighbours.

Landlords used to be limited in the actions they could take to police noise. Under the Ontario Residential Tenancy Act, disturbing other tenants is a ground for eviction, but disturbing neighbours is not. However, the revised noise by-law gives landlords more power to act concerning tenants who create or permit excessive noise. Breaching the noise by-law is an illegal act, and a landlord can terminate a tenancy for an illegal act. The Landlord and Tenant Board (the "LTB") will have the ultimate decision on whether breaking the noise by-law is sufficient for termination. The LTB will be more lenient with first-time offenders than repeat offenders, and more lenient on tenants whose landlord has not warned them than on tenants whose landlord has.

EOLO prepared and issued a flyer in Sandy Hill seeking to help in the control of the noise problem. EOLO's website, www.eolo.ca includes detailed information about how to proceed to control noisy tenants. EOLO members are

invited to contact EOLO Vice-President David Lyman or EOLO Chair John Dickie at 613-235-9792 if they have any questions or concerns.

Policing the noise your tenants make may seem like a lot of work. However, you are best off to act firmly and strongly from the first complaints. If as a landlord you do nothing, or do not do enough, then the City could potentially try to fine you or prosecute you for permitting excess noise. If that happens under any circumstances, EOLO definitely wants to know.

EOLO is working proactively to promote solutions to the student behavior problem which do not prejudice landlords. EOLO Chair John Dickie is a full member of the Town and Gown Committee which has been formed to address the noise and behavior problem in Sandy Hill. EOLO is also working directly with the City Bylaw Services Branch and Action Sandy Hill.

As an organization, EOLO is doing everything we can to contain and reduce the problem. But the rental industry needs the help of landlords acting individually. In the long run, a failure by landlords to act responsibly could lead to more restrictions on landlords that would make operating our businesses more onerous. For your own sake, for the sake of the community, and for the sake of the landlord community, landlords need to take effective action to curb excessive noise.

A new communication platform for CFAA

By John Dickie, CFAA President

Along with *National Outlook*, the *Rental Housing Business Magazine* is now the official voice of the Canadian Federation of Apartment Associations (CFAA). *RHB Magazine* is mailed to 6,000 rental housing providers across Canada, on a rotating basis. An electronic version of *RHB Magazine* is available by a link from the home page of the EOLO website at www.eolo.ca.

The August issue of *RHB Magazine* reports on

- ideas for optimizing income tax claims for major energy retrofits under the current tax rules
- ideas for optimizing exterior repairs and renovations
- vacancy rates and rent increases in cities across Canada

- highlights from CFAA's third annual Rental Housing Conference held in Vancouver in June, including
 - a review of the landlords who spoke, the topics they addressed, and
 - a summary of Benjamin Tal's economic update for the next 12 months.

(CFAA's fourth annual Rental Housing Conference, for 2013, will be held in Toronto in June. The Conference will include a Building Innovations Bus Tour, a dinner Boat Cruise, two days of educational sessions, an intimate Trade Show, and great networking opportunities. We hope to see you there.)

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New City of Ottawa Lobbyist Registry applies to landlords (cont'd)

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- as opposed to some specific or monetary gain
- Communication regarding the administration of public activities
- Communications regarding applications for new services
- Responses to a written request for information by a public office holder
- Communications directly related to those City-initiated consultative meetings and processes where an individual is participating as a stakeholder.

EOLO sometimes asks our members to communicate with Councillors. From now on, when we ask you to do that, we will try to remember to tell you whether you need to report the communication to the Lobbyist Registry (and if so, how best to do that.)

For more information about the Registry, please visit the City of Ottawa's website at http://ottawa.ca/en/city_hall/councilcommittees/mayor_council/accountability/lobbyistregistry/index.htm, or contact EOLO at 613-235-9792.

Reforms to CMHC will affect landlords

By John Dickie, CFAA President

In the Spring, the business media reported the federal government's actions to bring CMHC under the supervision of the Finance Department and the Office of the Superintendent of Financial Institutions (OSFI) - Canada's top financial regulators. What the media did not note is the effect which related reforms to CMHC underwriting will have on residential landlords and homeowners.

