



Update on Tenant Led Improvements in Basement Spaces

Item 8

October 27, 2023

Board of Directors

Report: TCHC:2023-39

To: Board of Directors (the “Board”)

From: Tenant Services Committee

Date: October 16, 2023

PURPOSE:

The purpose of this report is to provide the Board with a summary of prior reports to the Tenant Services Committee in relation to the proposal to facilitate tenant led improvements to the basement spaces of rental properties within the TCHC portfolio and to seek the Board’s direction on the request to facilitate such improvements.

RECOMMENDATIONS:

It is recommended that the Board provide direction to TCHC staff in relation to any future action to be taken in pursuit of this initiative in response to management’s recommendations that TCHC amend its existing policies to allow tenants to complete the following improvements to basement spaces that did not require a building permit:

1. Painting of existing ceilings or walls;
2. Installation of drapes or window covering;
3. Installation of loose flooring/area rugs;
4. General decorating; and
5. Placement of furniture required to permit virtual learning, work from home or other activities.

REASONS FOR RECOMMENDATIONS:

Decision History

At its series of meeting held on March 29, 2022, September 22, 2022, February 17, 2023 and July 13, 2023 the Tenant Services Committee (“TSC”) received a reports that responded to a request, made by Director Farah, that TCHC consider tenant led improvements to basement spaces in the TCHC portfolio. The reports, indicated that, following consultation by TCHC’s Facilities Management Division with Legal Services, Risk and Insurance, and regional staff, TCHC proposed to amend its existing policy to allow tenants to complete the following improvements to basement spaces that did not require a building permit:

1. Painting of existing ceilings or walls;
2. Installation of drapes or window covering;
3. Installation of loose flooring/area rugs;
4. General decorating; and
5. Placement of furniture, including movable privacy screens, required to permit virtual learning, work from home or other activities.

The reports advised that tenant led basement renovations requiring a building permit should not be permitted in the absence of the introduction of operational controls, and the addition of necessary staff, to ensure that such renovations are conducted in a manner that complies with TCHC’s legislative, regulatory and collective agreement obligations and that TCHC does not support nor recommend this approach.

At its July 13, 2023 meeting, the TSC directed management to report to the Board of Directors regarding the implications of proceeding with a pilot for tenant led improvements in basement spaces.

[Tenant Services Committee \(TSC\) Meeting - March 29, 2022](#)

[Item 7D - Tenant-led Improvements in Basement Spaces 220315.pdf](#)

[Tenant Services Committee \(TSC\) Meeting - September 20, 2022](#)

[Item 8 - Update On Tenant Led Improvements In Basement Spaces](#)

[Tenant Services Committee \(TSC\) Meeting - February 17, 2023](#)

[Item 7 - Update on Tenant Led Improvements in Basement Spaces](#)

[Tenant Services Committee \(TSC\) Meeting - July 13, 2023](#)

[Item 7A – Update on Tenant Led Improvements in Basement Spaces](#)

Background

Currently, basement spaces in TCHC properties are unfinished and are intended, primarily, to be house mechanical equipment, laundry facilities and storage. However, the unfinished nature of the space does not, necessarily render it unusable by households in conjunction with their tenancies. There are approximately 6,000 basement spaces in the TCHC portfolio.

During the COVID-19 pandemic, tenants and their families were remaining home more often due to virtual educational learning and work from home policies. A request was made at TSC to review its policy to allow tenants to make improvements to basement spaces so that they may be used as additional space to facilitate these at home activities.

Facilities Management, Operations, Legal Services, and Risk and Insurance staff and TCHC's external consultant, Taylor Smith Architects ("Taylor Smith"), are all of the opinion that tenant led basement renovations requiring a building permit should not be permitted in the absence of the introduction of operational controls, and the addition of necessary staff, to ensure that such renovations are conducted in a manner that complies with TCHC's legislative, regulatory and collective agreement obligations. TCHC does not support nor recommend this approach.

Facilities Management staff examined the potential improvements that TCHC tenants might undertake to the basement spaces of their rental properties. In support of those investigations, TCHC management engaged the services of a third party consultant, Taylor Smith, to review basement renovations in TCHC buildings. Taylor Smith confirmed advice, previously received from Toronto Building staff, that the renovations to basement spaces in TCHC buildings would require a building permit in order to ensure compliance with the *Building Code* and the *Fire Code* in connection with the work. In the absence of a building permit, TCHC tenants could pursue the following improvements to basement spaces to make them more habitable, as described in the recommendation to this report.

TCHC management undertook an environmental scan of other social housing providers. Those housing providers consulted, which included Ottawa, Hamilton and Windsor housing, reported that they do not have a policy governing tenant led renovations of basement space, as they do not permit tenants to make alterations to basement spaces.

