

Rental Housing Conditions Discussion Paper

Rental Accommodations Regulation Study



Maclaren Municipal Consulting Inc.
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1. Review Mandate

The City of Ottawa has retained Maclaren Municipal Consulting to complete a comprehensive analysis of Ottawa's rental accommodation regulations for the Emergency and Protective Services department. This study is limited to By-laws/ regulations for rental accommodations, excluding social housing, residential care homes, and long-term care homes. Land-use planning mechanisms, and social programs will not be addressed through this report. However, any issues or opportunities identified in these areas will be referred to the appropriate authority through the inter-departmental Rental Accommodations Working Group established for this purpose.

This review is based upon the following guiding principles:

1. Health, Safety and Well-being of the Public: Maintaining consistent standards to preserve health and safety.
2. Protection of Property and Persons, including Consumer Protection: Considering how regulations influence the quality, availability and affordability of rental accommodations.
3. Foster the economic and social well-being of the municipality.
4. Efficient, effective and sustainable enforcement.

The Review will examine regulation of:

- Short Term Rentals
- Student Housing, and
- Private market housing conditions, in apartments and rooming houses.

This Paper discusses the current and potential future regulatory approach to Housing Conditions, in rooming houses and apartments. Two other Discussion papers dealing with the other topics are also available at Ottawa.ca.

2. Rental Housing Background

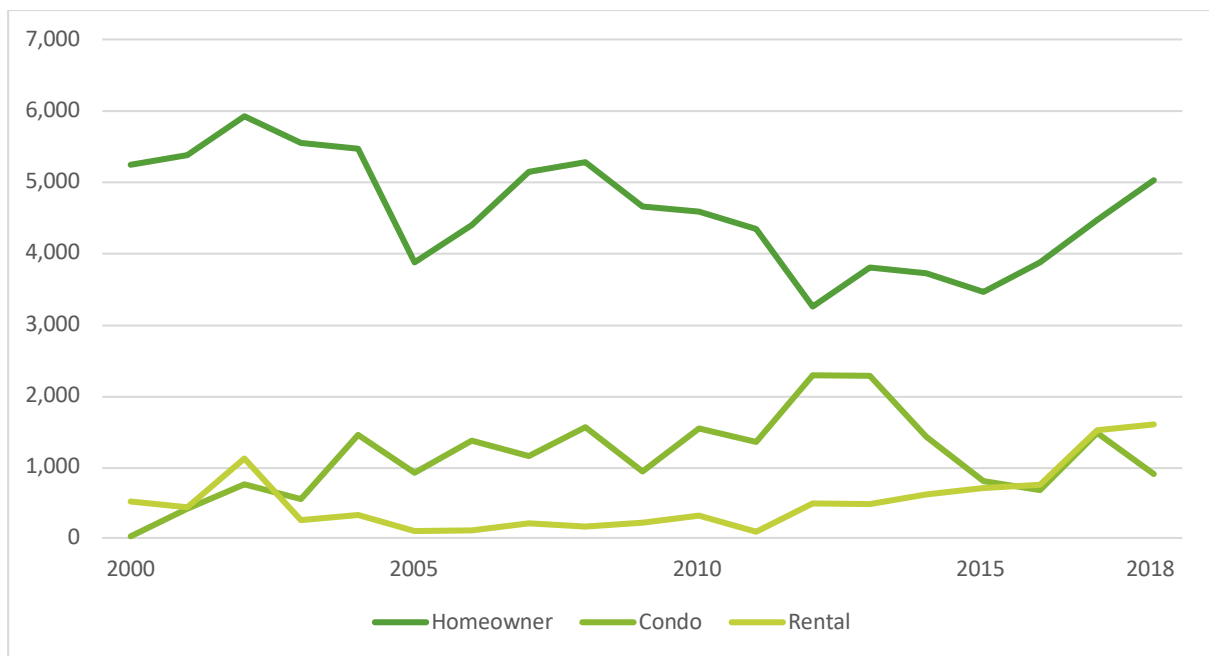
This section provides an overview of rental housing trends for Ottawa and the background context for the rest of the discussion paper.

- Rental housing represents a significant share of the total housing supply in the City of Ottawa. Renters accounted for 34.3% of all households in 2016 which has remained unchanged compared to 2006 (34.0%). (Statistics Canada)
- 69.1% of renters in 2018 lived in apartments, 19.9% in row houses and 10.9% in single or semi-detached units. (Prism)¹

¹ Prism Economics and Analysis, *City of Ottawa Rental Market Analysis*, (2019)

- The rental housing stock is aging with 62% of total rental units built before 1979 as of 2018. (Prism)
- In 2016, 42.3% of renters spent more than 30% of their income on shelter costs, compared to 14.1% of owners. (Prism)
- The City’s vacancy rate for purpose-built rental housing was 1.6% in October 2018 (a vacancy rate of between 3% and 5% is considered as ‘healthy’ by CMHC, although others reference 2% as a “normal” rate). Ottawa’s rental vacancy rate was above 3% in only 5 years since 1982. (CMHC)
- From 2006 to 2016, median household income grew only 23.1% while the average value of owned dwellings increased by 49.3% reducing movement of middle-income households from rental housing to ownership. (Statistics Canada)
- The addition of new purpose-built housing units to Ottawa’s rental supply has been limited since 2000. Rental starts did increase sharply, however, over the last two years (2017-2018).

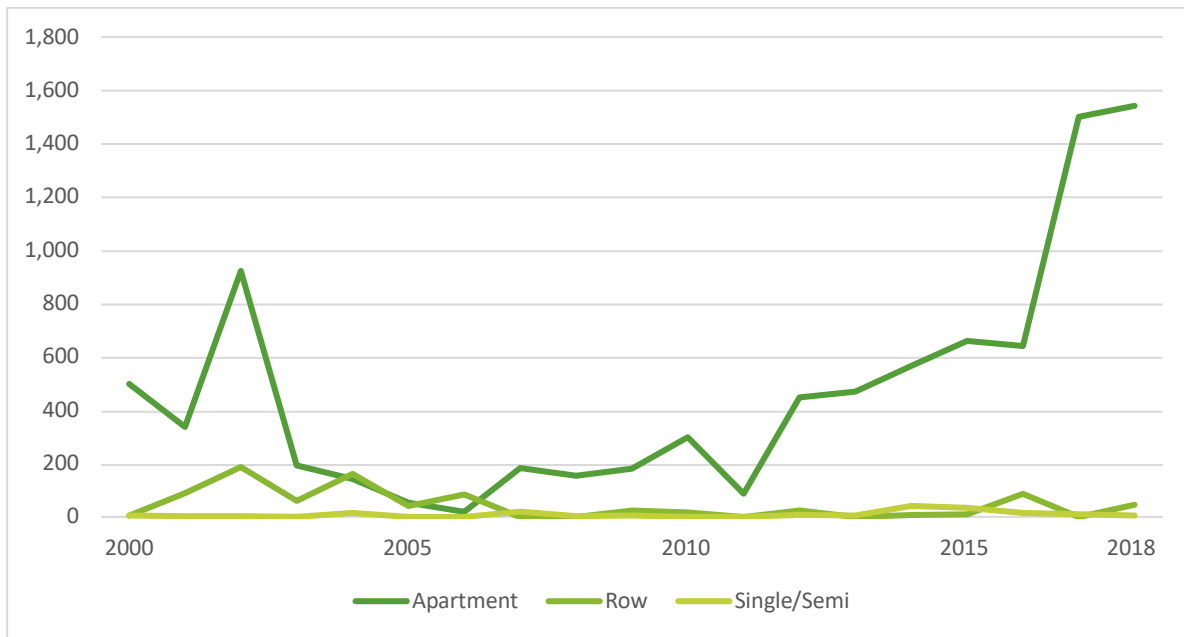
Table 1 - Annual Housing Starts (Units) by Intended Market: 2000-2018



Source: [CMHC 218 Rental Market Report: Ottawa CMA \(Ontario\)](#)

- New rental housing units have largely been apartment buildings.