Portfolio insurance

The government has enacted legislation to stop CMHC from providing portfolio insurance to banks on low-ratio loans. In announcing the change, Finance Minister Flaherty said that he wants CMHC "to focus on high-ratio insured lending for home ownership and rental construction and acquisition" "Portfolio insurance" is insurance on previously uninsured (low-ratio) loans, usually on single family homes (or buildings of four units or less), which is bought by banks primarily to help them sell "covered bonds".

Covered bonds are very secure investments, being backed first by the issuing bank's promise to pay, and then by the mortgages in the asset pool designated for the bond issue. With CMHC insurance on those mortgages, the bonds were in effect backed by CMHC, and ultimately by the Government of Canada. Through those guarantees, CMHC and the government were enabling the banks to issue debt at very low interest rates. The government has decided to get out of that guarantee business, by rules which prohibit the inclusion of CMHC-insured mortgages in the covered bond asset pools.

Impact of mortgage costs on homeowners and landlords

Discontinuing portfolio insurance will raise the banks' cost of borrowing. In turn that will raise the cost of borrowing through uninsured low-ratio mortgage loans, probably by an amount in the range of $\frac{1}{2}$ of 1%. That will affect many

homeowners and some residential landlords.

Arguably, a modest increase in the borrowing costs payable by homeowners is a good thing for the rental housing industry. Lower costs draw more households into home ownership and reduce the demand for rental units. In the United States, unduly low rates and unreasonably loose selection criteria promoted by the government-sponsored institutions known as Fannie Mae and Freddy Mac were major contributing factors to the housing market meltdown.

Mortgage insurance on multi-family properties

Another important issue is that many residential landlords use CMHC mortgage insurance for low ratio loans to finance major repairs to rental buildings, or to access funds for other purposes. The owners use CMHC insurance on loans with loan-to-value ratios of 50% or 60% or 70%, not just at ratios above 80%. That insurance allows landlords to borrow at a lower interest rate than they would pay without the insurance.

CFAA is being told that there is no intention to change the policy regarding CMHC insurance on low-ratio, or high-ratio loans, on multi-family properties (five units and more). CFAA is in touch with the Finance Minister, key Finance Department officials and with CMHC to seek to ensure that CMHC to remain a back stop for lending for rental housing, both for high-ratio and low-ratio mortgage loans.

EOLO is a member of the Canadian Federation of Apartment Associations, the sole national organization representing the interests of Canada's \$80 billion dollar private rental housing industry, which provides homes for more than eight million Canadians. Learn more at www.cfaa-fcapi.org.

What bi-weekly garbage collection means for landlords (cont'd)

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picked up every second week (and possibly on a day different from the bin collection).

Bin collection offered to six-plexes

If you haven't investigated containerized pick up before, now is a good time to see if you fit the criteria. While there are downsides to containerized collection (space requirements, possible odour and maintenance), there are advantages such as low cost and continued weekly pickup. Changes to eligibility requirements means that buildings with six rental units are eligible for containerized pick up (down from seven units). Owners or managers can contact the city at 311 to arrange a waste inspection to determine if containerized pick up is a feasible option for them.

Currently containerized collection costs \$55 per unit less than pad or curb side collection. The cost of renting a bin from the City is between \$240 and \$372 annually based on size. The rental cost covers painting and repairs as needed. Bins can be purchased new or reconditioned for between \$800 and \$1500.

Pad collection

The second method of collection is pad or pad/pile pick up. Unlike containerized pick-up, buildings with pad pickup will be moved to the bi-weekly schedule for collection of residual waste. Bulky items will also be picked up on a bi-weekly basis on the same day as the garbage collection. The scheduled collection day may change from the day it is now. Recycling collection will continue to alternate between blue and black boxes each week. Organic green bin collection will be weekly, all year-round as it is now for this September and October.

