

Report to Planning and Environment Committee

To: Chair and Members
Planning & Environment Committee

From: George Kotsifas, Managing Director, Development and Compliance Services and Chief Building Official
John M. Fleming, MCIP RPP
Managing Director, Planning and City Planner

Subject: Notification to Tenants in the Planning Process

Meeting on: Monday, June 18, 2018

Recommendation

That, on the recommendation of the Director, Development Services, with the concurrence of the Managing Director, Planning and City Planner, the following actions **BE TAKEN**:

- a) the following information report regarding “Notification to Tenants Regarding Planning Applications”, **BE RECEIVED** for information;
- b) the approach to provide notification to tenants as outlined in this report **BE ENDORSED**; and,
- c) The Civic Administration **BE DIRECTED** to initiate The London Plan and Official Plan amendments to address the *Smart Growth for Our Communities Act (Bill 73)* relating to tenants notification for public consultation.

Executive Summary

Summary of Request

On June 27, 2017, Municipal Council resolved that the Civic Administration **BE DIRECTED** to include notification of tenants by mail in Phase 2 of the improvements to public engagement in the planning process.

Summary of Recommended Action

Civic Administration will initiate The London Plan and Official Plan Amendments with further enhanced notification measures which may apply in certain circumstances and will be in compliance with the applicable *Planning Act* requirements. The adopted language in a future The London Plan and Official Plan Amendments will direct staff to utilize its best efforts to provide notice to tenants within a prescribed area of a planning application site.

Rationale of Recommended Action

The recommended approach for providing notice to tenants within the circulation area of an active planning application will be put in a practice by Planning Services and Development Services staff as outlined in section 3.6 of this report. The new policy and practice providing for best efforts to notify tenants exceeds provincial requirements for tenant notification and fulfils the direction of Council from June 27, 2017.

The key challenge for a tenant notification policy is that there are limited reliable sources of information to obtain the names and addresses of tenants. A prescriptive policy requiring notification to all tenants within a planning application circulation area could result in risk of appeals, delays to Planning reviews, increased costs and unrealistic expectations to residents.

Background and Analysis

1.0 Legislative Framework

1.1 *Planning Act* Public Notice Requirements

Ontario Regulations prescribe two methods by which public notification must be fulfilled:

The first requirement is that notice shall be given by:

“...ordinary mail, to every owner of land within 120 metres of the subject land...and by posting a notice, clearly visible and legible from a public highway or other place to which the public has access...” [O.Reg. 545/06., s. 5(4)]

The second requirement is that:

“notice shall be given by publishing a notice in a newspaper that...is of sufficiently general circulation in the area to which the proposed by-law would apply that it would give the public reasonable notice of the public meeting...” [O. Reg. 545/06, s. 5(7)]

These requirements represent the minimum provincial standards for notification and only one of these two methods is required to be met.

1.2 *Planning Act* requirements for Notice to Tenants

The *Smart Growth for Our Communities Act (Bill 73)* was enacted in 2015 in response to Province-wide concerns about the accessibility of the planning process. The amendments to the *Planning Act* enable municipalities to adopt an alternative procedure with regard to public notification for amendments to the Zoning By-law and Official Plan. Where such alternative procedures are outlined in a municipality's Official Plan, the *Planning Act* permits the municipality to implement its alternative measures for *“...informing and securing the views of the public...”*

Through this new planning legislation, the Province included new requirements for tenant notification that specifically required notices to include *“if applicable, a request that the notice be posted by the owner of any... and that contains seven or more residential units in a location that is visible to all of the residents”*.

1.3 The City of London Official Plan (1989) Notice Requirements

The City of London Official Plan includes alternative procedures that closely mirror the *Planning Act* requirements. These include the requirement for:

- *Publication in a local newspaper that, ... is of sufficiently general circulation in the area adjoining the subject land that it would give the public reasonable notice of the application; and/or*
- *Prepaid first class mail or personal service delivery*

The alternative procedures also require the City of London to provide public notification and public liaison notices, to the best of the City's ability, to the following individuals:

- *Every owner of land within the affected site and/or area to which the proposal applies, as shown on the last revised assessment roll*
- *Every owner of land within 120 metres (400 feet) of the area to which the proposal applies, as shown on the last revised assessment roll; and,*
- *Every person and agency that has given the City Clerk a written request for such notice.*

The City's current practice for Notice fulfills both of the minimum standards of the Province, thereby going beyond the *Planning Act* requirements.

