Planning & Housing Committee
City Hall, 100 Queen Street West
Toronto, ON
M5H 2N2

January 10th, 2024

Re: MM7.8 - Request to Implement an Adequate Temperature By-Law - by Councillor Shelley Carroll, seconded by Councillor Amber Morley

Dear Councillors:

ACORN Canada, Advocacy Centre for the Elderly, Advocacy Centre for Tenants Ontario, Canadian Environmental Law Association, Low-Income Energy Network, and Toronto Environmental Alliance are writing in support of motion MM7.8 and urging the Toronto City Council to urgently pass a maximum temperature by-law in the City of Toronto to be implemented before next summer.

A. Heat-Related Deaths are Occurring in Toronto

Extreme heat events have major health implications. Various life-threatening conditions can occur when the body cannot maintain its internal temperature due to excessive heat. As Toronto continues to experience hotter weather, largely as a result of climate change, residents will experience extreme heat events more frequently and severely.

Toronto's most vulnerable residents are at risk

Certain populations are more at risk for heat-related conditions and death. These populations include seniors, infants, individuals with chronic illnesses, those with mobility challenges, and individuals who are socially disadvantaged.[1] Tenants may also be more vulnerable to extreme heat events because they may be unable to control the temperature within their units:

- An analysis of the deaths in Quebec during the extreme heat event in 2018 confirmed that people who were older, socially isolated, low-income, and those with a chronic disease or

[1] Government of Quebec, "Heat Wave: Summer 2018 in Montreal" (2018), online (pdf): <https://santemontreal.qc.ca/fileadmin/fichiers/professionnels/DRSP/Directeur/Rapports/Resume_EnqueteChaleurMtl_2018_Anglais.pdf>.

a psychotic disorder were most vulnerable to heat.[2] For example, eight of the 53 people who died in the City of Montreal during the 2018 extreme heat event lived in a senior's home.[3] An evaluation of heat-related deaths in Quebec further found that the majority of the people who died did not have access to air conditioning and lived in an urban heat island, such as Montreal.[4]

- Similarly, after the 2021 extreme heat event in British Columbia, the provincial government found that 98% of the 619 deaths occurred indoors.[5] Of these 619 people, 90% were over the age of 60. Most of the people who died did not have adequate cooling systems. Notably, deaths were higher among those living in socially or materially deprived neighborhoods with poor-quality housing. Unhoused individuals and overall deprivation were also identified as risk factors for increased mortality rates.

Canada's National Adaptation Strategy calls for ambitious and collective adaptation action that is equitable and inclusive to ensure that everyone's lives and welfare are protected from the impacts of a changing climate. The strategy goes on to identify extreme heat as the deadliest weather-related event in the country.[6] With an objective of protecting people from urgent climate-related health risks, the Strategy sets a target of 2040 to eliminate all heat-related deaths.[7]

Extreme heat is a serious public health crisis in Toronto

The Association of Community Organizations for Reform Now ("ACORN") released a Beat the Heat! Report in 2023 that voices the concerns of over 150 tenants in Toronto.[8] These tenants are suffering from poor sleep, fatigue, headaches, and the inability to concentrate or complete tasks due to extreme heat. Over 20% of the tenants also reported experiencing heat stroke, a medical emergency. To cope with the heat, most tenants must run fans in their units. Only a third of tenants reported attending public indoor spaces or outdoor spaces.

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[2] Santé Montreal, "Heat Wave Summer 2018 in Montreal" (2018) at 1, online (pdf): <https://santemontreal.qc.ca/fileadmin/fichiers/professionnels/DRSP/Directeur/Rapports/Resume_EnqueteChaleurMtl_2018_Anglais.pdf>.

[3] Center-Sud-de-l'Île-de-Montréal Integrated University Health and Social Services Center, "Heat Wave: July 2018 – Montreal Preliminary Assessment" (2018) at 2, online (pdf): <https://santemontreal.qc.ca/fileadmin/fichiers/actualites/2018/07_juillet/BilanCanicule2018VF.pdf>.

[4] *Ibid*.

[5] Government of British Columbia, "Extreme Heat and Human Mortality: A Review of Heat-Related Deaths in B.C. in Summer 2021" (7 June 2022) at 5, online (pdf): <https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme_heat_death_review_panel_report.pdf>.

[6] Environment and Climate Change Canada, "Canada's National Adaptation Strategy: Building Resilient Communities and a Strong Economy" (1 August 2023) at 6, online: *Government of Canada* <https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy.html>.

[7] *Ibid* at 23.

