

**City of Kingston**

**Residential Rental Licensing Discussion**

-

**SUBMISSION OF THE  
KINGSTON RENTAL PROPERTY OWNERS ASSOCIATION**

**December 29, 2023**

**Robert Melo, President**  
E-mail: [krpo.assoc@gmail.com](mailto:krpo.assoc@gmail.com)

**613 334 2154**

## EXECUTIVE SUMMARY

This submission is made by the Kingston Rental Property Owners Association (KRPOA) with the support and assistance of three other apartment associations, all with a relationship with Kingston's residential landlords.

There is broad agreement among all housing stakeholders that there is a housing crisis across Canada. The main housing problems are lack of supply, and affordability. Lack of repair is a problem affecting far fewer renter households than lack of affordability.

In almost all cases, only a relatively small portion of the rent paid for a rental home ends up as return on investment. The bulk of rent money goes to pay for the costs of owning and operating rental homes, including property taxes, utilities, other operating costs, financing and major repairs.

If adopted, the costs of landlord licensing or regulation will inevitably increase landlord costs. Over time, an increase in landlord costs will tend to reduce rental supply and to raise rents.

The three main goals for a Residential Rental Licensing Program in Kingston are:

- 1: Identifying Rental Units
- 2: Verifying the Safety of Rental Units
- 3: Gaining Compliance

KRPOA's main submission on each goal is the following.

1. The City has the ability to create a listing of rental owners from its existing tax records. There is no need to create a rental registry to identify rental units. The tax record approach would save money and help keep rents affordable.
2. The safety and good repair of rental units is already protected by the Property Standards By-law and the work of the Kingston Fire Service. What is needed is not more paperwork, but rather a more co-ordinated and targeted approach to by-law enforcement and fire safety information.
3. Rather than bringing in new requirements (which include much documentation) to seek to gain improved compliance, the better approach is to enforce the existing property standards by-law through property inspections, communication with tenants and landlords, and if necessary, notices of violation, property standards orders, and ultimately, prosecutions. KRPOA offers specific suggestions to maximize the benefit achieved by more pro-active by-law enforcement.

Even if it is free of municipal fees, residential rental licensing is not a cost-free solution because of the costs of complying with the bureaucratic requirements, both by landlords and the City. Substantial costs will be incurred which must be paid by someone, whether that be municipal ratepayers, landlords or tenants. It is impossible to force landlords to absorb all the costs imposed and created by landlord licensing or registration.

Even modest registration requirements would have a significant effect on landlords' return on investment. As a result, landlord licensing or registration would inevitably worsen rental housing affordability, which is a much more widespread problem than any need for more repairs.

Landlord licensing or registration is a net negative for the overall well being of tenants. There are more effective and less costly ways to achieve the City's goals, with fewer negative consequences to tenants, landlords and ratepayers. KRPOA urges Kingston City Council to reject the rental licensing and registration options available to it.

<b>Table of Contents</b>	<b>Page</b>
Introduction	4
THE CURRENT HOUSING CONTEXT	5
Core Housing Need	6
Where a dollar of rent goes	6
The Impact of regulations on housing supply and rents	8
THE GOALS OF THE PROPOSED LANDLORD LICENSING	9
1. Identifying Rental Units	9
• Would the proposals achieve that goal?	10
• Better ways to achieve that goal	11
2. Improving quality and safety of rental units	12
• Would the proposals achieve that goal?	13
• Better ways to achieve that goal	14
3. Gaining compliance	16
• Would the proposals achieve that goal?	16
• Better ways to achieve that goal	17
• The need for sensitivity	18
OTHER REASONS TO AVOID LANDLORD LICENSING: THE COSTS AND EFFECTS ON HOUSING AFFORDABILITY	19
CONCLUSION	21

<b>Table of Figures</b>	<b>Page</b>
Figure 1: Population growth and housing completions – Canada by year	5
Figure 2: Core housing need among renters by reason – Kingston 2016	6
Figure 3: Where a dollar of rent typically goes	7
Figure 4: Sample major repair or refurbishment costs	8
Figure 5: Sample impact of licensing costs or fee on annual return on investment	20
Figure 6: Where does a dollar of rent would go with Rental Licensing or Registration	20

## **Introduction**

This submission is made by the Kingston Rental Property Owners Association with support and assistance from the Federation of Rental-housing Providers of Ontario; the Eastern Ontario Landlord Organization and the Canadian Federation of Apartment Associations, all of whom have a relationship with Kingston's residential landlords.

### **Kingston Rental Property Owners Association (KRPOA)**

Founded in 1981, the Kingston Rental Property Owners Association (KRPOA) brings together residential landlords in the Kingston community to promote local and provincial advocacy, peer networking, education on laws and regulations, and to provide an opportunity to share valuable resources and to support best practices.

### **Federation of Rental-housing Providers of Ontario (FRPO)**

FRPO has been the leading advocate for strong and stable purpose-built rental housing in Ontario for nearly 40 years, and represents 2,200 members who own and or manage over 350,000 residential rental homes across Ontario.

### **Eastern Ontario Landlord Organization (EOLO)**

EOLO has been the voice of private rental housing providers in the City of Ottawa since 1990. EOLO's members range from the largest residential landlords in Ontario to the owners of a few rental units. Together, EOLO's members own or manage over 45,000 rental units in the City of Ottawa, and over 6,000 rental units in the City of Kingston.

