

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

WINDSOR HOUSING PROVIDERS INC.

Applicant,

- and -

WINDSOR (CITY)

Respondent.

APPLICATION RECORD

May 4, 2023

**STEVEN PICKARD LAW
PROFESSIONAL CORPORATION**

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**ONTARIO
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B E T W E E N:

WINDSOR HOUSING PROVIDERS INC.

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WINDSOR (CITY)

Respondent.

NOTICE OF APPLICATION
(Re: Windsor By-law 14-2023)

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the applicant. The claim made by the applicant appears on the following page.

THIS APPLICATION will come on for a hearing (*choose one of the following*)

X By video conference

at the following location

245 Windsor Avenue, Windsor, ON

on Tuesday May 16, 2023 at 10:00 am (*or on a day to be set by the registrar*).

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application, you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the Rules of Civil Procedure, serve it on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the applicant's lawyer or, where the applicant does not have a lawyer, serve it on the applicant, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

DATE 04/24/2023

Issued by

Bailey E
Trotti

Digitally signed by
Bailey E Trotti
Date: 2023.04.24
14:42:24 -04'00'

Address of
court office

Registrar
245 Windsor Avenue
Windsor, ON

TO: WINDSOR (CITY)
350 City Hall Square West
Windsor, Ontario, N9A 6S1

APPLICATION

1. THE APPLICANT makes application for:
 - a) An Order abridging time for service and filing.
 - b) An Order validating service upon the Respondent by email;
 - c) An Order quashing Windsor by-law 14-2023 (the "By-Law");
 - d) An interim Order that the nothing shall be done under the By-law until the within application is disposed of pursuant to section 273(4) of the *Municipal Act, 2001*;
 - e) Costs; and
 - f) Such other relief that the Court deems just.
2. THE GROUNDS for this Application are:
 - a) *Municipal Act, 2001*, SO 2001, c 25.
 - b) *Constitution Act, 1897*.
 - c) *Canadian Charter of Rights and Freedoms*.
 - d) *Residential Tenancies Act*, SO 2006, c 17.
 - e) *Human Rights Code*, RSO 1990, c H.19.

- f) The Respondent, the City of Windsor ("Windsor"), enacted the By-law on February 13, 2023.
- g) the By-law is named: "*A By-Law To Establish A Licensing Program For The Regulation Of Residential Rental Housing In The City Of Windsor*".
- h) The stated purpose of the By-law is "*to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas*".
- i) The requirement for compliance with the By-law comes into force June 1, 2023.
- j) Windsor is comprised of ten municipal electoral wards numbered 1 to 10. Ward 1 is the home of St. Clair College. Ward 2 is the home of the University of Windsor.
- k) The By-law was passed for an improper purpose, being the regulation of post-secondary student housing which is not the stated purpose of the By-law.
- l) The main debate and decisions related to the of the substance, purpose and passing of the By-law was done in closed meetings of council contrary to s. 239(1) of the *Municipal Act, 2001*.

m) The By-law unlawfully and arbitrarily discriminates against businesses of the same class based on geography without any authority or purpose.

n) The By-law is illegal as it is ultra-vires Municipal powers by unlawfully and arbitrarily imposing further sentences/sanctions on those who have already been sentenced of a criminal offence and as such involves the exercise of the criminal law power exclusively vested in the Parliament of Canada pursuant to s. 91(27) of the *Constitution Act, 1897*.

o) The By-law contravenes the freedom of expression guaranteed to the Applicant and others under section 2(b) of the *Canadian Charter of Rights and Freedoms* (the *Charter*) which cannot be justified under section 1.

p) The By-law contravenes equality rights based on age guaranteed to the Applicant and others under sections 15(1) and 6(2) of the *Charter* which cannot be justified under section 1. These provisions also violate sections 4(1) and 5(1) of Ontario's *Human Rights Code*.

q) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to be subject to invasions of privacy.

r) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to be resident in Windsor or to have an agent resident in Windsor (the "Residency Requirement"). Residency Requirement contravenes mobility rights to the Applicant and others under section 6 of the *Charter* which cannot be justified under section 1.

Residency Requirement unlawfully and arbitrarily discriminates against businesses of the same class based on geography without any authority or purpose.

- s) The By-law unlawfully conflicts with the *Residential Tenancies Act* (the “RTA”) by restricting the rights of tenants to sub-lease as provided for under Sec 95(5) or the RTA.
 - t) The By-law regulates non-businesses and non-business activities and requires non-businesses to be licenced in order to sub-lease, advertise for sub-lease or otherwise make any public statement regarding the availability of a rental property.
 - u) The By-law unlawfully, arbitrarily and without purpose or authority retains the right to deny a license on the basis of “*Financial impact to the City*”.
 - v) The By-law unlawfully, arbitrarily and without purpose or authority requires licensees to permanently maintain licenses at a location despite the cessation of a rental business at a location. The failure to renew an license automatically revokes the person’s right to hold any license under the By-law at any other location for said failure to renew.
 - w) The By-law unlawfully, arbitrarily and without purpose or authority automatically cancels licenses should the any of the licensee’s application information changes, including but not limited to phone number, address or name or in the case of a corporation, it’s officers or directors.
 - x) The By-law unlawfully and without purpose or authority charges multiple persons the same licence fees for the same unit, thereby constituting a tax under the *Municipal Act, 2001*.
3. The following documentary evidence will be used at the hearing of the application:
- a) An affidavit on behalf of the Applicant yet unsworn;

b) Such further and other evidence as counsel may advise and the Court may permit.

April 24, 2023

STEVEN PICKARD LAW
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WINDSOR HOUSING PROVIDERS INC.

and

WINDSOR (CITY)

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**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor, Ontario

NOTICE OF APPLICATION

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AFFIDAVIT OF BORYS SOZANSKI

I, Affidavit of Borys Sozanski, of the City of Etobicoke, Province of Ontario, MAKE OATH AND SAY AS FOLLOWS:

1. I am the President of the corporate Applicant in this Application and as such have knowledge of the within matters. Where my evidence is based on information or belief, I verily believe that it is true and I will identify the source of that information or belief.
2. Windsor Housing Providers Inc. (“WHP”) is a not-for-profit Ontario corporation under the *Not-for-Profit Corporations Act, 2010*.
3. The purposes of WHP are: “*Advocacy and Education related to Rental Housing in Windsor, ON*”. Attached hereto and marked as **Exhibit 1** is a true copy of the Articles of Incorporation.
4. WHP was formed by a large group of housing providers in the City of Windsor to represent their interests in the rental housing market in Windsor and to educate other housing providers as to their rights and interests. The members of the not-for-profit are corporations, partnerships, and individuals that come from Windsor, Toronto, Michigan, and other locations. Currently WHP has approximately 200 members who are Windsor housing providers and the number grows each week.

5. I am also a housing provider in the City of Windsor and I joined WHP so that it could also represent my interests with respect to this By-law or any other issues that affect my business.

6. Among other properties, I own [REDACTED] Windsor, ON. I rent these addresses and these addresses conform to the *Fire Code*, the *Building Code*, and property standards.

