

COUNCIL REPORT

TO: CITY MANAGER **DATE:** 2006 May 10

FROM: DIRECTOR PLANNING AND BUILDING **FILE:** 16000 01
Reference: Rental Housing

**SUBJECT: 7351-7361 HALIFAX STREET - CONDITION OF RENTAL
RESIDENTIAL BUILDINGS AND TENANT COMPLAINTS**

PURPOSE: To respond to a request from Council that staff investigate the issues and circumstances raised regarding conditions in the subject buildings and to prepare a report including information on the appropriate options for follow up.

RECOMMENDATIONS:

1. **THAT** the Mayor, on behalf of Council, send a letter to the Honourable Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing, which:
 - a. expresses Council's serious concerns regarding the difficulties that residents of 7351-7361 Halifax Street (Maple Place Towers) experienced in having their complaints addressed through the Residential Tenancy Branch;
 - b. requests that the Residential Tenancy Branch be directed to give prompt attention to the concerns of the Maple Place Towers tenants; and
 - c. requests that, notwithstanding, the amendments to the *Residential Tenancy Act* being proposed in Bill 27, the Province place priority attention to reviewing and enhancing the accessibility, effectiveness and efficiency of the process for assessing and resolving complaints brought before the Residential Tenancy Branch.
2. **THAT** a copy of this report be sent to:

Tenants of Maple Place Towers
c/o Ms. Davan Inthakuman
201-7361 Halifax Street
Burnaby, B.C. V5A 4H3

Halifax Park Apartments Ltd.
c/o Cressey Development Corporation
800-925 West Georgia Street
Vancouver, B.C. V6C 3L2

General Manager
Residential Tenancy Branch

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Lower Mainland Office
400-5021 Kingsway
Burnaby, B.C. V5H 4A5

Mr. Harry Bloy, M.L.A. Burquitlam
East Annex, Parliament Buildings
Victoria, B.C. V8V 1X4

REPORT

1.0 INTRODUCTION

At its meeting of 2006 April 24, Council received a delegation of tenants living in the rental residential buildings at 7351 and 7361 Halifax Street (Maple Place Towers). The delegation cited a variety of concerns related to the condition and maintenance of their buildings. The delegation also requested that Council adopt a Standards of Maintenance Bylaw, suggesting that such a Bylaw could prove useful in addressing concerns in rental residential buildings such as they had been experiencing. Arising from the discussion, Council requested that staff prepare a report on the delegation's concerns and appropriate options for follow up.

This report responds to Council's request. It provides background information on the subject buildings and the tenants' concerns, discusses the role of various agencies in addressing such concerns, and proposes a recommended response for Council's consideration. A separate report, which had been initiated prior to the delegation's appearance, is being prepared for the Community Development Committee regarding the merits of establishing a Standards of Maintenance Bylaw for Burnaby.

2.0 BACKGROUND

2.1 7351-7361 Halifax Street

The property at 7351-7361 Halifax Street includes two 13 storey rental residential buildings, each containing 102 units (*Attachment 1*). The property is located in the Sperling-Broadway neighbourhood. It was the subject of a CD (RM4) rezoning in 1980 and the development was completed by Cressey Development Corporation in 1984. The units were strata titled; however, the development was built under the Canada Rental Supply Program and has operated as a rental residential complex since its establishment. All the units are owned by Halifax Park Apartments Ltd., which is affiliated with Cressey Development Corporation. The buildings are currently undergoing repairs to the building envelopes.

2.2 Delegation Submission

The delegation which appeared at the Council meeting submitted a letter with an attached petition containing 458 signatures. The petition included the signatures of 103 tenants of

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Maple Place Towers and 349 signatures of other Burnaby residents, who were sympathetic with the tenants' concerns. Although the petition specifically requested that the City adopt a Standards of Maintenance Bylaw, the accompanying letter and the delegation's presentation to Council primarily focused on concerns regarding the buildings (e.g. lack of security, poor lighting, lack of heat, poor maintenance, mold, theft, and management indifference). The delegation also expressed concerns about the disruption resulting from the major repairs that are being completed to the building envelopes (see Section 3.1 below).

The delegation noted that several tenants had made complaints to the Residential Tenancy Branch about the conditions in the buildings. They reported that some tenants had proceeded to arbitration and were awarded judgements in the form of reduced rent. However, the delegation indicated that problems continued to occur after the judgements (e.g., one tenant received an eviction notice, another continued to have the unreduced amount debited from his account).

The delegation further noted that, although many of the tenants had signed the petition, many were afraid to appear at the Council meeting for fear of being evicted in retaliation. It should be noted that tenants can only be evicted for specific reasons as outlined in the *Residential Tenancy Act*.