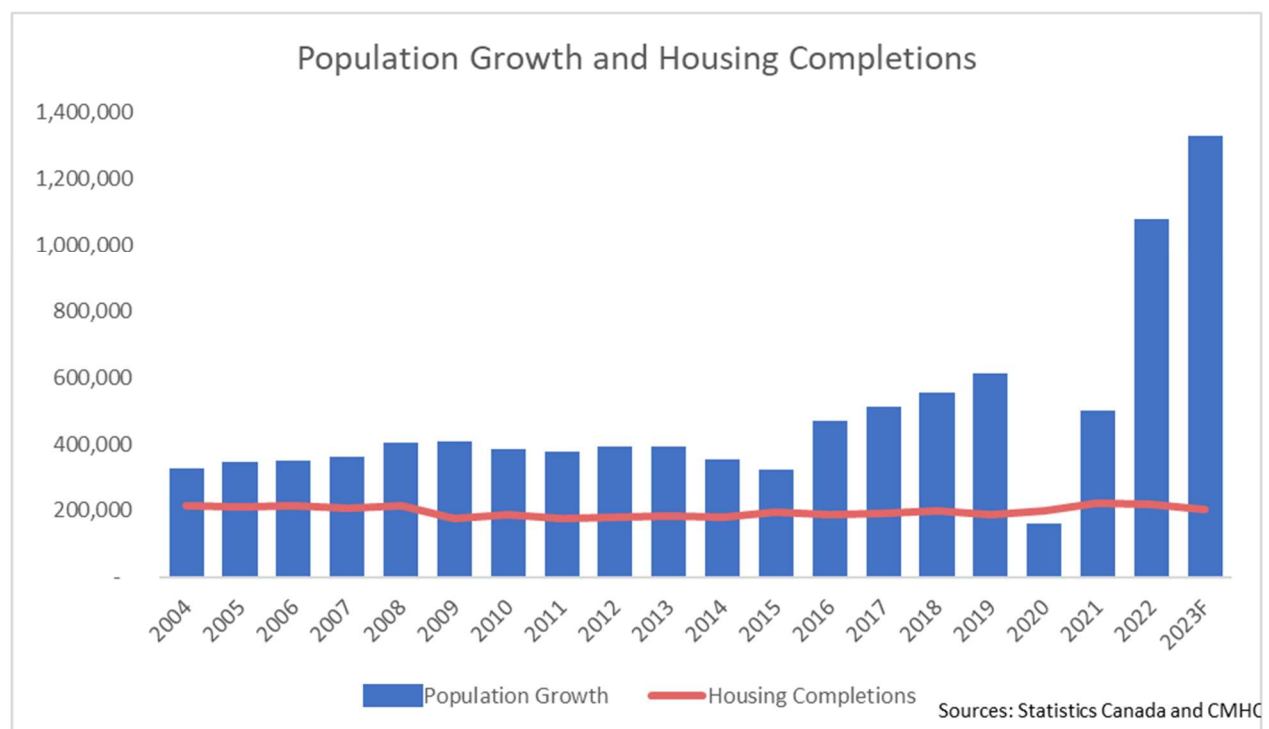
### **Canadian Federation of Apartment Associations (CFAA)**

CFAA is Canada's national voice for purpose-built rental housing, representing more than 15,000 rental housing providers from coast to coast who own and manage nearly 1 million residential rental homes.

## THE CURRENT HOUSING CONTEXT

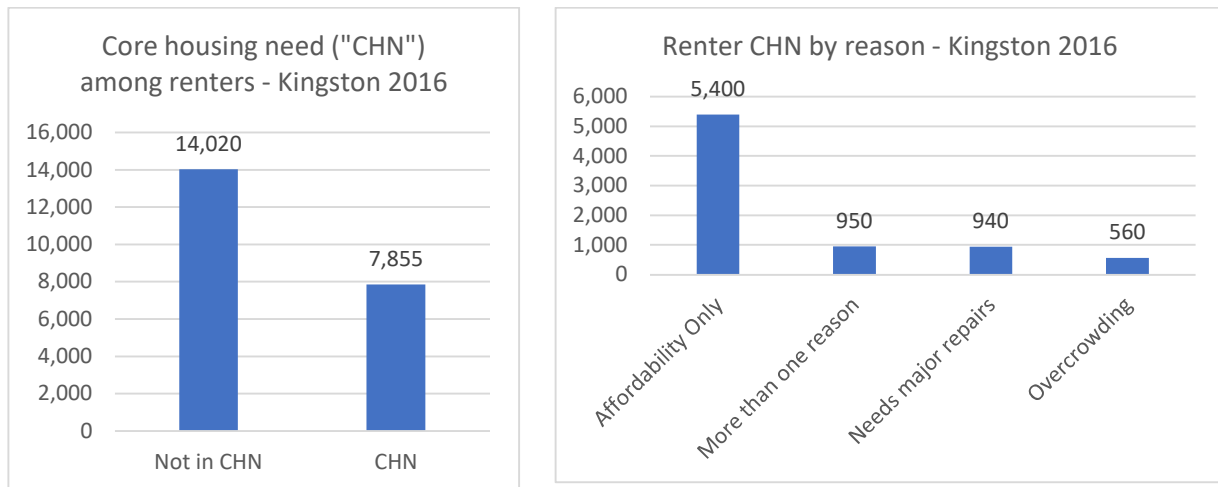
There is broad agreement among all housing stakeholders that there is a housing crisis across Canada. Housing supply and especially rental housing supply has not kept up with housing demand. See Figure 1. In municipalities hosting post-secondary institutions, a significant part of the increase over the last few years has been an increase in the admission of international students. While it is a city of modest size, Kingston is home to Queen’s University and St Lawrence College, so that we are affected by the international student issue as much as cities like Ottawa and Toronto.

**Figure 1 Population growth and housing completions – Canada by year**



As a result of the shortfall in housing supply relative to housing demand, the main housing problems are lack of supply, and affordability. The Canada Mortgage and Housing Corporation (CMHC) is the federal crown corporation responsible for administering the National Housing Act. According to CMHC, renters (or homeowners) are said to be in core housing need if their housing needs major repairs, is overcrowded or costs them more than 30% of their household income (and adequate, suitable and affordable housing is not available in the city in which they live.) As in other cities across Canada, in Kingston, the need for repairs is a much less widespread problem than affordability. See Figure 2.

**Figure 2 Core housing need ("CHN") among renters by reason – Kingston 2016**



Source: Statistics Canada and CMHC and one minor calculation.  
The 2021 figures for Kingston have not yet been published.

As a result of the predominance of the affordability problem in core housing need, policy makers should be wary of solving the limited problem (the need for repairs) at the cost of worsening the predominant problem (namely affordability). This submission will argue that a licensing or registration program would have that exact effect, namely worsening rental housing affordability.

