

City of Mississauga
Additional Agenda



General Committee

Date

March 23, 2016

Time

IMMEDIATELY FOLLOWING SPECIAL COUNCIL

Location

Council Chamber

2nd Floor

300 City Centre Drive

ADDITIONAL MATTERS TO BE CONSIDERED

6.19 Second Unit Licensing Update

Contact

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City of Mississauga
Corporate Report



Date: 2016/03/09

To: Chair and Members of General Committee

From: Martin Powell, P. Eng.
 Commissioner of Transportation and Works

Originator's files:

Meeting date:

2016/03/23

Subject

Second Unit Licensing Update

Recommendation

1. That the Second Unit Licensing By-law 204-13, as amended, be repealed as outlined in the report from the Commissioner of Transportation and Works, dated March 9, 2016 entitled "Second Unit Licensing Update."
2. That refunds for the cost of a second unit licence be provided to licence holders as outlined in the report from the Commissioner of Transportation and Works, dated March 9, 2016 entitled "Second Unit Licensing Update."
3. That Planning and Building Department staff prepare a registration by-law and implement a registration process for second units as outlined in the report from the Commissioner of Transportation and Works, dated March 9, 2016 entitled "Second Unit Licensing Update."

Report Highlights

- The cost of a second unit licence is high in comparison to jurisdictions that use a one-time registration process for second units.
- In the initial two years, 121 properties have been licensed (97 owner-occupied and 24 investment).
- A registration by-law would reduce costs associated with second units and may improve compliance with zoning and building regulations.
- Registration of second units would be a one-time process with no registration fee.
- Of 11 municipalities reviewed, only Mississauga requires a renewable licence, all others engage in a one-time registration process.

Background

All residential properties containing a second residential unit are required to be licensed by the City of Mississauga. This requirement is identified in the Second Unit Licensing By-law 204-13, as amended.

The Second Unit Licensing By-law 204-13, as amended, was enacted to ensure that second units meet safety and property standards requirements. It was designed to protect both the tenants and the community, and to provide a safe housing option for the public.

The Zoning By-law 0225-2007, as amended, includes requirements defining: the type of dwelling units where a second unit is a permitted use, size limitations, entranceways and parking spaces. The Province of Ontario required municipalities to amend their policies and regulations to permit second units. These amendments also reflect the input received as a result of consultation with the public.

Implementation began in January 2014 and 121 second unit licences were issued over the following two years (97 owner-occupied and 24 investment). There is no definitive estimate as to the total number of second units that exist in the City. Previous reports from the Commissioner of Planning and Building have identified that approximately 400 second units had been previously identified as “legalized” due to their creation date and a further 3,500 properties had been identified through the public complaint process as possibly having a second unit.

At the May 25, 2015 meeting of the Planning and Development Committee, members of Council identified a number of issues related to the licensing of second units including:

- cost of the licence;
- inspections required under the by-law triggering investigations into issues for which no complaint had been received and unrelated to the second unit licence;
- whether the property should be licensed as opposed to the owner; and,
- the overall effectiveness of the Second Unit Licensing By-law.

Staff were asked to review the Councillors’ concerns and to identify proposals that would address these issues.

Comments

Licensing Costs

The cost of a second unit licence includes a yearly renewal and remains a requirement even if the second unit is left vacant for an extended period of time. The licence fee for a second unit is

currently \$500 for the initial application and a \$250 yearly renewal when the property is owner-occupied. For investment properties, where both dwelling units are occupied by a tenant, the initial licence is \$1,000, with a yearly \$500 renewal.

While at the higher end of the range, the cost of licensing a second unit for a property owner is in keeping with the licence fees currently charged by the City of Mississauga. The cost associated with the investor licence is appreciably higher. These costs are greater than those experienced by property owners in other municipalities where fees are less and paid on a one-time registration basis (Appendix 1).