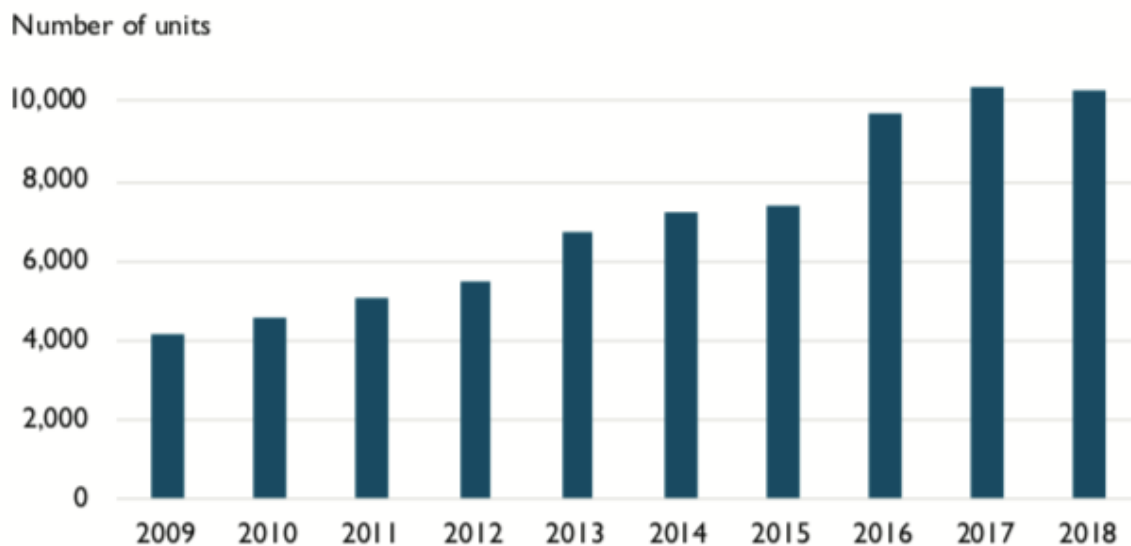
Table 2 - Annual Rental Starts (Units) by Dwelling Type: 2000-2018



Source: [CMHC 218 Rental Market Report: Ottawa CMA \(Ontario\)](#)

- Condominium buildings have also added to the rental market supply.

Table 3 - Ottawa’s Condominium Rental Supply: 2009-2018



Source: [CMHC 218 Rental Market Report: Ottawa CMA \(Ontario\)](#)

- Newer rental units contain higher rent levels compared to the rest of the rental market. The average monthly rents in apartments built since 2015 was \$1,867 in October, 2018, compared

to \$1,174 for all apartment rentals. Rents in condominium rental apartments are also rented at the higher end although lower than the newer apartments – a monthly average of \$1,601. CHMC does not publish rents by year built for condominiums but does note that 38% of such units are in newer buildings built in 2010 and after, compared to less than 5% for purpose-built rental apartments. Average monthly rents for condominium rentals were highest in the downtown core at \$1,836. (CMHC)

- Average rents for 2-bedroom apartment rentals have increased twice the rate between 2015 and 2018 as over the previous 3-year period of 2012-2015 (at 10.5% compared to 5.3%). (CHMC). The average rent for a 2-bedroom apartment in 2018 also increased by 5.6% over 2017 – the largest single year increase since 2000. The yearly increase was also higher than Toronto at 4.6%. (CMHC)
- A number of factors have impacted the rental housing market over recent years on both the demand and supply side. On the demand side, Ottawa has experienced steady, healthy economic growth which has resulted in sustained population growth due to in-migration, including immigrants and refugees who tend to rent in the first five years of coming to Canada according to CMHC. The tightening of mortgage approval rules has made it more financially difficult for young families and individuals to purchase homes. Professionals are moving into downtown to be near the growing technology jobs. Baby boomers are adding to the demand for rental housing as they downsize from their existing homes and are using their equity towards rental accommodation rather than purchasing a smaller home. The rising enrollment of students at local universities and colleges has also impacted the rental market. This is discussed in the Student Housing discussion paper.

On the supply side, there is growing concern that home sharing platforms like AirBNB are removing a number of units from the rental housing market into short term rentals. This is discussed in the Short-Term Rental Discussion Paper.

The strong demand for rental units combined with a growing population and a healthy economy, has made Ottawa's rental market more attractive to investors (including both new rental projects and condominium apartments) and developers. [Several rental projects](#) are proposed near LRT stations such as 900 Albert (1,241 rental units) across from the Bayview station, as well as in the downtown area. [Williams Court at Kanata Lakes](#), a purpose-built 5 building 751 rental units complex was sold to in 2017 to a Real Estate Investment Trust (REIT) company which, at the time, was touted as the largest real estate transaction in new apartment construction in Canadian history.

- The demand for rental accommodation is expected to outstrip supply over the next decade. [Market experts](#) are forecasting a shortfall of up to 100,000 units in Ontario by 2029. A report (Prism) prepared for the City forecasts a shortfall of about 18,000 and 19,000 dwellings by 2031 for all housing types (assuming no policy changes or shifts in historical market trends in meeting the demand). The report does not break down the gap for rental units but it does

predict that average apartment rents would increase by 41% by 2031 (assuming no change in trends).

3. Affordable Rental Housing is an Important Element of a Vibrant and Inclusive City

The availability of suitable and affordable housing choices is key to the economic vitality, livability and social well-being of cities and communities. With about 42% of existing renters paying more than 30% of their incomes, finding affordable rental housing is a great challenge whether it be for low income singles, young families who are having difficulties in saving money for a new home, single parent families, individuals requiring special support services, seniors on limited fixed incomes, recently arrived immigrants, or students needing to be near their educational institutions.

Ottawa has experienced a strong rental demand and increased levels of rental apartment construction, including rental units in condominiums, perhaps because rents of these newer units tend to be in the premium range and therefore unaffordable to many. As a result, the supply of housing for lower income renters tends to be limited to the older residential stock. It is estimated that 21.5% of the total rental units in Ottawa were built before 1960 and another 40.6% constructed from 1960 to 1979. (Prism) It is the aging rental housing stock that is at the highest risk in terms of property maintenance and retention. Many older apartments and rooming houses are also at high risk of being removed from the rental housing supply due to redevelopment or intensification, especially in inner city neighbourhoods and near LRT stations. In some neighbourhoods there are also some rental units that are converted to single family homes, while in others there are trends towards converting single family homes to apartments or shared accommodation.