As a result of the population growth, and the failure of housing supply to keep up with that growth, housing prices have increased more than income growth, and market rents have increased more than income growth. However, due to rent control regulations, in Ontario, average rents have lagged behind income growth because the bulk of rents are constrained by the rent increase guideline. For the last four years, the cumulative guideline rent increase has been 6.3%, whereas the CPI has increased 15.3% and average earnings have increased 16.9%.<sup>1</sup>

**Where a dollar of rent goes**

There is a common misconception that most of the rent for a residential rental home flows directly into a landlord’s pocket as net income. However, that is far from correct. Many renters and commentators have the impression that all, or almost all, of the rent which people pay ends up in the pockets of landlords. In fact, only a relatively small portion of the rent paid ends up as return on investment. See Figure 3.

<sup>1</sup>Source: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=1410022201&pickMembers%5B0%5D=1.7&cubeTimeFrame.startMonth=10&cubeTimeFrame.startYear=2019&cubeTimeFrame.endMonth=10&cubeTimeFrame.endYear=2023&referencePeriods=20191001%2C20231001> \$1247.25/ \$1067.12

**Figure 3: Where a dollar of rent typically goes**

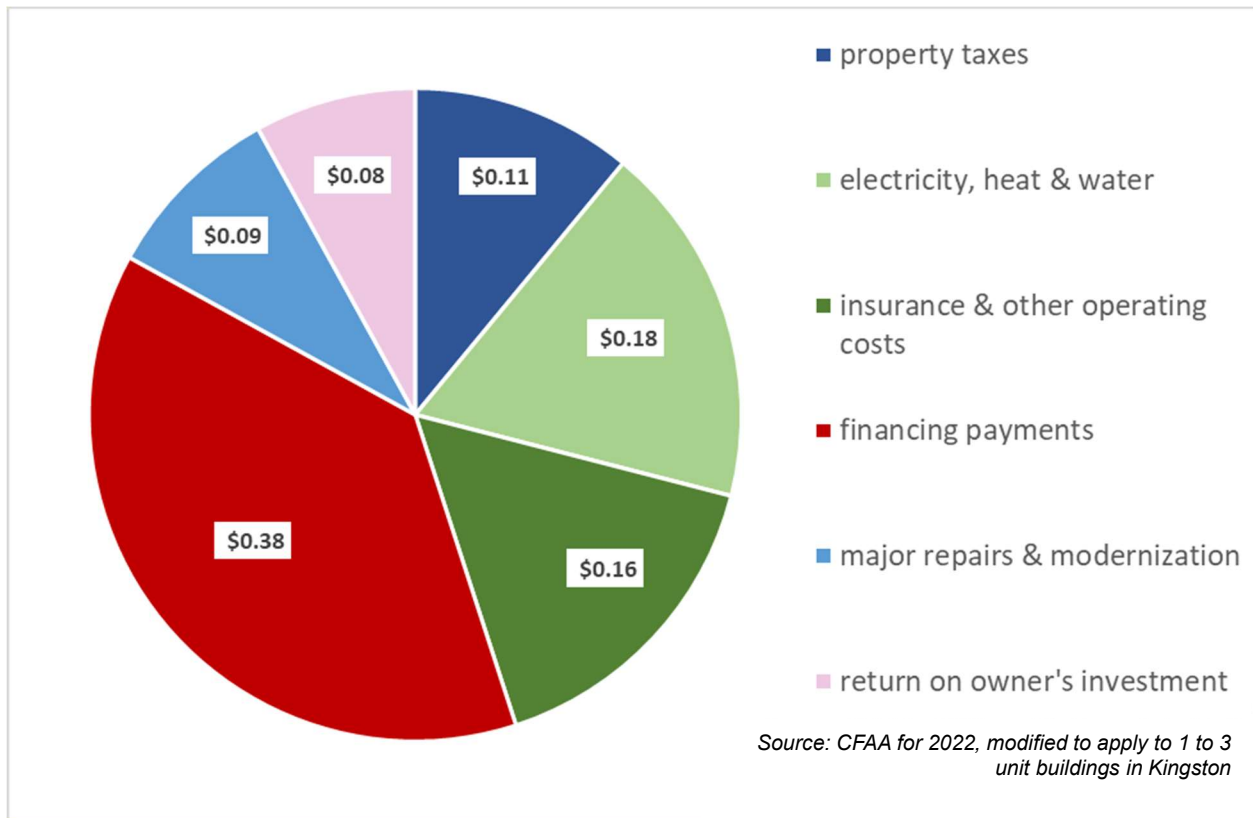


Figure 3 reflects the costs of owning and operating typical one, two or three unit rental properties in Kingston in 2022. Starting at 12 o'clock (at the top of the pie graph), roughly 11 cents of the average dollar of rent is used to pay the municipal and provincial property taxes. Roughly 18 cents is needed to pay for electricity, heat and water. Close to 16 cents usually goes to pay for property and liability insurance, day-to-day repairs, grass cutting, snow removal, building management and other operating costs. In most cases, more than a third of rent goes to pay for the financing on the rental building (which is usually one or more mortgages), say 38 cents on average. Most of those expenses are outside the rental owner's control. Those costs leave about 17 cents unspent, much of which must be used for major repairs.

The remaining major cash outlay is for major repairs or building modernization. As time passes, buildings wear out. Even with good preventive maintenance, building systems periodically reach the end of their useful lives and need to be replaced. That includes roofs, exterior cladding, heating equipment, windows, flooring, wall finishes, cabinets and counters, and appliances.

Any one of the major building systems can easily cost 10% or 20% of the total annual building revenue (before all the other expenses). For examples, see Figure 4. For any expense over 17%, there is no cash left to be paid out to the owner. Beyond 17%, the average owner needs to inject equity, or borrow money, to fund the major work. Over the long haul, the average annual cost of major repairs or renovations funded from building cashflow is about 9 cents on a dollar

of rent, with the result that the average return on investment is about 8 cents out of a dollar of rent.