The City of London does not currently mail notifications to tenants of properties in response to applications for land use change. Consistent with the Official Plan

requirements, notice is given by prepaid first class mail to every owner of land within 120 metres (400 feet) of the area to which the proposal applies, as shown on the last revised assessment roll. If the property is not owner-occupied or if it contains multiple units, the property owner has the option of disseminating the information to their tenants upon receipt of the public notice.

1.4 The London Plan Notice Requirements

At the time of submission of this Information Report, the Public Engagement and Notice Policies of the Our Tools section of The London Plan are Council and Ministry approved, but are not in effect. Notwithstanding, the policies approved relating to Method of Notification include the following:

METHOD OF NOTICE

1624_ Notice of Application and Notice of Public Meeting will be given by:

- 1. Publication in a local newspaper that, in the opinion of the City is of sufficiently general circulation in the area adjoining the subject land that it would give the public reasonable notice of the subject matter.*
- 2. Publication on the City of London website.*
- 3. Mail or email, to the best of the ability of the municipality, to:*
 - a. Every owner of land within the affected site and/or area to which the proposal applies, as shown on the last revised assessment roll.*
 - b. Every owner of land within 120 metres of the area to which the proposal applies, as shown on the last revised assessment roll.*
 - c. Every person and agency that has given the City Clerk a written request for such notice.*
 - d. The applicant.*
 - e. The relevant neighbourhood association, where one exists and is known to the City.*
 - f. The public bodies and agencies as prescribed by the Province.*

1625_ Notice of Application will also be given by signage on or near the site of the application providing brief details of the application and where more information can be obtained.

In an effort to enact new tools provided through Bill 73, *The London Plan* has included requirements for Notices of Application and Public Meeting Notices that include a request that landlords (for any number of units) post a copy of the notice where their tenants can see it. As such, the City will be meeting and exceeding provincial requirements for tenant notifications. Policy 1629 of the London Plan is provided below:

NOTIFICATION TO NON-OWNER OCCUPIED DWELLINGS

1629_ Where Staff are aware of non-owner occupied dwellings located within the circulation radius, efforts may be made to request that the owners of land notify their tenant(s) and/or post the notice in prominent location(s) within the building such as in common areas, front lobby, laundry area, and mail room.

Planning Services and Development Services staff has recently enacted enhanced written Notices for Planning amendment applications and have included a request for landlords to notify their tenant(s) and/or post the notice in prominent location(s) within the building such as in common areas, front lobby, laundry area, and mail room. Also, staff anticipate that the larger, more detailed on-site signs that are now being utilized for notification purposes will contribute to tenant awareness of applications in their neighbourhood.

2.0 Council Direction

2.1 Improvements to Public Engagement

On March 23, 2015, Planning Services presented a report to the Planning and Environment Committee intended to initiate improvements to public engagement in the planning process.

Key area of focus included:

- communicating in plain language; and,
- making public notification more effective, by improving the format, expanding the media options, and exploring ways to reach citizens more directly.

On March 23, 2015, Municipal Council resolved:

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to potential improvements to public engagement in the planning process:

- a) the report dated March 23, 2015, from the Managing Director, Planning and City Planner, with respect to potential improvements to public engagement in the planning process, BE RECEIVED;*
- b) the proposed “Improvements to Public Engagement in the Planning Process” BE CIRCULATED to the London Development Institute, the Urban League, the London Homebuilders Association, London Area Planning Consultants, London area architects, landscape architects and urban designers; and,*
- c) the Civic Administration BE DIRECTED to report back at a future meeting of the Planning and Environment Committee with respect to the proposed “Improvements to Public Engagement in the Planning Process” as modified based on stakeholder consultations;*

This report included nine issues to explore where improvements can be made to the planning process engagement practices. These included:

- Plain-language and formatting improvements to planning reports to make them easier to understand;
- Improvements to possible land use change signage;
- Improving the web presence;
- Plain-language and formatting improvements to public notices;
- Provide mail notification to tenants;
- Expand the existing 120m mailing radius;
- Refine the newspaper notification;
- Developing protocols for non-statutory Community Information Meetings;
- Use of Social Media.

On December 12, 2016, an Information Report was submitted to PEC to provide a status update on the project. Throughout 2016, Staff from Planning Services and Development Services began to group the aforementioned initiatives into interrelated bundles so that they may be implemented as a package in phases once they could technically be implemented.


