



PROTECT HAMILTON TENANTS FROM CONDO CONVERSION AND DEMOVICTION

ACORN Hamilton
Communication – June 18
Planning Committee



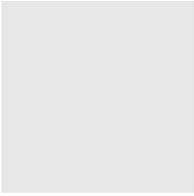
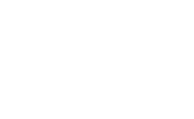
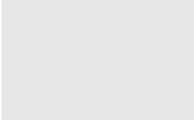
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WHAT IS ACORN?



ACORN Canada, the Association of Community Organizations for Reform Now, founded in 2004, is an independent grassroots organization that fights for social and economic justice for low and moderate income communities. We believe that social and economic justice can best be achieved by building community power for change. ACORN has over 168,000 low-to-moderate-income individual members in 24 neighbourhood chapters in 10 cities across the country. ACORN started organizing in Hamilton in 2017 and has grown to have four neighbourhood chapters: Downtown, Mountain, East End and Stoney Creek.

INTRODUCTION

Ontario is in the midst of a worsening housing crisis. One of the key contributing factors is the rapid loss of affordable rental housing. Demovictions and conversions are displacing tenants from their affordable homes to give way to luxury rentals and condos. Once evicted, these tenants are displaced from their communities, thrown into a housing market where they are not able to afford the rent and face the threat of homelessness or are forced to cut back on spending for essential services just to be able to pay for their housing. Current regulations at the provincial level are extremely weak when it comes to tenant protections in case of demolition, and regulations on conversions do nothing to address the impact of losing affordable rentals. Therefore, it is critical for cities to use their powers to ensure that tenants' rights and homes are protected. Rental replacement bylaws are a tool cities can use to require developers to replace the existing affordable units during the redevelopment of affordable housing and offer them back to existing tenants at the same rent. They are a key protection that help preserve the existing affordable housing in Ontario cities. **This report will outline** current regulations surrounding demolition and conversion of rental housing in Ontario, exemplary rental replacement policies that have been implemented in other municipalities, ACORN's concerns with Hamilton's current draft Rental Housing Protection Bylaw and our proposed amendments, and testimonials from Hamilton tenants who have faced threats of demoviction and condo conversion.

ACORN'S SUPPORT FOR THE RENTAL HOUSING PROTECTION BYLAW

OUR DEMANDS FOR THE COMMITTEE ON JUNE 18TH:

ACORN strongly supports the proposed rental housing protections bylaw but we are proposing a few amendments to ensure maximum protection for tenants:

1. Improve how rent top-ups are calculated (**recommendation:** use average market rent for units of the same type that have turned over in the last 3 years across the city/housing market zone OR follow Toronto's example of only including rents from buildings constructed in 2015 or later).
2. Review both the renovation and demoviction bylaws after one year of implementation. It will be important to monitor the bylaws' strengths and weaknesses and give tenants the opportunity to provide feedback for improvement.
3. Make replacement units truly affordable forever. We need to ensure that both units occupied by tenants exercising their first right of refusal and replacement units occupied by new tenants have the same rents before the redevelopment and are rent-controlled in perpetuity.
4. If improvements are made to rent top-ups for the Rental Housing Protection Bylaw, similar changes should be made for the Renovation License and Relocation Listing Bylaw.



DEMOVICTION

Demoviction is when a tenant is displaced because their unit is being demolished. The housing that is at greatest risk of demoviction are purpose-built rentals, where vacancy rates have remained very low and rents are well below the current market rate. Purpose-built rentals play a vital role in providing housing, especially to low- and moderate-income tenants.