While most landlords do provide good service, many tenants still face a range of other challenges. These include a lack of security and stability with fear of losing their homes through evictions, uncertainty over rising rents, and other costs; in some cases, poor housing conditions, overcrowding and landlord harassment or abuse of power.

The following table provides an overview of Service Requests related to Property Standards enforcement from 2016 to 2018.

Table 4 - **Property Standards Enforcement**

	2016	2017	2018	% Change 2016-18
Service Requests	10,036	12,111	13,196	31.5
Notices of Violation	2,546	3,200	3,525	25.0
Orders	1,042	1,236	1,001	-3.9
Summons	NA	8	48	NA

Data from the City of Ottawa

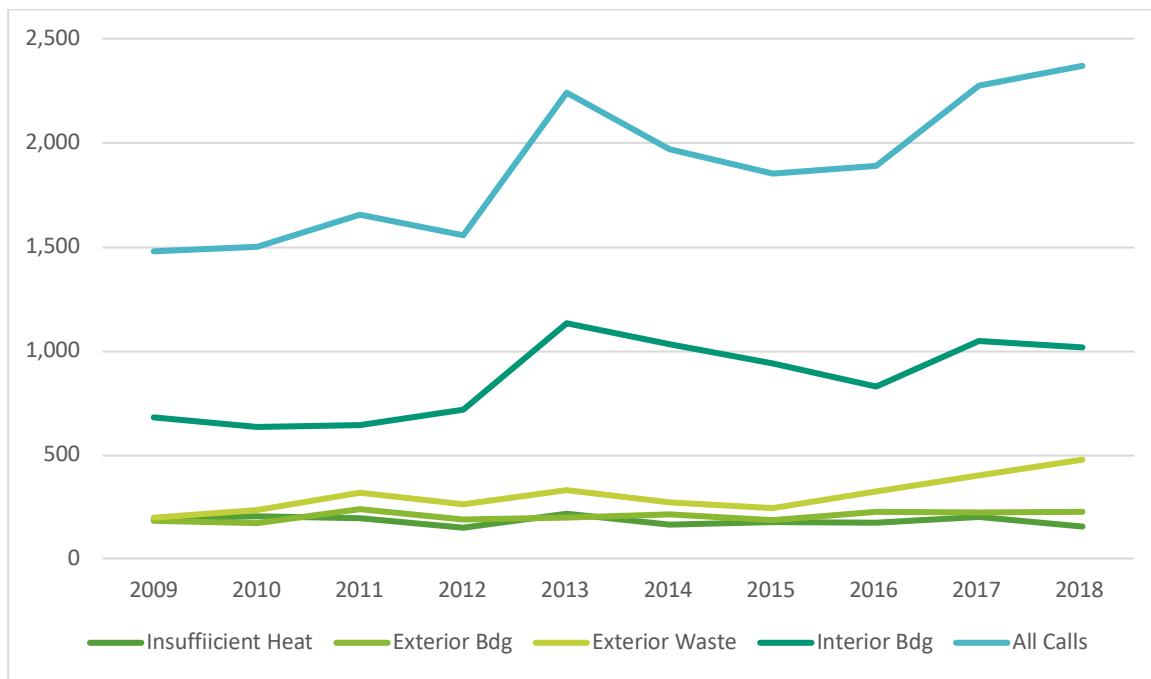
NA – Not available

The City experienced a noticeable increase in all 3 types of property standard enforcement categories in 2017 compared to 2016. The number of Service Requests and Notices of Violation continued to increase in 2018 but at a lower rate; while the number of Orders declined to a level slightly lower than the total in 2016. Over the total 3 year period, 26.2% of all Service Requests required formal enforcement action (the Notice of Violation) while the remaining issues were resolved without notices being sent to the property owner; or these were determined to be unfounded at the time of the inspections. 9.3% of the service requests required escalated enforcement through the Property Standards Order to Comply. In 2018, 0.4% of the Service Requests, or 4.8% of the total Orders to Comply, remained unresolved resulting in a Part III Summons to appear at Provincial Offences Court.

The following tables and charts provide more detail on complaints on private rental properties based on 3-1-1 data from 2009 to 2018. The data contains 3-1-1 calls that were referred to Property Standards or Zoning By-law officers; they include complaints about garbage but not about noise. The data also excludes calls pertaining to social housing, including private non-profits and co-operatives. For the 10-year period there were 18,789 3-1-1 calls related to private rental properties out of a grand total of 103,118 calls.

Over the 10-year period beginning in 2009, the total number of 3-1-1 calls increased by 60%, although year-to-year trends do display fluctuations. Generally, the total number of calls peaked in 2013 followed by a decline in 2014 and 2015. The number of calls increased sharply in 2017 and continued into 2018. Just over 46% of the total 10-year calls were related to building interiors followed by exterior debris/waste (16.2%), building exteriors (10.9%) and insufficient heat (9.6%).

**Table 5 - Calls Related to Rental Properties: 2009-2018
All Calls and 4 Largest Call Types**



Source: City of Ottawa

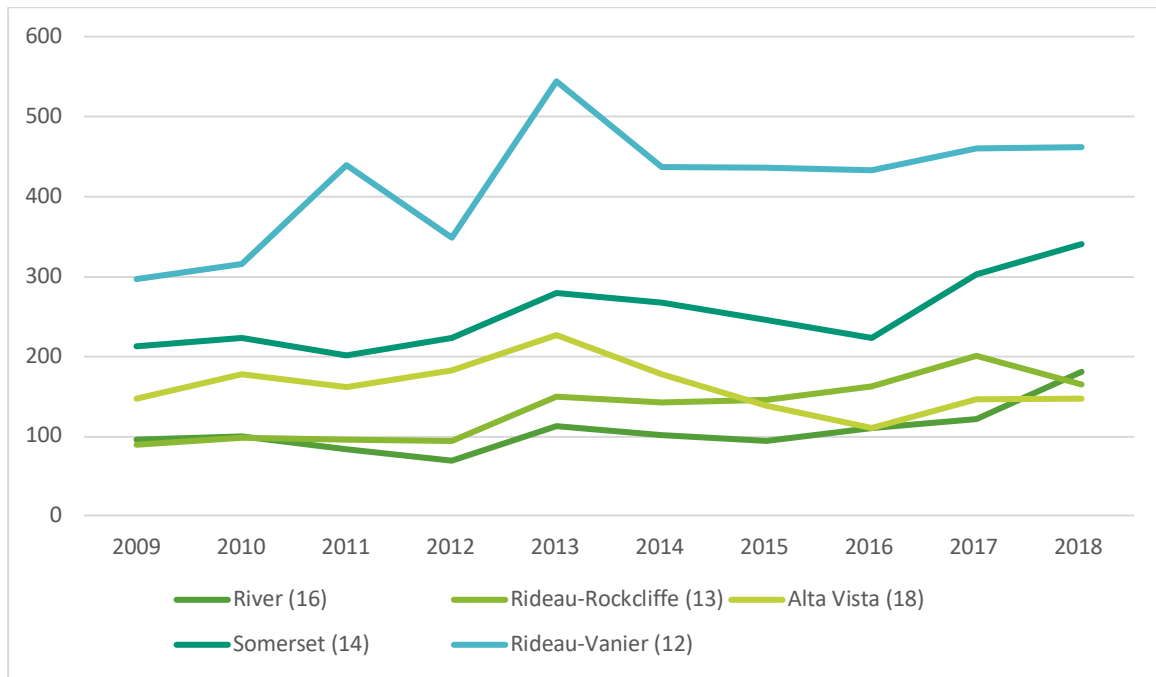
“Interior Bldg” may refer to pests in the building, mold, water leaks, missing smoke detectors, etc.