TCHC management has, further consulted with representatives of both Housing Services Corporation (“HSC”) and Marsh LLC (“Marsh”), who manage its insurance program. From a Risk and Insurance perspective, HSC and Marsh continue to caution against permitting tenant led alterations to TCHC basement spaces, other than those previously presented in the background above, unless TCHC manages and oversees the entire process to mitigate liability concerns. As TCHC is not staffed or funded to complete and manage this type of discretionary work, adopting such an approach would result in the need to allocate additional resources to TCHC’s Facilities Management Division, resulting in budget pressures in future years. As well, these alterations could impact TCHC’s insurance coverage, in the event of any claims related to deficiencies arising from the performance of the work. TCHC’s property insurance coverage specifically excludes claims related to the cost of making good faulty or defective workmanship, material, construction or design.

The advice from HSC and Marsh is that, while TCHC’s insurance does include coverage for cosmetic changes such as painting, installation of drapes and window coverings, it does **not** cover improvements made by tenants to any structural, electrical, mechanical, plumbing or heating. The only time alterations or additions to structural, electrical, mechanical, plumbing or heating is covered under our insurance is when this work is completed by TCHC, as owner.

Additional Considerations

In response to TSC’s request, at its February 17, 2023 meeting, TCHC management has engaged with the City of Toronto’s Housing Secretariat’s office requesting any applicable comments or direction in relation to allowing tenant led improvements to basement spaces in TCHC single family homes, which would be pertinent to the development of a pilot program. Specifically, TCHC sought feedback from the Housing Secretariat with respect to:

- Would such a pilot be supported / allowed;
- Providing an opinion on the implications of additional bedroom space being added (e.g.: would that trigger a rent increase or an over-housed situation); and
- Providing any other information regarding this direction

At the TSC's meeting of July 13, 2023, it directed management to refer this matter to the Board following consultation with the Housing Secretariat. In this regard, TCHC management contacted staff with the Housing Development, Renewal & Improvement Unit of the Housing Secretariat's Office. On October 18, 2023, TCHC management received confirmation from staff with that unit the Housing Secretariat that it had no position in relation to this matter and that a determination regarding the initiative rested with TCHC and its Board.

If TCHC was to initiate a pilot to facilitate this work, TCHC management would recommend that it entail:

- TCHC applying for any permits as owner of the property;
- A requirement that tenants prove they had sufficient funding, as detailed below, for the renovations to:
 - Engage the services of a consultant to design the renovations;
 - Pay for any permits;
 - Engage the services of a contractor to complete the contemplated work; and
- TCHC would need to set up an inspection process as it has with all construction projects it undertakes.

Should the Board determine that TCHC should allow tenants to complete basement renovations that require a building permit, which is not recommended by TCHC management, it is recommended that tenants be required to prove they have a minimum of \$30,000 in available funds (e.g. in a bank account, through a borrowing vehicle etc.) prior to a project being undertaken. These funds would be required to retain the services of a qualified consultant and for estimated construction costs. The amount may prove sufficient to complete a very basic basement renovations that contemplates some minor electrical work but does not entail plumbing work and assumes no pre-existing conditions, such as moisture issues that require remediation. An appropriate agreement between TCHC and the tenant, governing the performance of the renovation work, would be required.

Once available funding is confirmed and the appropriate agreement executed, a TCHC approved architect would need to be hired, and provided a retainer for their services, to scope and design the project and provide a cost estimate. The tenant would then need to demonstrate that sufficient funds were available to undertake the project prior to an application for permit. Once the permit was obtained, a TCHC approved contractor, bound to the appropriate construction trades, would be required to complete the work.

It is important to note that if a tenant were to leave the property, they would not be reimbursed for any such changes.

Moving forward with such an initiative would require:

- Additional FM staff who would be required to:
 - manage these renovations due involvement of FM staff in securing the proper permits and ongoing oversight of any renovations being made in our buildings; and
 - manage the involvement of Toronto Building staff in relation to inspection and monitoring of any tenant led renovations;
- Consideration of potential legal, insurance and fire safety concerns and risks that could be created by these renovations;
- Potentially negative consequences for tenants due to changes to bedroom count in units; and
- Additional capital funding to initiate such a program. Given the nature of the work contemplated in this initiative, use of funds that support TCHC's SOGR Program is not available to support this work.

RISKS AND IMPLICATIONS:

As the owner of all properties that might be impacted by this initiative, the risk to TCHC associated with advancing this work is significant. TCHC's Legal Services Division advises that such risks include but are not limited to:

- risk that TCHC may receive grievances due to this work being done by third parties;

- risk that such work may not be undertaken in a manner that is consistent with TCHC's procurement processes, collective agreement obligations, or its fair wage policy;
- risk that such work may not be undertaken in a manner that is consistent with TCHC's legislative and regulatory obligations;
- risk that construction undertaken by a third party could undermine the structural integrity of a TCHC property;
- risk that TCHC may need to assume the cost of completion of work commenced but unfinished and related risk of construction liens being registered against TCHC properties as a result;
- risk that third parties retained to perform construction work will not carry sufficient insurance to protect against related risks;
- risk of liability claims during and after construction; and
- risk of property claims during and after work is completed.

To date, the TCHC has agreed in principle to amend our policy to allow renovations that do not requiring a permit (as noted in the recommendation to this report). The proposed alterations have been reviewed and agreed upon by the Facilities Management Division, Legal Services, Risk and Insurance, and regional staff.

SIGNATURE:

"Allen Murray"

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