Since landlords will need to continue to manage the pad, it is advisable to educate tenants about what is acceptable paper and plastic recycling and what organic materials qualify for green bin composting, as well as the timing changes. Encouraging tenants to take advantage of the blue, black and green bin programs will reduce the amount of waste left at the pad site, help control odours, and make pad maintenance more manageable.

Curbside collection

Curbside collection will be affected in much the same way as pad pick up. Weekly collection of green bins will be implemented year round, and the blue and black recycling program will continue on rotating basis each week. Residual waste, and bulk item, collection will be changed to every other week, possibly on a different day than it is now.

Enforcement

For both curbside and pad pick up the City can require tenants and landlords to keep the site clean and to put out the waste at the right day and time. Bylaw Services will try to go after tenants first as long as it can identify them (as at a single family home rental), but if Bylaw Services cannot readily identify the tenant responsible they will go after the landlord, to have the landlord remove the garbage to the back of the property until the collection day. If the landlord fails to effect a clean-up promptly, the City can do it and charge back the cost, or impose a fine (through a bylaw charge).

Tenant education

Landlords need to take steps to remind tenants of the changes to garbage collection rules. If there is tenant newsletter, an article could be inserted to remind tenants of new garbage collection dates. Flyers or poster could be placed in common areas, to remind tenants when to put the garbage out. Organic, paper and plastic recycling should be promoted to tenants to help reduce the amount of residual waste.

Until everyone has adapted to the change, reminder notes could be distributed to tenants the day before a former garbage day to ensure they wait until next week. Landlords



may want to assign a staff person to monitor pads and curbside areas on off-week or have signage telling tenants to come back next week with garbage.

The key to making the transition as smooth as possible is education. Landlords need to learn and follow the rules. However landlords also have responsibility to ensure tenants are educated and following the rules. A successful transition will benefit tenants, landlords and the community.

A new communication platform for CFAA (cont'd)

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RHB Magazine is also a showcase for leaders among rental housing providers and association executives. The August issue of *RHB Magazine* includes a profile of Timbercreek Asset Management, and its related lending arms and international investment arm, as well as a profile of Daryl Chong, the new CEO of the Greater Toronto Apartment Association. Find out how Daryl hopes to enable the Toronto apartment industry to grow by improving the City's zoning rules.

CFAA seeks to facilitate growth and improve after-tax returns in the rental housing industry across Canada. In our federal pre-budget submission, CFAA advocated better income tax rules for rental property as a key policy move to enable the rental housing sector to contribute to economic growth and job creation. See www.cfaa-fcapi.org for the full submission, or for the August issue of CFAA's electronic newsletter, *National Outlook*, which contains a summary.

National Outlook also includes a report on a related trend.

Recently, several advocacy groups have begun advocating for government measures to stimulate for-profit rental housing, even though they have typically advocated for the construction of social housing. The report explains how the advocates see the housing market and "housing need", what the real situation is, and what reforms are needed to stimulate the sustained growth of rental housing. *National Outlook* is e-mailed to EOLO members whose e-mail address we have. If you are not receiving it, and wish to receive it, please send your contact information to eolo@magma.ca. It is also available through a link on the home page of the EOLO website at www.eolo.ca.

Even more than ever before, the rental housing industry needs a strong voice at the federal level. CFAA is that industry voice. We invite you to join CFAA as a direct landlord member so that the critical federal and national advocacy work can be performed with your interests in mind. For more information, please contact Cheri Nixon at 613-235-0101 or at communication@cfaa-fcapi.org.

EOLO 2012 Associate Member Directory

ADVERTISING

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Eric Kalbfleisch
1-800-267-6100
www.ottawacitizen.com

Viewit.ca
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If you have any questions about the issues raised in this bulletin, please contact John Dickie (Chair) or David Lyman (Vice-President) at 613.235.9792, or Luigi Caparelli (President) at 613.723.6169.

Please contact Erin Wallace at 613.235.9792 if you are interested in advertising opportunities.