City staff contacted the chief spokesperson for the delegation, Ms. Davan Inthakuman, to get more details on the arbitrations and problems in the buildings. She was unable to provide specific information, because tenants pursued their arbitrations individually. She estimated, however, that 10 tenants have gone to arbitration. City staff contacted the Residential Tenancy Branch to get more information on the arbitrations, however, Branch staff advised that they could not comment on individual arbitration matters or specific rental buildings due to confidentiality concerns.

City staff left repeated messages at the office of Halifax Park Apartments Ltd., the owner of the buildings, to discuss concerns raised by the delegation. The calls were not returned.

3.0 ROLE OF VARIOUS ORGANIZATIONS

3.1 City Role

Repairs were completed to the north and east elevations of the envelopes of both buildings in 1999. The buildings are now the subject of two building permits for envelope repair to the south and west elevations and a small portion of the north elevation. The City's role in the envelope repair process is limited to requiring signed and sealed drawings and letters of assurance from the building envelope consultant although City staff ensure that there are appropriate safety measures, such as scaffolding, in place during the repair process. The leakage and water damage to the exterior walls and building envelopes of both buildings was quite substantial and there was a serious incident in December 2005 when a portion of the cladding fell from the south wall of 7351 Halifax Street. Building staff attended the site and notified the owner that repairs would need to be undertaken. The work is now

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underway and it is evident that there has been considerable disruption to the residents. Tenants with bedrooms in the section of the building where the cladding has been removed have been told that it is not safe to use the facing bedrooms while the work is underway. Locks have been installed on the bedroom doors to prevent access. The affected tenants have been given rent reductions to compensate for the loss of use of this space.¹

The Fire Department has issued several orders at the subject property under the Fire Services Bylaw relating to life safety matters, such as alarms, generators, and pumps. Fire staff note that conditions in the buildings continue to be a concern. They also note that the fee schedule of the Fire Services Bylaw contains provisions for charging re-inspection fees for problem buildings which require multiple visits.

As noted, staff are preparing a report for the Community Development Committee regarding the merits of establishing a Standards of Maintenance Bylaw for Burnaby. While not pre-determining the conclusion of that report, it is important to note that, at most, such a bylaw could augment, but not replace, the protection provided by the *Residential Tenancy Act*.

3.2 Residential Tenancy Branch Role

Landlord and tenant relations are governed by the *Residential Tenancy Act* which is administered by the Residential Tenancy Branch. Section 32(1) of the *Residential Tenancy Act* states that:

"A landlord must provide and maintain residential property in a state of decoration and repair that:

- (a) complies with the health, safety and housing standards required by law, and*
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant."*

No definition is provided for "health, safety and housing standards required by law" but it is assumed that building and fire standards enforced by municipalities would apply as would health standards enforced by the Health Authorities. Although Section 32(1) refers to standards required by law, which could include municipal bylaws, it is the Residential Tenancy Branch that is responsible for the Act. Branch staff emphasized that the landlord is expected to maintain the building and make repairs including heating, plumbing, electricity, locks, walls, floors, ceilings, fire doors and escapes, intercoms, elevators, fridges, stoves, laundry, and provided furniture. They stressed that these matters could be dealt with through arbitration, even if the particular issue is not specifically addressed in laws for health, safety and housing standards.

If tenants believe that the landlord is not maintaining or repairing the building as required they can make a complaint to the Branch which will determine if the complaint is valid. The

¹ These rent reductions were given by the landlord and are distinct from the rent reductions awarded to other tenants through arbitration.

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Branch will contact the landlords to provide them with information about their responsibilities. If the matter is not resolved the tenants must start an arbitration process to get the maintenance or repairs completed or seek monetary compensation (e.g., rent reduction).

With specific reference to the situation at Maple Place Towers, Residential Tenancy Branch staff advised that most complaints mentioned in the tenants' letter could be dealt with through arbitration (i.e., poor lighting, lack of heat, poor maintenance). They noted, however, that they could not comment on individual arbitration matters or specific rental buildings due to confidentiality concerns. They said that tenants could contact the Branch to discuss their complaints to determine if further arbitration would be helpful. They also advised that tenants could apply for joint arbitration for matters involving the common areas such as hallways, elevators, or lighting.

Before concluding this discussion, it should be noted that Bill 27, the *Tenancy Statutes Amendment Act*, was introduced into the Legislature in April 2006. The Bill proposes amendments to the *Residential Tenancy Act* which include establishing administrative penalties of up to \$5,000 per day for serious or repeat violations of the legislation. For example, penalties could be assessed when a landlord ignores an arbitration decision. The amendments will also enable the Director of the Residential Tenancy Branch to conduct an investigation to ensure compliance with the Act. This provision will give the Director authority to investigate problem buildings involving many tenant complaints and arbitrations.