**Figure 4: Sample major repair or refurbishment costs**

Item (major repair or refurbishment)	Cost (including HST) <sup>2</sup>	Monthly building rent <sup>3</sup> (2 units)	Annual Building rent	Cost as % of total building rent <sup>4</sup>
Fridge and stove (for 2 rental units)	\$3,200	\$3,000	\$36,000	9%
Furnace	\$6,000	\$3,000	\$36,000	17%
Re-roofing	\$12,000	\$3,000	\$36,000	33%
New windows	\$22,000	\$3,000	\$36,000	61%

### The impact of regulations on housing supply and rents

Any municipal fees for landlord licensing or regulation will inevitably increase landlord costs. Whether or not licensing or registration fees are imposed, the work involved to comply with landlord licensing or regulation will inevitably increase landlord costs and/or the negatives of rental operation.

Inevitably, an increase in landlord costs will tend over time to reduce rental supply and to raise rents. Admittedly, it is difficult to document the direct links between increases in costs due to licensing and decreases in supply, and then to increases in rents. The difficulty arises because at any given time, so many other factors are increasing costs, and impacting on supply, and thus impacting on rents.

The costs of landlord licensing or regulation consist of:

- All application or registration fees,
- The cost of any required inspection reports or certificates of compliance, and
- The cost in time and effort (or management fees) to make any application, to organize any inspections or certificates, and to check and file those certificates or inspection reports.

Even a licensing framework that does not impose fees directly on landlords nor require inspection or certificates will cause landlords to incur added costs to comply.

The vast majority of economists would agree that landlord licensing or regulation increases costs, and inevitably reduces rental supply and increase rents, everything else being equal. KRPOA also believes that the costs of landlord licensing or regulation will inevitably result in rent increases.

<sup>2</sup> KRPOA cost estimates based on recent experience.

<sup>3</sup> According to the CMHC Rental Market Report for October 2022, the average rent for a 2 bedroom apartment in Kingston was \$1,471. That has been rounded to \$1,500.

<sup>4</sup> KRPOA calculations.



## **THE GOALS OF THE PROPOSED LANDLORD LICENSING**

### **Goal 1. Identifying Rental Units – Residential Rental Registry (RRR)**

To advance the recent reactivation of work on the proposed Residential Rental Licensing Program (RRLP), the City of Kingston distributed a consultation paper, which identifies three main goals for RRLP, and provides information on what specific requirements are being considered.

The three main goals are:

- Goal 1: Identifying Rental Units – Residential Rental Registry (RRR)
- Goal 2: Examination of Safety of Rental Units
- Goal 3: Gaining Compliance

This submission will address each goal in turn.

### **Goal 1. Identifying Rental Units – Residential Rental Registry (RRR)**

According to the consultation paper,

The first step in building any program to monitor residential rentals is to gather data about the existing rental units in the City. Without accurate data about existing rental housing stock, it will be difficult to carry out any form of By-Law Enforcement/Licensing program effectively. Additionally, gathering rental housing data will give planners, housing officials and City leadership a better understanding of general trends and changes in housing conditions. The following list of information types could be included in an RRR:

- Civic Address of Rental
- Property Owner Information (Name, Address, Phone, Email)
- Contact Information for Local Agent (if Owner doesn't reside in Kingston)
- Proof Of Ownership
- Site Sketch (including parking plan)
- Floor Plan (including exits, doors, windows)
- Proof of Insurance for property damage & bodily injury

KRPOA notes a significant difference in the type of information proposed, as well as in the ease or difficulty of pulling the information up or creating it. We will address the various suggestions in groups, and then make general comments.

For a rental registry, KRPOA submits that all that is needed is:

- Civic Address of Rental
- Property Owner [contact] Information (Name, Address, Phone, Email)

The ease of providing that information would mean that responsible landlords would be willing to provide it, and can do so with little effort and no cost. However, any landlords who are operating in violation of any City or Provincial requirements, such as zoning or difficult-to-cure

building code standards, such as room height or the width of exit doors, may well not come forward to register.

Evidence is clear that licensing does little to increase compliance, given the small percentage of illegally converted units that appear to secure licenses in those municipalities where licensing has been adopted.<sup>5</sup>

At the end of this section, KRPOA will suggest other ways of obtaining that information, which are more likely to work for all rental units.

### **The requirement of a local agent**

In these days of modern communication, the requirement of a local agent is unnecessary. Virtually every mobile phone can take photos, which can be transmitted by e-mail or message. A landlord situated in Ottawa, say, can perfectly easily look at a needed repair, evaluate whether it is likely the tenant's responsibility or theirs, evaluate the urgency of the repair, and call in the appropriate tradesperson to make the repair. If the repair can wait, the landlord can do it themselves within a few days.

If the landlord and tenant have a good working relationship the landlord can authorize the tenant to buy the necessary part and install it, with the cost to be deducted from the rent. A landlord would not have any major repair done that way, but for the type of repair which homeowners do for themselves it could work very well. Examples could be the replacement of a stove element or a part in the toilet flushing mechanism.

### **Proof of ownership and proof of insurance**

Proof of ownership and proof of insurance might be easy to pull up for an owner with one rental unit, but would take time and effort for anyone with multiple units. The deed for each property would be in separate files, probably from various times. The assessment roll provides the ownership, which should make the provision of the deed unnecessary.

The insurance is renewed each year, and so to be effective, filing would be needed each year for each property.

Moreover, there is no legal requirement for an owner to have insurance. A tenant with a legitimate claim against an owner can claim at the Landlord and Tenant Board or in Superior Court, and then enforce any judgment like any other creditor (against all the landlord's assets, including the rental property itself and the home they likely own). Insurance on the tenant's

---

<sup>5</sup> A Review of the Effectiveness and Implications of Municipal Licensing of Residential Apartments, Michael Fenn, September 2013, pp. 9-10 (PDF pp. 13-14) [https://frpo.org/files/Reports\\_and\\_Submissions/Residential-Licensing-Effective-Review-Sept-2013.pdf](https://frpo.org/files/Reports_and_Submissions/Residential-Licensing-Effective-Review-Sept-2013.pdf).

At the time writing the paper, Michael Fenn was a Senior Advisor at StrategyCorp. He had extensive experience in leadership positions at the municipal and provincial levels of government, including seven years as an Ontario Deputy Minister (including at the Ministry of Municipal Affairs and Housing), as well as eleven years as chief municipal administrator in Burlington and Hamilton-Wentworth Region.

belongings needs to be taken by the tenant. Insurance for the tenant's liability needs to be taken by the tenant.