7. The rental of my properties is my employment. I manage the properties myself and I ensure that they are well cared for and conform to the law.

8. On February 13, 2023, the City of Windsor (“Windsor”) passed by-law 14-2023 (the “By-law”) which purports to be a licencing regime “*to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas*”. Attached hereto and marked as **Exhibit 2** is a true copy of the By-law.

9. Despite conforming with all of the stated objectives of the By-law, I cannot obtain a license for my properties without hiring “someone” who will act as my “Local Contact”. The effect of this is to terminate my employment as property manager forcing me to hire a Local Contact who is “*an Individual Person, whether an Owner or an Operator, who is responsible for the care and control of the Rental Housing Unit and who resides within the City of Windsor.*”

10. Even if I obtain a licence, I will not be able to market my properties on-line as is my custom and part of my business model according section 4.2 of the By-law:

No person shall do any of the following, other than at a location for which

a Licence has been issued under this by-law: ... (d) Market, or permit to be Marketed, a Rental Housing Unit; or (e) Hold a Rental Housing Unit out as being licensed.”

11. If I was licensed and had a Local Contact, I still can't even "hold out" that I have rental units as being licensed unless I am standing at the exact property.

12. The effect of the By-law is to shut down my rental property business for no discernable reason other than the fact that my Driver's Licence address is in Etobicoke. Attached hereto and marked as **Exhibit 3** is a true copy of my Drivers's Licence.

13. I believe this is a violation of my *Charter* rights under section 2b (freedom of expression) and 6(2) (right to a livelihood).

14. I believe one of the objectives of the By-law is to create a database of rental units and housing providers and their particulars. I do not believe that the City of Windsor has the right to my private information, nor should they be able to retain it in a database. I do not believe that they have a right to force me to submit to a criminal records check, have access to my insurance information, or answer any questions "*as may be requested by the Commissioner.*"

15. I do not believe that By-law enforcement officers should be permitted to enter my rental properties "*at any reasonable time*".

16. I have never been convicted of any murders, rapes, or any of the crimes listed in 5.4(b), however, it is an invasion of my privacy that can never be corrected if I am forced to provide a criminal records check and then the By-law is deemed unlawful.

17. If I am obliged to apply for licenses for my properties providing all of the sweeping personal information that they seek, and should the By-law ultimately be quashed, then I feel that my privacy has been illegally violated by this By-law and I can never get my privacy back.

18. If By-law enforcement officers use the entry powers vested in them under the By-law and should the By-law ultimately be quashed, then the privacy of myself and my tenants will be violated.

19. I believe these provisions are a violation of my *Charter* rights under section 8 (freedom from unreasonable search) and human rights under section 5 of the *Human Rights Code*.

20. Windsor Housing Providers Inc. will give an undertaking for damages should this Court grant the relief sought under section 273(4) of the Municipal Act, 2001 and should this Court require such an undertaking. However, I know of no damages that the City may incur and the Applicant request that they be relieved from any such undertaking.

21. I make this affidavit in support of the within Application and for no other or improper purpose or delay.

Affirmed by videoconference by Borys Sozanski at the City of Etobicoke, ON before me at the Municipality of Chatham-Kent, ON on May 4, 2023 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits

Affirmed over videoconference

Borys Sozanski

This is **Exhibit 1** of the Affidavit
Of Borys Sozanski sworn May 4, 2023



A Commissioner for Taking Affidavits

6. The special provisions are:

a. Commercial purposes, if any, included in the articles are intended only to advance or support one or more of the non-profit purposes of the corporation. No part of a corporation's profits or of its property or accretions to the value of the property may be distributed, directly or indirectly, to a member, a director or an officer of the corporation except in furtherance of its activities or as otherwise permitted by this Act.

7. The name(s) and address(es) of incorporator(s) are:

Full Name

BORYS SOZANSKI

Address for Service

Full Name

DIANE CHAUVIN

Address for Service

Full Name

JOSEPH PETER PAPIC

Address for Service

The articles have been properly executed by the required person(s).

The endorsed Articles of Incorporation are not complete without the Certificate of Incorporation.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar, Ministry of Public and Business Service Delivery

Supporting Information - Nuans Report Information

Nuans Report Reference #

121868185

Nuans Report Date

April 05, 2023

The endorsed Articles of Incorporation are not complete without the Certificate of Incorporation.

Certified a true copy of the record of the Ministry of Public and Business Service Delivery.

V. Quintanilla W.

Director/Registrar, Ministry of Public and Business Service Delivery

This is **Exhibit 2** of the Affidavit
Of Borys Sozanski sworn May 4, 2023



A Commissioner for Taking Affidavits

BY-LAW NUMBER 14-2023

A BY-LAW TO ESTABLISH A LICENSING PROGRAM FOR THE REGULATION OF RESIDENTIAL RENTAL HOUSING IN THE CITY OF WINDSOR

Passed the 13th day of February, 2023.

WHEREAS Section 8(1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, (the “Municipal Act”) provides that the powers of a municipality shall be interpreted broadly as to confer broad authority on a municipality to (a) enable it to govern its affairs as it considers appropriate, and (b) enhance its ability to respond to municipal issues;

AND WHEREAS Section 151(5) of the *Municipal Act* provides that a municipality may pass by-laws with respect to any activity, matter or thing for which a by-law may be passed under Sections 9, 10 and 11 as if it were a system of licences with respect to a business;

AND WHEREAS Section 391 of the *Municipal Act* provides for the municipality to impose fees or charges on persons for services or activities provided or done by or on behalf of it;

AND WHEREAS Section 425 of the *Municipal Act* provides for a municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under the Act is guilty of an offence;

AND WHEREAS Section 426 of the *Municipal Act* provides that no person shall hinder or obstruct, or attempt to hinder or obstruct, any person who is exercising a power or performing a duty under the *Municipal Act* or under a by-law passed under the *Municipal Act*;

AND WHEREAS Section 429 of the *Municipal Act* provides for the municipality to establish a system of fines for offences under a by-law of the municipality passed under the *Municipal Act*;

AND WHEREAS Section 431 of the *Municipal Act* provides that if any by-law of the municipality is contravened and a conviction entered, in addition to any other remedy and to any penalty imposed by the by-law, the court in which the conviction has been entered and any court of competent jurisdiction thereafter may make an order to prohibit the continuation or repetition of the offence by the person convicted;

AND WHEREAS Sections 444 and 445 of the *Municipal Act* respectively, provide for the municipality to make an order requiring a person who contravenes a by-law or who causes or permits the contravention or the owner or occupier of land on which a contravention occurs to discontinue the contravening activity or do work to correct a contravention;

AND WHEREAS the Council for The Corporation of the City of Windsor considers it necessary and desirable for the public to regulate the renting of residential premises for the purpose of protecting the health and safety of the persons residing in residential rental premises by ensuring that certain regulations are met, that the required essentials such as plumbing, heating and water are provided, for ensuring that the residential rental premises do not create a nuisance to the surrounding properties and neighbourhood and to protect the residential amenity, character and stability of residential areas;