3.3 Fraser Health Authority Role

Under the authority of the *Public Health Act*, representatives of the Fraser Health Authority (FHA) will inspect buildings upon complaint and provide documentation to confirm what they have observed. For buildings with extreme mold, the FHA may issue an order to require the owners to undertake repairs to remediate the problem. Such cases are rare, however. Typically, the onus would be on the tenants to use the FHA's documentation to support their *Residential Tenancy Act* arbitration claim. Health Authority staff advise that they inspected a unit at 7361 Halifax in August 2005 and provided a letter to the tenant which confirmed the presence of mold on some of the building surfaces. The tenant took no further action on pursuing this matter for health and stress related reasons.

4.0 DISCUSSION

It is believed that the tenants' issues can be separated into two areas of concern. The first concern is the envelope building repair and the resulting disruption to the use of their apartments. The second concern is the general maintenance and repair of the buildings.

With regards to the envelope building repair the owner has applied for the required building permits and the work is underway. The owner has notified the tenants of the work and has provided compensation to some tenants for loss of use. The City's role in the envelope

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repair process is limited to requiring signed and sealed drawings and letters of assurance from the building envelope consultant. With regards to fire safety, the City has inspected the buildings and issued orders relating to life safety matters. If the tenants have concerns with the impact of the envelope repair on their apartments the Residential Tenancy Branch is the appropriate body to contact.

With regards to the general maintenance and repair of the buildings, the *Residential Tenancy Act* is also the most appropriate avenue to ensure that the landlord's responsibilities and tenant's rights are enforced. It is the responsibility of the Branch to enforce the Act. The Act clearly states that the landlord is responsible for ensuring that rental property meets health, safety, and housing standards.

Although the *Residential Tenancy Act* provisions and arbitration process appear to be appropriate vehicles to address most of the tenants' problems, the requirements and complexity of the arbitration process make it very difficult for tenants to pursue complaints. Also, it is clear that the situation at Maple Place Towers has posed a serious problem for the tenants. Some of the tenants have tried to resolve their concerns through *Residential Tenancy Act* arbitration. This process can be a lengthy and stressful, must be initiated by the tenant who pays a \$50 fee, and requires time to attend the arbitration hearing. Through its Core Review process, the Province reduced staffing and closed Residential Tenancy Branch offices (there are now only three offices in the Province, including one in Burnaby). As a result, it has become increasingly difficult to access the Branch's services (e.g., in undertaking research for this report, City staff experienced a 30 minute wait to talk to an Information Officer on the Branch's information line). The Tenants Rights Action Coalition (TRAC) and other housing advocates confirm the challenges for tenants in working through the *Residential Tenancy Act* arbitration process.

Given the foregoing, it is recommended that a letter be sent to the Honourable Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing which:

- expresses Council's serious concerns regarding the difficulties that residents of 7351-7361 Halifax Street (Maple Place Towers) experienced in having their complaints addressed through the Residential Tenancy Branch;
- requests that the Residential Tenancy Branch be directed to give prompt attention to the concerns of the Maple Place Towers tenants, and
- requests that, notwithstanding, the amendments to the *Residential Tenancy Act* being proposed in Bill 27, the Province place priority attention to reviewing and enhancing the accessibility, effectiveness and efficiency of the process for assessing and resolving complaints brought before the Residential Tenancy Branch.

5.0 CONCLUSION

At the Council meeting on 2006 April 24, a delegation of tenants living in the rental residential buildings at 7351 and 7361 Halifax Street expressed concerns with the condition of the buildings and described their efforts to have repairs and maintenance completed by

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the building owner. The delegation also requested that Council adopt a Standards of Maintenance Bylaw so that the City could enforce a minimum standard of maintenance in rental residential buildings. The subject buildings are currently undergoing an envelope repair which has caused significant disruption to the tenants. Staff left repeated messages with the landlord to discuss the situation, but the calls were not returned.

This report has reviewed the status of the two buildings, the tenants' concerns, and the role of various agencies in assisting the tenants. The report emphasizes that the tenants' complaints about the condition of the buildings are clearly within the scope of the *Residential Tenancy Act*. The City's responsibilities are limited to ensuring that the requirements of the building permit for the envelope repair and the Fire Services Bylaw are met. A separate report, which had been initiated prior to the delegation's appearance, is being prepared for the Community Development Committee regarding the merits of establishing a Standards of Maintenance Bylaw for Burnaby.

