

Rental Guide
Saturday March 27, 2010

Higher property taxes mean higher rents for tenants

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CITIZEN ADVERTISING FEATURES

Source: **DICKIE & LYMAN LLP**, who practice landlord/tenant law and other areas of law.

QUESTION:

I have a question about property taxes as they affect tenants. A group called Tenants and Landlords for Fair Taxation put up notices in my building which said that tenants pay property taxes through our rent and that Ottawa City Council plans to increase tenants' property taxes by four per cent, which will increase my rent. I e-mailed my City Councillor and she said all rent increases are limited by the annual guideline regardless of how much the property taxes go up. Who is right?

ANSWER:

The City of Ottawa currently charges a property tax rate of 1.7 per cent on the assessed value of multi-residential rental properties, while it charges one per cent on single family homes. Compared to most other large Ontario cities that ratio of 1.70 between those tax rates is low, but compared to large cities across Canada that ratio is high.

Tenants, tenant advocates and landlords want to reduce the differential, and some City Councillors agree. Other Councillors want to leave the differential in place to avoid the increase on home owners' taxes which would be needed to pay for the reduction (\$7 per year for the proposed 2010 ratio reduction from 1.70 to 1.65).

When Tenants and Landlords for Fair Taxation (TLFT) wrote that tenants pay property taxes through their rents, they may have had a number of factors in mind. Under the income tax system tenants report 20 per cent of their rent as property taxes to calculate their claim for the provincial property tax credit, just as homeowners report the property tax they pay directly.

Under rent control, if a building experiences a tax increase higher than a certain amount, then the landlord can apply for an above-guideline rent increase to recover the extra cost increase. If the 2010 taxes on rental buildings increase by more than one per cent, then landlords will be able to obtain higher rent increases.

If a building receives a tax decrease of more than 2.5 per

cent the landlord is required to reduce every tenant's rent by an amount that equals the tax decrease. In fact, provincial law requires the City to give notices to the owners and the tenants of most such buildings, so that both landlords and tenants know their obligations.

Finally, economists study "tax incidence" to determine who ultimately ends up paying particular taxes. Those studies show that almost all property tax on rental buildings is ultimately paid by tenants through their rents. Landlords charge rents to recover their costs and then to earn a profit to pay for the money they invest and the risks they take. Higher costs mean higher rents, and lower costs mean lower rents.

What your Councillor wrote is also true, but it does not tell the whole story. The annual guideline limits rent increases. However, as noted above, a landlord can apply to the Landlord and Tenant Board (LTB) for approval to impose an "above-guideline" rent increase if the taxes go up significantly. If the City continues to apply a multi-residential tax ratio of 1.70 most landlords will be entitled to apply to increase rents above the guideline.

When landlords apply for above-guideline rent increases for property taxes or utilities, the LTB applies the relevant mathematical formula. There is no defense that tenants can mount to prevent the above-guideline rent increase. In that respect the LTB rules reflect the fact that the occupants of the properties need to pay the cost of operating them.

The only way to avoid such increases being applied to tenants is for the City to refrain from levying the tax increase on rental property. City Council can do that by reducing the multi-residential tax ratio to below 1.70.

Send questions for rental experts or suggestions for topics to Rental Guide, c/o Pamela Eadie, Ottawa Citizen Advertising Features, 1101 Baxter Road, Ottawa, K2C 3M4 or by e-mail to peadie@thecitizen.canwest.com. Selected questions will be answered in future columns only. For immediate assistance call the Landlord Tenant Board at 1-888-332-3234.