Among the initial changes to initiate improvements to public engagement in the planning process, enhancements to signage and webpages were complemented by improving the mailing notices for uniform branding, more detailed information, and also direct readers to the dedicated webpages. Staff engaged the public and industry stakeholders in discussions as a starting point for the development of new land use change signage, notices, and webpages.

On June 19, 2017, Planning Services presented a report to the Planning and Environment Committee intended to initiate improvements to public engagement in the planning process, with actions intended to achieve the following:

- Enable City staff to implement Phase 2 of the proposed improved public engagement practises, which include mailed notices written in plain language, improved on-site signs, an improved web presence, and improved practices for giving notice to tenants.
- Give direction to City staff to initiate an Official Plan amendment to implement relevant requirements and permissions of the *Smart Growth for Our Communities Act (Bill 73)* regarding community consultation and the manner of giving notice for various types of *Planning Act* applications.

One of the key issues that was brought forward by Council was the Notice to Tenants. The staff report proposed no change to expand notification by mail to include tenants, but rather suggested that improvements to other methods of notification, such as signage, would increase the number of notified tenants. The staff report also proposed that mailed notices requests landlords to post the notices in prominent locations within the rental buildings to notify tenants of planning applications in proximity to the subject site. Staff have amended and are using the mailed notices and an example is provided in Figure 1.


Figure 1. Example of New Mailed Notice of Application



NOTICE OF PLANNING APPLICATION

Official Plan and Zoning By-law Amendment

505 Talbot Street and Other Properties



File: OZ-8490
Applicant: Tricar Group

What is Proposed?

An Official Plan and Zoning amendment to allow for:

- Request for bonus zoning
- 30 storey mixed-use building
- Ground floor commercial space
- 224 residential units
- 214 internal parking spaces
- Heritage Square
- Removal of existing heritage structures

LEARN MORE & PROVIDE INPUT

Please provide any comments by Month Day, Year

Planner Name
plannername@london.ca
519-661-CITY (2489) ext. ####
Planning Services, 206 Dundas Street, London ON, N6A 1G7
File: OZ-8490
london.ca/planapps

You will receive Notice of Public Meeting at a future date.

You may also discuss any concerns you have with your Ward Councillor:

Ward Councillor Name
councillorname@london.ca
519-661-CITY (2489) ext. ####

If you are a landlord, please post a copy of this notice where your tenants can see it.
We want to make sure they have a chance to take part.

Date of Notice: Month Day, Year

Request for Landlords to Post Notices in Tenant Occupied Buildings

In addition, at this meeting there were discussions resulting in a request that staff find solutions to increase the number of tenants that receive notice of planning applications by mail. This discussion resulted in a direction from Council to staff as follows:

On June 26, 2017, Municipal Council resolved:

That, on the recommendation of the Managing Director, Planning and City Planner, the following actions be taken with respect to improvements to public engagement in the planning process:

a) ... b)...c)...

d) the Civic Administration BE DIRECTED to include notification of tenants by mail in Phase 2 of the improvements to public engagement in the planning process; ...

2.2 What does this mean?

The intended outcome of Council's 2015 direction is geared towards improving public engagement and making the planning process more accessible to the general public by providing and inviting *meaningful* participation. Staff have moved in this direction throughout 2016 and 2017 with improvements endorsed by Council to public engagement in the planning process (notably with signage, web pages and notices). Council has further directed staff to find solutions to better improve public engagement in planning processes by way of providing notice to tenants on various planning applications.

The purpose of this report is to consider the options and present a staff recommendation to implement this direction.

2.3 How can staff Implement Council's Direction to provide Notice to Tenants on Planning Applications?

In order for Civic Administration to implement Council's direction, staff need to initiate Official Plan and The London Plan Amendments to address the Smart Growth for Our Communities Act (Bill 73) and other matters as they relate to the planning process for public consultation. The amendment would add policy that public notification and public liaison notices be sent to tenants within an affected site or area to which a proposal applies.

2.4 Who is impacted?

Enhanced notification for tenants has implications, in terms of costs, resources and time for processing files for the following service providers:

- Planning Services
- Development and Compliance Services
- City Clerk's Office

2.5 Moving from Existing Practice (MPAC) to an approach that implements Council's Direction

The City uses Municipal Property Assessment Corporation (MPAC) data when developing mailing labels for Planning Application Notices. Currently, the City does not have the ability to generate a personalized label for tenant-occupied dwellings or units since a tenant database does not exist. The current mapping system that creates mailing labels is only capable of generating labels that would reach owners. The City

does have the ability to generate mailing labels within a notification area directed at addresses of any assessed municipal property – also known as door points.