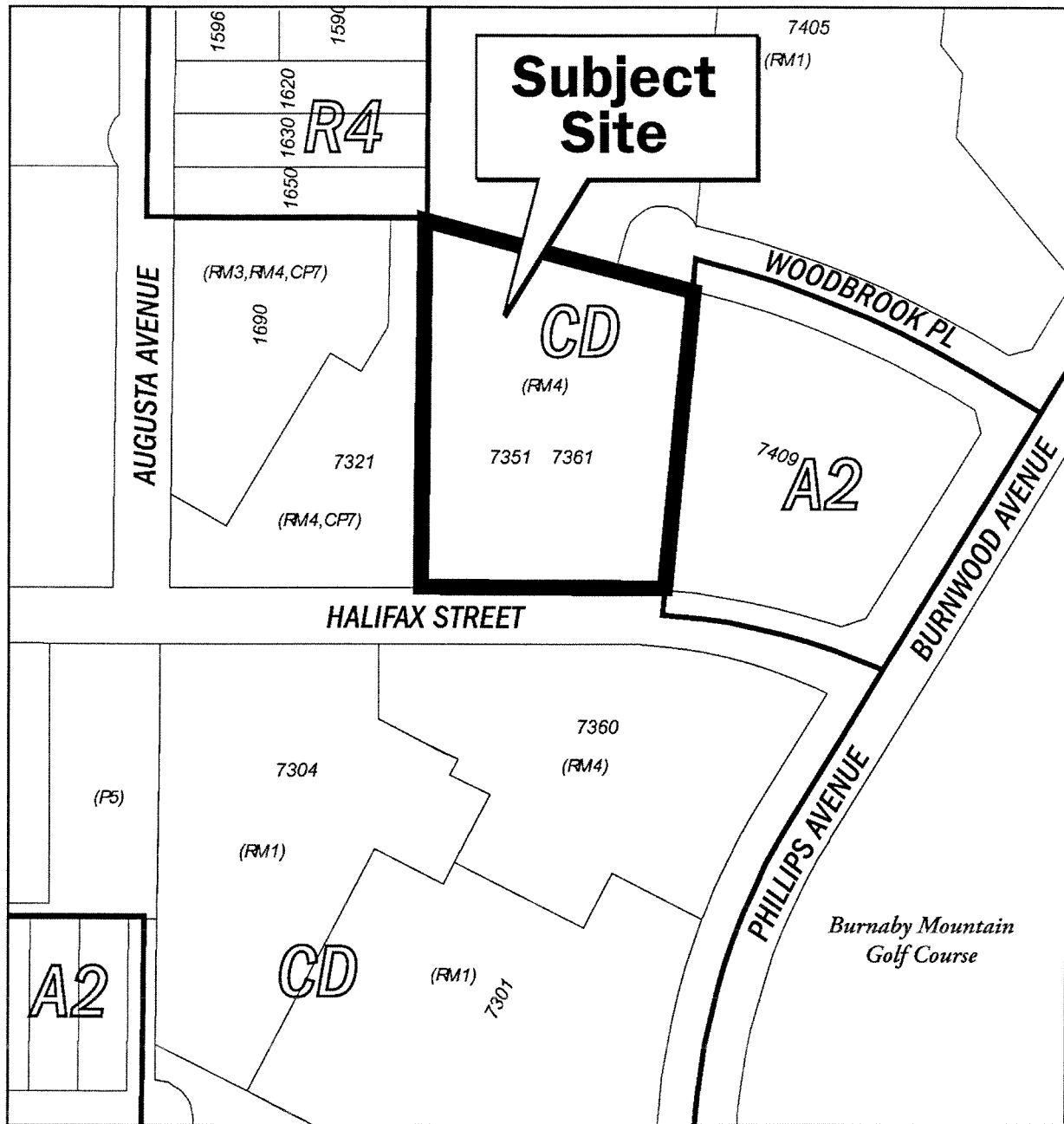
There are continuing problems in the buildings and some of the tenants who launched complaints through arbitration have found it to be a difficult process. Notwithstanding changes proposed to the *Residential Tenancy Act* through Bill 57, concerns remain about the accessibility, complexity, and cost of the arbitration process for tenants – particularly in light of cuts made to Branch services in recent years. It is thus recommended that a letter be sent to the Honourable Rich Coleman, Minister of Forests and Range and Minister Responsible for Housing, requesting prompt attention to addressing i) the concerns of the Maple Place Towers residents, and ii) the shortcomings with the *Residential Tenancy Act's* complaints and arbitration process. It is also recommended that a copy of this report be sent to the tenant delegation representative, the owner of Maple Place Towers, the Lower Mainland Office of the Residential Tenancy Branch, and Mr. Harry Bloy, M.L.A. for Burquitlam.



J.S. Belhouse, Director
PLANNING AND BUILDING

SF/sla
Attachment

Copied to: Director Engineering
Director Finance
City Solicitor
Chief License Inspector
Chief Building Inspector
Fire Chief



Maple Place Towers
7351 and 7361 Halifax Street