THEREFORE the Council of The Corporation of the City of Windsor enacts this by-law to licence residential rental housing within the jurisdictional boundaries of the City of Windsor as follows:

1 Short Title

1.1 This by-law may be cited as the Residential Rental By-law.

2 Definitions

2.1 In this by-law:

“Applicant” means a person seeking to become licensed under this By-law (i.e., become a Licensee) and who, either in person or through an Authorized Agent, makes such an application;

“Authorized Agent” means a person authorized in writing by an Applicant or Licensee to act on behalf of such Applicant or Licensee for the identified purpose of making an application, renewing a Licence, or otherwise complying with the provisions of this By-law;

“Bed-and-Breakfast or Guest House Establishment” means a home-based business for the temporary accommodation of the traveling public located within a single detached dwelling which is occupied on a full-time basis by the owner of such single detached dwelling or the principal shareholder (or one of them if more than one shareholder holds the greatest number of shares) of the corporation registered as the legal owner of the Building, including during the time the Bed and Breakfast or Guest House is in operation, and shall contain at least one (1) bedroom for the exclusive use of the owner and at least two (2) accessory guest rooms for use in the Bed and Breakfast or Guest House operation, and shall mean and include any Bed and Breakfast or Guest House legally established under any predecessor by-law, but shall not include a Lodging House, Hotel, or Short-Term Rental;

“Building” means a structure, whether permanent or temporary, with walls or a roof or part thereof, used or intended to be used for shelter, accommodation or enclosure of persons, animals, goods or chattels;

“Building Code” means Ontario Regulation 350/06, as amended under the *Building Code Act, 1992*, S.O.1992, c.23, as amended;

“Business Licensing By-law” means the City’s Business Licensing By-law 395-2004, as amended, or its successor by-law;

“Chief Building Official” means the Chief Building Official for the City or their delegate;

“Chief of Police” means the Chief of Windsor Police Service, or their delegate;

“City” means The Corporation of the City of Windsor or any person authorized to act on behalf of the Corporation for the purposes of exercising its powers under this By-law;

“Contact Information” means, but is not limited to:

- (a) Mailing address;
- (b) Telephone number;
- (c) E-mail address; and
- (d) Emergency contact;

“Dwelling Unit” means a room or suite of rooms in a Building used or designed to be used by one (1) or more individuals as an independent and separate housekeeping unit;

“Fire Chief” means the Chief of Windsor Fire and Rescue Services, or their delegate;

“Fire Code” means O. Reg. 213/07, as amended, under the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4, as amended;

“Ice and Snow By-law” means the City’s Ice and Snow Removal By-law 8544, as amended, or its successor by-law;

“Individual Person” means a natural person;

“Licence” means the certificate issued under this By-law as proof of licensing under this By-law;

“Licence Commissioner” means the Licence Commissioner for the City and shall mean and include any delegate or delegates of the Licence Commissioner for the City as well as any successor position to the Licence Commissioner carrying out the responsibilities of the Licence Commissioner at the time of the passing of this By-law;

“Licensee” means a person, corporation or partnership who has been issued and maintains a valid Licence pursuant to the terms of this By-law;

“Local Contact” means an Individual Person, whether an Owner or an Operator, who is responsible for the care and control of the Rental Housing Unit and who resides within the City of Windsor;

“Market”, “Marketed” or “Marketing” means offering, facilitating, or causing or permitting to offer or facilitate, directly or indirectly, the sale, promotion, canvassing, solicitation, advertising, or marketing of part or all of a Rental Housing Unit, and includes placing, posting or erecting advertisements physically or online;

“Medical Officer of Health” means the Medical Officer of Health for the Municipality of Windsor, Ontario;

“Noise By-law” means the City’s Noise By-law 6716, as amended, or its successor by-law;

“Officer” means a Provincial Offences Officer or Municipal Law Enforcement Officer of the City, or any other person appointed by or under the authority of a City by-law to enforce this By-law;

“Ontario Police Service” means a police service established in Ontario under the *Police Services Act, R.S.O. 1990, c. P.15*, as amended;

“Operate”, “Operated” or “Operating” means to rent out, provide, offer to rent out or provide, or cause to be Marketed, the offer or rental, whether directly or indirectly, including, without limitation, via the internet or other

electronic platform, of a Rental Housing Unit and shall include a person collecting a fee or handling payments in respect of a Rental Housing Unit;

“Operator” means any person who operates, maintains, or is otherwise responsible for managing or addressing issues in relation to a Rental Housing Unit but is not an Owner;

“Order” means a direction issued by the City under statutory authority, including but not limited to orders under the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, including section 9.5 of this by-law, the *Building Code Act, 1992*, S.O. 1992, c. 23, as amended, and the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended;

“Owner” includes:

- (a) Each registered owner of a Rental Housing Unit;
- (b) Each person who permits occupancy of a Rental Housing Unit; and
- (c) The heirs, assigns, personal representatives and successors in title of a person referred to in articles (a) and (b);

“Parking By-law” means the City’s Parking By-law 9023, as amended, or its successor by-law;

“Person” means an individual person, a partnership, or a corporation (including any of such corporation’s affiliates, subsidiaries or parent corporations, as the case may be) to which the context can apply and “Person” shall also include multiple persons who, acting together, operate or offer to operate a Rental Housing Unit, despite the fact that no single one of those persons carries on the activity in its entirety;

“Prohibited Ground” means the prohibited grounds of discrimination as provided for under the *Ontario Human Rights Code*, R.S.O. 1990, c. H.19;

“Property” means a Building, and includes the lands and premises appurtenant thereto, and includes vacant property;

“Property Standards By-law” means the City’s Property Standards By-law 9-2019, as amended, or its successor by-law;

“Rent” includes the amount of any consideration paid or given or required to be paid or given by or on behalf of a Tenant to an Owner for the right to occupy a Rental Housing Unit and for any services and facilities and any privilege, accommodation or thing that the Owner provides for the Tenant in respect of the occupancy of the Rental Housing Unit, whether or not a separate charge is made for services and facilities or for the privilege, accommodation or thing;

“Rental Housing Unit” means a Dwelling Unit which is occupied or offered for occupancy in exchange for Rent or services in lieu of paying Rent;

“Tenant” includes a person who pays Rent or provides services in lieu of paying Rent in return for the right to occupy a Rental Housing Unit and includes the person’s heir, assigns (including subtenants) and personal representatives;

“Waste Collection By-law” means the City’s Waste Collection By-law 2-2006, as amended, or its successor by-law;

“Yard Maintenance and Anti-Littering By-law” means the City’s Yard Waste, Exterior Property Maintenance and Littering By-law 3-2006, as amended, or its successor by-law;

“Zoning By-law” means the City’s Zoning By-law 8600, as amended, or its successor by-law, as well as any other by-laws passed by the City pursuant to s. 34 of the *Planning Act*, R.S.O. 1990, c. P13, as amended.

3 Applicability and Scope

3.1 This by-law applies to all of the following within Wards 1 and 2 of the City of Windsor as described in Appendix “A” of this By-law:

- (a) Owners of a Rental Housing Unit;
- (b) Operators of a Rental Housing Unit; and
- (c) Dwelling Units used or intended to be used as a Rental Housing Unit.

