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Rental Accommodations Literature Review and Inter- jurisdictional Environmental Scan

City of Ottawa



submitted by Prism Economics and Analysis

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Executive Summary

The City of Ottawa is undertaking a comprehensive analysis of the municipality's rental accommodation regulations. To support this work, the City engaged Prism Economics and Analysis to conduct a literature review and inter-jurisdictional environmental scan. This report summarizes the key findings from this research.

Canadian households are increasingly relying on rental housing to meet their shelter needs. The additional strain on many urban rental markets has resulted in Ontario's vacancy rates falling to record lows in 2017.¹ The market imbalance has attracted a growing number of private and institutional investors who generally seek to maximize returns through strategies of either extracting higher rents or reducing expenditures on repairs, maintenance and upgrades. Tighter market conditions have led to a proliferation of alternative forms of housing such as rooming houses, basement apartments, and secondary suites. Both phenomena have significant implications for municipal regulations and enforcement.

The arrival of short-term rental (STR) platforms (Airbnb, VRBO, HomeAway, Flipkey etc.) has stimulated the growth of a new category of rental accommodation which increases options for tourists, but which literature suggests, can reduce the supply of long-term rental units and exacerbate the rise of rents. Although generally welcome by municipalities, tourists can be a nuisance to residents when they begin to occupy space outside of the traditional tourist neighbourhoods.

As a result of these trends, municipalities are grappling with developing balanced and effective policies. The City of Ottawa should consider these findings as they seek to implement an optimal regulatory framework for rental accommodations.

- Municipalities should be sensitive to the complexity of the housing market due to its intersection with many other policy areas, institutions, and other levels of government.
- Most existing municipal level rental housing regulations within Canada are enforced through three approaches: Complaint-based, accreditation, and licensing. Each approach has benefits and drawbacks.

Complaint-based

- In this approach, the municipality waits until it receives a complaint from an external individual (tenant or neighbour) indicating that a violation has occurred and then investigate credible complaints.

- This approach requires the least resources since inspections are only triggered when infractions are most likely to be occurring.
- This approach is reactive, exposing some tenants to the risk of enduring non-compliant housing.
- This approach can be optimized using data analysis to determine the credibility of complaints and to identify problematic landlords.

Accreditation

- Accreditation schemes are voluntary landlord registration programs. Landlords have their property inspected to verify that they are compliant with all regulations.
- In some models, they are encouraged to join through free advertising or other incentives.
- This approach gives tenants peace of mind that they are living in a safe rental unit.
- Accreditation systems can be used to enhance the quality of housing frequently used by certain demographic groups (such as students or people living on low-incomes).
- Accreditation incorporates many of the positive aspects of a licensing regime without imposing additional red-tape on all landlords.
- Depending on the uptake, this approach can be as expensive as licensing.

Licensing

- This approach requires landlords to apply for a license in order to rent out their property. To obtain a license, landlords usually have their unit inspected by municipal enforcement officers and fire services.
- Landlord licensing systems can be the most effective approach to enforcement.
- Licensing regimes can also be expensive and time-consuming to implement.
- Encouraging landlords to become licensed can be challenging. Incentives, such as access to renovation grants, can be used to entice landlords to register.
- Licensing application and inspection fees are usually based on a cost-recovery model and range from \$300 to \$600 in Canadian jurisdictions.

- Many municipalities are implementing a proactive licensing approach to effectively address community health and safety, consumer protection, and nuisance control.
- Some landlords are resistant to the concept of landlord licensing.
- Regardless of enforcement regimes, inspections can be completed by third-party inspectors who are accredited by the municipality but hired and paid by landlords.
- Collaboration between by-law enforcement, fire services, and police services can reduce the cost and time spent by enforcement officials, tenants and landlords.
- Landlords, even those operating a single unit (such as a basement apartment), are operating as a business and should be treated as such.

The proliferation of short-term rentals (STRs) has had a material impact on rental housing markets across Canada, requiring regulatory response from municipalities.

- Studies suggest that STRs can have some positive impacts on tourism and are popular among users (providers and travellers).
- There is ample evidence that an increase in STRs have reduced the availability of rental housing and contributed to the escalation of market rent in some cities.
- STRs have displaced traditional forms of short-term accommodation such as hotels, motels, and bed and breakfasts.
- Short-term rentals can be perceived as a nuisance in certain neighbourhoods. “Party House” provisions have been implemented in some municipalities to reduce this behaviour. Noise nuisance control is one of the most challenging regulations to design and effectively enforce.
- Municipalities considering a policy response to STRs should contemplate the benefits and consequences of these rentals.
 - Some municipalities have attempted to outright ban STRs whereas others have sought to limit which types of units can be used as STRs or how many nights a property can be rented.
 - Municipalities have tried to level the playing field between STRs and traditional overnight lodging (hotels, motels, and bed and breakfasts) by requiring both to keep guest registries, pay municipal accommodation taxes.
 - The most successful regulations have had enforcement support from the STR platforms.
 - An interpretation of the *Condominium Act* by the Superior Court of Justice has given condominium corporations the right to ban the use of properties as STRs.

Introduction

The City of Ottawa is undertaking a comprehensive analysis of Ottawa's rental accommodation market with respect to service delivery to property owners, tenants, and visitors. To support this work, the City engaged Prism Economics and Analysis to conduct a literature review and inter-jurisdictional environmental scan. This research sought to explore the following issues related to rental accommodation:

- Enhancing sector compliance with property standards and other public safety requirements.
- Managing anticipated growth in post-secondary student population.
- Ensuring public health and safety, consumer protection and nuisance control.
- Developing a fee structure to fully fund administration and enforcement.

This report summarizes the key topical and thematic findings from the literature review and inter-jurisdictional environmental scan. These two research components support Ottawa's broader research methodology for developing an optimal regulatory framework. The components described in this report are:

- A. A literature review of academic writing and white papers on the best practices and novel approaches to regulating rental accommodation.
- B. An inter-jurisdictional environmental scan of the regulatory approaches taken by other municipalities in North America to effectively manage public health and safety, consumer protection and nuisance control related to rental accommodation.

Literature Review Methodology

The literature review focused on identifying the broad range of existing and emerging approaches to regulating rental accommodations at the municipal level. An emphasis was placed on emerging challenges to regulation and novel approaches to addressing these issues. The literature review provides a context for subsequent research. Key issues are; methods for effectively managing public health and safety, consumer protection and nuisance control related to rental accommodations.

Due to the applied nature of this research, a selective literature review approach was utilized to focus on the most salient issues - as opposed to a comprehensive literature review. This was done to maximize the utility of the findings for the purposes of making recommendations for the City of Ottawa's approach to regulating rental accommodations. The literature review focused largely on scholarly literature published in peer-reviewed journals or by university-affiliated research centres. In some instances, research from NGOs or think tanks was included but caution was exhibited with these sources due to their potential for ideological or political biases. The review also emphasizes studies dealing with policy and regulatory outcomes and their impacts.

Due to the interdisciplinary nature of regulatory issues, the literature review draws on sources from multiple fields of study including public policy, law, economics, and other social science fields. Recent literature was prioritised (within the last 10 years), however, in some instances, older literature was used if it was especially germane to the study. The study drew primarily on Canadian, American, and British literature. When useful, literature was included from other international jurisdictions facing similar challenges to the City of Ottawa. All sources were found by utilizing publicly available resources (e.g., internet searches, archives, and libraries) and academic search engines (e.g., JSTOR, ProQuest, LexisNexis, Google Scholar).

Literature Review Findings

The literature on rental accommodations, regulations, and enforcement is very broad and covers a wide range of topics. The following section of this report conveys the key issues and research findings that emerge from the literature as they apply to issues that Ottawa is seeking to address with its rental accommodation regulatory framework.

Rental Accommodations in Canada

Housing policy in Canada has long been dominated by the desire to increase home ownership. According to Hulchanski (2007), policies at all three levels of government have contributed to a policy environment that privileged owners over renters. Examples of this support include capital gains exceptions on primary residences and mortgage insurance programs that cover up to 95% loan-to-value ratios. The capital gains exception alone costs the federal government \$1.5 billion annually. This system emerged during a time when less than 20% of the population lived in rental housing and most of these individuals were of low socioeconomic status.² These policies are becoming less tenable in a climate where Canadians are increasingly relying on rental housing to meet their shelter needs. CMHC reports that rental housing demand has greatly outpaced the growth in supply which has resulted in Ontario reaching its lowest recorded rental vacancy rate in 2017.³ The trend toward increased reliance on rental housing is global. The OECD reports a revival of reliance on the private rental sector among its member nations. As a result of this trend, De Boer and Bitetti argue that governments need to strike an appropriate regulatory balance between the needs of tenants and property owners to effectively support the growth of quality rental housing.⁴

The arrival of short-term rental (STR) platforms (Airbnb, VRBO, HomeAway, Flipkey etc.) has stimulated the growth of a new category of rental accommodation which reduces the supply of long-term rental units. As described in this report, these short-term accommodations have created new opportunities for property owners to profit from their investments and for municipalities to grow their tourism industry. However, these rentals also reduce the housing stock available for permanent rental and guests can be a nuisance to neighbouring residential properties. A 2016 study of Airbnb in Sydney Australia revealed that as much as half of the city's vacant rental properties have been converted from permanent rental housing to short-term accommodations.⁵ In tight housing markets, slight changes to the vacancy rate can have a significant impact on the availability and affordability of rental housing. Low vacancy rates make it harder for individuals to find suitable shelter, especially those who are already struggling to find accommodation such as low-income earners.

Social housing and related policies are beyond the scope of this study; however, it is important to consider in its impact on the supply and regulations for the broader rental market especially in the context of consumer protection for vulnerable populations. Changes to one part of the market can cascade throughout the entire system causing unintended consequences. In Canada, at least 235,000 people are homeless and nearly

20% of the population contends with extreme housing affordability problems.⁶ In response to these challenges, the Federal government has issued its first National Housing Strategy. The strategy proclaimed that Canadians “deserve safe and affordable housing.” Municipalities will be key partners in the implementation of this strategy, especially in supporting the most vulnerable households who rely on affordable rental housing. The strategy commits \$2.5 billion in funding for municipalities to develop and support the construction of affordable rental housing projects.⁷ The private rental sector is also being called upon to increase the amount of affordable rental housing options available. One approach to quickly increase the supply of rental housing without requiring additional residential land or an increase in new home construction is to subdivide existing housing stock into multi-tenant buildings. This form of alternative housing has emerged in Canada in two forms: Rooming Houses (sometimes called lodging houses) and Secondary Suites (or accessory apartments).

Rooming houses are somewhat hard to define because they are not necessarily part of the built environment but rather a living arrangement between non-related individuals. Rooming houses typically offer individual rooms and shared use of other rooms and facilities (bathrooms or kitchens). Rooming houses are often relied on by individuals who are experiencing challenges sustaining traditional forms of housing, including seniors on fixed income, persons with disabilities, the under-employed, and people saving to buy.⁸ Although not traditionally thought of as rooming-houses, many student houses share the same characteristics and are only distinguished by the individuals residing in the dwelling.⁹ Roher argues that this form of housing is necessary to help vulnerable parts of society, however municipal policy towards rooming houses has led to systemic discrimination against these individuals.¹⁰ The public has a generally negative perception of rooming houses. An analysis of newspapers in Halifax revealed that articles about rooming houses typically featured words such as “squalid”, “illegal”, “eyesore” and “slum”.¹¹ These negative perceptions manifest themselves in “Not-in-my-back-yard” responses from citizens at the neighbourhood level. This political pressure has led to many municipalities implementing regulations and licensing programs for rooming houses. However, according to another Toronto study, effective enforcement of these regulations has proven challenging and many landlords continue to operate illegal rooming houses.¹²

Secondary suites are self-contained rental units that are created by sub-dividing a single-family dwelling and they account for nearly 25% of urban rental housing in Canada. Historically, these units were built without acquiring building permits and operated against municipal zoning by-laws. More recently, some municipalities have begun implementing

zoning and licensing regulations to legalize secondary suites. In Ontario 65% of municipalities have a policy for these units; however, most of these programs are voluntary or have weak enforcement mechanisms so the uptake by landlords remains low. Despite these legal issues, Harris and Kinsella argue that secondary suites are a vital part of the urban rental market.¹³ In a study of secondary suite renters in Calgary, Goodbrand and Hiller found that most tenants did not care about the legal status of the dwelling but they did care about the stigma associated with the type of rental unit (especially in the case of basement units). Most secondary suite tenants see the living arrangement as a form of transitional housing.¹⁴

The dramatic increase in the demand for rental accommodations, the rise of short-term rental options, and the unique policy considerations concerning secondary suites or rooming houses demonstrate a clear need for municipalities to implement a comprehensive policy response to the changing rental accommodation landscape. These regulations must take into account the complex web of competing needs and interests of tenants, landlords, neighbourhoods, the broader community, and other key stakeholders. The City of Ottawa has noted that any policy response must seek to ensure the effectiveness of regulation and enforcement and the sustainability of services while seeking to optimize community benefits in relation to the quality, availability, and affordability of rental accommodations of all types.