The GIS Master Address database does not have the ability to generate the names of tenants, so any notification mailed to tenants of rental buildings would be addressed to “Occupant” rather than a personalized label. Mailing labels generated through this database would also only have the ability to reach the main or ground floor unit only. Our database does not identify the number of units located at a property as it only generates one label per address. There is a concern that the lack of personalized labels, as well as the inability of this data base to generate a label for each unit at a property address, may reduce the effectiveness of the notices. The onus would fall on owners of rental properties and/or ground floor tenants to notify their respective tenants and neighbours of any application or public meeting that might affect them.

Given the lack of reliable information for tenant residency, there is a high likelihood that many tenants living within the circulation area would not receive the notification as noted above. If tenant notification became a requirement for notice within the Official Plan, any non-compliance with the requirements could result in appeals to the Local Planning Appeal Tribunal (LPAT) on the basis of failure to comply with the City’s own statutory requirements.

3.0 WHAT ARE OTHER MUNICIPALITIES DOING

A survey of Ontario municipalities indicates that the minimum standard required by the *Planning Act* is typically utilized, which is the 120-metre notification radius and notifications to registered property owners only. The onus falls on owners of rental properties to notify their respective tenants of any application or public meeting that might affect them.

Like London, many Municipalities have recently amended their Official Plans to adopt new alternative measures for enhanced notification requirements. Below is a brief highlight of some of the alternative notification measures implemented for informing and securing views from members of the public.

3.1 City of St Catharines:

St. Catharines, through its recently adopted Official Plan Amendment #13 has implemented the use for an alternative method of notification as outlined in policy 16.18 below to allow for enhanced consultation during the early review process and not rely solely on the notice of public meeting as outlined the in Planning Act. The Implementation and Interpretation section of The Plan was amended by adding a new Section 16.18 Public Facilitation and Notification, as follows:

16.18 Public Facilitation and Notification

One of the principles of sustainability is transparent and participatory government. The City recognizes and supports integrated public engagement and consultation as a key component in the land use planning process.

1. *This Plan:*
 - i. *strongly supports opportunities for citizen and stakeholder participation and input while balancing the need to process development applications within the timelines prescribed within the Planning Act;*
 - ii. *encourages the involvement of citizens, business, stakeholders, other level of government and related agencies, community groups, networks and associations in the development of planning policies, regulations and standards, and implementation through the planning process.*
2. *The City will follow the public notification procedures and regulations for informing and obtaining input on planning matters that are contained within the Planning Act. Notwithstanding, the City may exceed these requirements as deemed appropriate.*

3. *Where a notice of public meeting or a notice of a development application is required, notice will be given, at a minimum, in accordance with the applicable requirements of the Planning Act.*
4. *The City:*
 - i. *may set out public meeting requirements and notification on planning matters where such requirements and notification are not required or prescribed in the Planning Act;*
 - ii. *should establish protocol for the consistent and timely provision and disbursement of information on planning documents, planning matters, and development applications outside of the requirements of the Planning Act;*
 - iii. *will use a variety of communication methods to provide information, notification, and to seek public engagement and input on planning matters and development applications. Depending on the issues and in accordance with the Planning Act, the City shall choose the most appropriate method of communication, Communication may be in the form of:*
 - a) *direct mail outs, electronic or otherwise;*
 - b) *public notice signs;*
 - c) *newspaper advertisements*
 - d) *surveys, electronic or mail out;*
 - e) *public information open houses;*
 - f) *workshops/charettes;*
 - g) *public meetings;*
 - h) *the City web site and other forms of social media.'*

The City of St. Catharines **does not** mail notification to tenants of properties in response to applications for land use changes.

3.2 The Region of Waterloo

The Region of Waterloo, through its Official Plan, has implemented the use for an alternative method of notification as outlined in policy 12.4.2 (5) below to allow for enhanced consultation during the early review process and not rely solely on the notice of public meeting as outlined the in Planning Act

12.4.2 (5) With regard to proposed Amendments to the Official Plan or Zoning-Bylaw(s), the following shall apply:

- a) *Two public meetings may be held to inform and secure the views of the public with respect to the approval of an Amendment to the Official Plan or Zoning By-Law. The first meeting shall be known as the Informal Public Meeting and the second shall be known as the Formal Public Meeting. City staff may waive the Informal Public Meeting where there is a desire to expedite the approval process or where the holding of such meeting would serve no useful purpose.*
- b) *The purpose of the Informal Public Meeting is to present the proposed Amendment and to obtain the preliminary comments of those affected by the proposed Amendment. The Informal Public Meeting shall be open to the public and any person who attends the meeting shall be afforded an opportunity to make representations regarding the proposed Amendment. After the meeting, the application will be referred to municipal staff for a report. The municipal staff report shall be considered at the Formal Public Meeting. This meeting shall be open to the public and any person who attends the meeting shall be afforded an opportunity to make representations in respect of the proposed Amendment.*
- c) *Depending on the nature and scope of the application, there may be benefit to holding neighbourhood open house(s) in addition to the Formal and Informal Public Meetings, in order to provide the community additional information regarding technical studies and the scale and scope of the proposal. These open house sessions would be information sharing and informal in nature.*

The Region of Waterloo **does not** mail notification to tenants of properties in response to applications for land use changes.

3.3 The City of Ottawa:

The City of Ottawa states that when *“the proposed amendment or plan affects a large area or the posting of an on-site notice is, for whatever reason, not appropriate, notification in both official languages will either be given directly to targeted stakeholders or published in a city newspaper.”* The City of Ottawa, through its Official Plan, has implemented the use for an alternative method of notification as outlined above to allow for enhanced consultation during the early review process and not rely solely on the notice of public meeting as outlined the in *Planning Act*.

The City of Ottawa **does not** mail notification to tenants of properties in response to applications for land use changes

3.4 The City of Hamilton

The City of Hamilton does not specify which alternative notification measures will be used but rather includes language in its Official Plan that the most appropriate methods will be used that it will be in compliance with the applicable *Planning Act* requirements.

The City of Hamilton **does not** mail notification to tenants of properties in response to applications for land use changes

3.5 The City of Guelph

The City of Guelph through its Official Plan, has also implemented the use for an alternative method of notification for enhanced consultation during the review process as outlined the in *Planning Act*. The City of Guelph **does not** mail notification to tenants of properties in response to applications for land use changes, however notices for planning applications provide the following direction to owners of Multi-Tenant & Apartment Buildings:

Requirement for Owners of Multi-tenanted Buildings

Upon receiving this Notice, owners of multi-tenant buildings with seven (7) or more residential units are required under the Planning Act to post this Notice of Public Meeting in a location that is clearly visible to all tenants (i.e. building or community notice board). The Notice shall remain posted until Month, Date, Year (the day after the Public Meeting).

3.6 City of Burlington

The City of Burlington, through its Official Plan, has implemented the use for an alternative method of notification as outlined in policy 11.3.1 below to allow for enhanced consultation during the early review process and not rely solely on the notice of public meeting as outlined the in *Planning Act*. The Official Plan policies adopted in Burlington address an alternative approach for enhanced consultation that does address notice to tenants.

11.3.1 PROCEDURES

a) *The procedure to inform and obtain public and agency input regarding a development application, where applicable, shall include the following steps:*

*... (iii) a preliminary notification of the application for amendment(s) to the Official Plan or Zoning By-law and/or a plan of subdivision, including basic details, may be given at least thirty (30) days prior to the Council meeting to consider approval of the proposed amendment(s) and/or subdivision. For site specific amendments and subdivisions, the preliminary notification **shall be sent by prepaid first class mail or personal service or email to every owner of land** (emphasis added) within one hundred and twenty (120) m of the subject area within the Urban Area as outlined on Schedule C: Land Use - Urban Area, of this Plan, within three hundred (300) m of the subject area within the*

Rural Area as outlined on Schedule I: Land Use Rural Area, of this Plan, and within three hundred (300) m of the subject area within North Aldershot as outlined on Schedule K: Land Use North Aldershot, of this Plan, **and may be sent to every tenant** (emphasis added). For amendments that generally apply to the city, a notice shall be placed in a local newspaper approved by the City Clerk, that has a general circulation in the area;

... (vii) for a site specific amendment or a plan of subdivision, notice of the statutory public meeting **shall be placed in a local newspaper and/or sent by mail or personal service to every owner of land** (emphasis added) within one hundred and twenty (120) m of the subject area within the area outlined on Schedule C: Land Use – Urban Area, of this Plan, within three hundred (300) m of the subject area within the area outlined on Schedule I: Land Use – Rural Area, of this Plan, and within three hundred (300) m of the subject area within the area outlined on Schedule K: Land Use – North Aldershot, of this Plan, and **may be sent to every tenant** (emphasis added) and to any parties who have requested notification of any meetings on this particular matter, provided the request is received before notices are issued;

4.0 What Options are available for providing Notice to Tenants

4.1 Using Elections Data to obtain Tenant Information

Development Services and Planning Services staff met with Taxation and Assessment staff as well as City Clerks staff to see if there was a way to use elections information to reach tenants within the City of London along with home owners.

