City of Ottawa
Rental Accommodation
Regulations Study
(Consultant's Phase 2)

Submission of the
Eastern Ontario
Landlord Organization

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EXECUTIVE SUMMARY

We submit that the likely effect of licensing some building types and some areas would be to reduce rental housing supply and increase rents among those building types and areas, while not improving rental housing conditions much or at all.

The overarching message in the Maclaren report dated August 12, 2019, is the following:

1. Conditions in most rental units in Ottawa are satisfactory now. As the report says, the issues are with a small minority of properties and landlords.
2. Without effective enforcement, implementing municipal landlord regulation or stricter by-laws would achieve little, if any, positive result.
3. Implementing municipal landlord regulation AND effective enforcement would achieve a positive result, although at the cost of higher rents.
4. "Improving the effectiveness of By-law enforcement could be an alternative to a licensing regime …." (page 36)

Landlord licensing or mandatory registration is not needed, and would produce a negative result (namely less rental housing supply and higher rents), whereas more effective enforcement is needed, and should produce a positive result without licensing or registration.

The Maclaren report suggests charging for inspections "after the second (e.g. the first results in the order, the second sees if [the order] has been complied with and, if not, charge for subsequent inspections)" (page 37) and notes "Fines and escalating penalties for non-compliance could be significantly increased for repeat offenders". (page 38) EOLO supports both of those proposals, subject to the principles we suggest herein.

EOLO supports enhanced enforcement processes for dealing with rental housing issues in the City of Ottawa. Enhanced enforcement processes are necessary and sufficient to deal with the problems which have been identified concerning long term rental housing units.

EOLO is in favour of providing more proactive enforcement. Such enforcement should address most of the concerns about exterior appearance raised by the homeowners in Sandy Hill and around Algonquin College.

EOLO's support for a demerit system is strictly limited to increased fines for repeat offenders. Demerits should only arise after the offender (whether landlord or tenant) has notice of the issue, and an opportunity to correct the problem. There should be due process, including a due diligence defence.

EOLO opposes any form of landlord licensing or mandatory registration because landlord licensing or mandatory registration is not needed, and would produce negative results (namely less rental housing supply and higher rents).

MAIN SUBMISSIONS

Who EOLO is

The Eastern Ontario Landlord Organization (EOLO) consists of the owners and managers of more than 40,000 residential rental homes in Ottawa, as well as many suppliers to the rental housing industry. EOLO has been the voice of private rental housing providers in Ottawa since 1990.

Our members range from the largest residential landlords in Eastern Ontario to the owners of one or two rental units. All private landlords in Ottawa with more than 2,000 rental units belong to EOLO. Our Board of Directors includes representatives of Minto, Paramount, Homestead, Osgoode, Timbercreek, CLV, Ferguslea, District, Regional, United Properties – Ottawa and Empire Holdings. Other large members include Killam, Sleepwell, Island Park Towers and Arnon.

What EOLO believes

EOLO advocates:

- adequate government assistance for low-income people to be able to afford the housing they need,
- fair and reasonable costs for municipal services, based on the fact that the costs of providing rental housing are passed through to tenants,
- fair and reasonable property taxes, based on the fact that the costs of providing rental housing are passed through to tenants,
- fair and reasonable property standards and property standards enforcement to ensure minimum standards are met, and
- maximizing the use of the free market so that, as consumers, tenants have choice, and can select the package of rental amenities, suite size and design, and location that best suits their tastes and budgets.

The majority of low-income people in Ottawa live in for-profit rental housing, which is at the affordable end of the market. However, due to their low incomes, they struggle to pay their rent. Those facts make it important not to burden the private rental sector with unnecessary costs or regulations, since the low-income tenants, and all other tenants, ultimately pay for those costs and regulations.

Introduction and past submissions

This is the second opportunity to comment in the City of Ottawa study of Rental Accommodation Regulations, and this document is the second set of comments which EOLO had made. Those initial comments made on June 15, 2019, are still applicable. In them EOLO addressed the arguments against landlord licensing. With one exception, those arguments are applicable against broad-based registration and inspection regimes as well. (The one exception is that by omitting the licensing step, the City will largely avoid the risk of liability.)