Landlord Behaviour

Not all landlords are created equal; landlords have diverse motives and different incentives which can result in a variety of behaviours. The most important distinctions are between social housing and private housing landlords. The role of social housing has declined since the 1990s and as a result, more individuals rely on the private rental market.¹⁵ Social housing landlords are mandated to provide affordable housing, whereas private landlords invest in housing as a source of profit.¹⁶ Private Landlords can be further categorized as professional and non-professional. The distinguishing characteristic between these categories is the degree to which they seek to maximize economic returns on their investment. In a study of British private landlords, professional landlords tend to have more units and respond more quickly to changes in the market. Non-professional investors are also profit-seeking but they tend to take a more passive approach to their investment and rely on long-run housing price increases to offset opportunity costs.¹⁷

The emergence of market in-balance has attracted private and institutional investors such as private equity funds, financial asset management corporations, and real estate investment trusts (REITs). In Toronto, investors have bought ageing rental

properties that are of lower quality and are charging below average rent. They then seek to extract higher rents on existing tenants or alternatively displace them to gentrify the property.¹⁸ Another approach used by landlords is “milking”, in which they allow their property to deteriorate by refusing to make repairs and upgrades. In tight rental markets, this allows them to reduce costs while maintaining or even increasing rent.¹⁹ These property owners are behaving as profit-maximizing agents participating in a market and regulations should bear this in mind as they attempt to control the potential negative effects of this behaviour.

Even when subsidies are offered to increase the quality of their properties, research has shown that some property owners demonstrate a resistance toward making improvements. A study of landlords in the UK revealed that many property owners chose not to make energy efficiency upgrades even when financial support was available. These upgrades would decrease the cost of heating for tenants, increase health for low-income tenants, reduce carbon emissions, and increase the value of the property but despite these benefits, few landlords make the necessary investments in upgrading their units. Ambrose attributes this behaviour to landlords’ unawareness of subsidies as for upgrades and lack of knowledge of the benefits of upgrading.²⁰ This type of non-optimizing behaviour is often seen among non-professional landlords who are more likely to use “satisficing” decision making (aiming only for satisfactory results instead of the best results) due to bounded rationality. As agents, landlords have limited information processing abilities and imperfect knowledge, so they are prone to these types of sub-optimal behaviours.²¹ Regulations are the most common approach to coercing proper behaviour from landlords, but the effects are limited without effective enforcement.

Nuisance Control

Noise nuisance control is one of the most challenging regulations to design and effectively enforce. Municipalities receive many complaints about noisy neighbours especially in multi-tenant buildings or in areas that provide off-campus housing to post-secondary students. Noise is also associated with negative health outcomes. A study of residential noise in the Netherlands revealed that residential noise was associated with headaches, cardio-vascular symptoms, and several other negative outcomes.²²

Post-secondary student housing poses a unique challenge for regulators. In the city of Kingston, student housing near Queen’s University is located within neighbourhoods that are historically family oriented. This leads to significant complaints of noise, poor maintenance of homes and parking violations. The City has attempted to use specific zoning by-laws and property standards regulations but with limited success due to legal challenges and ineffective complaint-based enforcement.²³ Waterloo has

implemented stricter regulations in the form of mandatory Residential Rental Licences for any property owner renting out a low-rise residential property. Units that have 5 or more bedrooms (typical of off-campus student housing) are required to comply with the regulations for boarding, rooming, or lodging houses as defined by the *Fire Code*, *Building Code* and any zoning by-laws. Property owners must apply annually and present inspection forms for electrical and heating systems. They must also provide the City with a property maintenance plan.²⁴ Enforcement through the City's Fire Inspector's Office has proven effective for managing student housing in the city.²⁵

Tourists are generally welcomed by municipalities due to their positive effect on the local economy; however, they can be seen as a nuisance by residents when they begin to occupy space outside of the traditional tourist neighbourhoods. A study of the growth of short-term rentals in Australia by Gurran and Phibbs finds that all local governments found increased complaints regarding noise, nuisance, parking, garbage, and traffic due to short-term rentals.²⁶ The state governments of Victoria and New South Wales have made legislative changes to hold landlords responsible for excessive nuisances created by their guests and have also created provisions to ban properties from short-term rentals if they are repeat offenders ("party house" provisions).²⁷

Health and Safety

Canadians experience a wide range of health outcomes and part of these differences can be attributed to differences in housing and neighbourhood quality. An individual's indoor living environment is a significant determinant of health.²⁸ This is especially true for low-income individuals and families:

"Paying lower rents gets you lower-quality housing, with more risk of injury from falls and burns, more exposure to toxins, poorer heat and ventilation, more mould, and more allergens such as cockroach droppings all adding up to more risks to health. Poor housing often has the largest impacts on people who are sick, elderly, or unemployed, creating a compounding effect; and on children that can create longer-term consequences."²⁹

Living in low-quality rental housing has salient effects on physical health, but mental health can be affected as well. A study of young renters in the UK revealed that rental tenure concerns, frequent moving, and having to harass landlords to make repairs can have negative effects on mental health.³⁰ These health effects provide the foundation for the case for stronger enforcement of rental housing regulations.

Post-secondary students are another group of tenants that frequently cope with sub-standard rental housing. A study of 2,097 students at the Université de Sherbrooke in Quebec revealed that 36% of students had exposure to mould or residential dampness.

The authors argue that students should be identified as a vulnerable population and additional resources should be allocated to educate students on their rights as tenants, to enforce existing regulations, and incentivise landlords to undertake the necessary upgrades in order to provide quality housing.³¹ The findings of this study are further supported by Davies and Turley in their study of housing quality in London, England. They find that increasing student populations are one of the key drivers of growth in the rental housing market and this growth is followed by decreases in the quality of rental housing. The UK has implemented a successful licensing requirement for select types of multi-occupant houses (houses of multiple occupation or HMOs) that has issued over 20,000 licenses. Although fewer than 20% of landlords are evading the regulations, the authors argue that these regulations need to be expanded to other types of rental housing, especially the types used by vulnerable populations.³²

New Zealand currently regulates rental accommodations under a patchwork system of laws and regulations. There are three main instruments that outline minimum standards for rental housing health and safety. These are the Housing Improvement Regulations (1947), the *Residential Tenancies Act* (1986), and the *New Zealand Building Code* (2008). One study opined that the interaction between these instruments leads to a system with lax standards and weak enforcement and given that the number of New Zealanders living in rental housing has risen to 39% (as of 2013, the highest level since 1951) this is becoming an untenable solution.³³ Sharpe-Davidson argues that private rental housing in the country is of low-quality due to poor management practices by amateur landlords and weak enforcement measures for existing regulations.³⁴ There is a push from researchers in New Zealand to move to a more comprehensive approach to regulating healthy rental housing.

Researchers from the University of Otago have developed a “warrant of fitness” (WoF) for rental housing to improve tenant health and reduce injuries in the home. The WoF contains 31 criteria covering heating, ventilation, insulation, structural stability, sanitation, and injury hazards. This program is only a voluntary pilot program at this stage but there are efforts underway to incorporate it into law in New Zealand. Of the 144 units that have been assessed during the pilot project, 94% failed the inspection. Third-party assessors undertook the inspections and they utilized a 63-item checklist. The median inspection time was 46 minutes. Landlords were informed which criteria they failed and were given information to bring their unit up to the minimum acceptable standards in the WoF. It is important to note that property owners self-selected into this study so they may not be representative of the broader rental market; however, it is likely that this caused the sample to be biased towards higher than average quality rental units.³⁵

Consumer Protection

Consumer protection is extremely important in rental markets that are undergoing a rapid increase in rents and low vacancy rates. Existing tenants may experience increased pressure from landlords to pay higher rents or vacate the property so that

higher rents can be charged to new tenants. Prospective tenants need to decide between higher rents or lower quality housing in these markets. Under these conditions, landlords have increased power over tenants and it becomes increasingly appealing for them to subject tenants to subpar living conditions, illegal deposits or rent increases, and unwarranted evictions.

Consumer protection in the rental market is a challenge because consumers have different wants and needs depending on a household's situation and the type of rental accommodation that they need. These differing needs are often in conflict. For example, short-term rentals can increase the cost of permanent rental housing. A study of Airbnb in Barcelona attributed a 4% increase in permanent rental rates to the presence of short-term rentals.³⁶ Local ordinances have proven effective at reducing the amount of short-term rental activity. Some of the cities in Los Angeles County have implemented strict ordinances to regulate short-term rentals but many have not. Koster, van Ommeren, and Volhasuen utilized this region to conduct a natural experiment on the effectiveness of these regulations. They found that the number of Airbnb listings were on average 30% lower in the cities with regulations. The authors also attributed a 3% decrease in housing prices to these restrictions.³⁷ Striking a balance between the needs of all consumers of housing is a challenging policy issue but there are effective policy levers to use as demonstrated by efforts in other jurisdictions.

Complaint Based Regulation Enforcement

Most existing rental housing regulations in Canada are enforced at the municipal level through a complaint-based approach. These existing regulations are in place to address several market failures related to health and safety, building code, nuisance control, and specific rooming-house, secondary suite, or short-term rental regulations. A complaint-based approach to enforcement takes a passive stance towards violations. The most significant challenge to this enforcement mechanism is ensuring that tenants know their rights and feel safe to lodge complaints against their landlords. Although the specific details vary based on the regulation that is being enforced, the general approach is that the municipality waits until it receives a complaint from an external individual indicating that a violation has occurred. The enforcement body then has to:

1. Decide if the complaint is legitimate
2. Choose whether or not to investigate
3. Perform an investigation
4. Identify any violations
5. Decide which action will ensure landlord compliance with regulations
6. Follow-up to ensure that the enforcement action was effective

Since the municipality only follows-up on complaints, landlords with less proactive tenants can get away with having units that do not comply with regulations. Landlords of large multi-unit properties (such as corporations that run large apartment buildings) can be easily identified by municipal enforcement officers, but enforcement becomes a much more significant challenge when dealing with landlords who have one or few units. If a unit cannot be identified, it cannot be inspected.

In his study of rental accommodation in Vancouver, Mendez argues that this ineffectual approach is used because the cost of proactively inspecting all rental units is too high and because so many units would need to be shut down due to non-compliance exacerbating housing shortages.³⁸ Municipalities are demonstrating inconsistency to landlords with this approach to enforcing their regulations. The policy sends a strong signal to landlords about the importance of the quality of rental units, while the enforcement approach sends a much weaker signal. Since landlords recognize that substandard or illegal units are a critical part of the overall housing market and because a complaint is the only way in which an investigation can be triggered, landlords perceive enforcement as a non-credible threat. As a result, many landlords operate units that flout existing regulations. It is therefore critical that a municipality address the two issues of likelihood of inspection, and the necessity of substandard units, to effectively implement rental housing regulations.