Using Election information would be contrary to the *Elections Act* as it clearly states that:

(10) No person shall use information obtained from public records described in), except fir election purposes. 1996, c. 32, Sched., s. 88(10)

The *Elections Act* also continues to state:

*(11) A voters' list prepared under this Act shall not be,
(a) posted in a public place; or
(b) made available to the public in another manner that is prescribed.
1996, c. 32, Sched., s. 88(11)*

Through input received from both the City Clerks and Legal Services offices, staff were made aware that this would not be a solution to obtain addresses for tenants in the city.

4.2 Using London Hydro Data to obtain Tenant Information

Development Services and Planning Services staff have explored the use of electricity and/or water billing information to identify tenants. There are two issues with the collection and use of this data:

1. There is not a consistent approach for tenant and owner billing arrangements. Some landlords pay the water and not the electricity bills, some landlords cover the entire bill and some tenants pay all the utilities.
2. The Ontario Energy Board has very strict rules around what information can be released and this type of personal information is guarded and typically unavailable to third parties for use.

4.3 Using Precision Target Markets through Canada Post to reach all mailing addresses

Staff have reached out to Canada Post to determine if Precision Target Markets with postal codes would be a viable option for reaching tenants within the city. Further discussions are warranted to explore the potential to license Canada Post data directly

to distribute a notice by mail to a defined area (radius of 120 metres) as opposed to an entire postal code area. Initial discussions around the potential for creating flyers that could be distributed using postal codes that match the 120m radius did not provide any assurance that there would not be considerable overlap in the notice area for those properties receiving these flyers and staff have not been provided with details regarding costs and service levels for utilizing this service with Canada Post.

4.4 Powers to compel Landlords to post or distribute Notices (Landlord Tenant Act, Residential Rental Unit License By-law)

Recent changes to the *Planning Act* provide tools to require that landlords with seven (7) or more rental units post the notice in the building at accessible locations. The City has adopted an approach to expand this provision to all landlords regardless of the number of units they rent/lease out.

Civic Administration have reviewed possible mechanisms to compel landlords via the City of London's *Residential Rental Units Licensing By-law* ("By-law") and/or the *Residential Tenancies Act* ("Act") should a landlord choose not to post the required notices. Firstly, with respect to the By-law, section 7.3 states:

"Notwithstanding any other provision of this By-law, the Licence Manager may impose terms and conditions on any licence at issuance, renewal or any time during the term of the licence, including special conditions, as are necessary in the opinion of the Licence Manager to give effect to this By-law."

In order for the City to apply this provision to ensure that landlords post notices, the City must argue that doing so is necessary to give effect to the By-law, which raises some concerns because the By-law relates to how licences are applied for and granted. Arguably, the licence manager does not have the power to tie the issuance or renewal of a licence to conditions related to posting public notices. Legal Services have advised that Staff should not seek to amend the By-law to effect change for notification purposes.

Secondly, the relevant provisions of the Act only address the requirement of a landlord to provide reasonable supply of any vital service, which is defined in the Act to mean hot or cold water, fuel, electricity, gas or heat. As a result, the City cannot require landlord to post a public meeting notice under the Act.

The onus would fall on owners of rental properties or ground floor tenants to notify their respective tenants / other residents of any application or public meeting that might affect them.

4.5 Utilize an approach that mirrors City Council Policy Manual, Chapter 7 (Engineering Services) for the Public Notification Policy related to Construction Projects.

This policy specifies that the standard notification for various public construction projects shall be provided by, "...written notification...to the affected property owners. Multiple copies of the same notice will be delivered to the landlord/superintendent of multi-unit dwellings to enable them to notify their tenants".

It should be noted that the "affected property owners" differ between Engineering projects and Planning applications. For Engineering projects, "affected property owners" are owners of land within a 30m radius of the project whereas for planning applications "affected property owners" are property owners within a 120 metre radius of the subject site. Also, for Construction projects the onus for hand delivering notices rests with the Project Manager. There are no tools provided within the *Planning Act* to compel a Municipality to have the applicant hand deliver notices.