[8] Association of Communities for Reform Now, "Beat the Heat! Toronto ACORN Report" (2023), online (pdf): <https://acorncanada.org/wp-content/uploads/2023/08/Toronto-ACORN-Beat-the-Heat-report.pdf>.

A recent CBC investigation installed heat and humidity sensors inside 10 Toronto apartments last summer.[9] Eighty percent of apartments had readings of 26 degrees Celsius or higher for the majority of the summer months. Telling the story of Mamo and her 86-year-old mother, the CBC investigation found that temperatures in Mamo's apartment reached a high of 28.07 degrees Celsius, with the heat index making it feel more like 31.20 degrees Celsius. Meanwhile, inside Khalil Aldroubi's Scarborough apartment, where he lives with his wife and five children, the hottest temperature recorded was 29.79 degrees Celsius. With such high indoor temperatures, it is impossible for these families to simply 'keep cool.'

A 2007 study published in the Canadian Journal of Public Health looked at hot weather patterns in Toronto spanning the last five decades with the purpose of assessing the associated burden of mortality. The study found that, on average, there were 120 heat-related deaths per year in Toronto, with mortality rates being the greatest during the months of July and August.[10] Extreme heat and climate change have gotten worse in the 16 years since this study.

B. <u>What is a Maximum Temperature By-Law?</u>

A maximum temperature by-law would require landlords to provide infrastructure so that tenants may cool their units (either through centralized heat pumps, air conditioning or other means) and maintain a maximum temperature of 26 degrees Celsius within the residential unit.

Landlords are not currently obligated to cool buildings. While Ontario's *Residential Tenancies Act* defines heat as a 'vital service' that a landlord is obligated to supply,[11] it fails to include similar requirements for cooling. A maximum temperature by-law would address this gap. Although Bill 97 will amend the *Residential Tenancies Act* to allow tenants to pay for active cooling in their units, a maximum temperature by-law would recognize that lower income tenants cannot afford to provide for active cooling on their own and that landlords should be responsible for safely installing and maintaining active cooling infrastructure that can keep a unit below 26 degrees Celsius. In any event, the amendments to the *Residential Tenancies Act* relating to air conditioning are not yet in force.

The following language is a recommendation for municipalities to reference in adopting a maximum temperature by-law. It combines various legal sources including O. Reg. 517/06: Maintenance Standards, Mississauga's Adequate Temperature By-Law 0110-2018, Durham's Community Adaptation Plan, and Vancouver's Omnibus Climate Emergency Building Report.

WHEREAS section 8 of the *City of Toronto Act, 2006,* S.O. 2006, c. 11, Sched. A, ("*City of Toronto Act, 2006*") authorizes the municipality to pass by-laws necessary or desirable for municipal purposes, and in particular, paragraphs 5, 6 and 8 of subsection 8(2) provide that the

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[9] Farrah Merali, "Experts sound the alarm on dangerously hot temperatures inside Toronto apartments" (14 September 2023), online: *CBC News* <https://www.cbc.ca/news/canada/toronto/urban-heat-study-looks-at-temperatures-inside-toronto-apartments-without-ac-1.6965281>.

[10] L. David Pengelly et al, "Anatomy of Heat Waves and Mortality in Toronto" (1 September 2007) 98 Can J Public Health 364-388, online: <https://link.springer.com/article/10.1007/BF03405420>.

[11] *Residential Tenancies Act, 2006*, S.O. 2006, c. 17.

municipality may pass by-laws respecting the economic, social and environmental well-being of the municipality, the health, safety and well-being of persons, and the protection of persons and property;

AND WHEREAS section 366(1) of the *City of Toronto Act, 2006* authorizes the municipality to pass by-laws providing that a person who contravenes a by-law of the municipality passed under that Act is guilty of an offence;

AND WHEREAS section 376(1) of the *City of Toronto Act, 2006* provides that the municipality may pass a by-law providing that the municipality may enter on lands at any reasonable time for the purpose of carrying out an inspection to determine whether a by-law of the municipality has been complied with;

AND WHEREAS section 385(1) of the *City of Toronto Act, 2006* provides that the municipality may make an order requiring the person who contravened the by-law or who caused or permitted the contravention or the owner or occupier of the land on which the contravention occurred to discontinue the contravening activity or to do work to correct the contravention;

AND WHEREAS the City of Toronto considers it necessary to regulate cooling in all rented or leased dwellings.

DEFINITIONS

1. In this By-Law:

"adequate and suitable cooling" means an indoor air temperature in the dwelling unit that does not exceed 26 degrees Celsius (26°C).