Toronto is in the midst of a growing demoviction problem. According to data from the city's website, there have been 81 apartment buildings approved for demolition and replacement in Toronto since 2017. During those years, 2022 saw the most approvals with 23, after eight approvals in 2021 and 11 in 2020. Those buildings included 3,225 rental homes and 1,757 affordable units. Hamilton is not currently facing a demoviction crisis; however, the City has become a target for forcing out long-term tenants. Data gathered from the LTB by ACORN Ontario through a Freedom of Information request shows that the number of N13s issued province-wide increased by 1500% between 2017 and August 2023, and Hamilton ranked 2nd in Ontario for the total number of N13s filed during that time, with 337. With the Renovation License and Relocation Bylaw taking effect in January 2025, ACORN expects many financialized landlords to begin exploring other options to dishonestly displace tenants and increase their profits. Hamilton's

aging purpose-built rental stock makes it the perfect candidate for the next demoviction hotspot, therefore we are well-positioned to proactively enact regulations to ward off a future wave of mass-demovictions.

Provincial protections against demoviction are virtually non-existent; when a tenant's unit is being demolished, they are entitled to compensation in an amount equal to 3 months' rent and must be given at least 120 days' notice to vacate under s.50 of the Residential Tenancies Act (RTA). When it comes to long-term tenants paying well below market rent, this does not effectively deter landlords from demolishing buildings and does not provide tenants with enough compensation to cover moving expenses. Tearing down affordable rentals to build new ones also exacerbates the housing crisis. Under current provincial legislation, units first-occupied after November 15, 2018 (i.e new-builds) are not protected by rent-control. Therefore, any newly-built rentals will not meaningfully contribute to Hamilton's supply of affordable, stable, long-term housing.

All of this makes municipal protections against demovictions extremely important for the preservation of affordable rental housing and more effective when enacted proactively. Hamilton needs to take action now to avoid following in Toronto's footsteps and protect its already limited supply of affordable rentals before it is too late.

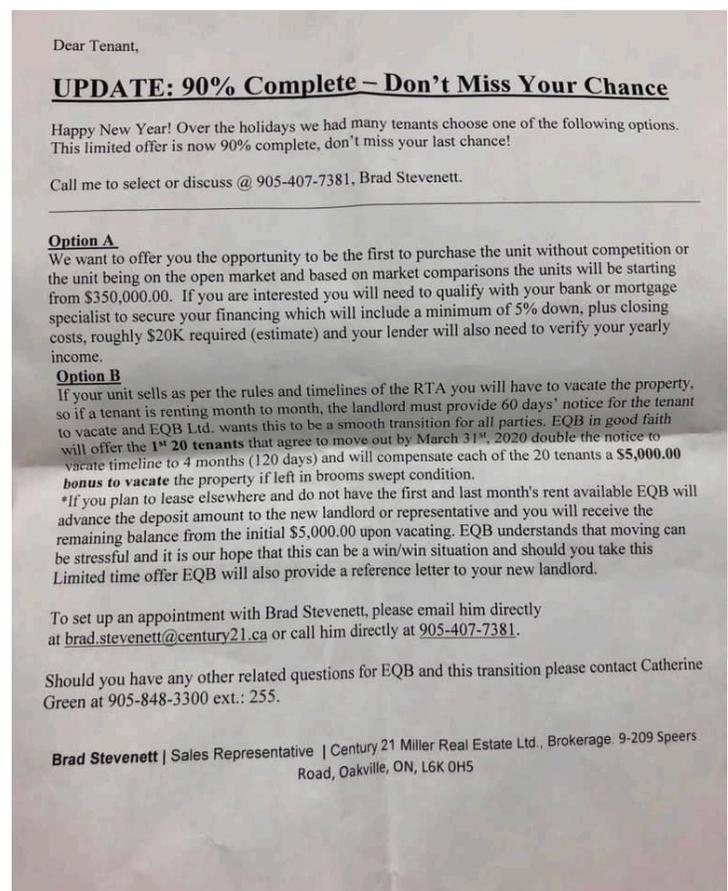


CONDO CONVERSION

A condo conversion is when an existing residential complex is converted to condominiums. This can only be done with approval from the municipality. Condos can be any type of building (highrises, townhouses, etc.) and can be residential or commercial. Once a property is converted to a condo, it has to be managed according to the Condominium Act.