In its first submission, EOLO argued that landlord licensing would reduce rental housing supply, increase rents and not improve rental housing conditions much or at all. Instead, we suggested improved enforcement measures or other different techniques.

In their options report the consultants have offered a variety of registration and inspection regimes which would apply to some areas or to some types of rental buildings. EOLO is opposed to all of those "half measures" for the same reason we oppose City-wide landlord licensing. We submit that the likely effect of licensing some building types and some areas would be to reduce rental housing supply and increase rents among those building types and areas, while not improving rental housing conditions much or at all.

The overarching message in the Maclaren report of August 12

The overarching message in the Maclaren report dated August 12, 2019, is the following:

1. Conditions in most rental units in Ottawa are satisfactory now. As the report says, the issues are with a small minority of properties and landlords.

2. Without effective enforcement, implementing municipal landlord regulation or stricter by-laws would achieve little, if any, positive result.

3. Implementing municipal landlord regulation AND effective enforcement would achieve a positive result, although at the cost of higher rents.

4. "Improving the effectiveness of By-law enforcement could be an alternative to a licensing regime …." (page 36)

Appendix A sets out the quotes from the Maclaren report which EOLO has paraphrased above as points 1, 2 and 3, and adds some details about point 4.

A current barrier to enforcement

Some participants in the initial consultations noted that the roadblock to enforcement now is that some tenants do not call property standards, or even refuse entry for inspections. Thus, improving conditions in the inadequate units would require either more tenant cooperation, or a requirement that landlords permit entry. Obtaining entry was cited as a key reason for adopting landlord licensing.

EOLO notes that imposing a requirement to permit entry on landlords does not require landlord licensing or landlord registration. A by-law can be enacted requiring landlords to serve notice on their tenants and then to enter with the by-law officer to inspect the state of repair of the rental unit. That entry power is found in the Residential Tenancies Act, which overrides other legislation (other than the Human Rights Code).

Therefore, **landlord licensing or mandatory registration is <u>not</u> needed, and would produce a negative result (namely less rental housing supply and higher rents), whereas more effective enforcement is needed, and should produce a positive result without licensing or registration.**

Paying for more effective enforcement

As a means of paying for more inspections apart from tax revenue, the Maclaren report suggests charging for inspections "after the second (e.g. the first results in the order, the second sees if [the order] has been complied with and, if not, charge for subsequent

inspections). … Inspection fees would accrue directly to the Property Standards group." (page 37)

In addition, the report notes: "Fines and escalating penalties for non-compliance could be significantly increased for repeat offenders … shifting more of the burden of enforcement costs to recalcitrant and repeat offenders." (page 38)

EOLO supports both of those proposals, subject to the principles we suggest in Appendix B. (In Appendix C, EOLO suggests possible work process flows for by-law enforcement which incorporate those revenue generating proposals.)

EOLO's suggestions for enhanced enforcement processes

EOLO supports enhanced enforcement processes for dealing with rental housing issues in the City of Ottawa. We agree with the consultants that, along with appropriate zoning by-laws, enhanced enforcement processes are necessary and sufficient to deal with the problems which have been identified concerning long term rental housing units. Licensing, or mandatory registration and inspections, are not needed, and would bring negative unintended consequences (namely less rental housing supply and higher rents).

In Appendix B, EOLO sets out the legal issues and principle which we believe should be borne in mind in established new procedures and in revising existing by-laws, whether to address complaints as is the current practice, or for pro-active enforcement along the lines of parking patrols, as is discussed in the options paper:

In Appendix C, we have set out is a suggestion for a package of enhanced enforcement processes that we believe will probably address the problems found in the study. Those process flows would need further discussion after City Council's decision on the high level questions of whether to adopt landlord licensing and where to adopt it, and whether to adopt more or different enforcement steps and processes. After the high level decisions City staff will prepare new or revised by-laws, and EOLO would want to provide input and assistance on the details of the new by-laws.

Experience may show that some more vigorous action will be optimal, or indeed that somewhat less vigorous action will be optimal. We believe that measures similar to those in Appendix C should be brought into force, and then reviewed after some time.