3.2 This By-law does not apply to:

- (a) a Property containing five (5) or more Dwelling Units;
- (b) a Dwelling Unit whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner’s spouse, child or parent or the spouse’s child or parent, and where the owner, spouse, child or parent lives in the Building in which the living accommodation is located;
- (c) a hotel, motel, or inn;
- (d) a Bed-and-Breakfast, Guest House Establishment, or Lodging Home licensed under the City’s Business Licensing By-law; or
- (e) a Dwelling Unit to which any of the following statutes, or their regulations, apply:
 - (i) the *Homes for Special Care Act*, R.S.O. 1990, c H. 12, as amended;
 - (ii) the *Innkeeper’s Act*, R.S.O. 1990, c 17, as amended;
 - (iii) the *Long-Term Care Homes Act, 2010*, S.O. 2010, c. 11, as amended;
 - (iv) the *Retirement Homes Act, 2000*, S.O. 2010, c. 11, as amended;
 - (v) the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, as amended; and
- (f) social housing or affordable housing that is not subject to the *Social Housing Reform Act, 2000*, S.O. 2000, c. 27, as amended, but which is subject to an agreement with the City of Windsor and which has been approved for exemption by the Licence Commissioner.

4 Prohibitions

4.1 No person shall do any of the following, except in accordance with a Licence issued under this by-law:

- (a) Operate a Rental Housing Unit;
 - (b) Permit a person to operate a Rental Housing Unit;
 - (c) Collect Rent, or permit Rent to be collected, for a Rental Housing Unit;
 - (d) Market, or permit to be Marketed, a Rental Housing Unit; or
 - (e) Hold a Rental Housing Unit out as being licensed.
- 4.2 No person shall do any of the following, other than at a location for which a Licence has been issued under this by-law:
- (a) Operate a Rental Housing Unit;
 - (b) Permit a person to operate a Rental Housing Unit;
 - (c) Collect Rent, or permit Rent to be collected, for a Rental Housing Unit;
 - (d) Market, or permit to be Marketed, a Rental Housing Unit; or
 - (e) Hold a Rental Housing Unit out as being licensed.
- 4.3 No person shall do any of the following under a name other than the name under which a Licence has been issued under this by-law:
- (a) Operate a Rental Housing Unit;
 - (b) Permit a person to operate a Rental Housing Unit;
 - (c) Collect Rent, or permit Rent to be collected, for a Rental Housing Unit;
 - (d) Market, or permit to be Marketed, a Rental Housing Unit; or
 - (e) Hold a Rental Housing Unit out as being licensed.
- 4.4 No person shall provide false or misleading information to the City when applying for a Licence under this by-law, renewing a Licence or at any other time.
- 4.5 No person shall operate, or permit to operate, a Rental Housing Unit in contravention of the City's Zoning By-law, or in contravention of any of the other of the City's by-laws, or in contravention of the Building Code, the Fire Code, or any other applicable law.
- 4.6 No person licensed under the provisions of this by-law shall fail to maintain, on a continuous basis, the standards and requirements necessary to obtain the original approval of the Licence application, or that have been imposed since the issuance of the Licence.
- 4.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, or advise, instruct, or encourage others to hinder or obstruct, an Officer who is exercising a power or performing a duty under this by-law.
- 4.8 No person shall fail to keep any and all of the records required to be kept under the provisions of this by-law.
- 4.9 No Licence issued under this by-law may be sold or transferred.
- 4.10 No person licensed or required to be licensed under this by-law shall charge any person, or provide services to any person, or deny service to any person, in a manner that in the opinion of the Licence Commissioner

discriminates on the basis of a prohibited ground under the *Ontario Human Rights Code*, R.S.O. 1990, c. H.19, as amended, or is deemed by the Licence Commissioner to have the same or similar effect.

5 Powers and Duties

POWERS AND DUTIES OF THE LICENCE COMMISSIONER

5.1 The Licence Commissioner:

- (a) Shall receive and process all applications for Licences and renewal of Licences to be issued under this By-law;
- (b) Shall coordinate the enforcement of this By-law;
- (c) Shall perform all the administrative functions conferred upon him or her by this By-law;
- (d) Shall make or cause to be made all investigations and inspections which they deem necessary to determine whether an Applicant meets the requirements of this By-law and all applicable laws;
- (e) Shall make or cause to be made a circulation, respecting each application, which may include circulation of the licence application to the Medical Officer of Health, the Fire Chief, the Chief Building Official, the Chief of Police and any other departments of the City, and any other public authorities which may have an interest in the licence application for comment;
- (f) May issue Licences to persons who meet the requirements of this By-law and may suspend Licences pursuant to the requirements of this By-law; and
- (g) May, where a Licence has been issued pursuant to this By-law and otherwise remains in full force and effect, renew the Licences of persons who meet the requirements of this By-law.

5.2 Upon reviewing a licence application, including an application for renewal of a Licence, or upon receiving information or a complaint as against a Licensee, the Licence Commissioner may, in their sole discretion refer the application to the Windsor Licensing Commission, to refuse to grant or revoke or suspend or place conditions on a Licence upon the following grounds:

- (a) Where there are reasonable grounds for belief that such Applicant or Licensee will not carry on or engage in the business in accordance with the law, or with integrity and honesty;
- (b) Where there are reasonable grounds for belief that the carrying on by the Applicant or Licensee of the business in respect of which the Licence is sought or held, would infringe the rights, or endanger the health or safety of, members of the public;
- (c) Where there are reasonable grounds for belief that the carrying on of the business by the Applicant or Licensee will result in non-compliance with this By-law or any other requirement or prohibition imposed by any other law;
- (d) Where the Property on which the Rental Housing Unit is situated is subject to an Order, or Orders, made pursuant to:

- (i) The City's Property Standards By-law;
 - (ii) The City's Zoning By-law;
 - (iii) The *Building Code Act, 1992* or any regulations made under it, including the Building Code;
 - (iv) The *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4, as amended, or any regulations made under it; or
 - (v) The authority of the Medical Officer of Health;
- (e) Where there are reasonable grounds for belief that the nature, condition or use of the Property or premises, or any equipment, vehicle or other personal property used or to be used by the Applicant or Licensee in the carrying on or engaging of the business would involve non-compliance with any provision of this By-law or any other law;
 - (f) Where there are reasonable grounds for belief that any application or any other document or information provided by or on behalf of the Applicant or Licensee, contains a false statement or provides false information; and
 - (g) Where information provided to the City by or on behalf of the Applicant or Licensee, whether oral or in writing, has ceased to be accurate, and the Applicant or Licensee has not provided up-to-date accurate information to the City sufficient to allow the Licence Commissioner, or the Windsor Licensing Commission, as the case may be, to conclude the Licence should be granted or maintained as valid and subsisting;
 - (h) Where a Licensee's or Applicant's insurance, as approved by the Licence Commissioner, has expired and they continue to carry on business for which the Licence was issued;
 - (i) Where a Licensee or Applicant fails to comply with a request to inspect or hinders an inspection in any way;
- 5.3 The Licence Commissioner's decision under section 5.2 shall be guided by the following considerations:
- (a) The safety, health and well-being of the community;
 - (b) The impact on neighbouring properties;
 - (c) Financial impact to the City;
 - (d) The impact of any such Licence revocation or suspension on any Tenant; and
 - (e) Imposing terms or conditions on any such Licence revocation or suspension that would minimize the adverse impact on any Tenant, including the possibility of providing a reasonable time period before the Licence revocation or suspension takes place to permit any Tenant to find new housing or to seek relief in a Court or before the Ontario Landlord and Tenant Board.
- 5.4 Despite section 5.2, a Licence shall not be issued or renewed and the Licence Commissioner shall refer the matter to the Windsor Licensing Commission where:

- (a) the Property for which the Rental Housing Unit is being proposed has any outstanding unpaid penalties or fines from the City;
 - (b) any of the Applicants, within the previous five years from the date of application or renewal have been convicted of any of the following under the Criminal Code of Canada:
 - (i) homicide or manslaughter;
 - (ii) sexual offences;
 - (iii) assault offences;
 - (iv) confinement offences;
 - (v) robbery or extortion offences;
 - (vi) break and enter offences;
 - (vii) fraud or forgery offences; or,
 - (viii) a statutory or regulatory offence in any way related to the ownership or management of residential rental properties.
- 5.5 For the purposes of sections 5.2 and 5.4 of this by-law, the term “person” shall include any director, officer, partner or principal of a partnership or a corporation or any shareholder of a corporation that holds at least fifty per cent (50%) of the shares of that corporation.
- 5.6 In the case where the Licence Commissioner refuses, revokes or suspends a Licence upon any one or more of the grounds listed in section 5.2 of this by-law, the Applicant, or Licensee, as the case may be, may appeal the Licence Commissioner’s decision to the Windsor Licensing Commission by notifying the Licensing Commissioner, in writing, of his, her or its request to appeal to the Windsor Licensing Commission no later than fourteen (14) days after the date the Licence application is refused, revoked or suspended by the Licence Commissioner.
- 5.7 In the case where the Licence Commissioner or the Applicant, or Licensee, as the case may be, refer or appeal to the Windsor Licensing Commission, the Windsor License Commission may refuse to grant, or revoke or suspend or place conditions on a Licence upon any one or more of the grounds listed in section 5.2 of this By-law.
- 5.8 Where after a hearing, the Windsor Licensing Commission concludes that any one of the grounds set out under section 5.2 exist, the Windsor Licensing Commission may, instead of refusing, revoking, suspending a Licence, grant a Licence or allow a Licence to continue upon such conditions as the Windsor Licensing Commission may see fit to impose, for the purpose of ensuring the proper and lawful carrying on of the business, or such other conditions, as are authorized by law.
- 5.9 No revocation or suspension of a Licence under this By-law shall be final, except after a hearing by the Windsor Licensing Commission, or after the Licensee has been given the opportunity for such a hearing, in accordance with the law.
- 5.10 The Licence Commissioner may suspend a Licence where there are reasonable grounds to believe that such is required to prevent a breach of the By-law, or for any of the reasons that would form grounds for the revocation of a Licence pursuant to section 5.2.

- 5.11 A suspension under section 5.2 shall take effect upon service of written notice thereof to the Licensee, or upon the delivery of written notice to the business premises of the Licensee at the address shown on the City's records.
- 5.12 A suspension under section 5.2 shall remain in effect for no more than fourteen (14) days from the date of service of the notice under section 5.11.
- 5.13 Following suspension of a Licence under section 5.2, the Licence Commissioner shall prepare a written report to the Windsor Licensing Commission, advising of the suspension and:
- (a) Recommend that the Windsor Licensing Commission hold a hearing to determine whether the suspension should continue, or be terminated, and whether the Windsor Licensing Commission should give consideration to whether or not the Licence should be revoked or otherwise dealt with pursuant to the By-law; or
 - (b) Recommend reinstatement of the Licence on the basis that the conditions leading to the suspension have been remedied; or
 - (c) Recommend that no action be taken upon the termination of the suspension.
- 5.14 At any time before the Licence Commissioner shall issue or renew a Licence, or recommend to the Windsor Licensing Commission that it refuse to issue or refuse to renew a Licence, the Licence Commissioner may as they see fit, or shall at the request of the Applicant, refer the application for issuance or renewal of the Licence to the Windsor Licensing Commission.

POWERS AND DUTIES OF THE WINDSOR LICENSING COMMISSION

- 5.15 Where there is a referral to the Windsor Licensing Commission pursuant to this section, the Windsor Licensing Commission shall hold a hearing for the purpose of:
- (a) issuing or renewing the Licence;
 - (b) refusing to issue or renew the Licence;
 - (c) suspending the Licence;
 - (d) revoking the Licence; or,
 - (e) issuing or renewing the Licence with the imposition of conditions.
- 5.16 Where the Licence Commissioner intends to recommend to the Windsor Licensing Commission that it refuse to issue, refuse to renew, place conditions on, revoke or suspend a Licence, the Licence Commissioner shall give notice of the intended recommendation and the reasons for the intended recommendation to the Applicant or Licensee as well as to such other persons, civic departments, boards, commissions, authorities and agencies having an interest in the recommendation. Under this section, notice to the Applicant or Licensee shall be written notice served personally or sent by ordinary, prepaid mail addressed to the address shown on the application or Licence. The notice of the hearing shall:
- (a) contain a reason or reasons for the proposed refusal, suspension, revocation or imposition of conditions;

- (b) specify the time, place and purpose of the hearing of the Windsor Licensing Commission at which the proposed refusal, suspension or revocation will be considered;
- (c) inform the affected Applicant or the affected holder of the Licence that they are entitled to attend the hearing and make submissions regarding the proposal and that, in their absence, the Windsor Licensing Commission may proceed to consider the proposal and the Applicant or affected holder of the Licence will not be entitled to any further notice in the proceeding;
- (d) afford the affected Applicant or the affected holder of the Licence a reasonable opportunity, before the hearing, to show or achieve compliance with all lawful requirements for the retention of the Licence; and
- (e) be given at least seven (7) days notice prior to the date of the Windsor Licensing Commission hearing.

5.17 At a hearing, the Windsor Licensing Commission:

- (a) shall afford the affected Applicant or the holder of the Licence an opportunity to make submissions in respect of the matter that is the subject of the Commission's proceedings;
- (b) shall afford any person, civic department, board, commission, authority or agency given notice under section 5.16 of this by-law and in attendance at the hearing, or any other person in the discretion of the Commission, an opportunity to make submissions in respect of the matter that is the subject of the Commission's proceedings;
- (c) the hearing shall be open to the public but the Commission may close a portion of the hearing for the purposes of receiving confidential legal information pertaining to the affected Applicant or Licensee;
- (d) the hearing shall be open to the public but the Commission may close all or a portion of the hearing to the public if the Commission is of the opinion that intimate financial or personal matters may be disclosed of such a nature, having regards to the circumstances, that the desirability of avoiding disclosure thereof in the interests of any person affected or in the public interest, outweighs the desirability of adhering to the principle that the hearing be open to the public;
- (e) shall give due consideration to the submissions made to it;
- (f) shall take such action to refuse, suspend revoke or impose conditions on the application or Licence, or not to refuse, suspend revoke or impose conditions on the application or Licence, as the Windsor Licensing Commission considers proper in the circumstances; and
- (g) shall give notice of its decision to the Licence Commissioner, to the Applicant or to the Licensee, and to any person, civic department, board, commission, authority or agency in attendance at the hearing, together with the reasons for its decision.