Additional Costs

There are other costs associated with obtaining a second unit licence including:

- zoning application fee (\$267);
- electrical safety certificate (varies based on scope of work \$79 minimum);
- fire inspection fee (\$140 + HST currently waived);
- building permit application fee, if required (varies depending on construction required);
- costs associated with changes that may be necessary subject to the requirements of the building code, fire code or the Electrical Safety Authority; and,
- Committee of Adjustment application fees to obtain minor variances (\$1,000).

These may be substantial but it is noteworthy that these are one-time costs, whereas the licensing fee is ongoing. A repeal of the licensing by-law would reduce the costs associated with a second unit. However, it has been identified that the most significant costs are for retrofitting the dwelling unit to comply with building and fire codes, if required.

Incentives for second units will be considered in the development of the Affordable Housing Program being developed by the Planning and Building Department.

Second Unit Inspections Triggering Associated Investigations

The final inspection prior to the issuance of a second unit licence is undertaken by a Municipal Law Enforcement Officer (MLEO) who arranges to inspect the property and the second unit. The purpose of this inspection is to confirm:

- details that have been provided by the applicant in relation to the size of the second unit;

- the existence of only two dwelling units on the property;
- the accuracy of the drawings supplied to the Planning and Building Department; and,
- compliance with municipal by-laws.

The Second Unit Licensing By-law 204-14, as amended, Schedule 3, Owners of Second Units, section 5 (b) identifies that:

No Licensed Owner shall:

“Permit non-compliance with the Property Standards By-law, the Nuisance Weeds and Long Grass By-law, the Nuisance Noise By-law, the Nuisance Lighting By-law, Open Air Burning, the Noise Control By-law and all other applicable by-laws and applicable provincial laws including but not limited to the Building Code Act, the Fire Protection and Prevention Act, and the Accessibility for Ontarians with Disabilities Act.”

As a result, when an MLEO undertakes the final inspection, they are required to complete an inspection form identifying that the property complies with the requirements of the Zoning By-law 0225-2007, as amended, and the Property Standards By-law 654-98, as amended, as well as requirements of the Second Unit Licensing By-law 204-13, as amended.

The purpose of the MLEO’s final inspection is to ensure that properties with second units are maintained in an acceptable manner and do not represent a detriment to the neighbouring community. In reality, it has necessitated that the inspections be very precise, as the MLEO is confirming, in writing, that there are no violations of these by-laws present.

This has resulted in MLEOs issuing notices of contravention for issues where there have been no complaints filed (i.e. marginally over width driveways, accessory structure setback issues, debris, etc.).

Repeal of the Second Unit Licensing By-law 204-13, as amended, would eliminate the final inspection. Community standards would still be effectively maintained, particularly issues on the exterior of the dwelling unit, through City By-laws on a reactive basis in response to complaints as opposed to a single proactive check prior to licence issuance.

Effectiveness of Licensing Initiative

Due to the low number of licences issued, members of Council identified that the Licensing By-law 204-13, as amended, has not been effective in addressing the safety of second units. There have been a number of impediments to the licensing of the second units present in the City. These impediments include:

- a) Prior resistance on the part of landlords. Owners of second units that were previously deemed to be “illegal” are aware of the difficulty experienced by City inspectors in entering private dwelling units for the purpose of inspection. The opportunity to enter into a time-consuming and possibly expensive process to obtain a licence has not proven attractive to property owners.
- b) Tenant response. Anecdotal evidence indicates that tenants are still concerned that identifying an unlicensed second unit may directly lead to their eviction through the landlord’s decision to remove the second unit, as opposed to undertaking the licensing process.
- c) Tax implications. Some landlords have expressed concern that the formal recognition of a property having a licensed second unit may have implications with regards to property taxes.

The impact of repealing the by-law on public safety would be minimal. Given the current low response rate to the availability of a formal licence, it may be viewed that the by-law has been counterproductive in improving safety; creating a complicated licensing process that is easily circumvented. As a result of Council’s direction, City staff continue to advocate with the Province for additional right-of-entry authority to investigate second unit complaints.

Registration

Benchmarking of how other municipalities in the Greater Toronto area address second units indicates that most use a one-time registration process.