DETAILED COMMENTS ON EACH POLICY OPTION RAISED IN THE OPTIONS PAPER

Table 11 - Policy options concerning rental regulations in low-density (R1 and R2 zoned) residential neighbourhoods
a) Provide more proactive enforcement, similar to parking control and issue tickets when violations are spotted. (garbage, weeds/long grass, snow and ice, etc.)
EOLO is in favour of providing more proactive enforcement. We encourage the City to ticket whoever is responsible for the violation, whether that is a landlord, a tenant or a homeowner.

Such enforcement should address most of the concerns about exterior appearance raised by the homeowners in Sandy Hill and around Algonquin College. However, we believe there should be a due diligence defence, and whenever possible an opportunity to correct the deficiency. See Appendices B and C.
b) Require registration and inspection of all rental units in low-density zones in close proximity to post-secondary institutions, or where problems emerge.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is <u>not</u> needed, and would produce negative results (namely less rental housing supply and higher rents).
c) Require registration and inspection of all rental units in all low-density neighborhoods city-wide.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is <u>not</u> needed, and would produce negative results (namely less rental housing supply and higher rents).
d) Adopt a demerit system (a "three-strikes" system) to increase penalties and possibly revoke rental permits for repeat offenders.
EOLO's support for a demerit system is strictly limited to increased fines for repeat offenders. We are strongly opposed to any system of licenses or mandatory registration to operate rental property. Assuming there is no licensing/registration system, we support a demerit system in principle, with the caveats that follow. The demerit levels need to be determined on a unit by unit basis, or taking into account the size of each building. For example, if a single unit building is permitted 2 standard fine violations per year, then a duplex needs to be permitted 3, and a six-plex needs to be permitted 7, etc. Violations should result in increased fines to a landlord only if the violation is the fault of the landlord. There should be no demerit if a unit needs repairs, but the landlord was not aware of the need for the repairs, such as when the tenant needs to report the need for a repair in their rental suite, and has not done so. In extreme cases, tenants can "stage complainants" in order to "get back at" a landlord they dislike. As a more general point, demerits should only arise after the offender (whether landlord or tenant) has notice of the issue, and an opportunity to correct the problem. To address all three issues, City inspectors need discretion to note violations as not deserving of a demerit point, and a demerit system should include a process for the determination of fault either before a violation creates a demerit, or before demerits result in increased fines or other serious consequences. Put more generally there should be due process, including a due diligence defence. In general, a better option might be the publication of notices of violation as is suggested below.

e) Limit the number of bedrooms or percentage of each dwelling that can be used for bedrooms.
EOLO is opposed to limits on the number of bedrooms or the percentage of each dwelling that can be used for bedrooms. While less competition from the secondary market could result in more demand for our members' rental units, we are concerned that there is not enough rental supply now, and we do not support measures such as this, which would result in less rental supply.
Table 12. Policy options for central areas - rental regulations in medium-density (R3 and R4 zoning) and high-density (R5 zoning) residential neighbourhoods
a) Provide more proactive enforcement similar to parking control and issue tickets when violations are spotted. (garbage, weeds/long grass, snow and ice, etc.)
EOLO is in favour of the City implementing more proactive enforcement. See the notes above under item 11 a). Such enforcement should address most of the concerns about exterior appearance raised by the homeowners in Sandy Hill and around Algonquin College. We believe there should be a due diligence defence, and whenever possible an opportunity to correct the deficiency.
b) Require city-wide registration and inspection of all rental accommodations in R3 and R4 zones.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is <u>not</u> needed, and would produce negative results (namely less rental housing supply and higher rents).
c) Require registration and inspection of all low-rise rental properties (4 storeys or less, 10 units or less) across the downtown.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is <u>not</u> needed, and would produce negative results (namely less rental housing supply and higher rents).
d) Require registration and inspection of all low-rise rental properties (4 storeys or less, 10 units or less) across the City.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is <u>not</u> needed, and would produce negative results (namely less rental housing supply and higher rents).

Table 13. Larger apartment buildings:

a) Create a pest control by-law to identify steps landlords and tenants must take to deal with pest infestations.

EOLO supports the enactment of a pest control by-law. We think it would be a positive to set out minimum standards for landlord action, and the tenant action and obligations. In our experience, most substantial pest issues are the result of tenants who fail to prepare their units for treatments or bring contaminated items into their units, resulting in pest issues. The pests migrate to other units and cannot be properly remedied without the co-operation, or removal, of the tenant of the source unit.