One of the challenges to effective complaint-based enforcement is the development of a complaint logging system that encourages use from tenants and the community but does not inundate enforcement officials with so many complaints that they cannot effectively respond to them all. If all received complaints are legitimate and actionable then the issue is not the mechanism but rather the limited resources available for enforcement. Adding more human resources to prioritize complaints and determine if they are legitimate can be cost prohibitive. In New York City, this has become a significant issue and the City has turned to technology to help streamline the process. New York City has implemented a big data approach to optimize insights gained from their existing complaint-based system. They now use targeted data analytics instead of inspectors to determine which complaints are most likely linked to properties that are violating health and safety regulations.³⁹ A similar big data approach is used in Sydney Australia to identify illegal boarding houses. Yung and Lao recommend using big data to lower the cost of identifying illegally subdivided units in Hong Kong.⁴⁰

Complaint-based enforcement is an imperfect solution to the problem of enforcing rental regulations. Despite strong regulations being in place, many landlords are able to operate unsafe or illegal housing units because they do not fear the threat of inspection from municipal enforcement. Complaint-based enforcement reduces the number of units that the municipality needs to inspect which saves the government money in short-run; however ineffective enforcement of rental housing regulations has longer term, negative implications. Weakly enforced regulations ultimately fail to address issues related to tenant and community health and safety, consumer protection, and nuisance control.

Many municipalities understand that this passive approach needs to be strengthened if they are going to successfully implement housing policies. As a result, they have begun implementing landlord licensing regimes in an attempt to increase the effectiveness of rental housing regulation enforcement.

Landlord Licensing

The most common alternative to a complaint-based approach to enforcement is landlord licensing. This is a proactive approach in which landlords (in some cases the landlords only need to register if their unit is a particular type such as a large apartment or student housing) need to register and have their unit(s) inspected before it can be rented out. The inspection ensures that the unit is compliant with all applicable regulations. This approach is theoretically better for tenants because it can lead to more effective enforcement of regulations; however, it is not without challenges. It can be difficult to start a licensing program due to the volume of units that need to be licensed during the launch of the program. Another challenge is that landlords are unlikely to register without the proper incentives. For a licensing system to work, the municipality needs significant resources to conduct preliminary and recurring inspections. All of these challenges can cause a significant financial burden on the municipality (even if inspection fees and fines are used to offset the cost).⁴¹

A variation of this approach is to implement a targeted licensing system (also known as a performance licensing system). This approach to licensing utilizes complaints or violations to identify non-compliant landlords. These landlords are then required to register and pay licensing fees. Their units are frequently inspected for violations. If the landlord improves their compliance (few or no violations), they can be moved off the licensing system or at least be identified as a compliant landlord who is subject to fewer or no inspections. This system requires fewer resources to administer and focuses its efforts on the least compliant landlords.⁴² This approach will yield the greatest gains in compliance for the fewest dollars spent, however, it may be perceived to be discriminatory against certain landlords. This approach would also require a detailed analysis of existing enforcement and complaint data to identify the landlords who should be targeted by the licensing regime. This regulatory approach is a form of asymmetric paternalism, as defined by Camerer et al., in that it focuses on scofflaw property owners while having little to no effect on landlords that are behaving economically rationally by complying with applicable regulations.⁴³

Many local authorities (council areas and districts) in the United Kingdom have implemented a landlord accreditation scheme. These schemes are implemented in collaboration with the National Landlords Association (NLA). Landlords are required to register their properties, conduct a self-assessment of their unit(s), and undergo a review of their management practices. Successful landlords are given the accreditation as evidence of the quality of their unit and their competency as a landlord. Units can be listed on online renting portals provided by the local authorities or the NLA. Units are also eligible for grants or financial support for maintenance, repairs, and upgrades.⁴⁴ These

schemes are a good first step but they lack the rigour of third-party inspection of their property such as the New Zealand WoF.

Some landlords in Ontario are not keen to be regulated using a landlord licensing system. A report commissioned by the Federation of Rental-Housing Providers of Ontario (FRPO) argues that licensing does not protect tenants, causes undue strain on landlords that can reduce housing, and does not provide revenue to the municipality. This source is biased as a source of rigorous research but it is a useful signal of how landlords will respond to changes in the regulatory regime. The report estimates that 30% of the housing in the City of Hamilton (population 537,000) is “unregistered” and may become unavailable if stricter regulatory regimes are implemented.⁴⁵ It is extreme to imply that all of these landlords would give up their investment income rather than comply with regulations. Landlords often resist stronger regulations on the grounds of property rights; however, it is important to note that they are businesses as soon as they begin participating on the supply side of the market for accommodation and can be regulated as such.

Short-term Rental Regulation

Short-term rental (STR) platforms such as Airbnb, VRBO, HomeAway and Flipkey have enabled property owners to rent a room or their entire unit for short-intervals. This has unlocked additional utility for home-owners and created an alternative to hotels or traditional bed and breakfasts. More options for consumers have the potential to create a positive economic impact if more business visitors and tourists travel to a region. Airbnb’s research has revealed that their guests stay 2.1 times longer and spend 1.8 times more than traditional visitors.⁴⁶ Farronoto and Fradkin find that the most significant benefits are realized in locations (New York) or times (New Year’s Eve) when hotel demand exceeds supply.⁴⁷ A study of tourism in Idaho (selected due to its high amount of Airbnb activity) revealed that Airbnb listings are positively correlated to tourism industry employment; however, the authors found that these gains were offset by losses to employment in the hotel industry.⁴⁸ Another study of the accommodation industry in Austin Texas estimated that the Airbnb market reduced hotel revenues by 8-10%.⁴⁹ A quantitative analysis of ten major U.S hotel markets found that increased Airbnb supply negatively affects room revenues, average daily rates, and occupancy rates.⁵⁰ Sharing economy advocates consider this displacement as necessary creative destruction to ensure innovation.⁵¹

The hotel industry is not the only group that has been displaced by short-term rentals. The arrival of STR platforms has put additional strain on both the supply and affordability of housing in many municipalities. Short-term rental platforms were originally designed to help owners rent out spare rooms or their entire dwelling when they were out of town. Once the popularity of the platform grew, it quickly became worthwhile for

investors to purchase properties for the sole purpose of renting it out as an STR. A recent report by the advocacy group Fairbnb argues that up to 6,500 entire homes are currently unavailable for permanent rental in Toronto due to Airbnb.⁵² STRs have also had an impact on rents and housing prices. One study estimates that areas with a high intensity of Airbnb activity (the authors of this study used New York City) may cause a 17.7% increase in housing prices.⁵³ A study of rent in Barcelona found that rent was 4% higher as a result of Airbnb.⁵⁴ The additional strain that STRs put on housing markets and the impact that they are having on hotels have led several municipalities to implement regulations on STRs.

The hotel industry in Canada has advocated for all levels of government to work together to level the playing field between traditional hotels and STRs. This includes subjecting STRs to the same strict health and safety standards and tax requirements as hotels. They also advocate for restricting STRs to an individual's primary residence only and limiting the number of nights that a unit can be rented.⁵⁵ These approaches have been used with success in other regions, but only when the platforms agree to share data with regulators. Examples of this approach are London and San Francisco. The City of Toronto has drafted regulations that would limit the STR to primary residences. The Quebec government has established an agreement with an STR platform which has led to the remittance \$2.8 Billion in taxes.⁵⁶ These strides towards effective regulation are essential first steps towards a more comprehensive approach that ensures fair access to economic opportunity for stakeholders while protecting the interests of the broader community.

Alternative Policy Approaches

Several tax-based approaches are used in the European context to incentivize landlords to increase the quality of rental housing. One approach is to give landlords some form of capital gains relief. In France and Germany, long-term property ownership is encouraged by allowing property owners to pay no capital gains taxes after 15 and 10 years respectively. Landlords are more likely to maintain property if they hold it for an extended period of time. In the UK landlords are able to write-off maintenance and repairs on their units but they are not able to receive tax relief when performing upgrades. Landlords are more likely to maintain the quality of their property if they can reduce the cost of making necessary repairs.⁵⁷ These tax-based approaches are implemented at the national level; however, similar incentives could be implemented at the municipal level by using property tax relief or other forms of financial support to offset the cost of maintaining the property.

There are tech start-ups using data to empower tenants to hold their landlords accountable to existing regulations. Heatseek is an app that allows tenants to track the temperature in their unit so they can hold their landlord accountable to minimum heating standards. The Displacement Alert Project is a crowdsourced building-level map that tracks which landlords are trying to pressure tenants out of affordable (usually through rent control) buildings. Who Owns What is a New York City based website that allows tenants to identify who owns their building and lists the other properties that they own. This site enables tenants to get past the veneer of limited liability companies that large property owners use to shield themselves from legal action.⁵⁸ Many of these tools are in their infancy, however, they may prove to be an effective means for increasing rental housing compliance. Pairing software with proper tenant's rights education could enable tenants to advocate for themselves and reduce the number of by-law enforcement officers or inspectors needed to ensure landlord compliance.

Jurisdiction Scan Methodology

Municipalities have taken different approaches to the issues of public health and safety, consumer protection and nuisance control that emerge from the market for rental accommodation. In developing their own approach, it is useful for the City of Ottawa to develop an understanding of the best practices that other jurisdictions have implemented to address these issues. Prism Economics conducted an inter-jurisdictional environmental scan of Canadian and International jurisdictions which have regulatory frameworks for rental accommodations. This scan focused on municipal level jurisdictions. While aiming to develop a comprehensive understanding of the regulatory approaches used by the Canadian jurisdictions the scan also included innovative examples from jurisdictions in the USA.

The purpose of this inter-jurisdictional scan was to inform the development of an optimal regulatory framework for rental accommodations in Ottawa, including but not limited to:

- Whether the City should enact and implement business licensing for various forms of rental accommodations or otherwise enact and implement alternative regulatory mechanisms to enhance sector compliance with property standards and other regulatory requirements.
- Planning and other regulatory tools required to manage anticipated growth in the post-secondary student population.
- Best practices to manage public health and safety, consumer protection and nuisance control.
- A cost analysis, including a range of proposed fees, to fully fund administration and enforcement.

The scan included 5 Canadian jurisdictions: Toronto, Oshawa, Vancouver, Calgary and Edmonton. The scan also included Boulder Colorado and Oakland California. These regions were selected based on their relevance to Ottawa and also the differences in approaches that they have taken to regulating rental housing. When relevant, the scan of regions included provincial or federal policy that impacts rental housing.

The scan of each region drew on publicly available sources including by-law documentation, government websites, government reports, and when available research reports specific to the municipality. In some instances, the scan was informed by key informant interviews with housing or by-law enforcement professionals from within the municipality. All data for Canadian municipalities is taken at the Census Metropolitan Area level of geographic detail. Population, incomes and household data is from the 2016 Census. Rental vacancy rates are from CMHC's survey of vacancy rates for private row houses and apartments for rent in urban centres. Through this combination of sources,

the scan was able to illuminate many aspects of rental market regulation. The most significant challenge was finding data on the effectiveness of regulation and enforcement efforts since few municipalities have sufficient data on rental housing (especially in the secondary market). Where it was possible, estimates were made based on the number of employees allocated to the implementation and enforcement of these regulations.

Canadian Jurisdictions

The inter-jurisdiction scan included five municipalities in Canada: Toronto, Oshawa, Calgary, Edmonton, and Vancouver. Each of these regions is grappling with marked housing market challenges and have adopted similar, but distinct, policy responses. Decision making at the federal level has had an impact on all five regions and this section of the report highlights these shared aspects of housing policy.

Housing policy in Canada relies heavily on the private market for the distribution, allocation, and maintenance of housing. As a result, federal programs have been primarily ownership-driven, with policies seeking to promote, facilitate and boost Canadian homeownership.

The Canadian Mortgage and Housing Corporation (CMHC) is responsible for the implementation of federal housing policy. Established in 1946, CMHC was originally tasked with making the amortized mortgage market work for home buyers and for private investors in rental housing.⁵⁹ It has since implemented a host of other federal programs with homeownership at their core; including, the Assisted Home Ownership Program, the Canadian Homeownership Stimulation Plan, the Registered Homeownership Savings Plan, and the Mortgage Rate Protection Program.⁶⁰

The federal government first announced its plans for a national housing strategy in the 2017 budget, representing a major turning point in Canadian housing policy, and re-establishing a federal role in the provision, maintenance, and repair of affordable housing. The National Housing Co-Investment Fund, the Canada Housing Benefit and secured funds for community housing initiatives were at the core of the funding tied to this strategy. However, much of the funding for these programs is not projected to be available until 2020.⁶¹

The federal government's role in housing policy has never extended to areas around health, safety, or consumer protection. Such areas have been developed and implemented by subnational levels of government, typically involving a set of provincial standards and additional by-laws filling local needs by city councils. Better understanding

these approaches is important for Ottawa in order to develop a rental housing framework that best addresses rising concerns.