The vast bulk of fires, many floods and most other damage are caused by the negligence of a tenant in a unit or another tenant in the building. Focusing an insurance requirement on landlords is focusing on the wrong side of the issue.

### **A site sketch and a floor plan**

A site sketch (including parking plan) and a floor plan (including exits, doors, windows) would take time and effort, or cost money. Not everyone can draw a decent sketch, nor provide a clear floor plan.

Those items are required in North Bay, where it seems clear that part of the goal of the licensing program was to discourage rentals to students in residential areas, and to restrict the number of students who could occupy apartments or houses, to seek to limit the number of students in any area, with a view to addressing behavioural issues (such as noise and property tidiness outside the building).

KRPOA certainly hopes that discrimination against student-renters is not one of the goals of the proposed regulation, although seeing those proposed requirements raises that concern, as well as the concern about the work and costs which would be imposed on landlords to comply.

### **General comments**

City staff and Councillors should also be concerned about the cost to the City of receiving the material to be required. Furthermore, some City official will have to review the material. The City official will have to check that the addresses on different documents are correct, that the dates on insurance confirmation are correct, and that the parking plan and floor plan are clear. To do a thorough job, the plans would have to be compared with the situation at the property. And all that to what purpose?

KRPOA submits that the information is not necessary to achieve the stated goal. Collecting it would impose work on landlords and on the City staff to no good purpose. Moreover, the essential information is available to the City in another way.

### **A better way to achieve the goal**

It seems to KRPOA that the City of Kingston can obtain the information it actually needs through the City's existing records. Every year, the City sends out tax bills. If the tax bill is being mailed to an address different from the property address, then that is a very strong indicator that the property is being rented. The assessment information tells whether the property is in the residential class or a different class, and the assessment record gives the number of units. All the City seems to care about at this point are residential properties with three or fewer units, with the tax bill being mailed to a different address. (The different address could be in Kingston or outside Kingston, e.g. in Ottawa or Cornwall.)

Even now, the requirement to provide information to tenants is found in the **current Kingston Property Standards by-law**. Section 5.27 Emergency Contacts and Apartment Identification addressed those elements, states in section 5.27.1:

Every Owner shall provide, install, and maintain contact information in a common area in case of an emergency on a 24 hour basis where an authorized person responsible for the Property can be reached.

That requirement can be enforced under the by-law now. If the requirement is not met on a widespread basis, then surely education is the appropriate approach, not the enactment of overreaching new requirements.

For policy making, another approach to more aggregated information on the owner-renter divide is the Census information, broken down by census tract. Again, MPAC records can surely provide details of the number of units and also unit bedroom counts. (MPAC values properties of 6 units and more using standardized market rents for units of different sizes. While smaller properties are valued based on a regression analysis of comparative sales, focused largely on location, lot frontage and size, and building size and age, we believe MPAC records the number of units in 1 to 5 unit buildings too.) If not, a visual inspection of a property will reveal that information.

## **Goal 2. Examination of Safety of Rental Units**

According to the information made available by the City of Kingston,

Given that the primary objective for an RRLP is the promotion of health and safety of persons residing in rental units, some form of examination/inspection of the rental unit may need to be undertaken. By establishing minimum standards that a landlord must comply with to operate a rental housing unit, an RRLP could serve as the basis for a multifaceted system to improve the community's rental housing stock. There are many forms that this examination/inspection could take, including:

- Completion of a Fire Safety Plan
- Completion of a signed self-certification checklist by the Property Owner/Agent
- Submission of an Electrical Safety Authority (ESA) Certificate
- Submission of an HVAC Inspection Certificate
- Submission of a Police Clearance Certificate
- Conduct of a Site Inspection by Property Standards Officers
- Submission of a Property Maintenance Plan

KRPOA notes a significant difference in the type of action proposed, as well as in the ease or difficulty or expense of the proposed requirement. We will make a general comment, and then address the various suggestions in groups.

### **Initial general comments**

The Kingston Property Standards By-law already establishes minimum standards that a landlord must comply with to maintain a rental housing unit. For example, the by-law requires:

- All exterior openings of buildings to be fitted with doors or windows or other suitable means to prevent entrance of wind or rain into the building (s.4.9), and that the windows, exterior doors, and basement or cellar hatchways shall be maintained in good repair (s.4.10).
- Inside and outside stairs, porches, decks, balconies and landings to be maintained so as to be free of holes, cracks and other defect (s.4.32)
- Existing stairs, treads or risers that show excessive wear or are broken, warped or loose and supporting structure members that are rotted or deteriorated shall be replaced (s. 4.33)
- The electrical wiring, fixtures, switches and receptacles located or used in a building shall be installed and maintained in good working order (s. 4.13)
- Many other building elements to be provided and kept in good working order.

Newspaper articles have referred to some steps and porches being in a state of poor repair.<sup>6</sup> That is already an offence under the Property Standards By-law. What is needed is pro-active enforcement of the existing by-law, not to require landlords to file documents with the City.

### **Fire safety plan**

Under section 2.8 of the Fire Code a fire safety plan is required for buildings of four or more storeys (including a storey below grade). Implicitly, buildings smaller than that do not need to create a fire safety plan. For a dwelling in a small property, the main fire safety issues are:

- avoiding and handling kitchen fires,
- safe use of candles and
- getting out when necessary.

The Kingston Fire Service has advice on those issues, and others, by clicking at the following link: <https://www.cityofkingston.ca/residents/emergency-services/kingston-fire-rescue/safety-prevention/home>

The first two points in avoiding and handling kitchen fires are:

1. Never leave cooking unattended. A stovetop fire can start in a flash - keep close watch on your cooking at all times.
2. If a pot catches fire, slide a lid over the pot and turn off the stove.

Landlords cannot do either of those key things; only tenants can do them.

Rather than spending time and effort making small landlords prepare plans that their tenants will likely not read or act on, a much better approach to fire safety would be to educate everyone in the City about the existing advice from the Kingston Fire Service.