EOLO will want to work closely with By-Law Services while it creates the by-law to ensure that the obligations are reasonable and in keeping with the nature of the treatment process for each type of pest. For example, due to the characteristics of bed bugs and the science of the usual treatment, two treatments are almost always needed to eliminate bed bugs.

In addition, with all bugs, but especially with bed bugs, the treatment can be effective, but then within a very short period of time a tenant may bring the bugs in again. (It is extremely rare for a landlord to be the source of bed bugs --- or any bugs --- tenants bring them into their units on their clothes or on the used furniture they buy or salvage or in the bulk food they buy.) A new pest control by-law needs to recognize those facts, and not penalize a landlord for the mere fact that pests reoccur.

Landlords need to eliminate pest when they are brought in, but landlords may be entitled to chargeback for pet control costs, and may be entitled to seek to terminate a tenancy if the tenant persists in conduct that brings pests into the unit or the building.

Tenants sometimes do not report bed bugs or other pests until they are a serious problem. Making a failure to report an infestation an offence under the by-law would also be a positive step.

b) Increase pro-active inspections at problem addresses (deteriorating buildings) and force a resolution.

EOLO supports such action in principle. However, we do not want to be forced to perform unreasonable repairs, and thus to incur unnecessary expenses.

For instance, if a landlord would like to obtain a vacant building in order to prepare for demolition, they are blocked by provincial law which allows a tenancy to be terminated only at the last possible moment, after all other requirements have been met. A city-led process to manage the transition to demolition could hopefully lead to agreements providing for repairs up to a certain point in time, at which time tenants will vacate by agreement.

In addition, as is the case now, there should generally be the opportunity to remediate deficiencies before demerits or fines apply.

The most effective and fair approach is for the property standards officer to meet with the tenant and the landlord to determine what repairs are required, and then establish a reasonable time line for the repairs and for termination when the repairs are cost prohibitive, given the imminent demolition of the building.

c) Require registration and inspection of all apartment buildings with more than ten units.
EOLO OPPOSES ANY FORM OF LANDLORD LICENSING OR MANDATORY REGISTRATION because landlord licensing or mandatory registration is not needed, and would produce negative results (namely less rental housing supply and higher rents).
Table 14. Other policy options:
a) The city should help tenants achieve their entitlements under the Residential Tenancies Act.
EOLO is supportive of the proposal set out in the options paper. EOLO members believe tenants are entitled to their rights under the law, but also need to comply with their obligations. In our experience, very few tenants are reluctant to enforce their rights, but some tenants are overly demanding. EOLO supports using the City website for education in the landlord-tenant area. EOLO would also support City financing to pilot a mediation service to assist in the resolution of disputes. Such a service could be operated by an agency as a contractor, as a new unit of the City or as a unit within property standards. As well as providing support to vulnerable tenants who are afraid of their landlord, City mediation service could provide a realistic point of view to tenants who feel entitled beyond the legal requirements. In some cases, tenants have a completely unrealistic view of the situation, or have mental health issues which lead them to make unfounded claims, or to prevent the landlord from performing repairs. In those cases, giving the tenant recourse to a person knowledgeable about the property standards, and mental health and mediation, could save both tenant and landlord a lot of trouble and expense. A few landlords are also unreasonable or suffering from a mental disturbance. Intervention by a person with the necessary skills could assist in those cases too. In each case, the issuance of a short report about the physical conditions could assist the party in the right to enforce their rights at the LTB if the situation goes on to that.
b) The City should adopt policies to prevent the loss of affordable housing units through renovation or redevelopment, even if it slows renovation or redevelopment of older properties
EOLO believes the City should refrain from putting barriers and delays and higher costs in the path of re-development. Such barriers and costs slow the flow of redevelopment and thus tend to reduce the responsiveness of rental supply to increases in rental demand. That creates shortages of rental housing that last longer, and higher rents. EOLO is strongly opposed to any move to copy the provisions of the City of Toronto Official Plan. As the Maclaren reports itself states, “[Such a] policy may well preserve the worst of existing rental accommodation by discouraging upgrades, allowing it to become more and more affordable, in worse and worse condition.” (page 44) For those reasons, EOLO opposes such a policy.

