

To: Tenant Defence Sub-Committee

From: Phil Brown
General Manager, Shelter, Support and Housing Administration Division

Date: January 11, 2008

Subject: Tenant Request for Funding in respect of 150 Finch Avenue West (Ward 25 – Don Valley West)

Ms. Giraldo first requested the City's help in obtaining proper compensation under the Tenant Protection Act in September 2005. The request stemmed from actions taken by her landlord in January 2003 to evict the four tenants living at 150 Finch Avenue West. All tenants vacated by March 2003, and none were provided with financial compensation (up to three months rent) or the right to re-occupy their units once construction work was completed.

Since September 2005, staff of Shelter Support and Housing Administration Division reported to the January 6, 2006 meeting of the Tenant Defence Sub-Committee that providing a grant would not assist the tenants' in disputing the eviction because the time limit for taking legal action had passed. On September 25, 2007, the City Solicitor reported to the Sub-Committee that a grant would not likely be of assistance as the time limits have passed, and that there do not appear to be any further avenues available to the tenants.

At the September 25, 2007 meeting Ms. Giraldo, a tenant of 150 Finch Avenue West, made a deputation. She requested that a grant of up to \$4,000 from the Tenant Defence Fund be provided to cover expenses incurred by the tenants for legal representation before the Tribunal. In addition to the two applications/orders that Ms. Giraldo had previously provided to the Sub-Committee in 2005, she advised that there were two additional applications/orders. In total, Ms. Giraldo has filed two applications about this matter and two requests for review. All four resultant orders were dismissals.

As new information was provided by the tenants, the Sub-Committee requested the General Manager of Shelter, Support and Housing Administration to report at its next meeting on Monday, November 12, 2007, on a review of the new information submitted by the speaker.

I am providing this report in response to the Sub-Committee's request.

Obtaining Required Documents

On October 26, 2007, staff received copies of the additional documentation: two Tribunal orders and two requests for review of an order. In addition, staff requested copies of invoices for legal

expenses. On January 8, 2008, staff received invoices for legal expenses incurred by Ms. Giraldo and her fellow tenants over the course of their applications and requests for reviews of the Tribunal orders. The total amount of expenses related to the applications, including the application fees and costs for paralegal services, photocopying and Tribunal transcripts, was \$4,681.

Review of Additional Information

Attached is a chronology of events for this file, with a table highlighting the additional information provided by Ms. Giraldo. To summarize:

- 1) Four tenants each occupied a room in a dwelling, and one of the four was given a handwritten notice of termination January 31, 2003 due to “construction”. All four tenants moved out by March 31, 2003. None received proper financial compensation or right of first refusal to reoccupy their unit after construction was completed.
- 2) The tenants applied for an order about the lack of compensation and that the notice was given in bad faith. The application was dismissed December 2, 2003, primarily on the grounds that no case was presented by the tenants and that the landlord was not given proper notice of the hearing.
- 3) The tenants applied for a review of the December 2003 order. The Tribunal upheld the original dismissal.
- 4) The tenants applied again on March 31, 2004, citing the same reasons given on their first application. This application was dismissed on May 28, 2004 because it was filed more than one year after the day of the “alleged conduct giving rise to the application”.
- 5) The tenants applied for a review of the May 2003 order. The Tribunal upheld the original dismissal.

After reviewing the additional information submitted by the tenant, and reconsidering the information provided previously, staff are not recommending any changes to the conclusions reached in its prior report dated October 27, 2005, which was before the Sub-Committee at its meeting of January 6, 2006:

Normally, in a situation where tenants are evicted because the landlord applies for demolition or conversion of the building, it is within the mandate of the Tenant Support Grants Program to approve a grant where there has been an Ontario Municipal Board hearing, and in my opinion, it would likely have been within the spirit and intent of the Program to have provided some support to the tenants in this particular situation. However, in view of Legal staff's comments, it appears that a grant would not assist this tenant to dispute the eviction as the time limits for taking legal action have passed.

This report responded to the tenant's request for support to take further action. Ms. Giraldo is now requesting that a grant be provided to cover up to \$4,000 in costs incurred for prior action.

Assessing the fairness of providing funding for actions that were taken in the past is always difficult. In this case, the tenants' did not request funding in advance of taking action against the landlord which is the approach used for the program. The tenants also did not take advantage of the expertise available from the Outreach and Organizing program. Had Ms. Giraldo applied for a grant at the time of the first application in 2003, it is possible that the Sub-Committee may have

recommended that Council approve a grant to cover the costs of that application, had they decided that it was within the spirit and intent of the Tenant Support Grants Program. It is also possible that the outcome of the first application may have been better had the tenant engaged with the Outreach and Organizing program to assist in preparing a case, and the additional applications may have been avoided.

Staff sympathize with the tenants about the loss of their homes in 2003. However, we remain concerned about the example that would be set should a decision be made to fund actions taken by tenants without prior approval and advice. This approach could open the door to numerous claims to fund costly and sometimes inappropriate legal actions taken by tenants, without the benefit of timely and complete information, the ability to direct what actions should be taken or should be avoided, and the ability to consider the claim within a current funding and policy context.

Phil Brown

Attachment: Chronology of Events