"dwelling unit" means one or more habitable rooms used or designed to be used for human habitation; "habitable space" means a room or area used or intended to be used for living, sleeping, cooking, or eating purposes and includes a washroom;

"landlord" includes,

(a) the owner of a rental unit or any other person who permits occupancy of a rental unit, other than a tenant who occupies a rental unit in a residential complex and who permits another person to also occupy the unit or any part of the unit,

(b) the heirs, assigns, personal representatives, and successors in title of a person referred to in clause (a), and

(c) a person, other than a tenant occupying a rental unit in a residential complex, who is entitled to possession of the residential complex and who attempts to enforce any of the rights of a landlord under a tenancy agreement or the *Residential Tenancies Act*, including the right to collect rent;

"qualified tradesperson" is someone who is a licensed Refrigeration and Air Conditioning Systems Mechanic or Electrician, including apprentices of the trade, as per the Skilled Trade

Public Register[12], or someone else who is qualified to professionally install the approved cooling device.

"tenant" includes a person who pays rent in return for the right to occupy a rental unit and includes the tenant's heirs, assigns, and personal representatives, but "tenant" does not include a person who has the right to occupy a rental unit by virtue of being, (a) a co-owner of the residential complex in which the rental unit is located, or (b) a shareholder of a corporation that owns the residential complex;

ADEQUATE AND SUITABLE COOLING

2. (1) Adequate and suitable cooling shall be provided and maintained so that the room temperature at 1.5 metres above floor level and one metre from exterior walls in all habitable spaces and in any area intended for normal use by tenants, including recreation rooms and laundry rooms but excluding locker rooms and garages, is a maximum of 26°C.

   (2) Subsection (1) does not apply to a rental unit in which the tenant can regulate the temperature and a maximum temperature of 26°C can be maintained.

   (3) Every dwelling unit shall have cooling equipment capable of maintaining the temperature levels required by subsection (1).

   (4) Only cooling equipment approved for use by a recognized standard testing authority shall be provided in a room used or intended for use for sleeping purposes.

   (5) The landlord is responsible for the safe installation of the approved cooling equipment by a qualified tradesperson.

3. Section 2 shall be implemented by the landlord within one year of the passing of this by-law.

C. <u>Conclusion</u>

On October 2nd, 2019, City of Toronto councillors unanimously declared a climate emergency.[13] It provided that "Toronto's weather is expected to get hotter, wetter and wilder as climate risks are increasing." [14] This declaration acknowledged the grave risk of the climate crisis. The scale of the climate crisis has only grown since 2019.

[12] Skilled Trades Ontario, "Public Register Search", (2023), online: https://services.skilledtradesontario.ca/STOportal/app/public-search

[13] City of Toronto, "TransformTO Net Zero Strategy," online: <https://www.toronto.ca/services-payments/water-environment/environmentally-friendly-city-initiatives/transformto/>.

[14] City of Toronto, "About the Climate Crisis," online: <https://www.toronto.ca/services-payments/water-environment/environmentally-friendly-city-initiatives/about-the-climate-crisis/>.

In May 2023, the City of Toronto implemented a Heat Relief Strategy designed to reduce incidences of heat-related illness and death in Toronto due to extreme heat.[15] However, aside from educating tenants on their options to keep cool, this strategy is silent on the dire need for a maximum temperature by-law. Such a by-law will shift the onus of keeping cool away from individual tenants, who are often unable to adequately address the temperature within their dwelling units, and will ensure a more unified, enforceable andappropriate response across the City.

We support the Councillors' motion and wish to impress upon the Planning and Housing Committee that this is a matter of the utmost importance. Adopting a maximum temperature by-law affords some of the City's most vulnerable residents better protection against extreme heat and will save lives.

To speak with a spokesperson, please contact:

Jacqueline Wilson, Counsel at Canadian Environmental Law Association
Phone : 416-960-2284, ex 7213
Email: jacqueline@cela.ca

Marva Burnett
ACORN Canada

Graham Webb
Advocacy Centre for the Elderly

Douglas Kwan
Advocacy Centre for Tenants Ontario

Jacqueline Wilson
Canadian Environmental Law Association

Zee Bhanji
Low-Income Energy Network

Sarah Buchanan
Toronto Environmental Alliance

[15] City of Toronto, "City of Toronto Heat Relief Strategy" (May 2023), online (pdf): <https://www.toronto.ca/wp-content/uploads/2023/05/8f1c-Heat-Relief-Strategy-2023finalAODA.pdf>.