Table 15. Other policy options:
a) The City should integrate rooming houses more closely with social housing and provide more support for tenants with mental health and addictions issues. *The discussion paper puts out the idea of extending those supports to such tenants in private rental housing in the future.*
EOLO has long argued that the city should fund resources to support tenants with mental health, addiction and other serious social issues in the private rental accommodation in which they find themselves. To provide those supports in rooming houses would be an excellent first step. To extend those services to other affordable rental housing would be an excellent second step. (Building and funding more supportive housing is another excellent policy to address the need.) EOLO would support other assistance for rooming house operators, including grants or forgivable loans for building repairs. EOLO would also support using a social housing model for rooming houses, although not through expropriation. Landlords have indicated to EOLO that they think “this is an area the City really needs to step up in! We have residents with issues and there is no support for the landlord to assist. We are put in a position of eviction when there should be services to help these residents.”
b) The City should implement a demerit system (a "three-strikes" rule) for all regulated rental properties, with increasing fines or other penalties for non-compliance.
See the comments at 11 d) above.
c) The City should support organizations that offer educational material to tenants and landlords.
EOLO supports this option. Our concern would be that the City make sure the material is truly educational. We would not want funding to go to ACORN, or similar groups, to support fearmongering, their political goals of the tighter regulation of landlords, or their constant criticisms of private rental housing providers and Ottawa Community Housing.
d) The City should lobby the Province to resolve Landlord-Tenant Board cases more quickly, and provide more resources for tenants and small landlords.
EOLO supports this option. The City’s support for adequate funding for the LTB, including its mediation service, could be very helpful. With respect to providing more resources for tenants, EOLO repeats our concern that the resources are used for education about the current rights and obligations of tenants and landlords. We would not want City funding to go to organizations like ACORN to support their political goal of the tighter regulation of landlords.

e) The City should publish property standards reports, similar to Public Health inspections of restaurants.
EOLO supports this option in principle with some caveats. We note however that as it is currently written, the property standards by-law defines defects as violations even if they are not the fault of the landlord. That can arise if a unit needs repairs, but the landlord was not aware of the need for the repairs, because the tenant did not report the need for the repair in their rental suite. That can also arise if the tenant causes damage, or doesn't follow the property maintenance by-law requirements. EOLO suggests that interim reports should not be posted, but only reports based on inspections after the landlord had notice of needed work. In the case of common areas, EOLO would prefer notice of an upcoming inspection. In the case of inspections without notice, the City legitimately post the initial report, but then the City should replace that posting with a final report if the landlord performs the needed work within a reasonable period of time, and then requests a re-inspection. Overall, the fairest approach would be to post orders issues after inspections show that needed work was not attended to after notice of the need for the work went to the owner.
f) The City should do more work with landlords when tenants refuse entry to a unit and seek court orders when necessary.
EOLO supports this option. Notice that licensing or registration does not give the City inspectors more entry power. Enacting a by-law which requires property owners to give access, if need be by giving notice to tenants, would give the inspectors additional, effective entry power. Since that is a key goal of some proponents of landlord licensing, this step is what is needed, rather than landlord licensing.

APPENDIX A

Quotes from the report which are summarized in the overarching message

Here are the quotes from the report which have been summarized in the four points stated at page 5:

1. Conditions in most rental units in Ottawa are satisfactory now.

"Some buildings offering long-term housing are in poor shape, and some landlords are not responsive to tenant needs, but this appears to be a small minority of rental housing." (page 24)

2. Without effective enforcement, implementing landlord licensing or stricter by-law regulation would achieve little, if any, positive result.

"Regulation is only useful if enforced …." (page 20)

"Even with regulation or licensing regimes, sub-standard units will still likely be found, especially if there is no enhanced enforcement, including proactive inspections. Hence the two approaches can be used together." (page 25)

"Those [cities] that have rental housing regulation or licensing bylaws concluded that by-laws alone do not give adequate assurance to tenants or to neighbours that standards are being enforced." (page 28)

3. Implementing municipal landlord regulation AND effective enforcement would achieve a positive result, although at the cost of higher rents.