“Exterior Building” refers to items visible from outside, including trash in the yard, and broken windows.

It is interesting to note that the largest 3-1-1 call type for ownership properties was external debris/waste which accounted for 32.3 % of the total 3-1-1 calls over the 10 years, about twice the share for total rental property calls (16.2%).

Ward 12-Rideau-Vanier had the largest number of rental 3-1-1 calls compared to all other wards for each year from 2009 to 2018, accounting for 22.2% of total calls over the period. Ward 14-Somerset maintained the 2nd highest call total in each year with a 13.4% share of the City total between 2009 and 2018. Ward 18-Alta Vista had the 3rd largest 10-year City total share with 8.6% and ranked 3rd between 2009 and 2014, but then experienced a decline until 2018. Ward 18 -Alta Vista and Ward 2-Innes did not display an increase in the annual total number of calls over the 10 years.

Table 6 - 3-1-1 Calls Related to Rental Properties: 2009-2018 Top 5 Wards



Source: City of Ottawa Table with all Wards included as Appendix A.

From the rental 3-1-1 call data collected for the 10-year period between 2009 and 2018, 8,597 unique addresses of rental properties were identified, excluding rooming house properties that are currently or were formerly licensed during the 2009-2018 period (the rooming house data is analyzed in the next chapter). The following table shows the frequency of 3-1-1 calls related to the 8,597 unique rental properties.

Table 7 - Frequency of 3-1-1 Calls by Unique Address 2009-2018

	1 to 5 Calls	5-9 Calls	10-20 Calls	21-50 Calls	51-100 Calls	>100 Calls	Total Locations
Calls	7,940	439	167	40	9	2	8,597
% of Properties	92.3%	5.1%	1.9%	0.5%	0.1%	0.0002%	100%

Source: City of Ottawa.

The large majority of rental properties that received calls (92.3%) had 5 or less 3-1-1 calls over the 10-year period (with over 100,000 rental units in Ottawa, the majority of units received zero property standards complaints). Less than 1% had more than 20 calls over ten years, with 2 properties having more than 100 calls. This indicates that most rental properties in Ottawa are well maintained and managed. However, there are some properties that have many issues, and there are likely some properties with fewer than 20 calls that are located in the same projects, and those particular projects may have issues.

There are a number of non-profit community-based organizations that provide services to occupants of rental buildings in Ottawa, particularly to lower income tenants. These services range from health and legal services to advocacy. Examples include the [Somerset West Community Health Centre](#), Centretown Community Health Centre, [Community Legal Services \(Ottawa\)](#), [ACORN \(Ottawa and Gatineau\)](#) and [Action Ottawa / Housing Help](#).. They tend to deal with tenants in the properties that have significant issues.

There are several City regulations, excluding the Zoning By-law, that directly or indirectly impact rental housing properties: Property Standards By-law and the Property Maintenance By-law, which applies to all properties, not just rental; the Heat By-law which applies only to rental housing, and the Building By-law which has an indirect impact on rental housing. Another regulation deals with the licensing of rooming houses only, and is discussed in the next chapter.

Property Standards By-law No. 2013-416

The Property standards By-law sets the minimum standards to ensure that property owners maintain their properties (building and surrounding land) to protect the health, safety and well-being of occupants or tenants, as well as minimizing nuisance for surrounding properties and the general public. All property owners are required to repair and maintain their property, including owners of rental properties. Standards pertain to all structural components and services such as heating, lighting, electricity and water, as well as property cleanliness including yards, fences, walks and egress. The By-law also includes occupancy standards such as minimum floor areas for rooms used for sleeping purposes and the maximum number of residents in dwelling units (1 person per 9.3 sq. m. of habitable room floor area). The minimum floor area of a room used for sleeping in a rooming house is 7 sq. m. (and a minimum width of 2 m) for rooms used by one person, and 4.6 sq. m. for each person for rooms used by 2 or more persons.

Property Maintenance By-law No. 2005-208

The Property Maintenance By-law sets standards for waste and debris or ice and snow accumulation.

Heat By-law No. 2010

The Heat By-law requires landlords of rental properties to maintain adequate and suitable heat at all times. The Act defines adequate and suitable heat.

Building By-law (2014-220)

The Building By-law regulates the administration and enforcement of the *Ontario Building Code Act, 1992* respecting the construction, renovation or any change of use of buildings and designated structures.

In terms of the Zoning By-law, the City is also undertaking a two-phased [R4 \(Residential Fourth Density\) and Multi-Unit Residential Zoning Review](#) looking at several zoning issues related to the

continued development of building in the inner-city neighbourhoods containing dwelling units with unusually large numbers of bedrooms often referred to as “bunkhouses”. Bunkhouses come close to the definition of a Rooming House but have not taken out rooming house licenses. These bunkhouses tend to be located in areas where the number of units was restricted, but the size of those units was not restricted. Phase 1 of the Review set a limit of 4 bedrooms on each unit and established a revised definition of Rooming Houses which now is also consistent with the definition used by in by-law enforcement. This will prevent more bunkhouses from being built.

Phase 2 of the Review, which is now ongoing, is also known as the “Missing Middle” Review. It focusses on "de-bugging" the existing R4 zoning to remove undue obstacles to building low-rise apartments. The current R4 zone was intended to allow the construction of low-rise apartment dwellings offering the greatest opportunities for building new and affordable urban rental housing. However, a recent analysis of the zone found weaknesses that actually stifled such development in the downtown / inner city areas.

4. Rooming Houses

All of the By-laws listed above that relate to rental housing, also apply to rooming houses. In addition, they must comply with the City’s Licensing By-law.

Schedule 26 Licensing By-law No. 2002-189 (as amended)

- The By-law requires every owner of a rooming house to obtain a license subject to a number of conditions; these include compliance with applicable fire and health regulations and compliance with zoning, building and property standards. License is renewed annually subject to same conditions. The Chief License Inspector may impose additional conditions to ensure public safety.

Note that a “rooming house” does not refer to the rental of up to 3 rooms by a resident owner or tenant, and that type of rental does not require a license and is not discussed in this report.

Rooming houses have frequently served as a first step for those leaving emergency shelters; sometimes as a short-term arrangement for students or immigrants who need affordable housing, and sometimes as a long-term option for those with low incomes, especially those with mental and other social challenges. They represent a vital but vulnerable part of the affordable rental housing supply

According to the 2016 publication, [*The Facts on Rooming Houses*](#), and a 2017 [update](#), it observed that 55% of the rooming house tenants were between the ages of 50 and 60; 91% of the total tenants were receiving social assistance, and 73% reported that between 1 to 3 mental health disorders. A 2006 Canadian Mortgage and Housing Corporation study found that 55% of rooming house tenants interviewed had lived at that address less than a year, while the remaining 45% had lived there more than a year.