Tenants have protections when a rental complex is converted to condominiums, laid out in s.51 of the Residential Tenancies Act (RTA). After a rental complex has been converted to condos, if a tenant was renting the unit at the time of the conversion, the landlord cannot terminate their tenancy for personal use of the unit by the landlord or a purchaser under s.48 or s.49 of the RTA. The protections set out don't apply to a residential complex if no unit in the complex was rented before July 10, 1986 and any part of the complex was converted to condos earlier than two years (to the day) after the first unit in the complex was ever rented. The protections apply only to the original tenant and not a sub-tenant or assignee of the lease. The protections don't apply to a tenant if they began renting their unit after the complex was converted to condos.

Although these protections are good, we need even stronger municipal policy surrounding condo conversions. The RTA only protects tenants that predate the conversion and does nothing for the loss of affordable rentals. Almost all recent and proposed new developments in Hamilton are condominiums; it is unwise to continue allowing the conversion of our existing rental stock to condos when it is already insufficient. Hamilton's rental replacement bylaw should seek to preserve affordable rentals and protect future tenants as well as existing tenants.



Picture above. High pressure sales tactics and misleading information to tenants at 280 Montmorency in Ward 5 regarding potential condo conversion.

WHAT OTHER JURISDICTIONS ARE DOING

Toronto and Burnaby have each implemented robust rental replacement policies that protect tenants and preserve affordable housing, outlined below. Other cities in Ontario, including Mississauga, Brampton, and Oakville have begun implementing their own rental replacement policies as well, however they are lacking in comparison to those mentioned above.

DEFINITIONS:

Affordable rents means housing where the total monthly shelter cost (inclusive of utilities) is at or below the lesser of 1x the average City of Toronto rent, by dwelling unit type, as reported annually by CMHC, or 30% of the before-tax monthly income of renter households in the City of Toronto as follows:

Unit Type	Rent/Household Size
Studio	one-person, at or below 50th percentile income
One bedroom	one-person, at or below 60th percentile income
Two bedroom	two-person, at or below 60th percentile income
Three bedroom	three-person, at or below 60th percentile income

Mid-range rents are the total monthly shelter costs which exceed affordable rents but fall below 1.5x the average City of Toronto rent, by unit type, as reported annually by CMHC.

- **Mid-range rents (affordable)** total monthly shelter costs that exceed Affordable rents but are at or below the average City of Toronto rent, by unit type, as reported annually by CMHC.
- **Mid-range rents (moderate)** total monthly shelter costs that exceed Mid-range rents (affordable), but are at or below 150% of the average City of Toronto rent, by unit type, as reported annually by CMHC.

TORONTO, ON

The City of Toronto's Official Plan contains provisions for new developments and conversions of rental housing to condominiums that result in the loss of rental units. It has also recently updated its definition of **affordable rents**, tying monthly shelter costs to income rather than market rates, and provides additional definitions for **mid-range rents** to ensure a full spectrum of affordability across the housing continuum. It states that new developments resulting in the loss of **one or more** rental units will not be approved unless an acceptable tenant relocation and assistance plan addressing the right to return to occupy one of the replacement units at similar rents, the provision of alternative accommodation at similar rents, and other assistance is provided to lessen hardship for existing tenants. On April 17, 2024, Toronto City Council also passed a motion to change the baseline data for calculating average market rent to include only buildings built in 2015 or later. This is a substantial improvement to current average market rent data. It would increase the amount of rent-gap payments required under a tenant relocation and assistance plan and save tenants hundreds of dollars per month during their displacement, enabling them to find safe, suitable, alternative housing.

WHAT OTHER JURISDICTIONS ARE DOING

TORONTO, ON (CONT.)