"Regulated or licensed units in better repair may well be more expensive to rent. Even with regulation or licensing regimes, sub-standard units will still likely be found, especially if there is no enhanced enforcement, including proactive inspections. Hence the two approaches can be used together." (page 25)

"For owners, licensing or regulation regimes can constrain profitability by raising costs, both administrative and by requiring ongoing investments in maintaining properties, and by ensuring they comply with changing code requirements. Increased costs will be reflected in increased rents – and if the market does not allow recovery of increased costs, new construction of rental units, and upgrades or renovations of existing units, will be constrained, [thereby reducing rental supply and increasing rents]." (page 25)

4. "Improving the effectiveness of By-law enforcement could be an alternative to a licensing regime …." (page 36)

"By-law enforcement officers [could] develop a plan for regular patrol and inspection of buildings and properties where violations are most likely. The plan could take into account past complaints and work orders issued, the age of buildings, and the knowledge of the property standards officers, councillors and, perhaps, others who have knowledge of where problems are most likely to be identified." (page 36)

“… [P]ro-active enforcement … [could also mean] issuing tickets in the first instance rather than warnings and, deal [with] infractions as they see them, rather than moving past the infraction to deal with a complaint.” (page 36)

“ … [I]ssues that cause the greatest concern to neighbours – those on the property outside the building (garbage, weeds, snow, and ice maintenance…) –- could result in immediate fines, which might improve the compliance rate.” (page 36)

“Many of the concerns raised in the public consultations could be addressed with adequate staffing assuring timely reposes and consistent follow up.” (page 38)

APPENDIX B

Issues and principles for enhanced enforcement processes

The following are the legal issues and principles which EOLO believes should be borne in mind in establishing new procedures and in revising existing by-laws, whether to address complaints (as is the current practice), or for pro-active enforcement along the lines of parking patrols, as is discussed in the options paper:

- Repair and maintenance deficiencies at rental properties are often due to age-related deterioration of building components, which are clearly the responsibility of the building owner to repair. However some deficiencies are the fault of the tenant (because of the tenant's willful or neglectful conduct, such as damage or failure to bring in curbside garbage bins, for example)
    - Once a property owner or landlord has notice of a deficiency, it is usually their responsibility to remedy the deficiency, although it may also be someone else's responsibility.
- The responsibility to remedy deficiencies can be that of the landlord or the tenant or both (or even a third party such as a neighbour, a wrong doer or the City if one of them has caused the problem).
- Under the Residential Tenancies Act, tenants are entitled to privacy, subject to the landlord's entitlement to inspect periodically with notice, and the landlord's obligation to inspect the smoke detectors or other safety devices, with notice.
- Within rental units (and outside rental units in small buildings) there is usually an obligation on the tenant to bring the need for a repair to the landlord's attention.
- Grass cutting and other outside maintenance in a single family rental is usually the responsibility of the tenant.
- Not making a mess, and proper waste handling is the responsibility of all tenants, subject to the landlord's subsequent responsibility to clean up, and pursue the tenants for the cost of the clean up.

As a result of those legal rules, enhanced enforcement should ideally follow the following rules for enforcement. (The first points involve data processing and security issues. However, an effective database with access from handheld devices could largely automate the notice process as part of the recording of violations which is needed to make a demerit system work, and to obtain accurate statistics for efficient resource deployment.)

- When practical, (and certainly for repairs) the person at fault (whether tenant or landlord) should be given at least a time period to correct a deficiency proportionate with the problem. (For basic maintenance, such as garbage clean up or grass cutting, the time period may appropriately be only 48 or 72 hours.)
    - Such an expedient notice is needed in order for the problem to be addressed more quickly than the turn around and mailing time for a ticket. Even though a ticket may raise revenue, immediate notice is needed for the clean up to be done quickly, which is what the neighbours want.

- To facilitate immediate contact, landlords should have an economical means to provide the City with contact information for informal, expedient notices, and to keep it up-to-date.
    - The contact could well be a property manager.
- When the City can tell that a tenant is at fault the notice should go to the tenant, and if there is to be a fine, it should go to the tenant;
    - Otherwise the notice needs to go to the landlord or the property manager.
    - Working out how to do this may be a practical challenge
- Notices of fines on the property owner need to go to the property owner;
    - In the case of landlords who have provided contact information, notice of fines should also go to the contact, who may be a property manager.
- Before there is a charge for failure to cut grass at a building of 3 units or fewer, BLRS should check with the landlord whether one of their tenants is responsible for grass cutting because the area is the tenant's exclusive use area.