- 5.18 At the hearing, the Windsor Licensing Commission may suspend, revoke, and refuse to issue or impose conditions on any Licence under this By-law:
- (a) for any reason that would disentitle any Licensee to a Licence;
 - (b) where the Licensee or Applicant is in breach of a condition of the Licence;
 - (c) where the Licensee or Applicant is in breach of any of the provisions of this By-law;
 - (d) if there are reasonable grounds to believe any of the statements made on the application for issuance or renewal are false;
 - (e) if, subsequent to the issuance of the Licence, a report is filed by any body which originally provided its approval that indicates that the Licensee is no longer in compliance with this By-law;
 - (f) upon such grounds as are set out in this By-law;
 - (g) if the Applicant has outstanding fees or fines owing to the City, or if the Applicant has not paid the required application fee;
 - (h) if the conduct or character of the Applicant or Licensee affords reasonable grounds to believe that the Applicant or Licensee will not carry on or engage in the business in accordance with the law or with honesty and integrity;
 - (i) if the geographic location of the business does not meet land use requirements or does not comply with this By-law;
 - (j) if, in the case of a corporate Applicant or Licensee, the conduct of its officers, directors, employees or agents affords reasonable cause to believe that the business will not be carried on in accordance with the law or with honesty and integrity;
 - (k) if issuing the Licence is not in the public interest;
 - (l) if a Licensee's or Applicant's insurance, as approved by the Licence Commissioner, has expired and they continue to carry on business for which the Licence was issued; or
 - (m) if a Licensee or Applicant fails to comply with a request to inspect or hinders an inspection in any way.
- 5.19 A decision of the Windsor Licensing Commission refusing, suspending, revoking or imposing conditions on an application or Licence takes effect upon the rendering of such decision by the Windsor Licensing Commission. No Licensee shall operate or carry on the activity for which the Licence was issued while his Licence is under suspension.
- 5.20 The Windsor Licensing Commission shall give its decision to the Licence Commissioner within seven (7) days of the hearing.
- 5.21 The Licence Commissioner shall forthwith notify the Applicant in writing of such decision by serving a copy personally or sent by ordinary, prepaid mail addressed to the last known address for the person appearing on the records of the City.
- 5.22 The proceedings of the Windsor Licensing Commission shall, at the request of the Applicant and upon payment of a fee determined by the

Licence Commissioner, be transcribed in writing and a copy of the transcript shall be made available to the Applicant on payment of such additional fees as may be determined by the Licence Commissioner.

- 5.23 Upon receipt of a notice of the decision of the Windsor Licensing Commission suspending or revoking a Licence, the Licensee shall, within twenty-four (24) hours of service of notice by certified mail or immediately if the notice is personally served, return the Licence to the Licence Commissioner and the Licence Commissioner shall have access to any premises, or other property of the Licensee for the purpose of receiving or taking the same. All Licences not returned within twenty-four (24) hours of service of notice will automatically be deemed invalid.
- 5.24 No person shall refuse to deliver a suspended or revoked Licence to the Licence Commissioner or designate or shall in any way prevent or hinder the Licence Commissioner or designate from receiving or taking the same.
- 5.25 Where a Licence is revoked, the Licensee is entitled to a refund of that part of the Licence fee proportionate to the unexpired part of the term for which it was granted, such refund to be prorated on a monthly basis.
- 5.26 Where the Windsor Licensing Commission renders a decision granting the Applicant the Licence applied for, the Licence shall be issued upon the applicant complying with the terms of this By-law and the conditions imposed on the Licence, if any, and the Applicant shall complete the application within fourteen (14) days of the decision of the Windsor Licensing Commission.
- 5.27 Decisions made by the Windsor Licensing Commission are final.

6 Licensing Requirements

APPLYING TO OBTAIN OR RENEW A LICENCE

- 6.1 Any person seeking to obtain or renew a Rental Housing Unit Licence shall:
 - (a) Be at least eighteen (18) years of age;
 - (b) Complete an application in the form prescribed by the Licence Commissioner, including setting out such information and attaching such additional documentation as may be required by the Licence Commissioner which includes the information and documentation outlined in Schedule 2;
 - (c) Submit their completed application to the Licence Commissioner; and,
 - (d) Pay the applicable fee pursuant to Schedule 1.
- 6.2 A separate Licence shall be required for each Rental Housing Unit.
- 6.3 An application shall only be made in person by the Applicant, who at the time of application shall present two (2) forms of government issued identification, one being photo and the other demonstrating proof of status in Canada, to the satisfaction of the Licence Commissioner.
- 6.4 Despite section 6.3, an Authorized Agent of the Applicant may make the application if they have written authorization to do so from at least one (1) of the Applicants along with two (2) forms of government issued

identification, one being photo and the other demonstrating proof of status in Canada, to the satisfaction of the Licence Commissioner.

- 6.5 Prior to the issuance of a Licence, a copy of the application may be forwarded for a report or comments to the Medical Officer of Health, the Fire Chief, the Chief Building Official, the Chief of Police and any other departments of the City, and any other public authorities which may have an interest in the licence application, or for such information as may be required under this By-law or any other legislation.
- 6.6 Receipt of the application, request for renewal, or submission of the licence fee shall not constitute approval of the application for, or renewal of, a Licence, nor shall it obligate the City to issue or renew any such Licence.
- 6.7 Despite section 6.6, if a Licensee has remitted the prescribed renewal fee, the Licence shall be deemed to continue until the renewal is granted or refused, subject to the Licensees' avenue for appeal under Part 5 of this By-law.
- 6.8 Every Licence issued under this By-law shall expire on May 31 of the year following issuance unless revoked or otherwise terminated under this By-law prior to that date. When a renewal deadline expires on a Saturday, Sunday or holiday, the act or proceeding may be done or taken on the next following that is a business day.
- 6.9 A Licence may be obtained for one-half the applicable fee as established in Schedule 1 of this By-law if the Licence is obtained on or after February 1 of the same year.
- 6.10 A Licence not renewed by the deadline day shall be deemed to have lapsed at 12:01 a.m. the following day and the person whose name the original Licence was issued under shall not operate a Rental Housing Unit.
- 6.11 Despite section 6.10, a Licence that has not lapsed by more than 356 days from the date of the renewal deadline may still be renewed and the Applicant shall be liable to pay the licence fee established by this By-law together with the penalty of 50% over the base fee.
- 6.12 A Licence that has lapsed more than 365 days from the date of the renewal deadline shall be deemed cancelled and no longer eligible for renewal.
- 6.13 A Licensee who operates with a Licence that has been cancelled under section 6.12 may not apply for a new Licence unless the outstanding renewal fee and late renewal fee has been paid.