---

<sup>6</sup> An example from December 22, 2022, is found at <https://www.thewhig.com/news/local-news/kingston-to-look-at-rental-licensing-program>

### **A signed self-certification checklist**

While a signed self-certification checklist could itself be prepared with little expense, KRPOA is opposed to a requirement for that to be filed. Our main objection is that requiring such a declaration invites scofflaws to lie, which works against building habits of compliance and honesty. In addition, for such a requirement to be effective, a City official would have to review the checklist. The only way to be sure the checklist is accurate would be an inspection, and an inspection can be performed without the checklist being submitted in the first place.

### **Inspection certificates**

While at first sight one might think that a requirement for various inspection certificates would be unobjectionable, there are in fact serious issues with such a requirement, whether for a police background check, a heating ventilation and air-conditioning (HVAC) inspection certificate, or an Electrical Safety Authority (ESA) certificate.

Obtaining the certificates for a licensing or registration program would cost a landlord money. Each certificate is likely to cost between \$40 and \$250, for a total costs of \$200 to \$500. And that is only the out-of-pocket cost for the inspections and certificates themselves. There would also be the administrative costs (or time --- when time is money) of arranging for the inspections, giving notice to the tenants and then receiving the certificates and sending them to the City. The internal cost to the landlord could easily match the out-of-pocket cost, making a total cost to the landlord of \$400 to \$1,000.

Then the City would need to process the certificates, at a further cost, potentially making the total cost \$600 to \$1,500.

To the extent that the costs are passed on, the tenants will ultimately bear much or all of that cost. Even if only done every three years, the total cost of obtaining and processing the certificates alone would amount to \$17 to \$42 per month. For a tenant in need of housing which is affordable, that is not a small cost, especially when that cost does NOTHING directly to cure any defects because the cost of any repair work would be in addition to all the administrative costs of processing the certificates.

### **Property Maintenance Plan**

Imposing a requirement for a property maintenance plan would create a hassle for landlords while achieving little practical good. Such plans would result in time spent on matters other than fixing problems. A plan is only as good as its implementation in action, and the actions can be taken by responsible landlords without writing out and filing a written plan.

In addition, plans would encourage nit-picking by tenants, such as saying “the landlord said they would cut the grass weekly; but the landlord only cut it every two weeks in July” (when they would not note that the weather was hot and dry and the grass did not grow much).

More importantly, proper maintenance is already required by the Residential Tenancies Act (RTA) and the Kingston Property Standards By-law.

The RTA provides:

20 (1) A landlord is responsible for providing and maintaining a residential complex, including the rental units in it, in a good state of repair and fit for habitation and for complying with health, safety, housing and maintenance standards.

33 The tenant is responsible for ordinary cleanliness of the rental unit, except to the extent that the tenancy agreement requires the landlord to clean it.

34 The tenant is responsible for the repair of undue damage to the rental unit or residential complex caused by the wilful or negligent conduct of the tenant, another occupant of the rental unit or a person permitted in the residential complex by the tenant.

The Kingston Property Standards By-law provides as follows:

**General Cleanliness** 5.38 Every Occupant of a Residential Property shall Maintain the Property or part thereof and the land which they occupy or control, in a clean, sanitary and safe condition and shall dispose of garbage and debris on a regular basis in accordance with municipal by-laws.

**Property, Lands, Yards and Buildings** 4.42 Property, lands, yards and buildings whether vacant or not shall be kept clear and free from:

4.42.1 rubbish and debris;4.42.2 unsightly weeds and heavy undergrowth;

4.42.3 grass longer than 20 centimeters (8 inches), brush and undergrowth by cutting regularly and removing the cuttings from the lands. This does not apply to agricultural properties;

4.42.4 lawns, hedges and bushes from becoming overgrown and unsightly by keeping trimmed;

4.42.5 dead, or damaged trees and branches thereof by removal;

4.42.6 erosion of the soil by covering the ground and a suitably maintained covering includes but is not limited to grass, gravel, asphalt, ground cover (ivy, periwinkle), cultivated flowers or plants;

4.42.7 deep ruts and holes;

4.42.8 wrecked, discarded, dismantled, or in-operative recreation equipment;

4.42.9 objects or conditions that may create health, fire or accident hazards;

4.42.10 Vehicles, trailers, boats, barges, or mechanical equipment which are not within a building and which are wrecked, unlicensed, not validated, discarded, dismantled or in an in-operative condition; and

4.42.11 dog feces or other animal feces.

That seems a comprehensive list of what is required both inside and outside a building. Where the rented property includes outside areas, the obligation to keep yards clean would fall on tenants, whereas for common areas, inside and outside the building, the by-law obligations concerning maintenance and cleanliness fall on landlords.

Rather than requiring the creation of a written maintenance plan by each landlord, the better approach is to enforce the existing property standards by-law more pro-actively. To the extent that tenants are bothered by a lack of diligence on the part of landlords, they have remedies at the Landlord and Tenant Board.

### **Site Inspection by Property Standards Officers (PSOs)**

In KRPOA's opinion, the proposed site inspection by a PSO is the only sensible action on the list. However, the City does not need a registration or licensing system to do it! The better approach is to avoid all the proposed new paper work and "busy-work", filling file cabinets or computer memory sticks or Kingston's space on the cloud, and instead to take action to enforce the existing property standards by-law. (Ideas for pro-active enforcement follow.)

### **Goal 3: Gaining Compliance**

According to the consultation paper, Goal 3 is Gaining Compliance. That goal was followed by five bullet points, as follows:

- Compliance-oriented fee structure - Offering low/no-cost registration/licensing options for Property Owners who voluntarily sign up for the program(s)
- Fee structures that are oriented to generating positive outcomes and maximizing compliance rather than revenues
- Fees should not be seen as a revenue generating mechanism, but as a way of motivating landlords to affirmatively comply with by-laws as responsible owners
- Setting strict timeframes for registration/licensing submissions
- Issuance of Administrative Monetary Penalties for failure to meet timeframes or for the provision of false/inaccurate information.

In KRPOA's view, if registration or licensing were to be enacted, then a "no-cost system" would obviously be better than a high-cost system, charging fees. However, all the compliance costs would still be borne by the landlord, so that the system would not in fact be a "no cost" system. (Instead, it could accurately be described as a "no fee system".)