To comply with the rules of natural justice and fairness, the following rules should apply when operating a demerit system that results in increased fines, shortened notice periods or other consequences:

- The person to be affected by increased penalties or reduced notice needs to be given notice of the events that are leading to such increased penalties or reduced notice;
    - Such notice should also increase compliance, which is the goal of the system.
- The demerit levels need to be determined on a unit by unit basis (plus building common areas), or taking into account the size of each building;
    - For example, if a single unit building is permitted 2 standard fine violations per year, then a duplex needs to be permitted 3, and a six-plex needs to be permitted 7, etc.
- Violations should result in increased fines to a landlord only if the violation is the fault of the landlord;
    - There should be no demerit if a unit needs repairs, but the landlord was not aware of the need for the repairs, such as when the tenant needs to report the need for a repair in their rental suite, and has not done so (provided the landlord addresses the problem promptly after receiving notice).
    - The system would have to deal with the burden of proof. It could start with the initial inquiry to the tenant about whether they have notified the landlord. If the tenant says they have, then the burden of proof could switch to the landlord to prove they did not receive notice, and that could be rebutted by evidence from the tenant in the form of a copy of an e-mail or a text message, or a note of a phone call. The practice could be for tenants to be asked to provide the electronic copies to BLRS, so that the whole evidence weighing and onus process would proceed in one stage. (This is referred to in Appendix C as Note A. For the purpose of ramping

up future fines, the finding could be notice given to landlord, notice not given or undetermined.)

A separate discussion needs to address pest control because there are many special issues with pest control, including greater tenant responsibility, mental health issues, accommodation issues and issues that vary with the type of pest.

A further separate discussion should inform an additional process for buildings which have deteriorated significantly and are planned for demolition, recognizing that they have to meet all the standard minimum standards. There are particular issues that tenants want to be addressed in the processes that apply to those situations, and the City could facilitate a resolution of the issues in that sticky, but uncommon situation.

APPENDIX C

DETAILED PROCESS SUGGESTIONS FOR ORDINARY CASES (subject to further review and discussion)

The following discussion address three different types of problems in turn, namely:

1. Outside maintenance issues, such as garbage clean up
2. Outside repair issues, such as deteriorated siding, balconies or steps
3. Inside maintenance or repair issues

Outside maintenance or repair issues

The usual trigger would still be complaint by a neighbour, but it could be a tenant (and probably a tenant who has not made the mess).

The City should also accept reports by social workers or community members.

The City should also perform proactive inspections on problem properties.

Resources permitting, the city could perform neighbourhood sweeps to look for violations.

EOLO is content that the City order the work done by its contractor if the property owner has not provided contact information for expedient informal notice of the violation.

EOLO is also content that the city charge for re-inspections, provided the owner or tenant has had notice of the need to do the work.

1. Outside maintenance issues, such as garbage clean up		
Complaint, or initial area sweep by by-law officers	On finding outside mess	Check for owner/manager contact info
CONTACT INFO HAS BEEN PROVIDED		
		Send standard email message or VM giving 48 hours to clean up
Repeat sweep by by-law officers, 48 to 72 hours later	If not cleaned up,	Send standard second email message and order work done by contracted crew, cost added to property tax bill
Repeat sweep by by-law officers, 3 days later	Check contractor has done the clean up.	If not, follow up the contractor
Check for past violations and past record of repairs after notice. (See also Note	If past violations are present, issue tickets or lay charges to levy fines, based	Both tickets and fines could be ramped up depending on the past record of

A in Appendix B at the bottom of page 16.) (A proper automated system could flag such violations, subject to a check by the officer.)	on the violation record for the property	violations.
CONTACT INFO HAS NOT BEEN PROVIDED		
	order work done by contracted crew, cost added to property tax bill	
	Check contractor has done the clean-up.	If not, follow up the contractor
Check for past violations and past record of repairs after notice. (See also Note A in Appendix B.) (A proper automated system could flag such violations, subject to a check by the officer.)	If past violations are present, issue tickets or lay charges to levy fines, based on the violation record for the property	Both tickets and fines could be ramped up depending on the past record of violations.