Ontario

Two regions in Ontario were included in this study. Since any recommendations will need to be implemented in Ontario, it is essential to gain an understanding of provincial legislation that can impact municipalities' ability to regulate rental housing. The *Residential Tenancies Act* (RTA) is Ontario's core piece of legislation regarding rental housing. It sets standards that protect tenants and assist landlords in understanding their rights and responsibilities in a rental agreement, and establishes the Landlord Tenant Board which is tasked with dispute resolution. The *Rental Fairness Act* (RFA), a recent amendment to the RTA, places more stringent protections for tenants in an increasingly expensive and precarious rental market. Operating alongside the RTA is the *Ontario Human Rights Code* which identifies access to adequate and affordable housing as a human right. These laws are said to affect approximately 1.4 million renter households in Ontario, representing 28% of Ontario's households. The *Condominium Act* also has an impact on rental housing in Ontario as many Condo owners rent out their units on the secondary market or use these units as full-time short-term rental units.

Ontario Human Rights Code

The *Ontario Human Rights Code* protects against discrimination in Ontario by prohibiting actions that discriminate against people based on a protected ground in a protected social area. The *Code* has primacy over all legislation in Ontario – unless the other legislation specifically states it applies despite the *Code*. The right to accommodation is specifically recognized in the *Ontario Human Rights Code*, ensuring everyone has equal opportunity to access housing and its benefits without discrimination on any of the grounds protected in the *Code*.

“Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, disability or the receipt of public assistance.”

– Subsection 2(1) of the *Code*

The *Code* additionally outlines the types of rental housing discrimination that are prohibited, such as screening rental applicants based on protected grounds, denial of

accommodation based on protected grounds, deferential treatment relating to statutory obligations of a landlord during occupancy, or deferential treatment as a result of association. Further specified under types of rental housing discrimination is systemic/institutional discrimination, and the presence of “seemingly neutral rule[s]” that serve to discriminate against specific groups. This could include an inflexible “no pets” policy that would have greater impacts on a person with a disability who uses a service animal.

Several Ontario municipalities (such as Oshawa, Kitchener-Waterloo and London) have faced challenges, in court and before the Ontario Human Rights Commission, when enacting licencing by-laws for rental accommodations. In *1736095 Ontario Ltd. v. Waterloo (City)*, Justice DiTomaso wrote:

“In general, by-laws can come into conflict with the Code when they either intend to target particular groups based on Code grounds in their creation or enforcement, or where they tend to have an adverse impact on people from Code protected groups. Where licensing by-laws are not connected to a rational purpose, target particular geographic areas where residents are known to be from Code-protected groups, and a negative impact results (example loss of affordable housing, or higher scrutiny from officials), this could be problematic from a human rights perspective.”

Residential Tenancies Act, 2006

The RTA establishes the Landlord Tenant Board and has broad jurisdiction over a range of areas within Ontario’s rental housing markets. It sets housing standards and serves to protect and promote the rights of tenants and landlords entering leases. One way in which it does this is through the provision of a standard lease that is now required for all new leases within the province. It employs “easy-to-use” language and ensures mandatory fields are covered in rental agreements and makes clear the responsibilities of landlords and tenants on issues surrounding rent, termination of tenancies, maintenance and repairs, and void/unenforceable conditions (e.g. pets).

The RTA sets additional standards for unit maintenance and repair. Under this section, landlords are responsible for the maintenance and upkeep of their rental unit and property while ensuring good workmanship. When damage is caused by tenants or their guests, responsibility for the subsequent repairs falls on the tenant. This section of the RTA ultimately assigns responsibility for repair while specifying standards for the interior

for rental units (e.g. minimum heat). Additional local standards of maintenance are put in place by municipalities to address the maintenance standards pertaining to the exterior of residential buildings.

Rental Fairness Act, 2017

The *Rental Fairness Act* (RFA) amended the RTA in several key ways. This Act originally put in place rent control rules for new or previously unoccupied rental units. This was done to protect tenants from rising rents; however, concerns around housing supply have caused the government to repeal rent control for all previously unoccupied units after 15 Nov 2018. The RFA established rules around termination notice and tenant compensation. For example, a landlord can no longer issue an eviction order if they wish to occupy their unit (for themselves, a family member or other specified persons), and must choose to either compensate the tenant for one month's rent or offer another unit that is acceptable to the tenant. If landlords are found to have removed a tenant under this premise and chose to demolish, take steps to convert the unit, or enter a new rental agreement within 1-year of the vacancy they are subject to fines and additional penalties.

Condominium Act

Another Ontario law with impacts on rental housing markets in the province is the *Condominium Act*. It recently underwent a review that led to amendments under the *Protecting Condominium Owners Act (2015)*. The most notable changes coming out of this amendment were to the original *Condominium Act* and *Ontario New Home Warranties Plan Act*, while enacting a new *Condominium Management Services Act* to improve condo governance. These changes apply mostly to dispute resolution and communication between condo owners and boards upon purchase and ongoing issues (maintenance, sale etc.). An interpretation of this *Act* by the Superior Court of Justice has given condominium corporations the right to ban the use of properties as short-term rentals through residential condominium corporation regulations.⁶²

Hotel Registration of Guests Act and Innkeepers Act

Hotels and motels must comply with the *Hotel Registration of Guests Act* and *Innkeepers Act*. In these regulations, a hotel is defined as “a separate building or two or more connected buildings used mainly to cater to the needs of the travelling public by the supply of food and also by the furnishing of sleeping accommodation of not fewer than six bedrooms as distinguished from any other building or connected buildings used mainly for the purpose of supplying food and lodging by the week...”. The law additionally applies to “boarding houses” or “apartment houses/private hotels”.⁶³

Under this act, hotel operators are required to keep a register containing the name and usual place of residence of every person admitted as a guest in the hotel and occupying a room therein either alone or with another person. In addition, every room used for sleeping must display a notice specifying the rates charged for the room in a conspicuous place. Owners and managers who fail to comply with these requirements are guilty of an offence, and upon conviction are liable to a fine of up to \$500.

Ontario's *Innkeepers Act* stipulates that the keeper of a hotel, inn, tavern, public house or other place of refreshment has a lien on the baggage and property of a guest for the value or price of accommodation that can be withheld if payment is not received within three months.

Oshawa

Population: 379,848 (2016 Census)

Median Household Income: \$85,697

Number of Renting Households: 30,875 (22% of total households)

Total Number of Households: 138,960

Vacancy Rate: 2.7% (2018)

Table 1.0: City of Oshawa By-laws and Regulations

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
By-law 1-20029: Property Standards	n/a	n/a	X
By-law 76-2006: Adequate Heat	X	n/a	n/a
By-law 112-82: Noise	n/a	n/a	X
By-law 120-2005: Residential Housing License	X	X	n/a
By-law 94-2002: Lodging House	X	n/a	n/a

The City of Oshawa is located in Durham region, just beyond the most Eastern portion of Toronto along the Lake Ontario shoreline. As Durham's largest city, Oshawa boasts a population of 159,458 based on 2016 census figures, with median and average household income at \$78,038 and \$90,192, respectively. With campuses for Durham College, Trent University, and the University of Information and Technology (UoIT) located within the city limits, Oshawa has a postsecondary student population of approximately 22,000. This has had a large impact on rental housing markets, as it has created a need for short-term, rental accommodation for students for the duration of their studies. This growing student population has created a landscape in which landlords are

able to rent poorly maintained, sub-standard housing at a lower cost to students. Many of the by-laws listed above touch on rental housing insofar as they apply to all residential homes – both tenant- and owner-occupied dwellings – to set community standards around property standards, safety and community nuisance. However, to address specific issues around poor-quality, sometimes unsafe, student rental housing, the City of Oshawa has enacted a rental housing licensing by-law for units located within densely student-populated neighbourhoods.

Rooming Houses:

The City of Oshawa was the first city in Ontario to adopt a rental housing licensing system which was precipitated by university expansion and the resulting need for more student housing. The City had specific concerns regarding the proliferation of homes offering accommodation to large numbers of students. It was clear zoning by-laws were insufficient to regulate these precarious, often unsafe, student homes. A licensing scheme was seen as the best way to ensure landlords had a stake in the upkeep of their properties, and it imposed real consequences for non-compliance. Student housing is functionally very similar to rooming houses with the primary difference being the characteristics of the individual tenants. Rooming houses are already required to be licenced in many jurisdictions. Landlords who rent to students do not perceive themselves as running rooming houses so they do not undergo the licensing process. Although rental licenses are only required for rental units within a specific area within Oshawa (forming an approximate 3km radius around Durham College and UoIT) the program has been regarded as a successful one that adequately responded to the concerns it was created to address. Namely, by requiring landlords to renew their license annually, housing is regularly inspected to ensure safety and maintenance standards are met. This licensing regime was layered on top of the City’s existing complaint-based system, ensuring all tenants, whether proactive or passive towards their housing conditions are sufficiently protected.

Table 1.1: Overview of Oshawa’s Rental Licensing Program

Number of Licenses Issued:	~ 500
Additional Staffing Requirements:	3 Full-Time Equivalent
Annual Program Cost:	~ \$400,000
Renewal Period:	Annual
Enforcement Mechanisms:	Fines, license revoked

Inspection Frequency:	Annual (licensing) 2-years (Fire services) 5-years (Electrical Services Authority)
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Table 1.1 above displays figures obtained through conversations with City staff responsible for the enforcement of Oshawa’s licensing program. The costs are relatively modest, requiring only 3 additional officers to carry out the program as part of larger by-law enforcement efforts, at an annual cost per inspector of approximately \$110,000 (wages, MERCs, equipment). Administrative costs associated with the program, including the required inspections, are difficult to quantify as they are absorbed by other departmental budgets – such as the Fire Department, Electrical Safety Authority (ESA). The number of rental licenses issued has been on the rise in recent years, from approximately 300 during the first 6 years of the program (2009-15) to more than 500 today, according to staff estimates. The current regime covers an area of approximately 28.3 km² or about 20% of the city. Expanding this program geographically would require 15 inspectors and increase the total cost to approximately \$1.65 million. Given the overall challenges municipalities face enforcing community nuisance and safety, this licensing program has been very effective, serving as a model for other municipalities facing similar concerns.

Short-Term Rentals:

Currently, the City of Oshawa does not have additional regulations for hotels or traditional B&Bs outside of those that are in place for business (requiring a standard business license); however, they are beginning to look into regulating STRs on platforms such as Airbnb and VRBO. At this point, it is unclear whether the city will use the same licencing approach they have implemented for student housing.

Hotel & Motel:

The municipality of Oshawa does not have any rules relating explicitly to hotels and motels. The provincial and federal governments regulate hotels and motels.

Bed & Breakfast:

Bed and breakfasts must be a single detached house or farm dwelling in which “not more than three bedrooms are made available for the temporary accommodation of travellers, to whom meals may be furnished”. This definition does not include a hotel or lodging house, which have their own working definitions for the purpose of applying for business licenses. The same fee structure applies to obtaining and renewing licenses for bed and breakfast operations.

Student Housing:

Oshawa's rental licensing system in place in the neighbourhoods surrounding the City's post-secondary institutions was designed to combat unsafe rooming house arrangements often rented to students.