In consultation with the Planning and Building Department, it was determined that their staff will prepare and administer a registration by-law. This registration by-law is proposed to replace licensing to simplify the process and reduce the cost to the applicant. This eliminates licensing fee costs, and will ensure oversight to ensure public safety. A registration process has been developed that will:

- confirm the unit complies with health and safety requirements at the time of registration (building code, fire code and Electrical Safety Authority);
- provide information on legal second units to prospective tenants and the public; and,
- identify the location of second units for future planning purposes.

The registration process will be required for all legal second units, new and existing. It will be incorporated into the building permit or certificate of occupancy process. It will not require any additional review or inspection beyond these processes and, as such, will not entail any registration fee. It will provide residents with one place to obtain all approvals for second units. The registration process will:

- be a one-time process with no renewals required;
- advise owners of dwellings with second units that;
 - they should obtain insurance for the dwelling and the tenant should obtain content insurance; and,
 - they are required to maintain the dwelling as illustrated in the building permit plans and in a state of good repair; and,
- revoke registration if it is determined a dwelling with a second unit is altered so that it does not comply with health and safety regulations or meet City by-laws such as zoning.

The City would continue to address issues or violations on a complaint basis. All units that are currently licensed would be placed in the registry requiring no additional process. The registration will address neighbourhood impacts and tenant safety through the requirements to meet zoning regulations and health and safety standards.

While this proposal eliminates the requirement for second unit licensing, it may not produce additional numbers in terms of registrations. Incentives for second units will be incorporated into future work for the Affordable Housing Program.

Recent Second Unit Applicants

It is further requested that Council provide direction regarding the issuance of refunds to currently licensed property owners. Compliance and Licensing Enforcement staff have met with staff from Legal Services who advise that there is no legal requirement to provide a refund. Despite this, it has been identified that refunds would mitigate some of the inconvenience experienced by property owners who have taken the necessary steps to complete the licensing process and refunds could be available as a courtesy to those individuals who recently licensed in advance of the by-law being repealed. Refunds may also serve to mitigate complaints to the offices of the Mayor and Members of Council requesting their intervention.

Staff recommend that Compliance and Licensing Enforcement provide a full refund to all property owners that have submitted an initial application or a renewal application in 2016 and a partial refund representing 50% of the cost of the licence for those whose application was processed between September 1, 2015 and December 31, 2015.

Financial Impact

The cost associated with refunds structured in the manner outlined in this report would be approximately: \$17,500 for licences issued from September 1 to December 31, 2016; \$16,750 for licences issued in 2016; and, a total cost of approximately \$35,250. Further, annual second unit licensing revenues are approximately \$40,000. The net impact in 2016 is approximately \$57,000, and approximately \$40,000 each year thereafter. This budget impact can be accommodated in the overall operating budget for Regulatory Services.

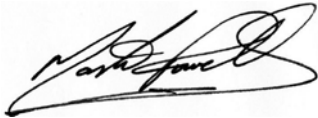
Conclusion

In response to Council's concerns about issues that have arisen with implementation and public response to the Second Unit By-law 204-13, as amended, staff recommend that these issues could most effectively be addressed through:

- repeal of the Second Unit By-law 204-13, as amended; and,
- development and passage of a Registration By-law that provides for a one-time registration process.

Attachments

Appendix 1: Municipal Scan



Martin Powell, P. Eng.
Commissioner of Transportation and Works

Prepared by: Michael Foley, Supervisor, Compliance and Licensing Enforcement

Municipal Scan

Municipality	Registration- Licensing	Fee
Ajax	N/A	N/A
Aurora	Registration, one time	\$150 \$75 additional inspection
Barrie	Registration, one time	\$165- \$830
Burlington	N/A	N/A
Caledon	Registration, one time	\$119
Guelph	Registration, one time	\$100
Newmarket	Registration, one time	\$150
Oakville	Registration, one time	\$200
Oshawa	Registration, one time	\$250
Toronto	Registration, one time	N/A
Whitby	Registration, one time	\$100