2. Outside repair issues, such as deteriorated siding		
Initial area sweep by by-law officers, or complaint	On finding outside repair problem	Check for owner/manager contact info
CONTACT INFO HAS BEEN PROVIDED		
		Send standard email message or VM giving 5 days to contact officer and arrange repair
	If no contact from owner	Send standard second email message and initiate process to order work done by contracted crew, cost added to property tax bill
Check for past violations and past record of repairs after notice. (See also Note A in Appendix B.)	If past violations are present, issue tickets or lay charges to levy fines, based on the violation record for the property	Both tickets and fines could be ramped up depending on the past record of violations.

IF CONTACT AND TIME PROVIDED BY THE OWNER OR THEIR AGENT		
	Diarize re-inspection	
On or after re-inspection date, re-inspect	Work done = file closed	
	On finding no repair, diarize next inspection	Charge for that next re-inspection Order work done by contracted crew, cost added to property tax bill
10- 14 days later	Confirm contractor has done the repair	If not, follow up the contractor
Check for past violations and past record of repairs after notice. (See also Note A in Appendix B.)	If past violations are present, issue tickets or lay charges to levy fines, based on the violation record for the property	Both tickets and fines could be ramped up depending on the past record of violations.

Inside maintenance or repair issues

The usual trigger would still be a complaint by the tenant of a rental unit.

The City should also accept reports by social workers (or neighbours).

The City should also perform proactive inspections on problem properties.

3. Inside maintenance or repair issues		
Initial complaint or report	The City telephone operator or the City website should to obtain the property address, and find out if the issue is with a landlord, and if so, has the problem been reported to the landlord. If not, why not? Generally, tell the tenant to report the problem to landlord and see what the response is. Request repeat contact is the issue is not addressed.	If the person reporting is a social worker or neighbour, check address for owner/manager contact info. If have contact info and owner/manager is responsive, contact them. If do not have contact info or owner/manager is not responsive, then notify inspector for the area.

If issue has been reported to landlord and not actioned, then notify inspector for the area.	Inspector can opt to note complaint unfounded or to make quick informal contact with the owner or to issue notice of violation or to order the repair work done.	Informal contact via contact info
	Inspector should note whether the landlord had notice of the need for the work, based on	
	Charge for inspections after the first re-inspection (which is the first check that the work has been done)	
Check for past violations and past record of repairs after notice. (See also Note A in Appendix B.)	If past violations are present, issue tickets or lay charges to levy fines, based on the violation record for the property.	Both tickets and fines could be ramped up depending on the past record of violations.

APPENDIX D

Comments on the "What we heard" section

EOLO has some concerns about the wording of some of the "What we heard" section, as follows.

The bolded note near the top of page 4 states:

> Note that this section outlines what people said during the consultations. It does not endorse or refute comments, and where statements of fact are presented, there is no attempt to prove or disprove the facts presented in this section. In many cases contrary positions were presented, and they are all reflected in this section. Neither Maclaren Municipal Consulting nor the City of Ottawa endorse the opinions presented in this section.

However, EOLO has some concerns that individual comments within the next few pages do not reflect the spirit of that overall statement and could be misinterpreted. We respectfully request a re-statement of the initial "What we heard" section in the final report, to address the following concerns.

On page 5, para 2, the term "marginal" is not well known to the public. We suggest replacing "marginal rental units" with "*a few,* marginal rental units".

On page 5, para 2, we suggest the meaning would be much clearer if the sentence read, "We also heard that tenants *in those few, marginal rental units,* will often …"

On page 5, para 3, the opening words sound very factual, "These issues are …" It would be much better if the wording was "*Some participants said* these issues are …" and at the end of the paragraph, there were a balancing sentence, "*Other participants said that almost all landlords, and all large landlords, fulfill their obligations to their tenants."* If no one said it that clearly before, EOLO is saying it NOW.

On page 5, para 4, the opening sentence says "There was overall agreement that the lack of property maintenance was a significant overriding problem in rental accommodations. There was not and is not such agreement. EOLO disagrees with that statement, and I am sure that almost all landlords do. EOLO would agree that lack of property maintenance can be a significant issue in few rental properties. Therefore, to be accurate, the sentence could be revised to read, "There was overall agreement that the lack of property maintenance *is* a significant overriding problem in *at least some* rental accommodations. One could add, "*The extent of that problem was hotly disputed."*