Toronto

Population: 5,928,040

Median Household Income: \$ 78,373 (2015)

Number of Renting Households: 476,966 (22% of total households)

Total Number of Households: 2,135,910

Vacancy Rate: 1.1%

2.0: City of Toronto By-laws and Regulations

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
Chapter 629: Property Standards	X	n/a	X
Chapter 591: Noise	n/a	n/a	X
Chapter 354: Apartment Buildings	X	X	n/a
Chapter 497: Heating	X	n/a	n/a
Chapter 758: Municipal Accommodation Tax	n/a	n/a	n/a
Chapter 547: Licensing & Regulation of Short-Term Rentals (Pending)	X	n/a	X

The City of Toronto is Canada's largest city with a population of nearly 3 million (5.9 million in its CMA), covering approximately 630 square kilometres of land. It is Ontario's economic engine, yet it is faced with an affordability crisis where issues around housing are at the front and centre. The lack of housing supply in Toronto is feeding a host of other problems within the housing market – namely, the quality and safety of rental housing, most severely impacting the lower-end of the market.

Traditional Rental Accommodations:

In April 2017, City Council enacted by-law Chapter 354 for apartment buildings. This by-law outlines owner and operator obligations, recordkeeping requirements, procedures for audits and inspections, and rules around non-compliance. Chapter 354 applies to long-term, purpose-built rental apartment buildings that are three or more stories high and contain a minimum of 10 units. It does not include long-term care homes, licenced retirement homes or co-operative housing.

To address rising safety concerns in Chapter 354 rentals, the City of Toronto formed RentSafe TO, a by-law enforcement program designed to ensure compliance with building maintenance standards. RentSafe TO applies to rental apartment buildings that meet the definition set out in Chapter 354 and responds to tenant complaints of neglected service requests for issues such as pests, low or no heat, plumbing issues, leaky ceilings, or problems in building common areas. Building owners and operators are required to register with RentSafe TO and renew annually to comply with the program. Building inspections are conducted at least once every three years to evaluate the interior of the building, garbage/recycling management, security systems, structure, and cleanliness of the building and common areas; the results for which determine the need for a comprehensive audit.

The annual registry and periodic inspection aspect of this program are proactive approaches to enforcing rental building standards. Owners are charged fees for different stages of enforcement, and non-compliance results in escalating and continuing fines that can end in a court summons. Although non-profit social housing providers are not subject to fees for mandatory inspections, fines for non-compliance are applicable to this type of apartment building operator. This approach incorporates both proactive and passive approaches to enforcement from the municipality. It ensures tenants have agency through the complaint-based system, while using a more paternalistic approach through licensing and inspections. Chapter 354 limits the program to purpose-built apartment buildings, meaning smaller, single-unit landlords can operate without undergoing an inspection. This allows the City to use its enforcement resources efficiently but leaves many tenants vulnerable.

Besides RentSafe TO and the accompanying Apartment Buildings by-law, the City of Toronto has more typical by-laws outlining standards around noise and property standards employing complaint-based enforcement systems applicable to all residential housing (tenant- and owner-occupied).

Short-Term Rentals:

Toronto imposes a 4% municipal accommodation tax on hotel and short-term accommodations (less than 28 consecutive nightly stays), paid by guests. However, the municipal accommodation tax is currently the only regulation that applies to short-term rentals found on online platforms. STRs are technically illegal in Toronto despite their proliferation in recent years. This has led to efforts to regulate STRs by making them legal while imposing limits on this activity. In December 2017, Council passed a by-law to develop a licensing scheme for STRs due to concerns over health and safety, community

nuisance and detrimental impacts on the local housing supply. The regulation approved by Council seeks to do the following:

- Permit people to rent their homes for short periods
- Minimize the impacts on housing affordability and availability
- Enable greater diversity in tourism accommodations
- Maintain community stability (including in vertical communities)
- Minimize nuisances
- Create regulations that are fair and easy for people and companies to follow⁶⁴

The regulation itself permits STRs across Toronto in primary residents only, allowing both homeowners and tenants to participate. It additionally caps the number of nights an entire residence can be rented at 180 nights per year to coincide with when an owner or tenant is away. Residents who rent their homes must register and pay an annual fee of \$50, while STR companies must also become licensed and pay a \$5,000 fee (although unclear if annual or 1-time) plus \$1 per night booked through the platform.⁶⁵

These regulations were quickly appealed to the Ontario Municipal Board (now known as the Local Planning Appeal Tribunal) and therefore not yet in force. No decision is expected to be rendered until the fall of 2019. If the regulations are upheld following the appeal, they will also apply to traditional bed and breakfast accommodations.

Hotels & Motels:

The 4% municipal accommodation tax is charged to all travellers and tourists visiting Toronto staying in hotels, motels and bed and breakfasts; however, each of these accommodation types are not currently licensed by the City of Toronto. If the proposed STR by-law is upheld later this year, the regulations will extend to traditional bed and breakfast operators. For now, bed and breakfasts, hotels and motels are all required to operate in accordance with provincial legislation. Most relevant is the *Hotel Registration of Guests Act* and *Innkeepers Act*, as well as the *Ontario Building and Fire Codes*.

Bed & Breakfasts:

The same regulations discussed above for hotel and motel accommodations apply to bed and breakfasts in Toronto.

Rooming Houses:

Multi-tenant houses (rooming houses) are legal in all parts of Toronto except the former region of Scarborough. They must be licensed to operate in the city, which requires an inspection and model fire safety plan approved by the Fire Chief. Licenses are typically valid for 1 or 2 years if the landlord occupies a unit within 30 meters of the dwelling. Uptake of licensing for rooming houses has been quite high. There are 243 licensed rooming houses and 43 licensed bachelorettes in the city. In the region of Parkdale alone, there more than 800 individual rooms in licensed units.

Student Housing:

Students occupy a range of accommodation types including private rentals, rooming houses and apartment buildings. There is no specific by-law in Toronto that regulates student housing availability, affordability, or quality. As rental housing market participants, students select and reside in housing operating within the by-laws outlined in this scan.

British Columbia

Like in Ontario, many areas of rental housing are regulated provincially. Issues around discrimination through the *B.C. Human Rights Code*, and landlord/tenant relations through the *Residential Tenancies Act* are the most important laws governing how housing is treated in the rental market. There are additional regulations in place for hotels and motels through the *Hotel Keepers Act (1996)* and *Hotel Guest Registration Act (1996)*.

Residential Tenancies Act

The B.C. RTA is similar to that in Ontario, outlining landlord and tenant rights and responsibilities and establishing a landlord-tenant board for dispute resolution. Amendments made in 2017 and 2018 establish the following protections to tenants:

- A minimum of four-months notice from landlords regarding unit demolition, renovation, repair or conversion
- Adequate tenant compensation if a landlord or purchaser ends a tenancy for landlord use and they don't meet certain occupancy requirements
- The right of first refusal for tenants to enter a new tenancy agreement at a rent determined by the landlord if the tenancy was ended to renovate or make unit repairs

Human Rights Code:

The B.C. *Human Rights Code* applies to all businesses, agencies and services in B.C. (except those regulated by the federal government), offering protection in the following areas:

- Employment (Includes recruiting, hiring, job assignments, terminations, pay, benefits, conditions of work etc.)
- Membership in trade unions and occupational or professional associations
- Services and facilities that are customarily available to the public
- Purchase of property
- Tenancy
- Hate propaganda

Under the *Code*, prohibited grounds include race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, among others. When effectively enforced, the B.C. *Human Rights Code* will protect against housing discrimination, which affects the most vulnerable populations disproportionately.

Hotel Guest Registration Act & Hotel Keepers Act:

Hotels and motels are additionally regulated provincially under the *Hotel Keepers Act* and *Hotel Guest Registration Act*. Assessments are conducted to establish definitions and categories of accommodations regulated under these laws. B.C. enumerates a range of types of accommodation under the *Acts*. A class 6 classification will be determined for any building possessing any combination of two of the following indicators:

- Four or more accommodation units
- Short-term room tenures, evidenced by daily or weekly rates
- Daily control of premises, such as charging for additional guests, checking of rooms, and requirements to register guests
- Provisions of typical hotel/motel services, such as front desk operations, guest registration, dining rooms or cafes, daily linen and maid service or baggage checking
- No separate or identifiable areas designated for long-term accommodation

Class 1 is designated to buildings or portions of buildings that have the following indicators of residential use:

- Monthly or longer tenancies offered for a period of 12 months ending October 31 of the year during which the assessment roll is completed
- Rooms not available at any time for short-term, transient guests (e.g. daily or weekly rentals)
- Separate, identifiable area dedicated for residential use (as opposed to regular short-term rental rooms used for monthly rental purposes on an ad hoc basis)
- Limited control of premises (e.g. no requirement to register guests, infrequent checking of rooms)
- Limited guest services (e.g. little or no front desk operations)

British Columbia's *Hotel Keeper's Act* functions nearly identically to that in Ontario. It states that innkeepers have a lien on the baggage and property of a guest for the value or price of food or accommodation provided to the guest, and they have the right to sell the property in the event of unpaid accommodation fees for 3 months. To do so, a notice must be issued stating the guest information, the amount of indebtedness, description of the property to be sold, time and place of sale, and the name of the auctioneer. In addition, this Act outlines the procedure for disturbances and fines that may be collected in cases where the disruptive occupant does not desist.

Under the *Hotel Guest Registration Act*, operators of hotels must provide and keep a suitable guest register for the registration of all persons sleeping on the premises.

Vancouver

Population: 2,463,431

Median Household Income: \$ 72,662 (2016 Census)

Number of Renting Households: 348,700 (36% of households)

Total Number of Households: 960,895

Vacancy Rate: 1.0%

Table 3.0: City of Vancouver By-laws and Regulations

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
By-law 4450: Rental Housing Licensing (Long-term, short-term, bed & breakfast)	n/a	X	n/a
By-law 5462: Standards of Maintenance	X	n/a	X
By-law 8733: Single Room Accommodation	X	X	n/a

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
By-law 11674: Vacancy Tax (Empty Homes Tax)	n/a	X	n/a
Rental Property Standards Database	n/a	X	n/a
Tenant Relocation and Protection Policy	n/a	X	n/a

<https://vancouver.ca/files/cov/housing-characteristics-fact-sheet.pdf>

Aside from typical property maintenance standards, Vancouver’s housing policies have been designed primarily to address tenant protection and preserve affordable rental housing. The City of Vancouver is facing a severe housing crisis, and in response has enacted several measures to preserve existing rental housing stock and create more affordable units. These efforts additionally protect tenants from displacement caused by redevelopment in a hot housing market. The City is most concerned with vulnerable residents, which includes seniors, low-income households, and persons with disabilities. Below is a table outlining Vancouver’s efforts to address affordability.

Table 3.1: City of Vancouver Affordability Programs

Additional By-laws: Affordability	Description
Rental Housing Stock Official Development Plan	Sets replacement requirements for specific types of development projects
Housing and Homelessness Strategy	Sets 2021 targets for secured market rental housing (5,000 units) and supportive housing (2,900). Includes priority actions to help renters by protecting existing rental housing stock using financial and regulatory tools to encourage a variety of housing types and tenures that meet diverse household needs.
Moderate Income Rental Housing Pilot	Incentivizes development proposals for new buildings where 100% of residential floor area is secured rental housing. At least 20% residential floor area must be made available to “moderate” income households (\$30-80k per year). Sets out targeted rents for studio, 1, 2, and 3-bedroom units.
Rental 100: Secured Market Rental Housing Policy	Uses incentives to encourage projects where 100% residential rental housing units are secured for 60 years or life of the building – whichever is greater.

Additional By-laws: Affordability	Description
Affordable Housing Choices Interim Rezoning Policy	Updates the City’s zoning to facilitate city housing targets. Includes affordability requirements, allows developments up to 6 storeys high on arterial streets served by transit, or 3.5-4 storeys within 100m of an arterial street. Only 2 projects permitted within 10 blocks of each other on an arterial.
Social Housing or Rental Tenure (SHORT) Program	Designed to speed up production of affordable housing by reducing development approval times for high impact, multi-family housing projects by nearly 50%. Two-year pilot aimed at delivering 1,700 affordable units through a dedicated team and streamlined the development process.

Traditional Rental Accommodations:

Vancouver has in place a business licensing scheme that applies to different types of rentals: Long-term, short-term, and bed and breakfast. Obtaining a business license for rentals is required for any one-family dwelling, laneway house, secondary suite, duplex, apartment, split residential/commercial building, or rooming house. Long-term rental licenses have an annual renewal, expiring on December 31st of each year. Fees are prorated in your first year from when you start the business, and range from \$35 - \$71 per unit – depending on the type of dwelling. Before licenses are issued, an inspection will take place to confirm the number of units.