The supply of rooming houses has declined dramatically over the past several decades from about 400 during the 1990s to about 91 today. According to the City's licensing data, as of April 2019, 101 licenses (or rooming houses seeking licenses) have been removed from the rooming house supply since the 2001 amalgamation. The current 91 licensed rooming houses have a total of 1,130 rooms - a drop of about 200 rooms when compared to the 2016 *The Facts on Rooming Houses* report.

The decline in rooming housing supply has occurred in every major city in Canada. For example, in Toronto, the number of licensed rooming houses remained relatively constant from 1998 to 2008 at about 490, but between 2008 and 2012, the supply declined to 412. (Freeman, L. (2014). [*Toronto's suburban rooming houses: Just a spin on a downtown "problem"?*](#) Toronto: Wellesley Institute).

A number of factors have contributed to this decline: aging dwellings, as well as aging property owners, increasing land values and redevelopment / intensification opportunities, community opposition, the implementation of licensing, and the requirement to meet current standards on all the related regulations and zoning restrictions, particularly current fire regulations. For example, when a rooming house applies for a license or renewal of an existing license, it is inspected by a Property Standards and Zoning Officer, by a Public Health Inspector and by a Fire Inspector. They each apply the current standards and requirements to ensure the health and safety of residents, but the costs of renovations to meet ever evolving standards, has pushed rooming houses to convert to other, less restrictive, users.

The chronic shortage of affordable rental housing and of social housing impacts low income and vulnerable people the hardest, many of whom may be forced to find alternative housing ranging from emergency shelters, overcrowded and illegal rooming houses, and other informal arrangements. For example, according to some research, the City of Calgary experienced a proliferation of informal and illegal rental units during its booming economy period, which was attributed to the lack of an affordable housing supply to accommodate lower income workers (Tanasecu, Alina et al, "Tops and Bottoms: State Tolerance of illegal housing in Hong Kong and Calgary": Habitat International 34 (2010) 478-484).

The less responsible landlords may also try to minimize maintenance costs or expensive upgrades resulting in unhealthy living conditions. A 2003 study of rooming house residents found that participants who reported the poorest health were more likely to reside in rooming houses in the poorest physical condition (Hulchanski, J.D. et. al. (2003). "*The Relationship Between Housing Conditions and Health Status of Rooming House Residents in Toronto.*" [*Canadian Journal of Public Health, 94\(6\)*](#), 2003).

With many occupants of rooming houses having mental and social challenges or being uncertain about their rights as tenants, such as recent immigrants, the need for affordable and adequate housing also requires accessibility to community support services. However, the Provincial Government is also cutting funding to many support organizations like [community legal clinics](#)

who help low income tenants by assisting them in eviction hearings and accessing financial supports.

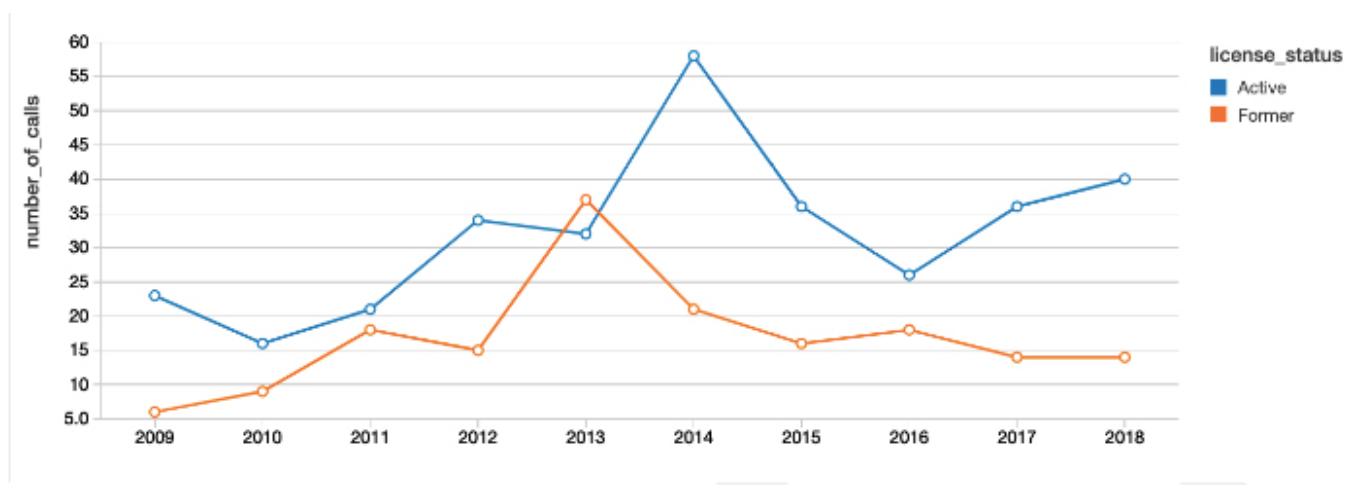
Since rooming houses often tend to operate in older buildings, sometimes in poor repair, they are also high risks for fires. Unlicensed rooming houses can, therefore, raise concerns for tenant safety since they are not subject to inspections. Indeed, tragic rooming house fires have been the reason for introducing licensing regimes, in the past, in many Canadian cities. Rooming houses are also subject to special rules under the Ontario Fire Code.

On the other hand, tenants may be hesitant of complaining to authorities over health and safety violations because of a fear of potential reprisal from landlords, or a fear of losing their housing if units are threatened with closure. Enforcement of Licensing By-law violations can also be difficult if revoking a license could lead to the de-housing of tenants. These concerns are particularly acute in cities where there is an extremely limited availability of affordable rental housing. For some tenants, the only remaining option may be to return to street living or shelters.

Rooming houses are also often subject to complaints from surrounding neighbours over poor property maintenance around garbage, noise etc. There is also an element of Not-In-My-Back-Yard (NIMBY) because rooming houses are occupied by lower income and more transient tenants. In the Greater Toronto Area, for example, opposition to rooming houses is particularly evident in suburban neighbourhoods or former cities that existed primarily as bedroom communities (e.g. North York and Scarborough).

From the City’s 3-1-1 call data between 2009 and 2018, there were a total of 490 calls related to rooming houses, including 322 calls for current active rooming houses and 168 calls for rooming houses that were licensed during the 10-year period but are no longer. 46% of the total calls were for building interior complaints and 16% for exterior debris and waste, suggesting most calls came from tenants (or tenant advocates), rather than neighbours.

Table 8 - 3-1-1 Calls for Rooming Houses



Source: City of Ottawa.

- Notes: 1. Active includes unique addresses of rooming houses from the rental 3-1-1 calls which have an active license in 2018.
 2. Former includes unique addresses of rooming houses from the rental 3-1-1 calls which do not have an active license in 2018 but did in prior years from 2009.