Additionally, new developments resulting in the loss of **six or more** rental units and the conversion to condominium of any building containing **six or more** rental units will only be approved if:

- All units have rents that exceed mid-range rents at the time of application, OR
- At least the same number, size and type of rental housing units are replaced and maintained with rents similar to those in effect at the time the redevelopment application is made
- For a period of at least 10 years, replacement units must have rent amounts equivalent to first occupancy and increased annually by no more than the Provincial Rent Increase Guideline
- The supply and availability of rental housing in the City has returned to a healthy state and is able to meet the housing requirements of current and future residents.

This decision is based on several factors, including whether:

- The City is showing sustained and projected growth in the supply of rental housing
- The overall vacancy rate has been at or above 3.0 per cent for the past four consecutive annual CMHC surveys
- The proposal may negatively affect the supply or availability of specific types of rental housing, including affordable units, units suitable for families, or housing for vulnerable populations, either City-wide or in a geographic sub-area of the City.

The City also has protections for tenants and preserving affordable housing under the Residential and Rental Property Demolition and Conversion Control Bylaw. The bylaw requires that those seeking to demolish or convert any part of a residential rental property obtain a permit to do so. Stipulations as part of the permit approval process include that an application may only be approved if fewer than six rental units are impacted by the proposed demolition/conversion as well as any previous demolitions/conversions within the last five years, AND the proposed demolition/conversion will not reduce the total number of rental units to less than six.

WHAT OTHER JURISDICTIONS ARE DOING

TORONTO, ON (CONT.)

Conditions may also be imposed onto the approval of an application, including:

- In the case of a demolition, requirements to replace the rental units with rental units at similar rents, and for tenant relocation and other assistance, including the right to return to the replacement rental housing.
- In the case of a conversion to a condominium, requirements relating to the cost impacts on tenants.

Toronto's rental replacement policies are so strong due to the City's unique definitions of affordable and moderate rents and more accurate calculation of average market rent for rent-gap payments, the requirement for at least 1:1 replacement of affordable units, the provision that replacement units must be kept affordable and rent controlled for at least 10 years, and the provision requiring a tenant assistance and relocation package if even one rental unit is to be lost. Similarly, their threshold for waiving these requirements is much higher, requiring existing rents to exceed 1.5x (or 150%) of CMHC reported market rent. It is estimated that over 4,000 rental units have been protected from being replaced over the past 15 years by these aspects of the City's policy.

BURNABY, BC

In Burnaby, tenants are protected from displacement due to rezoning redevelopment through the City's Tenant Assistance Policy. The policy is one of the most progressive in Canada, with four pillars of support for tenants:

- Help finding a new place to rent, if requested.
- Rent top-up payments, if needed, to bridge the gap between current rent and rent for a new unit.
- Financial support for moving and help with making arrangements, if requested.
- The right to return to the redeveloped building at the same rent (plus any Residential Tenancy Act rent increases) in a unit with the same number of bedrooms.

The Tenant Assistance Policy works in combination with Burnaby's Rental Use Zoning Policy, which creates opportunities for new rental housing, protects existing rental housing, and requires the inclusion of affordable rental units. **All affordable rental units will be zoned for rental use**, to ensure that rental housing will be provided on these sites even if they are redeveloped in the future. It also includes a protectionary measure, which involves rezoning existing purpose-built rental housing to rental zoning, to prevent existing rental units from being redeveloped to other types of housing.

WHAT OTHER JURISDICTIONS ARE DOING

BURNABY, BC (CONT.)

The Rental Use Zoning Policy is organized into four streams:

STREAM 1: REPLACEMENT RENTALS

- Applies to sites with purpose-built rental buildings of **five or more units** being rezoned.
- All existing rental units must be replaced on a 1:1 basis. If this is less than 20% of the total market unit count, inclusionary rental units must be added to make up the difference.
- Replacement rental units must have the same number of bedrooms as the existing units.
- Tenants covered by the City's Tenant Assistance Policy will be offered the right of first refusal for replacement rental units.
- Rents for replacement rental units must be set to existing rents for returning tenants, plus any annual increases permitted by the provincial authority between demolition and occupancy. Units without a returning tenant must be made available to others with rents 20% below CMHC market median rates.
- Rents can be increased annually according to provincial maximums, but can be readjusted to 20% below CMHC market median rents when tenants change.