Since 2013, Vancouver has additionally maintained a public, searchable database of rental properties so renters can make better decisions about where they live, and motivate property owners and landlords to keep properties in good working condition. The database contains records for all licensed, privately- and publicly-owned buildings in Vancouver with five or more residential units and health or safety by-law issues that are unresolved or resolved within the previous 12 months.

The database was adopted as part of the City’s Affordable Housing and Homelessness Strategy (2012) aimed at providing more safe, affordable and stable housing options to city residents. Through coordinated partnerships and initiatives, Vancouver had already adopted an integrated approach to the enforcement of the City’s standards of maintenance infractions, which prior to the introduction of the database, reduced the time to compliance nearly in half – down from approximately 250 days in 2009 to 125 days in 2011. The database was subsequently released to offer tenants with

a tool that they could use to make proactive housing decisions. More recent metrics since the introduction of the database are not available to measure any impact the database has had on housing safety. Figure 3.2 provides an overview of what information is kept in the database.

Figure 3.2: Vancouver Rental Property Standards Database

Properties Included	Properties Not Included	Information Recorded
<ul style="list-style-type: none"> • Single-room occupancy hotels • Purpose-built rental housing • Non-market housing • Supportive housing units 	<ul style="list-style-type: none"> • Single-family homes • Laneway housing • Secondary suites • Duplexes, triplexes, and fourplexes • Strata buildings • Buildings that are not licensed rentals 	<ul style="list-style-type: none"> • Property Address • Landlord or property owner’s name • Number of units in building • Description of health & safety issues found that were unresolved or resolved within the previous 12 months for any of the following kinds of issues: <ul style="list-style-type: none"> • Standards of maintenance • Fire safety • Building safety • Electrical, plumbing, gas and sewer • Signage • Tree protection • Untidy premises • Zoning and development

Short-Term Rentals:

Short-term rental business licenses are required for any dwelling rented for less than 30 consecutive days at a time. They are only permitted in one’s principal residence - i.e. the home where one lives as an owner or tenant and used for bills, ID, taxes and insurance... Basement/secondary suites within a primary residence are also permitted. Operators of short-term rental accommodations are required to include their business license number on all online listings and advertisements. Non-compliance may result in fines of up to \$1,000 per offence. They can also fall under the category of “unsafe” or a “nuisance property” and are enforced on a complaint basis. The table below contains stats on how the program has been enforced thus far. Operators are required to have regular inspections and keep records of health and safety procedures and devices (for example smoke alarms, fire extinguishers, carbon monoxide detectors, rooms for occupancy served by at least two exits). This evidence may be required if audited by the City, or should evidence supporting the initial application be required in a complaint.

Table 3.3: Overview of Vancouver STR Enforcement

Overview of Vancouver STR Enforcement	Number
Number of Active Listings	4,589
Number of Business Licenses Issued	3,161
Number of Licenses Flagged for Investigations and Audits	363
Number of Warning Letters Written	304
Number of Legal Orders Issued	132
Number of Violation Tickets Issued	126
Number of Units Identified for Inspection	59
Number of Listings Referred to Prosecution	89
Number of Business Licenses Suspended	3

Hotels & Motels:

As discussed previously, hotels, motels and lodging houses are regulated under the B.C. *Hotel Keepers Act* and *Hotel Guest Registration Act*.

Bed & Breakfasts:

Rental housing business licenses are also required for traditional bed and breakfasts operating within the city, and are allowed only in certain zones that allow bed and breakfast accommodations. To qualify for a license, homes need to meet specific

safety requirements in the City's official bed and breakfast accommodation guidelines outlining fire protection standards, lighting requirements, minimum size requirements for guest rooms, and cleanliness standards (e.g. clean linen). Once a license is obtained, operators must live in their home, provide guests with breakfast, rent a maximum of two bedrooms, and a maximum of four guests. Operators must also provide guests with parking. Applications are accompanied with a \$56 fee, with annual renewals on December 31st costing \$49.

Rooming Houses:

Vancouver's by-law addressing rooming houses seeks to prevent tenant displacement and the loss of this housing stock by regulating its alteration, conversion and demolition. Under the Single Room Accommodation (SRA) by-law, a task force was created to oversee the conversion of low-income housing in the form of rooming houses, residential hotels and other non-market housing with rooms smaller than 320 square feet into safe, secure and self-contained dwelling units affordable to low-income singles. SRA building owners that want to alter, convert, or demolish rooms must apply for an SRA conversion or demolition permit that can be approved outright, approved with conditions, or refused. City Council and the Chief Housing Officer generally support applications that enhance the livability of SRAs (e.g. adding bathrooms or cooking facilities), protect existing tenants, maintain affordability, and replace SRA units on a one-for-one basis are. SRAs are otherwise inspected every year or when complaints are made to ensure regular standards of maintenance in these types of dwellings are met.

Student Housing:

Vancouver does not have specific regulations addressing student living accommodations. Students live and operate within the city's larger rental market, which is subject to the range of health and safety, consumer protection and affordability regulations discussed above.

Other Regulations:

Each year, every owner of residential property in Vancouver is required to submit a property status declaration to determine if their property is subject to the City's empty homes tax. Properties deemed empty are subject to a tax of 1% of the property's assessed taxable value. Property owners must submit a declaration by early February of each year to determine if their property is subject to the tax. The empty homes tax does not apply to principal residences or homes rented for more than 6 months of the year. Regardless, all homeowners are required to submit a declaration. Other exemptions are made for homes that are under construction, were bought or sold during the year, or where there are restrictions on renting. In its first year, this tax brought in \$38-million for the city; however, it is unclear at this point if it is increasing affordability in the city. It costs \$9-million to run the program which includes the cost of auditing property vacancy status (8,000 audits were planned for 2018). The Mayor is considering raising the tax to 3% because there are still 2,500 properties remaining vacant.⁶⁶

In 2015, the City of Vancouver instituted a tenant relocation and protection policy to protect tenants from redevelopment and renovation that drives up rents and forces relocation – which is particularly true for vulnerable populations such as seniors, persons with disabilities or low-income. It is a supplement to the provincial Residential Tenancies Act, establishing tenants' right to sufficient notice, right to timely information, and right to relocation assistance. This "renoviction" policy requires property owners to submit a tenant relocation application form as part of the rezoning and/or development permit application process. Each case is then evaluated to determine whether submitted plans adequately tailor to and address the needs of their tenants. This policy only applies to the "primary" rental housing stock – meaning, purpose-built rental housing, non-market social housing, buildings with rental units above commercial spaces, and large multiple conversion dwellings with six or more units.

Alberta

The major cities in Alberta are not facing critical issues with affordability or supply like other parts of the country. Unlike in Ontario, the provincial government plays a

substantial role in ensuring the health and safety of tenants in rental housing under the umbrella of environmental public health. This function is carried out by Alberta Health Services and governed by the *Minimum Housing and Health Standard Act*.

Minimum Housing and Health Standard Act:

This legislation lays out the basic requirements for rental housing such as safe cooking and food storage, smoke alarms and fire escapes, heat when it is cold, safe plumbing and electrical, and no present health risk like excess garbage, mould or pests. It applies to all types of rental units and arrangements including entire houses, apartments, condominiums, rooming houses, and short-term rentals (although AHS rarely receive actionable complaints for STRs). These standards are enforced through a complaint-based system. Tenants must file a complaint if they believe that their unit is not meeting these minimum standards. AHS will then review the complaint and if it is deemed to be credible, they will dispatch an officer to investigate. Complaints can be registered through local 311 information centres or through dedicated housing complaint call centres.

AHS recognizes the important role landlords play in the housing market (especially at the low end of the market where renting is first and foremost a form of shelter). As a result, enforcement uses a non-punitive approach. If an inspection identifies health and safety infractions, the AHS team first works with the landlord to remediate the problem. Landlords are not fined for infractions immediately. The AHS works with the landlord to develop a remediation plan and schedule (1-2 days for serious infractions, 1-2 months for minor infractions). Once the time to make the repairs has elapsed, AHS returns to verify if the remediation was implemented successfully. A fine is issued if the landlord has failed to make the necessary improvements and another remediation strategy is implemented. If the landlord fails to make repairs a second time, the penalties escalate dramatically and can lead to the house being deemed unfit for human habitation. AHS employees in Calgary maintain it is rare for a landlord to fail to comply with the initial request for repairs.

Rental Tenancies Act:

Alberta also has a *Rental Tenancies Act* in place that governs the relationship and obligations between landlords and tenants. The *Act* outlines the parameters for periodic tenancies, lease agreements, rent increases, and rules for notice of entry or evictions. The *Condominium Property Act* adds additional rules to any landlord seeking to rent a condominium. This Act makes explicit reference to the *Public Health Act* in relation to all health and safety aspects of the rental property. The landlord is obligated to notify the

corporation with the details of the lease (tenant’s name, rent, their alternative address etc.). Alberta does not have any specific regulation around short-term rentals.

Hotel regulations:

Alberta’s *Innkeeper’s Act* appears to be the sole legislative effort in place on hotel and motel operators. Other than being required to comply with existing health standards, hotel operators must keep “conspicuously posted in the office of the innkeeper’s inn, and in every bathroom ordinarily used for the accommodation of guests” a printed copy of Section 7 of the *Innkeeper’s Act*. Section 7 of the *Act* states and lists clearly the liability of the innkeeper.

Calgary

Population: 1,392,609

Median Household Income: \$99,583

Number of Renting Households: 140,370 (27% of households)

Total Number of Households: 519,695

Vacancy Rate: 3.9% (2018)

Table 4.0: City of Calgary By-laws and Regulations

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
By-law No. 33M2016: Building Maintenance	X	X	n/a
By-law No. 11M2018: Suite Registry By-law	X	X	n/a
By-law No. 5M2004: Community Standards By-law	X	X	X
Statutes of Alberta 2000 Chapter S-1: Safety Codes Act	X	X	n/a
Business Licensing (includes rental housing)	X	X	n/a
Alberta Minimum Housing & Health Standards	X	n/a	n/a
Alberta Rental Tenancies Act	n/a	X	n/a
Statutes of Alberta, 2004 Chapter R-17.1	X	n/a	n/a

Calgary is the largest city in Alberta and the provincial capital. The City has diversified its economy with substantial activity in energy, manufacturing, and financial

services. It is less common for citizens of Calgary to rent than other Canadian cities such as Toronto or Vancouver. As a result, the rental vacancy rate is substantially higher than in other parts of Canada, leaving accessibility and affordability issues a low priority in Calgary. Instead, housing policies focus on tenant health and safety and consumer protection. The *Alberta Rental Tenancies Act* settles most consumer protection issues related to rental housing. The Community Standards By-law and the *Alberta Minimum Housing and Health Standard* regulation (discussed above) are the two most significant policies that affect tenant health and safety. The supportive relationship between the municipal and provincial enforcement professionals is the most distinctive aspect of rental housing policy in this region.

Traditional Rental Accommodations:

Calgary requires apartment building owners or managers to hold a valid municipal business licence. When multiple buildings are under the same ownership, each building requires a license.

Municipal enforcement of by-laws is undertaken by several groups with different areas of interest. This includes police, fire services (fire code), and community peace officers. AHS also works in the city to enforce public health standards related to housing. Community peace officers enforce the Community Standards by-law, covering all external aspects of housing (lawn maintenance, garbage, hoarding, illegal parking) and nuisance (noise, illegal construction). The City uses both passive and proactive approaches to enforcing by-laws, although they use a complaint-based approach for most issues. One identified challenge is the higher tolerance of vulnerable populations towards negligent landlords. To address this issue, the municipality works directly with the AHS in the Safe Housing Inspection Program (SHIP). The different enforcement groups coordinate their efforts and once a week they work together to blitz a specific area or building. Despite having a patchwork of regulations in place, SHIP allows all stakeholders to pool together their resources and work collaboratively. By conducting inspections on the same day, City and AHS officers are able to reduce the burden on landlords and tenants alike.