The 490 calls represent under 3% of the total calls for all rental properties over the 10-year period. However, this does not include the regular inspections required when applying for renewing a license. Thus the licensing inspections do appear to reduce the number of complaints. Notwithstanding, it is likely that the number of calls pertaining to rooming house properties could be much higher, as confirmed with the City’s By-law officers:

- Mental, health and social issues among some tenants making them reluctant to call.
- Fear of eviction deters some tenants from making complaints.
- Skepticism on the part of tenants about successful resolution leading to a “why bother” mentality.
- Lack of knowledge or understanding of what rights they have as tenants.
- Lack of access to phones or computers.

City staff also noted that there were not sufficient resources over the entire decade to be proactive in rooming houses until September 2018. Since then, the City has assigned a dedicated inspector who has been doing regular inspections, focused on the “problem” rooming houses. From September 2018 to April 2019, over 50 orders and notices of violation were issued.

Further analysis of the 490 calls does reveal some interesting results. 40% of the current active licensed rooming houses (46% if previous rooming houses are included) have no calls or service requests over the 10-year period. 73% of active rooming houses had 3 or fewer calls. 14% or 13 of the total 91 active licensed rooming houses had 62% of all the calls from 2009. One property had 23 calls and 4 locations had 17 calls or more.

Table 9 - 3-1-1 Calls About Rooming Houses: 2009-2018
Number Of 3-1-1 Calls Per Rooming House

Calls / Rooming House	0	3 or less	4 to 8	9 or more	Total
Licensed Rooming Houses	36	30	12	13	91
Former Rooming Houses	51	31	13	4	99
Total	87	61	25	17	190
% of Active Rooming Houses	40%	33%	13%	14%	100%
% of Total Rooming Houses	46%	32%	13%	9%	100%

Total Number of Calls for All Rooming Houses in Each Call Category

Calls / Rooming House	0	3 or less	4 to 8	9 or more	Total
Active Rooming Houses	0 (0%)	54 (17%)	67 (21%)	198 (62%)	319 (100%)
Active and Former Rooming Houses	0 (0%)	108 (22%)	136 (8%)	243 (50%)	487 (100%)

Source: City of Ottawa.

Notes: 1. Active licensed rooming have an active license in 2018.

2. Former licensed rooming houses do not have an active license in 2018 but did, or applied for one in prior years from 2019.

The conclusions that can be drawn from the above results are:

- Licensing inspections seem to be adequate for most rooming houses.
- The number of problematic rooming houses is in the minority compared to the total, and they continue to be problematic even once licensed.
- Most rooming houses seem to be in good condition.

Rooming houses are one of the most regulated land uses in cities in terms of zoning and licensing. The City's Zoning By-law restricts the location of rooming houses and sets specific physical space and occupancy standards. Licensing By-laws related to rental housing have tended to focus on rooming houses because of their particular challenges with regards to health and safety, as well as community integrity. Rooming houses are combined with other "nuisance" type Licensing By-law categories like adult entertainment, tobacco vendors, adult entertainment stores etc.

It is also important to note that if a licensed rooming house changes ownership, the licence is not transferred and the new owner must apply for a new licence. In 2018, the new owner of one rooming house decided to close rather than pay the \$90,000 in development charge fees. There were no planned changes to the occupancy or construction plans. Finally, rooming house owners are also required to arrange for a private garbage pick-up service rather than using City contracted services. Another pressure on rooming house owners is the growing duty to accommodate under the Human Rights legislation which requires efforts to accommodate the needs of tenants who cannot look after their own needs due to a disability. All of these administrative procedures, plus all the factors described above, add to the vulnerability of rooming houses to continued losses of affordable rental accommodation. This also points to the importance of understanding the consequences and impacts on affordability and availability, unintended or not, of implementing housing policies and By-laws.

Rooming houses are different from other forms of rental accommodation in that, unlike self-contained apartments, they involve at least one shared facility – bathroom, kitchen, and/or living room. Boarding houses are similar to rooming houses except that they provide some or all meals, and may provide additional services. Like other rental housing types, rooming houses are regulated in Ontario by the Residential Tenancies Act and complaints are adjudicated by the Landlord and Tenant Board.

5. Provincial Legislation Affecting Rental Housing

The City can only act according to the authority granted under provincial legislation. The key provisions are identified in Appendix B, and some key limitations are identified in this section.

The Ontario Municipal Act provides the authority for the City to enact By-laws for the health, safety, and well-being of persons, such as the Property Standards By-law discussed earlier. Inspectors are to enter upon private land in order to determine compliance, but they also prohibit the entry into residential premises without permission. The permission may come from the tenant, or the landlord may provide 24 hours' notice to the tenant of their intention to enter; the landlord may allow the inspector in at that time. These restrictions on entry are a challenge for City Inspectors. Without the co-operation of the tenant or the landlord, the Inspector cannot inspect the premises and therefore cannot issue an order.

Even with the landlord's assistance, Inspectors will generally not enter the premises if the tenant refuses permission. To do so would require a forced entry. The inspector may go to court and seek a warrant granting a right of entry but, even then, a forced entry would be required if the tenant refuses. Inspectors are also convinced that Justices of the Peace would be reluctant to grant a right to entry without clear evidence of a problem – which is hard to gather without an inspection. This has been a particular challenge when there are infestations of some sort, and one tenant, perhaps a hoarder, refuses access and does not deal with the problem effectively.

There are concerns that some provincial initiatives are inadequate to deal with all problems. For example, the provisions in the Residential Tenancy Act provide protection for residential tenants from unlawful rent increases and unlawful evictions. However, the Guidelines are not applicable to rental units first occupied for residential purposes after November 15, 2018, and landlords are still allowed to set rents at any level for vacant units or new tenants regardless of when the rental accommodation was first rented out. Should the City attempt to deal with these concerns, or direct them to the province?

6. What Other Cities Are Doing

Generally speaking, most Canadian cities use approaches to regulate rental housing and rooming houses: zoning, maintenance and occupancy standards, and licensing. Licensing enables cities to apply additional requirements such as the development of maintenance and waste management plans, and the implementation of a tenant notification system.

Application requirements for licensing generally include:

- Floor plans of the building including the number and size of bedrooms.
- Property survey.
- Police records check for the property owner and property manager.
- Proof of insurance.

- Maintenance plan outlining compliance with Property Standards By-law.
- Parking plan outlining compliance with Land Use / Zoning By-law.
- Evidence of compliance with Fire Code / Building Code / Electrical Safety Act and other relevant legislation.
- A licensing fee.

Many cities have applied for licensing to rooming houses. Only a few cities have implemented licensing or registration regulations for all rental apartments, not just rooming houses.

In 2008, Toronto Council approved a proactive inspection program for rental properties city-wide, known as the Multi-Residential Apartment Building (MRAB). MRAB was then rolled into the new Apartment Building Standards Program called [RentSafe TO](#) approved in 2017 (By-law 354). The regulatory By-law applies to all rental apartment buildings with three or more stories and ten or more rental units. The By-law requires rental property owners to register the building and to prepare a waste management, cleaning, and a state of good repair capital plan. It is intended to help to strengthen enforcement of city By-laws, enhance tenant engagement and promote preventative maintenance. All buildings are subject to a high-level assessment of building condition at least once every three years. If the assessment scores are below a defined threshold, then the building undergoes an audit.