Under a no fee system, there would also still be costs to the City to receive and process all the information and forms, and costs to the landlord of creating or obtaining and processing all the documents.

For any new requirements there are costs. Those costs have to be borne by someone, and if that someone is not ratepayers, then it will be landlords and tenants. In the long run, the costs not borne by ratepayers will be borne by tenants.

KRPOA is happy that the goal is not to maximize City revenue: the goal should not be maximizing City revenue! However, there are better ways to motivate landlords to affirmatively comply with by-laws as responsible owners (as the vast majority do now).

Despite the win-win tone of the first three points, the last two points sound punitive. They include the words "strict" and "penalties". Those are not words which encourage people to



become landlords and to provide housing to people who cannot afford a down-payment, or the risks of home ownership.

### **Better ways to achieve the goal**

Rather than bringing in new requirements which include much documentation, the better approach is to enforce the existing property standards by-law through property inspections, communication with tenants and landlords, and if necessary, notices of violation property standards orders, and ultimately, prosecutions.

Various means could be used to leverage the effect of such actions, such as:

- adding one or two more inspectors
- targeting particular areas such as Sydenham and Kingscourt-Rideau
- making it clear that inspections will be taking place in particular areas at particular times (both through the media and KRPOA)
- identifying buildings with exterior deficiencies and leafletting those buildings with
  - an invitation for tenants to report problems to their landlord, and only if there is no response to report them to the bylaw enforcement team, or
  - a return date, such as a Saturday or early evening, when tenants can make oral reports and permit inspections to document deficiencies in their rental homes
- communicating with affected landlords
- if necessary, issuing notices of violation property standards orders, and
- if need be, bringing prosecutions.

Another innovation in other cities is that persistent offenders have been targeted for special 'blitzes'. In these exercises, and as suggested above, enforcement staff can set-up a special enforcement program for an area, circulating information and soliciting input from tenants and neighbours.

A phased approach, perhaps beginning with fire-code compliance and moving on to other standards, ensures a comprehensive result and addresses the chronic sources of tenant complaints.

This more pro-active, coordinated and targeted approach goes beyond the specific-complaint response by enforcement staff, which some people allege vulnerable tenants may avoid for fear of either eviction or compliance costs contributing to increases in rents. The action can be triggered by a third party report of an apparent problem.

Specific enforcement typically corrects the non-compliance that was the trigger for a complaint (or a third party report), and in addition, other cities report a positive spill-over effect. The conspicuous presence and inspection activity of the enforcement authorities often generates a collateral response of voluntary compliance and property upgrades in nearby rental properties with similar issues. Pro-active, targeted inspection and enforcement can make economical use

of existing staff teams, and generate a disproportionate volume of remedial action by small-scale rental owners.<sup>7</sup>

### **The need for sensitivity**

To obtain the best results from adopting a more pro-active enforcement approach, some sensitivity must be applied. For example, if an inspection reveals that a property zoned for two units actually has three, enforcing the zoning would necessarily result in one household being evicted, and it could result in two households being evicted so that two of the units could be combined into one unit. Neither result would be desirable.

A similar problem arises from difficult-to-cure violations of building code standards, such as room height or the width of exit doors. Unlike the system for allowing reasonable minor variances under planning law, KRPOA is not aware of any formal system for granting minor variances from building code standards. Yet the current shortage of housing suggests that it would be a very bad time to be closing rental units because the ceiling height within them is 2.25 meters rather than 2.3 meters, as required over 75% of the floor area of living, dining, kitchen and bedroom space.

KRPOA is not aware of how widespread those issues are in Kingston, but in some municipalities the zoning issues are extensive, and in some areas, minor violations of the Building Code may be frequent.<sup>8</sup>

A similar issue applies where structural work is required but there is no immediate hazard. For safety reasons, structural work often requires vacant possession, but in the current rental market, displaced tenants cannot easily find alternate accommodation which they can afford.

This is not to say property standards should not be enforced, but rather to say the focus should be on safety and health, with a careful eye to the impact of different remedies on tenants, including their ability to keep their existing housing, which is probably relatively affordable.

The issues discussed in this section would apply both to licensing/registration and to more pro-active property standards enforcement, but KRPOA would suggest that the zoning and Building Code issues would be more problematic under licensing/registration (when the City might find itself keeping records of on-going violations).

---

<sup>7</sup> A Review of the Effectiveness and Implications of Municipal Licensing of Residential Apartments, Michael Fenn, September 2013, pp. 14-15 (PDF pp.18-19) and p.18 (PDF . 22)  
[https://frpo.org/files/Reports\\_and\\_Submissions/Residential-Licensing-Effective-Review-Sept-2013.pdf](https://frpo.org/files/Reports_and_Submissions/Residential-Licensing-Effective-Review-Sept-2013.pdf).

<sup>8</sup> Ibid, pp. 13-14 (PDF pp.17-18)

## **OTHER REASONS TO AVOID LANDLORD LICENSING: the costs and the effects on housing affordability**

Even if it is free of municipal fees, residential rental licensing is not a cost-free solution because of the costs of complying with the bureaucratic requirements, both by landlords and the City. Substantial costs will be incurred which must be paid by someone, whether that be municipal ratepayers, landlords or tenants.

It is impossible to force landlords to absorb all the costs imposed and created by landlord licensing or registration. The RTA allows a pass-through of increases in municipal taxes and charges by means of above guideline increase (AGI) applications. Rent regulation is entirely a matter of provincial jurisdiction. The City cannot enact rules that would have the effect of not allowing licensing or registration fees from being recoverable under the RTA as an extraordinary cost increase.

Even apart from AGI applications, market forces result in tenants largely paying for the costs of licensing. Inevitably, driving up the costs of operating rental properties will have the effect of reducing the supply of rentals, and that reduction in supply will increase the market price of rentals from what that would otherwise be.

The more time and money that is spent on producing reports and on inspections, rather than on actual property repairs or improvements, the more rental licensing will make landlords AND tenants WORSE OFF.

One of the consequences of licensing residential rental units in single-family homes or in buildings with fewer than four units is the resulting “business decision” taken by the property owner either to comply with new licensing requirements, or to discontinue the rental use, and sell the property for owner occupation. That decision must be avoided in order to achieve the goals of more and better housing.