STREAM 2: INCLUSIONARY RENTALS

- Applies to sites being rezoned with a commercial or mixed-use designation.
- Unused commercial density may be used for rental units.
- Projects must meet any inclusionary rental requirements before adding voluntary rental.
- At least 20% of units must be adaptable.
- Rents for voluntary rental units may be set to market levels, increased annually according to RTA maximums, and readjusted to market rents in between tenants.



WHAT OTHER JURISDICTIONS ARE DOING

BURNABY, BC (CONT.)

STREAM 3: VOLUNTARY RENTALS IN COMMERCIAL DISTRICTS

- Applies to sites being rezoned with a commercial or mixed-use designation.
- Unused commercial density may be used for rental units.
- Projects must meet any inclusionary rental requirements before adding voluntary rental.
- At least 20% of units must be adaptable.
- Rents for voluntary rental units may be set to market levels, increased annually according to RTA maximums, and readjusted to market rents in between tenants.

STREAM 4: PROTECTION OF EXISTING RENTALS

- Applies to all sites with **five or more** purpose-built rental units, across the city.
- All non-stratified, purpose-built rental buildings will be rezoned to the corresponding rental zone for exclusively rental use.
- Existing units will not be affected by this rezoning.
- Rents and rental agreements for existing units will not be affected by this rezoning.

WHAT TO KNOW ABOUT THE RENTAL HOUSING PROTECTION BYLAW

- Would apply to all residential rental properties city-wide containing 6 or more rental units.
- Would require landlords/developers to apply for a permit from the City to demolish or convert rental properties (called a section 99.1 permit).
- Would permit the City to attach conditions to a permit, such as requiring legal agreements for replacement units in a new development, providing tenant assistance, and other conditions.
- Would require applicants to provide proof of notice to tenants informing them of the application and their rights under relevant legislation.

CONCERNS WITH CURRENT DRAFT POLICY (RATIONALE FOR DEMANDS)

In 2022, the City of Hamilton reviewed its rental housing protection policies and proposed changes surrounding conversions of primary rental housing to condominiums and demolitions of primary rental housing, resulting in the drafting of the Rental Housing Protection Bylaw. The proposed policy changes intend to establish appropriate limitations to ensure protection for existing affordable rental housing units. ACORN Hamilton strongly supports the bylaw and, above all, does not wish to delay its implementation beyond the planned date of January 1, 2025. However, as the draft bylaw stands, there remain a few concerns for us:

- Only set to be reviewed every 5 years. (as noted in appendix C)
- Rental replacement not always required and option for replacement off-site.
- Lack of clarity of the long term fate of the affordability of replacement units and rents of replacement units where original tenants do not re-occupy
- Tenant protections and approval of Section 99.1 permits rely too heavily on CMHC vacancy rate and average market rent data.
 - CMHC-reported average market rent for all unit types across the city is artificially low compared to current asking prices. A tenant currently paying average market rent would be looking at a 20-40% increase if they were displaced and had to find a new rental today.
 - Tenant protections and approval of demolition permits should not be tied to vacancy rates. A city-wide vacancy rate of over 3% does not mean low income tenants will have an easier time finding affordable housing. CMHC data shows that in October 2020 the vacancy rate of rentals city-wide was 3.9%, however, the vacancy rate for the most affordable units in the city has never been higher than 1% in the past 10 years.
- Allowing the conversion of purpose-built rentals to condominiums.
 - There is an abundance of new condo developments in Hamilton, while purpose-built rental stock is dwindling and needs greater protection. There is no benefit to tenants or in addressing the housing crisis by converting existing rentals to condos.