The City of Waterloo has a city-wide licensing program but only for low-rise homes, duplexes and townhomes, not apartments. The City of Waterloo approved its rental Licensing By-law in 2012 which covers any low-rise building with 3 or less units including singles, duplexes and townhomes but not apartments. The City licensed about 3,700 units in 2017. In January 2018, the [Ontario Superior Court](#) ruled that a landlord could pass through licensing fees as ‘extraordinary’ city costs to tenants, which meant that rents would be able to be increased above the amount set by Rent Control. The landlord had paid \$53 thousand in licensing fees, resulting in a 6 percentage point increase in rents above the Rent Control for a townhouse complex. Fees are about \$500 per year to cover the costs of inspections and managing the licensing program.

Hamilton City Council had considered a licensing regime for all rental housing providers in 2013 but voted against it. Instead Council adopted a permanent proactive property standards enforcement program. Prior to 2013, the City had a proactive enforcement plan for only 2 of the 15 wards. The “pro-active” program targets high risk rental housing for inspection, rather than only responding to complaints.

The City of Oshawa was one of the first municipalities to implement a Licensing By-law for rental housing in Ontario. The By-law employs a unique demerit point system based on By-law infractions, noise, property standards, nuisance, and waste, and only applies to a specific area near post-secondary educational institutions. It was designed primarily to address student housing issues (see the Student Housing Discussion Paper for details).

Oshawa has recently explored the possibility of expanding the By-law to include the entire city. City of Oshawa staff indicated that they did not have the in-house resources to establish a city-wide licensing program. Council opted not to support expansion of the By-law area and instead supported an annual building audit of a sample of units within the municipality.

Most cities also enforce licensing By-laws on a reactive or complaints basis as opposed to a proactive one. A significant constraint on By-law enforcement is the limited resources available in terms of both staff and budget. For example, according to a 2017 City of Toronto staff report, 35% of the anticipated costs for implementing the City's new rental housing regulatory By-law would be recovered from tax revenues, with 65% from registration fees, and increased fees for audits and re-inspections.

The City of Toronto also requires replacement of self-contained rental units in cases of redevelopment or conversion of buildings with six or more units. This protection is not extended to rooming houses or apartment buildings with less than six units.

The City of Montreal took a more proactive approach to preserving rooming houses. Between 1989 and 1992, the City purchased and renovated rooming houses containing 436 units through the Programme d'achat des maison de chambres administered by an arm's-length agency of the municipal government. The City provided an annual contribution for 20 years to subsidize projects, keeping rents low, while a municipal-provincial subsidy covered 90% of renovation costs. The City has maintained ownership of about 300 units while the rest have been transferred to non-profit organizations. (Emily Paradis, *Saving room: Community action and municipal policy to protect dwelling room stock in North American cities: 2018*)

7. A number of Issues

The Review must deal with a number of important issues related to housing conditions.

Is rooming house licensing working? What are its strengths and weaknesses?

- If not, what more, or what else, should be done in terms of regulatory changes and / or enforcement of the existing regulations?
- What are the problems the existing regulations don't address and that still need to be addressed?

What are the problems with other rental housing?

How can they best be addressed? For example

- Do the current By-laws need to change? Or is better enforcement needed?
- Do we need a program of regular inspection of all rental housing? Even if it results in higher rents or even the potential loss of some affordable units?

- Do we need more “pro-active” inspections, targeting buildings, areas, and landlords known to be a problem?

For all tenants, how can the City help them to better understand their rights, their options?

8. Your Comments

This study has been designed to capture the comments of as many people as possible. You can provide your comments in a number of ways:

- The web site **ottawa.ca** provides the opportunity to provide comments on this Discussion Paper and/or the other two Discussion Papers.
- You may email your comments to RentalHousingReview@gmail.com.
- You may attend one of a number of workshops that will be discussing the issues. You can register for a workshop on-line at **ottawa.ca**. The workshops will be held throughout May and June.

Following the workshops and the analysis of comments received, the study team will be preparing an Option Analysis paper that will describe the input received, outline the alternative approaches under consideration, and provide a preliminary evaluation of those options. This report will be emailed to everyone who participates in the process by providing their comments and/or attending a workshop (provided you have given an email address). This will likely occur during the summer, and you will have at least two weeks to provide any further comments, based on the Options Analysis document.

After analyzing the comments received, the study team will complete its Final Report and submit it to the City of Ottawa. City staff will prepare a staff report which will go to the Community and Protective Services Committee and City Council. You will have a further opportunity to provide comments to the Committee when the staff report goes forward.

Appendix A – Property Standards Call Details

WARD	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
WARD 1 - Orleans	19	17	23	18	42	33	25	28	34	45	284
WARD 2 - Innes	30	19	28	18	33	28	28	19	49	22	274
WARD 3 - Barrhaven	16	10	19	21	33	20	27	25	35	44	250
WARD 4 - Kanata North	16	9	22	16	30	26	24	23	41	43	250
WARD 5 - West Carleton-March	9	6	12	3	8	14	8	5	15	14	94
WARD 6 - Stittsville	11	9	15	7	12	6	10	16	20	23	129
WARD 7 - Bay	91	70	93	80	108	120	132	107	128	123	1,052
WARD 8 - College	60	82	69	78	113	93	89	103	146	124	957
WARD 9 - Knoxdale-Merrivale	48	49	47	59	82	67	63	67	73	85	640
WARD 10 - Gloucester-Southgate	46	40	51	32	58	60	56	71	67	96	577
WARD 11 - Beacon Hill-Cyrville	45	50	62	47	98	58	52	71	89	54	626
WARD 12 - Rideau-Vanier	295	309	426	340	524	426	424	421	453	458	4,076
WARD 13 - Rideau-Rockcliffe	88	99	94	94	149	142	145	162	198	162	1,333
WARD 14 - Somerset	187	209	178	188	236	210	208	192	266	296	2,170
WARD 15 - Kichissippi	86	90	79	93	107	115	84	110	96	130	990
WARD 16 - River	95	99	83	68	112	101	94	110	121	180	1,063
WARD 17 - Capital	107	64	84	89	117	98	104	107	123	140	1,033
WARD 18 - Alta Vista	147	177	161	182	226	177	138	110	146	147	1,611
WARD 19 - Cumberland	17	17	15	16	18	28	16	22	28	34	211
WARD 20 - Osgoode	15	22	14	15	21	13	30	24	16	25	195
WARD 21 - Rideau-Goulbourn	10	7	16	14	16	17	11	13	26	28	158
WARD 22 - Gloucester - South Nepean	8	14	10	6	9	15	14	22	31	21	150
WARD 23 - Kanata South	5	10	16	24	19	21	19	16	23	21	174
Total	1,451	1,478	1,617	1,508	2,171	1,888	1,801	1,844	2,224	2,315	18,297