Here are concrete examples of the potential impact of the costs of landlord licensing or registration on landlord’s return on investment. Figure 5 shows the impact of the costs of requiring inspection certificates, based on a unit rent of \$1,500 per month, and an annual return on investment of 8% of rent as illustrated above at page 7. The possible costs are based on a requirement for inspection certificates, but internal costs of a similar amount could also be driven by other application or reporting requirements, other than a very light touch approach (such as just reporting contact information and number of units).

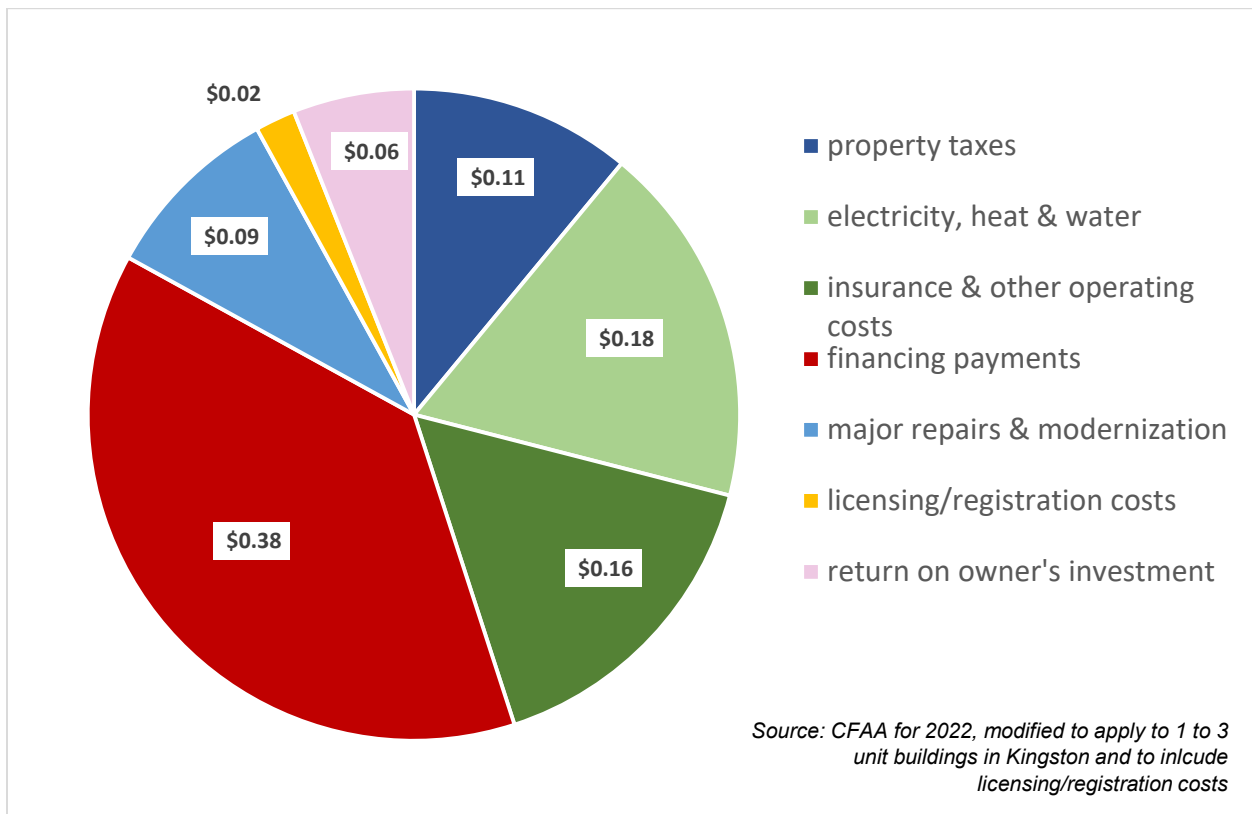
**Figure 5: Sample impact of licensing costs or fee on annual return on investment**

Annual regulation costs	If cost is per unit		If cost is per building for a 2 unit building	
	% of annual rent	% of annual return on investment	% of annual rent	% of annual return on investment
\$ 400	2.2%	27.8%	1.1%	13.9%
\$ 600	3.3%	41.7%	1.7%	20.8%
\$ 1,000	5.6%	69.4%	2.8%	34.7%
\$ 1,500	8.3%	104.2%	4.2%	52.1%

The figures show that the potential costs of landlord licensing or registration are not trivial when compared with the normal rate of return on investment achieved after the other costs of owning and operating rental housing are paid. Even low-end licensing costs could reduce landlord returns by 14 to 42% (or say 25% to have a single figure to work with).

Returning to the pie graph of where a dollar of rent goes, even fairly low-end licensing costs could reduce landlord returns by 2 cents out of every dollar of rent (25% of the current return on investment), leaving only 6 cents of return instead of 8 cents. See figure 6.

**Figure 6: Where a dollar of rent would go with Rental Licensing or Registration.**



KRPOA hopes that everyone can understand that any such impact on investment returns would have a significant impact on rental supply, and would necessarily be passed through into rents, thus worsening housing affordability. As established at page 6, affordability is a much more widespread problem than the need for repairs, which is alleged in order to justify landlord licensing.

## **CONCLUSION**

In conclusion, landlord licensing or registration would inevitably be obtained at a cost. Many of those costs inevitably fall on landlords and are passed through to tenants, if not immediately, then over time. As a result, landlord licensing or registration would inevitably worsen rental housing affordability, which is a much more widespread problem than the need for repairs, as shown in the core housing need figures on page 6.

As noted in the section on the need for sensitivity, on page 18, landlord licensing can also easily lead to unnecessary enforcement, which would negatively affect specific tenants in the lowest quality rental homes, who are often the worst off of all tenants.

KRPOA submits that landlord licensing or registration is a net negative for the overall well being of tenants. Besides that, we also submit there are more effective and less costly ways to achieve the City's goals, with fewer negative consequences to tenants, landlords and ratepayers. KRPOA urges Kingston City Council to reject the rental licensing and registration options available to it.

A more pro-active system of property standards enforcement, as discussed at page 17, should address the perceived problems without the detrimental unintended consequences.