ACORN commends the bold steps Council has taken toward improving tenant protections in the City with the Safe Apartment Bylaw, Renovation License and Relocation Bylaw, and Tenant Support Program. We now ask for the same dedication and rigour in developing the Rental Housing Protection Bylaw.

CASE STUDIES

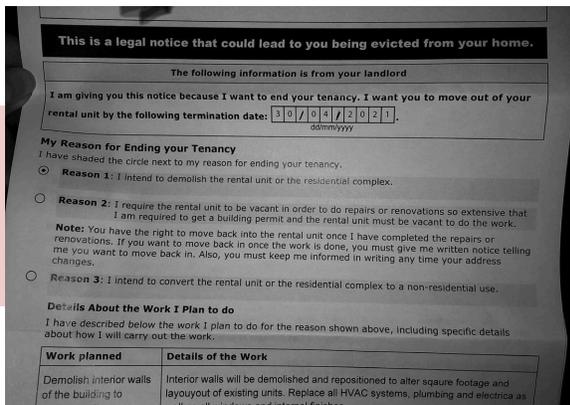


468 JAMES ST N

468 James Street North had 13 affordable units. The building changed ownership in 2021 and the new developer gave remaining tenants N13 notices for demolition. The tenants organized with ACORN and were able to secure more compensation and time to move out.

181 JOHN STREET NORTH AND 192 HUGHSON STREET NORTH

Greenwin sold to Valery Homes in 2021. Permits had already been approved by the city for major demolition of lower floors of each highrise. Dozens of tenants were displaced and affordable family friendly units were lost.



816 CONCESSION ST

New landlord of the building was successful in receiving permits in 2021 to convert existing 11- 1-BR units into 7 new units (2- 1BR units plus 5- 2BR units) in 3-storey apartments building. Tenants were displaced with no support.

CONDO CONVERSION IN HAMILTON NEWS



Amid Hamilton's affordable housing crisis, 252 more apartments can become condos

Dec 11, 2018



Tightest Hamilton rental market since 2002 halts condo conversions

Apr 14, 2015



68 townhouses on the Mountain are being converted to condos

Jan 20, 2017



Moratorium won't stop 700 apartments from turning to condos

Apr 24, 2015



CONCLUSION

ACORN members continue to cite increasingly unaffordable housing as the most significant challenge for low and moderate-income people. With affordable units being destroyed faster than they can be built and the provincial government's lack of action to address the housing crisis, it is imperative that Hamilton take prompt action to preserve its existing affordable rental stock.

With a few tweaks, the draft Rental Housing Protection Bylaw will provide strong protections from demolition and condo conversion. **While ACORN supports the bylaw, tenants facing this type of no fault eviction do not want to be displaced in the first place.** Our hope is that the requirements for tenant support and rental replacement will discourage landlords from pursuing these types of redevelopment. Losing rental housing to condos will only make the affordable rental housing crisis worse and intensification at the expense of low income tenants will not get us no further ahead - not to mention all new units will not have rent control.

The City has already distinguished itself nationally as a leader in tenant protections; we encourage Council and staff to continue their work to uphold Hamilton's reputation as a champion of tenant rights.

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APPENDIX

ACORN'S FULL LIST OF DEMANDS FOR THE RENTAL HOUSING PROTECTION BYLAW:

Tenant Protections and Compensation

- Freeze on demolition/conversion applications until bylaw comes into effect.
- Rental top-ups must equal the difference between the tenant's original rent and either the cost of their temporary accommodation or average market rent (calculated using units of the same type that have turned over in the last 3 years across the city/housing market zone OR follow Toronto's example of only including rents from buildings constructed in 2015 or later), whichever is lower.
- Building maintenance must continue after a notice of demolition until all units are vacant.
- Compensation for storage costs of tenants' belongings that do not fit in temporary accommodations added to existing moving expenses.
- Specify that the tenant relocation coordinator/leasing agent must be a third party (not affiliated with landlord) and represent tenants' best interests OR have direct tenant input on acceptable alternate accommodations (recommendation: city staff to review relocation plan and make sure tenant consents).
- Explicitly state that temporary accommodations must be in Hamilton, in a comparable location (recommendation: use same criteria as for replacement units).
- Provisions ensuring that temporary accommodations are pet-friendly OR financial support (where applicable).