Table 10 - 3-1-1 Calls for Rooming Houses - by Ward

WARD	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
WARD 6 - Stittsville	0	1	1	0	0	0	0	0	0	0	2
WARD 12 - Rideau-Vanier	2	4	5	4	6	8	5	5	2	1	42
WARD 13 - Rideau-Rockcliffe	1	0	1	0	0	0	0	0	2	2	6
WARD 14 - Somerset	19	8	14	27	21	39	29	20	27	35	239
WARD 15 - Kichissippi	1	3	0	3	2	5	1	1	4	1	21
WARD 17 - Capital	0	0	0	0	3	6	1	0	1	1	12
Total	23	16	21	34	32	58	36	26	36	40	322

Table 11 - 3-1-1 Calls for Former Rooming Houses - by Ward

WARD	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
WARD 8 - College	0	0	0	0	1	1	0	0	0	1	3
WARD 17 - Capital	0	0	1	0	1	0	1	0	0	1	4
WARD 16 - River	0	0	0	1	0	0	0	0	0	0	1
WARD 15 - Kichissippi	0	0	0	1	0	0	0	0	0	0	1
WARD 14 - Somerset	6	6	9	8	22	18	8	11	9	9	106
WARD 12 - Rideau-Vanier	0	3	8	5	13	2	7	7	5	3	53
Total	6	9	18	15	37	21	16	18	14	14	168

Table 12 - 3-1-1 Calls for Rental Units - by Complaint Type

Complaint Type	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Building Interior	662	619	623	685	1,086	970	903	803	1,018	981	8,350
Exterior Debris/Waste	195	230	304	256	320	265	234	319	395	470	2,988
Building Exterior	178	168	232	183	192	210	181	220	215	221	2,000
Heat-Insufficient	186	199	192	145	208	156	171	161	191	146	1,755
Grass Long/Weeds	61	103	63	67	114	89	94	126	139	184	1,040
Info-Property Standards	48	47	51	58	78	52	68	52	82	133	669
Dead Dangerous Tree	16	11	35	19	31	29	33	48	44	49	315
Heat-Mechanical	20	34	15	20	27	25	47	23	26	29	266
Ice/Snow Build Up	23	12	16	27	31	14	22	23	35	26	229
Elevators	19	19	26	18	27	15	9	5	19	10	167
Derelict Vehicle	10	12	13	7	18	10	5	16	5	9	105
Needles/Syringes	5	4	11	9	11	9	7	9	17	10	92
Fence-Disrepair	0	0	0	3	6	7	7	16	15	18	72
Swimming Pool-Water	4	1	3	4	5	7	8	6	7	2	47
Other	24	19	33	7	17	30	12	17	16	27	202
Total	1,451	1,478	1,617	1,508	2,171	1,888	1,801	1,844	2,224	2,315	18,29

Table 13 - **3-1-1 Calls for Rooming Houses - by Complaint Type**

Complaint Type	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Board Up	0	0	0	0	1	2	0	0	1	0	4
Building Exterior	3	1	3	4	3	1	2	3	1	2	23
Building Interior	15	11	11	24	23	44	25	16	24	26	219
Exterior Debris/Waste	1	1	6	4	4	3	5	1	3	3	31
Heat	3	3	1	1	1	7	2	6	7	7	38
Other	1	0	0	1	0	1	2	0	0	2	7
Total	23	16	21	34	32	58	36	26	36	40	322

Table 14 - **3-1-1 Calls for Former Rooming Houses - by Complaint Type**

Complaint Type	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	Total
Building Interior	4	4	10	9	22	16	10	8	5	7	95
Exterior Debris/Waste	1	3	6	2	3	2	4	4	3	2	30
Heat-Insufficient	1	1	0	3	7	0	1	4	2	1	20
Building Exterior	0	1	2	1	3	2	1	2	4	0	16
Heat-Mechanical					2	1				4	7
Total	6	9	18	15	37	21	16	18	14	14	168

Appendix B – Provincial Legislation

Ontario Municipal Act, 2001

Gives municipalities the specific authority to license, regulate, and govern businesses operating within the municipality. Under the Act, municipalities are allowed to enact By-laws for the health, safety, and well-being of persons. Section 436(1) of the Act allows municipalities to pass By-laws that permit By-law Officers to enter private property without notice and without warrant at all reasonable times in order to pursue an investigation stemming from a complaint or an inspection following an order by the city. However, they may not enter dwelling units without permission.

Residential Tenancies Act, 2006

Provides protection for residential tenants from unlawful rent increase and unlawful evictions, and establishes a framework for the regulation of residential rents. It sets out the rights and responsibilities for landlords and tenants. The Act establishes the legislative framework for annual rent increases (Rent Increase Guidelines). The Guidelines are not applicable to rental units first occupied for residential purposes after November 15, 2018. Landlords are still allowed to set rents at any level for vacant units or new tenants regardless of when the rental accommodation was first rented out.

Building Code Act, 1992

Governs the construction, renovation, and change-of-use of a building. Establishes detailed technical and administrative requirements, as well as minimum standards for building construction. The City enforces the Act when it issues building permits. The requirements do change from time to time, but existing buildings do not need to meet the new regulations unless a City licensing By-law requires it.

Ontario Human Rights Code

Requires that municipal programs, By-laws, and decisions such as licensing, consider all members of their communities. The *Code* requires that decisions do not target or have a disproportionate adverse impact on people or groups who identify with *Code* grounds. The Code has primacy which means it takes precedence over other Acts.

Rental housing By-laws discriminate if they cause someone to be disadvantaged in a protected social area – like housing – because of the person’s association with a protected ground. If a By-law is found to be discriminatory, a municipality would have to show that the absence or variation of the By-law would cause them “undue hardship” in terms of health and safety or cost ramifications.

According to the [Ontario Human Rights Commission’s](#) web site:

“Licensing By-laws seek to regulate rental housing by requiring that landlords operate their properties according to certain standards. Licensing By-laws may reasonably contain provisions relating to garbage and snow removal, maintenance, health and safety standards, and parking. However, the OHRC is concerned about some other provisions, such as gross floor area requirements for bedrooms and living spaces that go beyond what is required by the Building Code, bedroom caps and minimum separation distances. These provisions may reduce the availability and range of rental housing (which is a key element of healthy neighbourhoods), and might contravene the Code by having an adverse impact on groups who are protected under the Code.”

A 2008 report published by the Commission noted the concerns that restrictions on legal rooming houses have led to of un-regulated and un-inspected houses to meet the demand for this form of housing. NIMBY attitudes in communities have also limited the availability of rooming houses. (*Right At Home – Report on the consultation on human rights and rental housing in Ontario*: 2008). Several rental Licensing By-laws such as those of Oshawa and Waterloo have been challenged by the Commission. The City of Waterloo initially contained per person gross floor area requirements in its By-law and also required tenant information to be included as part of the application submission. These requirements were removed after objections were raised by the Ontario Human Rights Commission.

More Homes, More Choice Act 2019 (Bill 108)

On May 2, 2019, the Government of Ontario released the results of its [Housing Supply Action Plan](#) consultation and also introduced [Bill 108](#) to implement the Plan. According to the Plan, one of the goals is to support renters and encourage the construction of new rental projects by postponing development charges until the buildings are rented, cutting red tape for development approvals and encouraging secondary units like basement apartments which would also be exempt from development charges. The Province will also “do more to help tenants and landlords know their rights and how to resolve disputes.”