Enforcement officers make efforts to educate landlords on their responsibilities rather than punishing them for being negligent. When an infraction is identified, enforcement officials work with landlords to solve the problem. For most offences, landlords are given 17 days to fix the issues before they are re-inspected. If the issues persist, fines of up to \$500 can be levied. This approach is believed to be very effective. It is rare that a landlord will not comply with requests to make repairs, remove garbage or cease any illegal behaviour. In the rare event that a landlord refuses to comply, the City

can take them to court and much larger fines can be levied. In one instance, a landlord was fined over \$300,000 for failing to properly maintain units in 16 properties. SHIP is only enforced once per week and targets vulnerable populations occupying low-end rental housing. Enforcement officials would like to use this approach for all rentals, but the needed resources are not available. SHIP identifies target areas by analyzing complaint locations and tips from police or child services. The programme only covers multi-tenant buildings and does not inspect rented condominiums, single-family dwellings or secondary suites.

In 2018 Calgary approved amendments to their Land Use By-law to legalize secondary suites. The City wants owners of illegal secondary suites to apply for development permits and licenses to legalize their units. To encourage this, Calgary is waiving development fees and has created a secondary suite registry to promote available licensed suites. For existing suites to be converted, they must comply with all existing building code, fire code, and health and safety regulations. An inspection by City Planning and Fire Services is required to legalize an already existing secondary suite.

Short-Term Rentals:

Calgary does not have by-laws in place for short-term accommodations. This is understandable since Calgary is not dealing with a housing shortage and can accommodate the added demand of tourists.

Hotels & Motels:

In addition to provincial regulations on hotel and motel accommodations, Calgary also requires a municipal license to be obtained. This type of license extends to the following types of accommodations:

- Apartment building operators renting three or more units
- Bed and breakfasts
- Hostels
- Hotels
- Inns
- Lodging houses
- Motels
- Motor inns
- Office building operators

Like all businesses, hotels and motels require land use approval and a fire inspection prior to issuing a licence. It is unclear how regularly re-inspections must take place. However, different kinds of inspections are required for different business types.

Bed & Breakfast:

The municipal licence required for hotels and motels also applies to operators of bed and breakfast accommodations.

Rooming Houses:

Rooming houses are referred to as “lodging houses” in the City of Calgary, and are included in the list above requiring a municipal business licence. To obtain a licence, properties must undergo land use, fire, and health inspection.

Student Housing:

Calgary has a sizeable student population but no specific regulations addressing student-centred housing concerns. Calgary’s higher rental vacancy rate greatly minimizes the presence of housing vulnerabilities faced by students in other larger and more expensive cities.

Edmonton

Population: 1,321,426

Median Household Income: \$ 94,447

Number of Renting Households: 151,715 (30% of households)

Total Number of Households: 502,140

Vacancy Rate: 5.3% (2018)

Edmonton is a large city in Northern Alberta with an economy that is strongly connected to the energy sector. This sector tends to be very cyclical, but when it is thriving, so is Edmonton, with a median household income among the highest in Canada. Like Calgary, it is less common for citizens of Edmonton to rent their housing compared with other Canadian cities – namely Toronto or Vancouver. Its high rental vacancy rate also keeps housing availability and affordability reasonable for Edmonton residents. Since AHS is responsible for rental housing health and safety (see above), the City of Edmonton’s by-laws are focused on business licensing and community issues like noise, garbage, unsightly properties, and lawn maintenance. The Community Standards By-law is administered by peace officers, who rely on complaints received through local 311 and an online system on the City website. Unlike in Calgary, Edmonton’s enforcement staff do

not work closely with AHS, but do share information about potential properties in need of inspection.

Table 5.0: City of Edmonton By-laws and Regulations

Applicable By-laws:	Public Health & Safety	Consumer Protection	Nuisance Control
Alberta Rental Tenancies Act Statutes of Alberta, 2004 Chapter R-17.1	n/a	X	n/a
Alberta minimum housing and health standards	X	X	n/a
By-law 14600: Community Standards	X	X	X
By-law 17555: Waste Management	X	n/a	X
Secondary or Garden Suites	X	X	n/a
By-law 13138: Business Licence By-law	X	X	n/a
Food Handling Permits	X	n/a	n/a

Traditional Rental Accommodations:

In Edmonton, landlords are required to hold a business license to operate a rental property. To obtain a licence a unit must be inspected (by Edmonton Fire Services) and have all building permits and zoning approvals. Owners will additionally be charged a \$235 fee. Operators of rooming houses require a different license but are subject to the same inspection process fees. Technically, all landlords are required to hold a licence; however, the City acknowledges that many landlords with a single unit (or multiple units at different addresses) are not licensed. Business licencing is seen predominantly as a consumer protection issue for the City; however, AHS is notified of the location when an application for a licence is received, to cover health and safety requirements. When unlicensed units are identified there is no penalty and landlords are encouraged to enter the licensing process.

Short-Term Rentals:

Edmonton is currently undertaking a study to determine the need for local by-laws directed at short-term accommodation. The City does not seek to be a regulator of this activity but is concerned about the community impact of this new type of property use. Affordable rental housing is not an issue of concern for the City so the negative impact on the rental housing supply stemming from STRs is not an issue. They are trying to

determine the nuisance issues that emerge and competitiveness issues between other businesses that provide short-term accommodations (i.e. motels, hotels, traditional bed and breakfasts). This research is currently underway, but preliminary ideas include STR business licensing and placing limits on the number of days a unit can be rented. The City is planning to publish this research and hold public consultations for an approach in early 2019.

Hotels & Motels:

Edmonton requires hotels and motels to obtain business licenses to operate. Consumer protection and health and safety regulations are regulated provincially.

Bed & Breakfast

Edmonton requires bed and breakfast operators to obtain a license to operate legally. They must also obtain a Food Handling Permit from the AHS if they are serving meals. B&Bs can have up to two guests per room and must have a parking space for each room.

Rooming Houses:

Edmonton requires rooming houses to obtain a Rental Accommodation Business License for Congregate Living if four or more individuals live in the property. This license requires a fire inspection and a consultation from the City. The total costs of inspections and licensing is \$374. The license must be renewed annually for \$230.

Student Housing:

Edmonton has a fairly sizeable student population but no specific regulations addressing student housing concerns. Edmonton's higher rental vacancy rate gives students more options for housing which reduces the likelihood of reliance on low-quality accommodations.

Oakland, California

Population: 419,987

Median Household Income: \$68,060 USD

Number of Renting Households: 97,538 (62% of households)

Total Number of Households: 158,084

Vacancy Rate: 3.3% (2017)

The City of Oakland is a mid-sized city located in the Bay Area of California with a large share of rental housing. It has been undergoing a rapid transformation as the

demand for housing in the region has surged, pushing long-time families out of the city and into the suburbs in favour of wealthier residents. As a result, many of the programs in place around rental housing aim to protect and preserve affordable housing for Oakland's long-time residents. Despite being a response to a different set of issues in the rental market, Oakland's housing quality standards (HQS) inspections and health and safety code enforcement programs could be similarly implemented and tailored to the Ottawa context.

Traditional Rental Accommodations:

The City of Oakland is responsible for implementing federal affordable housing policies within their city boundaries. Oakland's local housing authority conducts inspections for landlords who wish to rent their unit under the Section 8 Housing Voucher program which is funded by the federal Department of Housing and Urban Development (HUD). Although affordable housing is out of the scope of this project, the inspection and accreditation approach has proven effective and is worth considering for any municipality considering the implementation of a rental accommodation framework. Inspections are required to take place both before and throughout the resident's tenancy to ensure basic health and safety standards are met – different from housing or building codes. There are several types of inspections, each detailed below:

- A. **Move-In Inspections:** Move-in Inspections must occur after a Section 8 tenant has been screened and selected by a private landlord. For the inspection, all utilities must be turned on, repairs and renovations complete, smoke detectors installed and functioning and all appliances must be in working order. Because the government pays landlords directly for the rent of voucher holders, units must pass this initial inspection before rent payments can begin. Units will continue to be re-inspected, if necessary until they are found to be in compliance.
- B. **Annual Inspections:** Annual inspections are completed within 90 days of the end of the tenant's anniversary in the unit. Notices are sent to landlords in the mail with inspection information and must be found to remain in compliance with initial health and safety inspection standards.
- C. **Complaint Inspections:** Complaint inspections are conducted if an HQS violation is reported by an owner, participant or another source (neighbour, police, service worker etc.).
- D. **Quality Control Inspection:** Quality control inspections are completed on a randomly-selected group of annual inspections to ensure housing quality standards are met. This may result in more than one inspection for some landlords within a calendar year.
- E. **Pre-Qualifying Expedited Inspection:** This inspection can be conducted on rental units in advance of securing a Section 8 tenant. It is part of the federal

“Moving to Work” voucher pilot program that allows a large amount of policy flexibility to the 35 housing authorities participating in the demonstration. Pre-Qualifying Expedited Inspections are a component of the Oakland Housing Authority pilot. It is thus only available to landlords participating in the Moving to Work voucher program to incentivize greater landlord participation by removing some of the onerous inspection requirements under Section 8.

In addition to ensuring the health and safety of tenants, regular inspections are completed to determine and confirm the contract entered between the government and the landlord. For this reason, checklists collect other information about the home, including square footage, number of bedrooms, and unit amenities (e.g. washer/dryer, garbage disposal, ceiling fans, gated community, etc.) in addition to minimum standards around plumbing, paint, pests and rodents, and bathroom ventilation.

The City of Oakland has a progressive process in place to address tenant- and community-issued complaints regarding health, safety and code violations. Beginning with a simple courtesy notice in response to initial violations, landlords have 21 days to address the violation and sign an “owner certification form” which includes an agreement to maintain the property in the future. No inspection is required at this stage. However, following a courtesy notice, homeowners found in violation of codes or by-laws, are subject to fees and inspections. When a violation is verified by a building inspector, a notice of violation is issued outlining the violation(s) and needed corrections. A re-inspection notice will be issued if the violation(s) persists.

If the same, or a similar, violation is determined within the same 24 month-period, property owners will be charged an immediate fee and given 10 days to correct the violation. Re-inspection notices will be issued until the unit is in compliance with community standards and health and safety codes. There are different types of notices and orders issued for different kinds of violations (e.g. graffiti, garbage/recycling receptacles, order to abate- habitability or public nuisance etc.), with an increasing fee structure depending on violation severity, and the development of a compliance plan in more extreme cases. A compliance plan is an agreement with the property owner, agent or buyer to rehabilitate the property and correct housing violations and pay fee assessments within an agreed-upon timeline. There are additional procedures when property maintenance is the responsibility of a bank (in the case of foreclosure).

Short-Term Rentals:

Oakland’s planning code regulates STR activity differently than other municipalities. This is because there is no one activity category for short-term residential rentals. Rather,

rentals of all kinds fall under the categories “Permanent Residential Activities”, “Semi-Transient Residential Activities”, “Bed and Breakfast Residential Activities”, and “Transient Habitation Commercial Activities”.

Oakland currently prohibits the rental of any single-family home, duplex, apartment/condo, live/work unit, or room for less than 30 consecutive days based on the City’s definition of “permanent residential activities” – defined as occupancy of living accommodations on a 30-day basis or longer. Any short-term rental of fewer than 30 days is considered “transient habitation” (in essence, a hotel) in the Oakland Planning Code, and is only permitted in certain zones in downtown, along the waterfront, near the airport, along the highway and other specific planning areas. STRs operating within these approved zones still require a major “conditional use permit” (CUP) – which applies to hotels, motels and other forms of short-term rental accommodations.⁶⁷

Secondary units may only be rented on a 30-day or longer basis. Any rental of a secondary unit for less than 30 consecutive days is not permitted.

A 14% Transient Occupancy Tax (TOT) is applied on hotels, motels and other short-term rentals, including traditional bed and breakfasts, operating within the City of Oakland. This tax is applied to those occupying the units and paid to the operator, who then remits the TOT to the City Tax Administrator.