CHANGES IN INFORMATION

- 6.14 Every Applicant or Licensee shall notify the Licence Commissioner in writing within seven (7) days of any change in any information contained in the application for a Licence or renewal thereof.
- 6.15 Where the changes in section 6.14 include a change in the legal entity of the Licensee, the existing Licence shall be cancelled and a new Licence shall be obtained by the said legal entity, subject to all of the licensing requirements of this By-law.
- 6.16 Notwithstanding section 6.15, where there is a change in any of the registered owners of a Rental Housing Unit, a new Licence shall be

obtained by all the parties operating or proposing to operate a Rental Housing Unit.

- 6.17 Where there is a change to a Rental Housing Unit as a result of a renovation or other similar work, the Owner shall notify the Licence Commissioner, as per section 6.14, and the Licence Commissioner may require such Owner to apply for a new Licence if such renovations or similar work are deemed to be significant.
- 6.18 Where an Owner intends to operate a Rental Housing Unit at a location different than the dwelling unit identified in their application, the existing Licence shall be cancelled and a new Licence shall be obtained before the intended Rental Housing Unit may operate.

7 Regulatory Requirements

REQUIREMENTS FOR OWNERS

- 7.1 No Owner shall allow any person to operate their Rental Housing Unit unless such person has been registered with the City as per Schedule 2 and section 7.4 of this by-law.
- 7.2 Every Owner of a Rental Housing Unit shall operate their Rental Housing Unit in accordance with the conditions of its Licence.
- 7.3 Every Owner shall post the Licence supplied by the City at the time of issuance or renewal, along with any additional documents or materials prescribed in Schedule 2 as being required for display, in a conspicuous place within 1 metre of the Rental Housing Unit's main entrance.
- 7.4 Every Owner shall ensure that the list of Authorized Agents and Operators relating to a Rental Housing Unit is up-to-date and accurate in accordance with Schedule 2 of this By-law.
- 7.5 Notwithstanding the requirements under Schedule 2 and section 7.2 of this By-law, every Owner shall be fully responsible for any and all decisions and actions governed by this By-law, including those taken by an Operator or Authorized Agent, whether or not such individual has been identified as such by the Owner and whether or not such individual was granted explicit permission or authority to make such decisions or take such actions.
- 7.6 The Owner of a Rental Housing Unit may be charged and convicted of an offence under this By-law for which an Operator or Authorized Agent is subject to be charged and on conviction the Owner is liable to the penalty prescribed for the offence.

REQUIREMENTS FOR OPERATORS

- 7.7 No Operator shall operate a Rental Housing Unit unless they are registered with the City for that purpose by the Owner in accordance with Schedule 2 and section 7.4 of this By-law.
- 7.8 Every Operator registered in accordance with Schedule 2 and section 7.4 and who is an Individual Person shall be at least 18 years of age at the time of registration.
- 7.9 Every Operator shall be required to identify themselves upon request by an Officer or any other person authorized to administer or enforce this By-law.

8 Administrative Matters

NOTICE

- 8.1 Any notice or other information required or authorized to be forwarded, given or served under this By-law is sufficiently given if delivered personally or sent by ordinary, prepaid mail addressed to the person to whom delivery is required to be made at the address shown on the application or at last address shown or appearing on the records of the City. In the case of a corporation, this shall include delivery personally or by ordinary, prepaid mail delivered to any Individual Person who acts or appears to act for the benefit of such corporation, including a sales or customer service representative or an individual person employed or contracted by such corporation who is located at the premises of such corporation or any of such corporation's affiliates, subsidiaries or parent corporations, as the case may be.
- 8.2 Where service is effected by ordinary, prepaid mail, it shall be deemed to be made on the fifth (5th) day after the date of mailing, unless the person on whom service is being made establishes to the satisfaction of the Licence Commissioner that they did not, acting in good faith, through absence, accident, illness, or other cause beyond their control, receive the notice or Order until a later date.

MINOR NATURE OF POWERS DELEGATED

- 8.3 For the purposes of section 23.2(4) of the *Municipal Act*, it is the opinion of Council that the powers delegated to the Licence Commissioner, the Windsor Licensing Commission pursuant to this By-law are of a minor nature.

9 Enforcement

POWERS OF AN OFFICER

- 9.1 The provisions of this By-law may be enforced by an Officer.
- 9.2 An Officer who has reasonable grounds to believe that a person has contravened any provision of this By-law may require that person provide identification to the Officer.
- 9.3 Any information provided to the Officer under section 9.2 is presumed to be correct and accurate and is admissible in any proceeding.
- 9.4 All persons who are required by an Officer to provide identification under section 9.2 shall provide such identification to the Officer. Failure to provide sufficient or correct and accurate identification shall constitute an offence as set out under section 9.7 of this By-law.
- 9.5 An Officer may issue an Order to any person governed by the provisions of this By-law, directing such person to:
- (a) discontinue a contravening activity; or
 - (b) do work to correct a contravention.
- 9.6 Failure to comply with an Order under section 9.5 is an offence and every person named in such Order shall be subject to penalties and remedies prescribed under this By-law.
- 9.7 No person shall hinder or obstruct, or attempt to hinder or obstruct, an Officer who is exercising a power or performing a duty under this By-law.

POWERS OF ENTRY AND INSPECTION

- 9.8 Officers, and any person acting under their direction, may, at any reasonable time or at any time when there are reasonable grounds to believe that a contravention of this By-law is occurring or alleged to be occurring and subject to applicable law, enter onto any property to determine if the provisions of this By-law are being complied with.
- 9.9 Officers are authorized, for the purposes of an inspection to determine and enforce compliance with the By-law, to:
- (a) direct an Owner or Operator to provide a Tenant with notice in accordance with the *Residential Tenancies Act, 2006* to allow entry into the unit to carry out an inspection;
 - (b) enter, at any reasonable time, onto any property, other than an occupied Dwelling Unit unless authorized by the occupier of such Dwelling Unit or under the authority of a warrant issued by a court of competent jurisdiction;
 - (c) require any person to produce for inspection any substance, equipment, documents, or other things relevant to the alleged offence or inspection;
 - (d) alone or in conjunction with persons possessing special or expert knowledge, make examinations, take tests, obtain samples, and/or make audio, video and/or photographic records relevant to the alleged offence or inspection; and/or
 - (e) require information from any person concerning the alleged offence or inspection.