Replacement Units and Preservation of Affordable Rental Housing

- Existing rental units **must be replaced on-site** for ALL demolitions/conversion city-wide. Developers cannot opt out of rental replacement or be allowed to replace off-site.
- **Lost rental units must be replaced at a ratio of 1:1** or 30% of the total number of proposed units, whichever is greater (i.e. if 12-unit building is demolished and replaced by a 100-unit building, the much larger redevelopment must include 30 replacement units).
- Replacement rental units (including those that are not reoccupied) must be **permanently retained as affordable rentals** at similar rents and only increased according to provincial guideline amount (must be rent-controlled).
- Completely prohibit the conversion of purpose-built rentals to condominiums.
- Provide clearly defined, measurable parameters of what is meant by "affordable" for the purpose of retained and replacement rental units within the context of this bylaw (recommendation: follow Toronto's income-based definition of affordable housing).
- Strengthen the vacancy rate criteria for the approval of a Section 99.1 permit by separately assessing vacancy rates for the primary rental market, secondary rental market, and deeply affordable units.

APPENDIX

ACORN'S FULL LIST OF DEMANDS FOR THE RENTAL HOUSING PROTECTION BYLAW:

Communication/Transparency

- Any tenant engagement and required tenant meetings must include a representative from the City of Hamilton and community groups that support tenant rights, if requested (Hamilton Community Legal Clinic, ACORN).
- All written communication to tenants must be translated with common languages spoken by tenants in the buildings, and translation services must be provided at tenant meetings.
- Comprehensive and transparent data collection made available online, on-demand to help the City develop better policies and well-informed solutions to the housing affordability crisis in Hamilton.
 - **Section 99.1 permit application data that includes:** listing all section 99.1 permit applications currently in progress (and the stage of each application in the permit/development process), including details about the existing building (number of units, square footage, etc.); information on the proposed conversions/developments, such as number of proposed affordable rental units, timelines for completion (proposed and actual); etc.

Tenant data that captures: the demographics of tenants being impacted (including income/socio-economic status, race, age, with particular attention to collecting data on equity-seeking populations who are impacted), whether tenants can return when redevelopments are completed, the financial impact on tenants, etc.

2022 DEMANDS IMPLEMENTED/WON IN 2024 UPDATE:

- Eliminate option for cash-in-lieu payment instead of replacement rental units.
- Landlords must provide tenants with a temporary accommodation of comparable size and location at the same rent OR a rental top-up, should the tenant choose to find their own temporary accommodation.
- Temporary accommodation and rental top-ups only expire once the redevelopment is complete and tenants can exercise their right of first refusal.
- Landlords must provide tenants with help finding a new place to live and moving assistance (tenant's choice of an insured moving company arranged by the landlord OR compensation should they choose to find their own).
- Landlords must be responsible for providing extra support to vulnerable tenants (transportation to view interim housing, and packing assistance for those with mobility impairments).
- **Landlords must grant tenants the right to return to the redeveloped building at the same rent** (plus any Residential Tenancy Act rent increases) in a unit with the same number of bedrooms.
- Tenants must be given 180 days' notice of a move out day (60 days more than 120 required by Residential Tenancies Act).
- Require that tenants be provided with a package explaining their rights under this bylaw, the RTA, and any other applicable legislation in plain language before a Section 99.1 permit is issued.
- Require frequent communication to tenants during the redevelopment to share timeline on returning to units.