Boulder, Colorado

Population: 322,226

Median Household Income: \$74,615 USD

Number of Renting Households: 43,708 (35% of households)

Total Number of Households: 123,820

Vacancy Rate: 4.2% (2017)

Although a relatively small city boasting a population of just over 300,000, Boulder implements a rental housing licensing program for all residential rental units. Boulder’s rental licensing program was put in place to ensure certain minimum health and safety standards were met in rental housing. These standards relate to interior and exterior structure, lighting, ventilation and heating, fire safety, minimum space, and sanitary maintenance. Landlords are charged an application fee of \$105 per single-dwelling unit or per building for multi-unit buildings. Additional fees are charged to landlords under the City’s SmartRegs program. This program was created to increase the quality of old rental housing units to meet environmental efficiency standards. These fines are currently set at \$100 for those not compliant.

Traditional Rental Accommodations:

To comply with the licensing program, prospective landlords are first required to undergo an initial baseline inspection. This is also the case if a previous license has expired, or if ownership has changed during the licensing period. Renewal inspections are then required every 4 years to ensure continued compliance, with additional re-inspection if a homeowner is found to be non-compliant or requiring repair. There are four parts to each inspection to ensure the following requirements are met: General safety, plumbing facilities and fixtures, mechanical, and electrical and fire safety. Inspections are conducted by private companies, and homeowners are responsible for scheduling and paying for inspections prior to the license expiry.

Municipalities have traditionally used a licensing program to ensure that health and safety standards are met, to track revenue for tax purposes, or to limit activity in certain parts of the city. Boulder has taken an innovative approach and used licensing to reduce the environmental impact of rental housing through the SmartRegs program. Additional inspections are required for rental units working towards Boulder's SmartRegs energy efficiency standard. These standards are placed on rental properties built prior to 2002. The SmartRegs program awards points to properties based on the age and type of technology used for heating, windows, air conditioning, water heating, refrigeration efficiency, and occupant behaviour – using an in-home device that provides real-time energy monitoring, as well as attendance of an energy conservation class.

Short-Term Rentals:

In 2016, Boulder passed an STR ordinance allowing homeowners to apply for a license to rent their property for less than 30 days at a time. This ordinance excludes dwellings owned by the federal government, the state, or any of their agencies or political subdivisions, including permanently affordable housing. Eligible units must be the owner's principal residence (defined as the dwelling unit in which a person resides for more than 0.5 years) and cannot be owned by a trust or non-profit organization. In addition, the owner must verify that all smoke and carbon monoxide detectors are installed and in working order. No inspections are necessary for this license, and owners are charged a fee of \$130 (\$105 for the application + one-time \$25 business fee) upon the initial application. Licenses must then be renewed every four years, at a cost of \$105 to the owner.

Boulder has come across some issues with enforcement in the past, with surges in unlicensed rental units being advertised on Craigslist. The City has stated it intends to

review licensing inspection to better enforce the regulation, however it is unclear if such a review took place, and whether the outcomes led to any policy change. Currently, compliance is complaint-driven, and tenants are first encouraged to work with the City's Mediation Program if compliance cannot be reached one-on-one with their landlord. If the mediation program also fails to lead to a resolution, a formal complaint can be made, which can result in a landlord summons into the City of Boulder Municipal Court system to reach compliance.

Key Findings

This section of the report outlines the key findings of the literature review and the inter-jurisdictional environmental scan. The City of Ottawa should consider these findings as they seek to implement an optimal regulatory framework for rental accommodations.

- Municipalities should be sensitive to the complexity of the housing market due to its intersection with many other policy areas, institutions, and other levels of government.
- Most existing rental housing regulations in Canada are enforced at the municipal level through three approaches: Complaint-based, accreditation, and licensing. Each approach has benefits and drawbacks.

Complaint-based

- In this approach, the municipality waits until it receives a complaint from an external individual (tenant or neighbour) indicating that a violation has occurred and then investigate credible complaints.
- This approach requires the least resources since inspections are only triggered when infractions are most likely to be occurring.
- This approach is reactive, exposing some tenants to the risk of enduring non-compliant housing.
- This approach can be optimized using data analysis to determine the credibility of complaints and to identify problematic landlords.

Accreditation

- Accreditation schemes are voluntary landlord registration programs. Landlords have their property inspected to verify that they are compliant with all regulations.
- In some models, they are encouraged to join through free advertising or other incentives.
- This approach gives tenants peace of mind that they are living in a safe rental unit.
- Accreditation systems can be used to enhance the quality of housing frequently used by certain demographic groups (such as students or people living on low-incomes).
- Accreditation incorporates many of the positive aspects of a licensing regime without imposing additional red-tape on all landlords.

- Depending on the uptake, this approach can be as expensive as licensing.

Licensing

- This approach requires landlords to apply for a license in order to rent out their property. To obtain a license, landlords usually have their unit inspected by municipal enforcement officers and fire services.
 - Landlord licensing systems can be the most effective approach to enforcement.
 - Licensing regimes can also be expensive and time-consuming to implement.
 - Encouraging landlords to become licensed can be challenging. Incentives, such as access to renovation grants, can be used to entice landlords to register.
 - Licensing application and inspection fees are usually based on a cost-recovery model and range from \$300 to \$600 in Canadian jurisdictions.
 - Many municipalities are implementing a proactive licensing approach to effectively address community health and safety, consumer protection, and nuisance control.
 - Some landlords are resistant to the concept of landlord licensing.
-
- Regardless of enforcement regimes, inspections can be completed by third-party inspectors who are accredited by the municipality but hired and paid by landlords.
 - Collaboration between by-law enforcement, fire services, and police services can reduce the cost and time spent by enforcement officials, tenants and landlords.
 - Landlords, even those operating a single unit (such as a basement apartment), are operating as a business and should be treated as such.

The proliferation of short-term rentals (STRs) has had a material impact on rental housing markets across Canada, requiring regulatory response from municipalities.

- Studies suggest that STRs can have some positive impacts on tourism and are popular among users (providers and travellers).
- There is ample evidence that an increase in STRs have reduced the availability of rental housing and contributed to the escalation of market rent in some cities.
- STRs have displaced traditional forms of short-term accommodation such as hotels, motels, and bed and breakfasts.

- Short-term rentals can be perceived as a nuisance in certain neighbourhoods. “Party House” provisions have been implemented in some municipalities to reduce this behaviour. Noise nuisance control is one of the most challenging regulations to design and effectively enforce.
- Municipalities considering a policy response to STRs should contemplate the benefits and consequences of these rentals.
 - Some municipalities have attempted to outright ban STRs whereas others have sought to limit which types of units can be used as STRs or how many nights a property can be rented.
 - Municipalities have tried to level the playing field between STRs and traditional overnight lodging (hotels, motels, and bed and breakfasts) by requiring both to keep guest registries, pay municipal accommodation taxes.
 - The most successful regulations have had enforcement support from the STR platforms.
 - An interpretation of the *Condominium Act* by the Superior Court of Justice has given condominium corporations the right to ban the use of properties as STRs.

Conclusion

This literature review and inter-jurisdictional scan have highlighted the key issues municipalities should consider as they seek to ensure rental accommodations meet health and safety standards without negatively affecting availability or affordability. Rental accommodations are becoming an increasingly important part of the housing market in many municipalities. As a result, efficient, effective and sustainable enforcement of by-laws will be essential for the economic, social and environmental well-being of municipalities. These issues are not affecting all municipalities equally and policy responses need to be tailored to the needs of each community. Balancing economic innovation and community needs requires municipalities to consider all policy levers within their control.

The emergence of STR platforms has resulted in some units that would otherwise have been rented out on a conventional monthly or yearly basis being taken off the long-term rental market and made available instead for short-term rental to tourists and other transient users. This does not describe all units offered on short-term rental platforms. Some units would undoubtedly have remained idle in the absence of platforms like Airbnb because their owners have no desire to make those units available for long-term rental. However, there has clearly been a negative impact on the supply of long-term rental accommodation because of the option to rent these units on a short-term basis. There are both positive and negative effects of this change.

Aside from the owners of units that are rented out on a short-term basis, the most obvious beneficiaries are budget tourists. The literature scan suggests that the lower cost of short-term rentals (relative to hotels and B-and-B's) likely increases the overall number of budget travellers visiting Ottawa, the total duration of their stays and their total non-accommodation expenditures. To the extent that this is a net increase in tourist expenditures, the economic impact is positive. However, to the extent that short-term rentals arise at the expense of traditional hotels and B-and-B operators, the effect of short-term rental platforms is chiefly to redistribute tourist spending, but not to increase it. While we have no clear-cut data, the literature scan suggests that there is likely to be some overall net increase in tourist spending because of short-term rental platforms, although this increase is probably modest.

The most significant negative effect of short-term rentals is the reduction in the supply of conventional, long-term rental accommodation. The effect of this reduction in supply is to force up rents and reduce the non-accommodation expenditures of tenants. This effect is likely greater than the modest increase in tourist spending discussed above.

Consequently, the overall impact of short-term rentals on the local economy and its permanent (or long-term) residents is likely negative. Regulations to limit the amount of short-term rental activity are essential in municipalities with very low vacancy rates such as Toronto and Vancouver but is less appropriate in regions with higher vacancy rates. If it is deemed necessary to implement a by-law for STRs in Ottawa, it is essential to consider how these regulations will be enforced and how this by-law will interact with other policies in the municipality.

This study makes it clear that enforcing rental accommodation by-laws is challenging but can be implemented efficiently, effectively, and sustainably. Ottawa is seeking to enhance sector compliance with property standards and other public safety requirements. Enforcement has traditionally relied on inspections by municipal enforcement officers that are triggered by complaints from tenants or neighbours. This approach limits the up-front investment from the municipalities but has yielded inconsistent results. Under this regime, tenants must be vigilant to ensure that their unit is compliant. Landlords with passive or unaware tenants are unlikely to have their units inspected. Some municipalities have implemented landlord licencing regimes to address this issue. Under most of these regimes, landlords' units must be inspected before receiving a license and be re-inspected at regular intervals. Although it is in its infancy, this approach has proven successful at improving student housing in Oshawa. Since the City of Ottawa is seeking to manage anticipated growth in post-secondary student population, a licensing program may be an effective option.

Licensing programs can greatly increase the effectiveness of by-law enforcement, but they do have two major challenges. Firstly, they greatly increase the cost of enforcing by-laws when compared to traditional complaint-based enforcement. To offset the costs of program administration and inspections, municipalities require landlords to pay fees (usually in the range of \$300-\$600). Alternatively, inspections can be completed by a third party that is paid directly by the landlord. Secondly, many landlords resist licensing which makes uptake challenging. If landlords refuse to participate, it is very difficult to pressure them to get licensed. Using tax incentives, renovation credits, or rent-subsidies (for low-income tenants) could help encourage landlords to register. Under a licensing regime, it is still important to maintain a complaint-based system so that tenants retain agency.

A complaint-based system and a licensing regime can be mutually reinforcing. Unlicensed landlords can be identified through complaints and then initiated into the licensing program. Using big data approaches could streamline the complaint-based system and increase the overall efficiency of by-law enforcement. Licensing programs should be designed to minimize the burden on landlords to ensure that the policy does

not cause a reduction in the supply or affordability of rental accommodation. Using a single registration and inspection approach for all types of rental accommodation is one way in which the process can be streamlined. This will ensure that all type of landlords face a level playing field regardless of whether or not they are renting on the traditional or short-term markets. This licensing data can be segregated on the back-end to ensure that the municipality is achieving its goals.

The City of Ottawa is facing a confluence of issues when it comes to the market for rental accommodation. These issues include health and safety, noise, consumer protection, environmental concerns, economic development, and other community needs. Ottawa will need to implement a policy framework for rental accommodation that addresses these issues while maintaining a level playing field among accommodation providers and that is flexible enough to adapt to innovation in the market. Addressing any of these issues in isolation will be a challenge, but in combination, they are extremely demanding. Fortunately, Ottawa is not alone in this challenge. Municipalities from all over Canada and the world are facing similar challenges and developing innovative policy responses to them. This report has sought to present relevant research, data and best-practices that Ottawa can use to inform evidence-based policy responses to the ever-changing, and increasingly important, rental accommodation landscape.

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