10 Offences and Penalties

- 10.1 Every person who contravenes a provision of this by-law or direction provided by an Officer in order to achieve compliance shall be guilty of an offence and upon conviction shall be liable to a fine as provided for in the *Provincial Offences Act*, R.S.O. 1990, C. P.33, and as set out below:
- (a) Upon a first conviction, a fine of not less than \$500 and not more than \$5,000.00.
 - (b) Upon a second or subsequent conviction, a fine of not less than \$500.00 and not more than \$10,000.00.
 - (c) Upon conviction for a multiple offence, for each offence included in the multiple offence, a fine of not less than \$500.00 and not more than \$10,000.00.
 - (d) Upon a first conviction, where the person is a corporation, a fine not less than \$500.00 and not more than \$100,000.00.
 - (e) Upon a second or subsequent conviction, where the person is a corporation, a fine of not less than \$500.00 and not more than \$100,000.00.
 - (f) Upon conviction for a multiple offence, for each offence included in the multiple offence and where the person is a corporation, a fine of not less than \$500.00 and not more than \$100,000.00.

COLLECTION OF UNPAID PENALTIES AND FINES

- 10.2 Pursuant to section 441 of the *Municipal Act*, if any part of a fine for a contravention of this by-law remains unpaid after the fine becomes due and payable under section 66 of the *Provincial Offences Act*, including any extension of time for payment ordered under that section, the City Treasurer or their designate may give the person against whom the fine was imposed written notice specifying the amount of the fine payable and the final date on which it is payable, which shall be not less than 21 days after the date of the notice. The notice shall be sent by registered mail to be delivered to that person at the person's residence or place or business.
- 10.3 If the fine referred to in section 10.2 remains unpaid after the final date on which it is payable as specified in the notice, the fine shall be deemed unpaid taxes for the purposes of section 351 of the *Municipal Act*.

CONTINUATION, REPETITION PROHIBITED BY ORDER

- 10.4 The court in which a conviction has been entered, and any court of competent jurisdiction thereafter, may make an Order prohibiting the continuation or repetition of the offence by the person convicted, and such Order shall be in addition to any other penalty imposed on the Person convicted.

11 Severability

- 11.1 If any provision or part of this By-law is declared by any court or tribunal of competent jurisdiction to be illegal or inoperative, in whole or in part, or inoperative in particular circumstances, the balance of the By-law, or its application in other circumstances, shall not be affected and shall continue to be in full force and effect.

12 Schedules

- 12.1 Schedules attached to and forming part of this by-law:
Schedule 1 – Licence Application and Renewal Fees
Schedule 2 – Required Supporting Documentation

13 Force and Effect

- 13.1 This by-law shall come into force and take effect on the day of the final passing thereof.

DREW DILKENS, MAYOR

CITY CLERK

First Reading - February 13, 2023
Second Reading - February 13, 2023
Third Reading - February 13, 2023

Schedule 1 – Licence Application and Renewal Fees

	Initial Application	Renewal
Administration	111.80	111.80
Building Inspection	83.70	83.70
Zoning Letter	41.00	--
Fire Inspection	150.00	--
Enforcement	23.94	23.94
Office Expense Overhead	21.95	21.95
Corporate Support Overhead	33.15	33.15
Total	\$466	\$275

Schedule 2 – Required Supporting Documentation

REQUIREMENTS FOR ALL APPLICATIONS

S2.1 Every application to obtain or renew a Residential Rental Licence shall include:

- (a) The municipal address and legal description of the Rental Housing Unit;
- (b) The number of bedrooms within the Rental Housing Unit;
- (c) The name and Contact Information of each Owner;
- (d) If an Owner is a partnership, the name and Contact Information of each partner;
- (e) If an Owner is a corporation:
 - (i) the address of its head office;
 - (ii) the name and Contact Information of each director, officer and shareholder who holds more than 30% of the issued shares in the corporation; and
 - (iii) a Corporate Profile report dated no more than thirty (30) days from the date of application submission
- (f) Proof of ownership of the Rental Housing Unit, satisfactory to the Licence Commissioner;
- (g) Proof of Insurance that:
 - (i) Includes a limit of liability no less than \$2,000,000 (two million dollars) per occurrence for property damage and bodily injury;
 - (ii) Identifies the proposed use of the premise is that of a rental property; and
 - (iii) Requires that the Licence Commissioner be notified of any intended cancellation by the insurer no fewer than fourteen (14) days prior to such cancellation;
- (h) A completed police record check every Owner and Applicant, if different from the Owner, issued by an Ontario Police Service for the jurisdiction in which each Applicant or Owner resides, not more than thirty (30) days before the date of application submission, including:

- (i) If the Owner or Applicant is a partnership, a completed police records check for each partner; or,
- (ii) If the Owner or Applicant is a corporation, a completed police records check for each director, officer or shareholder who holds more than thirty percent (30%) of the issued shares in a corporation;
- (i) If none of the Owners reside in the City of Windsor, or if the Owner is a corporation, the name and Contact Information of a Local Contact;
- (j) A list for registration by the City of all Authorized Agents at the time of application, including their Contact Information;
- (k) A list for registration by the City of all Operators at the time of application, including their Contact Information;
- (l) A sworn statement by each Applicant certifying the accuracy, truthfulness, and completeness of the application; and,
- (m) Any other information required to be provided under this by-law or as may be requested by the Commissioner.

REQUIREMENTS FOR LICENCE ISSUANCE (NEW LICENCES)

S2.2 In addition to the requirements of S2.1, every application to issue (not renew) a Residential Rental licence shall also include:

- (a) An inspection certificate from a certified Electrical Safety Authority technician confirming the electrical system is in proper working order, which results from an inspection that was conducted no more than six (6) months prior to the date of application submission; and,
- (b) A completed Property Standards and Safety Checklist;
- (c) A signed written statement that:
 - (i) The Rental Housing Unit is in compliance with the *Building Code Act, 1992* or any regulations made under it, including the Building Code;
 - (ii) The Rental Housing Unit is in compliance with the *Fire Protection and Prevention Act, 1997*, or any regulations made under it, including the Fire Code;
 - (iii) The Rental Housing Unit is in compliance with the *Electricity Act, 1998*, S.O. 1998, c.15, Sched. A, as amended, or any regulations made under it, including the Electrical Safety Code;

- (iv) The Rental Housing Unit is in compliance with all applicable City By-laws;
- (v) The Owner and any person listed as an Authorized Agent or Operator is aware of all relevant federal and provincial legislation, including the *Human Rights Code*, R.S.O. 1990, c. H. 19, as amended, as well as all relevant municipal by-laws, and that they, and the Rental Housing Unit, will comply with all of them; and
- (vi) The Applicant or Owner confirms the accuracy, truthfulness and completeness of the information submitted.

REQUIREMENTS FOR LICENCE RENEWAL

S2.3 The information or documentation referred to in section S2.2(a) shall only be required for the issuance of a licence, not a renewal, except for every fifth renewal (every 5 years), at which time the Licence Commissioner may require the information or documentation to be produced.

This is **Exhibit 3** of the Affidavit
Of Borys Sozanski sworn May 4, 2023



A Commissioner for Taking Affidavits

THIS PAGE HAS BEEN REDACTED IN ORDER TO PROTECT THE PRIVACY OF THE AFFIANT.

WINDSOR HOUSING PROVIDERS INC.

Applicant

and

WINDSOR (CITY)

Respondent

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Windsor

AFFIDAVIT

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WINDSOR HOUSING PROVIDERS INC.
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APPLICATION RECORD

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