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February 25, 2021

VIA EMAIL: cparker@london.ca

Chair and Members
Community and Protective Services ("CAPS") Committee
City of London
300 Dufferin Avenue, PO Box 5035
London, Ontario N6A 4L9

Dear Chair and Members:

Re: Residential Rental Units Licensing By-law

We are the lawyers for the London Property Management Association ("LPMA"). The LMPA is committed to promoting education and professionalism among its more than 550 members. The vast majority of LPMA members are owners and operators of multi-residential rental properties, including apartment buildings and townhouse complexes. LPMA is Ontario's oldest regional landlord association and its mandate is to educate its members to administer and manage their rental properties to meet all statutory and professional standards, including full compliance with applicable municipal and provincial laws and the provisions of the *Residential Tenancies Act* (RTA). The purpose of this submission to the CAPS Committee is to voice LPMA's objections, on behalf of its members, to the proposal that the City embark on a process to impose mandatory licensing for all multi-residential rental buildings in the City of London and to ask that your committee reject such a proposal.

The correspondence at page 194 of the committee agenda from Councillors A. Kayahaga and M. Salih makes the allegation that landlords in London are not undertaking repairs and maintenance during the pandemic and therefore the current residential licensing by-law should be amended to include all multi-residential buildings in the City of London. The correspondence then goes on to suggest that an "anonymous hotline" is required to avoid retaliation by landlords where complaints are made and that a "random inspection program" be initiated to ensure landlords are in compliance with their maintenance obligations. LPMA asks that the members of the CAPS Committee take note that the allegations and assertions made by Councillors Kayahaga and Salih are bald allegations with no facts or evidence to support them. The allegations stem from discussions with ACORN, a Toronto based advocacy group which is more "anti-landlord" than it is "pro-tenant". It is respectfully submitted that the facile allegations made in the Councillors' correspondence to your Committee, and the Orwellian strategies proposed by them to address the allegations, should not form the basis for an overhaul of the landlord licensing by-law.

LPMA is of the view that a "rule of law" approach to address concerns raised by Councillors' Kayahaga and Salih is already in place at both the municipal and provincial level. Section 20 of the RTA imposes on landlords the obligation to "maintain and repair" rental units and to comply with, among other things, "health and safety standards". Tenants who are concerned about maintenance issues can call the City to

obtain orders for compliance or they can file an application at the Landlord and Tenant Board (LTB) for an order for repairs to be completed and an order for a rent abatement pending completion of repairs. LTB Members have no hesitation in making findings against landlords who fail to comply with their statutory obligations under s. 20. Municipal inspectors are also empowered to attend at and inspect rental units and enforce non-compliance with municipal and provincial laws. Upon request, we can provide members of your committee with decisions of the LTB to support our assertions and the scope of remedies granted. The City has its own records of enforcement engaged in by municipal staff. In summary, municipal legislation (enforcement of City by-laws) and Provincial legislation (the RTA) are in place to address maintenance and repair issues in apartments and they provide comprehensive remedies for tenants. An additional layer of regulation and bureaucracy is not required or necessary to enforce maintenance and repair obligations of landlords.

In the context of alleged "retaliation" by landlords against tenants who make complaints, be advised that there is a provision in the RTA (s. 83) which prohibits the LTB from issuing an eviction order in circumstances where the Board finds a landlord has applied for same in retaliation for the tenant having complained to any public authority or the LTB about maintenance or repair issues. Tenants in such circumstances may also apply under s. 29 RTA for a remedy in circumstances where a landlord is alleged to have engaged in retaliation against a tenant, thus interfering with the tenants' legal interests and LTB Members have no hesitation in making findings and awarding substantial remedies (and again, we can provide many LTB decisions to support this fact). It is also a Provincial Offence (s. 234 RTA) for a landlord to engage in such conduct (fines are $50K for individuals and $250K for corporations).

The suggestion that there be an "anonymous hotline" would install a process at City Hall which demonstrably prone to abuse by tenants with an axe to grind against their landlord. Such a process is similar to the kind of thing we now see in the context of social media where false allegations are made anonymously to encourage conflict and inflict harm against individuals rather than foster constructive resolution of real problems. There are already many resources in place for tenants to seek recourse for real concerns about maintenance and repair, as there are protections to prevent retaliation against tenants who complain as they are fully protected under the RTA.

We also wish to draw your committee's attention to the fact that landlords have been directed by the Province's COVID-related Emergency Orders and regulations to continue providing the full range of life safety and housing standard services to tenants but to defer "non-urgent" maintenance during the pandemic in an effort to reduce health and safety risks to tenants and staff in multi-residential buildings. The result is that landlords must comply with provincial legislation that properly requires landlords to defer non-essential maintenance to protect health and safety of tenants in contrast to the opinion of two municipal councillors that landlords should be compelled to operate in breach of the province's regulations and against public health recommendations. It is respectfully submitted that the Councillors' apparent lack of knowledge of the Province's and public health directions to multi-residential landlords with respect to deferring non-urgent maintenance during the pandemic should not form the basis for the City to initiate the creation of a comprehensive regulatory regime with collateral powers to those already in place to ensure properties are properly maintained and repaired.

The fact is that any expansion of the landlord licensing by-law will result in a license fee ("Tenant Tax") imposed on tenants by the City to cover municipal costs of setting up the bureaucracy, hiring additional personnel, imposing new administrative requirements for landlords to complete; salary increases for new supervisors, etc. We have heard in the past that the license fee is not a Tenant Tax because it is the landlord, not the City, who passes on the cost to tenants. The reality is that landlords are like every other business operator and they pass municipal charges on to customers in much the same way that Members of Council who incur expenses (mileage, meals, hotel accommodation at conferences) on City business pass on those expenses to taxpayers. It is important for Council Members to recognize that new

"municipal charges" imposed on landlords are authorized by the RTA to be passed on to tenants by way of an Above Guideline Rent Increase (AGI) under s. 129 of the RTA. The City of Waterloo passed a particularly costly licensing by-law targeting townhomes (their staff recommended against targeting high rises as part of its by-law) and we acted for a landlord who successfully secured a 6.8% rent increase due entirely to the new municipal charges imposed by Waterloo. Upon request, we can forward that decision, which was upheld on appeal, to members of your Committee.

Each of you have constituents who live in apartment complexes and many of those apartment complexes are owned and operated by London based landlords and by professional, long standing multi-residential landlords. Most of those landlords are members of LPMA. The overwhelming majority of multi-residential landlords are professional and operate their properties to the highest standards. If you consider your own experience and feedback from your tenant constituents, we suggest you will find that there is no public outcry or concerns about the lack of maintenance and repair in multi-residential high rise or town house complexes in London. To create a massive bureaucracy with additional costs passed on to tenants amounts to unnecessary overregulation in an effort to find a few "bad apples" (assuming they are out there) whose conduct is already fully regulated and can be enforced using existing municipal and provincial laws.

LPMA requests that, after your review and consideration of this correspondence and our submission to the Committee, and after your reflection on your own experience with the quality of housing provided by landlords in London, that you reject the motion by Councillors Kayahaga and Salih to create an authoritarian regulatory regime operating collaterally to the municipal and provincial legislation already in place to address questions of maintenance and repair in London multi-residential housing.

Thank you, in advance, for your consideration of the submissions of LPMA.

Yours very truly,

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cc: LPMA