4.6 Implement Official Plan / The London Plan Policy that speaks to providing best efforts to utilize enhanced measures where appropriate, that go beyond the minimum requirements of the *Planning Act*, including tenant notification

Municipal staff, as part of the phase 2 amendments to the improvements of public engagement in the planning process, will add new Official Plan and The London Plan policy that the **City of London may provide public notification and public liaison notices, to the best of the City's ability, to Tenants within 120 metres (400 feet) of the area to which the proposal applies.**

This policy approach would be implemented immediately by Development Services and Planning Services staff for providing Notice of planning applications.

In all future planning applications affected by this policy, staff will utilize both the Municipal Property Assessment Corporation (MPAC) data and our GIS Master Address database when developing mailing labels for planning application notices. Planners preparing mailing labels for planning applications would have to print out both sets of labels. The MPAC labels would contain personalized labels for the owners of each property within a notice area. The labels generated using the GIS master address database would generate mailing labels for each address within a notice area. These labels would only be addressed to "Occupant" for each property as there is no reliable source of information to obtain the names and addresses of tenants or the door-point numbers for all rental units, at this time.. Planners would proceed to go through both sets of labels and remove duplicate labels for every property. Properties that are owner occupied would receive personalized labels, while properties that are non-owner occupied would receive one mailed notice to the property marked as Occupant.

Owners not residing at the property within the affected planning application areas would still receive a notice. The onus to distribute or post the notice within these rental buildings would fall onto the owner of the rental property or an occupant. If door-point numbers can be verified for units within a rental building, mailing labels can be generated to reach this unit within the building. Also, if the number of rental units within a building / property can be verified, staff can provide notices in batches to be delivered to the property for distribution by either Canada Post or the landlord/owner This approach would ensure that best efforts are made to provide notice to tenants.

It is also important to note that current improvements to other methods of notification, such as signage and websites, as well as mailed notices will also increase the number of notified residents, including tenants, within a planning application area. As part of our best efforts policy framework, staff will continue to explore other options and access to data sources that will enhance our ability to notify all residents, including tenants within a planning application area, recognizing that we won't reach everyone. Some of these enhanced approaches include:

- Utilizing Precision Target Marketing through Canada Post, including exploring options for licencing service for notice distributions;
- Explore options to obtain or purchase verifiable data that identifies door-point number information for rental properties;
- Possible future changes to Planning Application processes that may add an additional public participation meeting that should provide additional opportunities for public engagement and participation;
- Introduce enhanced mailing envelopes for Planning Notices that identify the contents of the mail out as a Planning Application Notice to reduce the volume of mail that is returned or discarded by recipients; and
- Other best practices that can be implemented to enhance staffs ability to reach as many residents as possible, including tenants, when sending out Notices.

5.0 Continuous Improvement - Financial and Resource Implications

The operational process for sending out notice of planning applications described in section 4.6 will be carried out within existing staffing and budgetary resources of both Planning Services and Development Services. In approximately one year, monitoring analysis will be undertaken to determine the impact on existing resources to do the additional review of property information and the maintenance and upkeep of any new data sources or systems required. If appropriate, following the review, staff will submit a Multi-Year Budget Business Case to request additional funding sources, identifying the magnitude of the tenant notification and resources required to implement the recommendations on an ongoing basis.

6.0 RECOMMENDATION

Municipal Council has directed staff to include notification of tenants by mail in Phase 2 of the improvements to public engagement in the planning process. To address this direction Civic Administration will need to implement Official Plan and The London Plan Policy that speaks to providing best efforts to utilize enhanced measures where appropriate, that go beyond the minimum requirements of the *Planning Act*. This includes adding policy that the City of London may provide public notification and public liaison notices, to the best of the City's ability, to Tenants within 120 metres (400 feet) of the area to which the proposal applies. This approach will put in place a practice by Planning Services and Development Services staff as outlined in section 4.6 of this report that would implement the direction of Council from June 26, 2017, while also exceeding provincial requirements for tenant notification. Some of the anticipated amendments to the City's Official Plan and The London Plan to establish this policy is provided below (bold & underscored):

The City of London Official Plan (1989) Notice Requirements

The City of London Official Plan includes alternative procedures that closely mirror the Planning Act requirements. These include the requirement for:

- *Publication in a local newspaper that, in the opinion of the General Manager of Planning and Development is of sufficiently general circulation in the area adjoining the subject land that it would give the public reasonable notice of the application; and/or*
- *Prepaid first class mail or personal service delivery*

The alternative procedures also require the City of London to provide public notification and public liaison notices, to the best of the City's ability, to the following individuals:

- *Every owner of land within the affected site and/or area to which the proposal applies, as shown on the last revised assessment roll*
- *Every owner of land within 120 metres (400 feet) of the area to which the proposal applies, as shown on the last revised assessment roll; and,*
- *Every person and agency that has given the City Clerk a written request for such notice.*
- **Tenants within 120 metres (400 feet) of the area to which the proposal applies, may be sent notification, to the best of the City's ability.**

The London Plan Notice Requirements

METHOD OF NOTICE

1624_ Notice of Application and Notice of Public Meeting will be given by:

4. *Publication in a local newspaper that, in the opinion of the City is of sufficiently general circulation in the area adjoining the subject land that it would give the public reasonable notice of the subject matter.*

5. *Publication on the City of London website.*
6. *Mail or email, to the best of the ability of the municipality, to:*
 - a. *Every owner of land within the affected site and/or area to which the proposal applies, as shown on the last revised assessment roll.*
 - b. *Every owner of land within 120 metres of the area to which the proposal applies, as shown on the last revised assessment roll.*
 - c. *Every person and agency that has given the City Clerk a written request for such notice.*
 - d. *The applicant.*
 - e. *The relevant neighbourhood association, where one exists and is known to the City.*
 - f. *The public bodies and agencies as prescribed by the Province.*
 - g. **Tenants within 120 metres (400 feet) of the area to which the proposal applies, may be sent notification, where possible.**

1625_ Notice of Application will also be given by signage on or near the site of the application providing brief details of the application and where more information can be obtained.

NOTIFICATION TO NON-OWNER OCCUPIED DWELLINGS

1629_ Where Staff are aware of non-owner occupied dwellings located within the circulation radius, efforts may be made to request that the owners of land notify their tenant(s) and/or post the notice in prominent location(s) within the building such as in common areas, front lobby, laundry area, and mail room.

Existing *Planning Act* and Official Plan requirements would continue to apply as the standard. Should a policy be adopted that would include direction that would require that notice be sent to tenants, such policy would not be possible to implement and would likely fail. This is largely due to the lack of reliable data for tenant occupancy. Such a policy approach would increase the potential for appeals to an Appeal Tribunal due to lack of notification, should the standards be changed to require tenant notification.

In situations where Staff are aware of rental dwellings located within the circulation radius, efforts will be made to request that the owner of the property notify their tenant and/or post the notice in prominent location(s) within the building such as in common areas, front lobby, laundry area, and mail room. In addition, Planning Services and Development Services staff will utilize best efforts to provide all properties within a planning application area with a mailed notice regardless of ownership / tenancy.

Policy that speaks to providing best efforts to utilize enhanced measures where appropriate, that go beyond the minimum requirements of the *Planning Act* is appropriate in this regard. Council's direction can be achieved by adding policy that the City of London may provide public notification and public liaison notices, to the best of the City's ability, to Tenants within 120 metres (400 feet) of the area to which the proposal applies.

It is also important to note that current improvements to other methods of notification, such as signage and websites will increase the number of notified residents, including tenants, within a planning application area.

CONCLUSION

Staff recommend amendments to The London Plan and Official Plan to add a new policy that the City of London:

Will provide best efforts to utilize enhanced notification measures, where appropriate, that go beyond the minimum requirements of the *Planning Act*. This includes adding policy that the City of London may provide public notification and public liaison notices, to the best of the City's ability, to Tenants within 120 metres (400 feet) of the area to which the proposal applies, where possible. This approach will put in place a practice by Planning Services and Development Services staff as outlined in section 4.6 of this report that would implement the direction of Council from June 26, 2017, while also exceeding provincial requirements for tenant notification.

The City of Burlington and The City of Guelph have included such policy within their Official Plan, noting that no other municipality in the province provides notice to tenants for planning applications

The key issue preventing the success of a tenant notification policy is that there are limited reliable sources of information to obtain the names and addresses of tenants. A prescriptive policy requiring notification to all tenants within a planning application area could result in risk of appeals, delays to Planning reviews, increased costs and unreliable expectations of residents.

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Note: The opinions contained herein are offered by a person or persons qualified to provide expert opinion. Further detail with respect to qualifications can be obtained from Development Services and Planning Services.