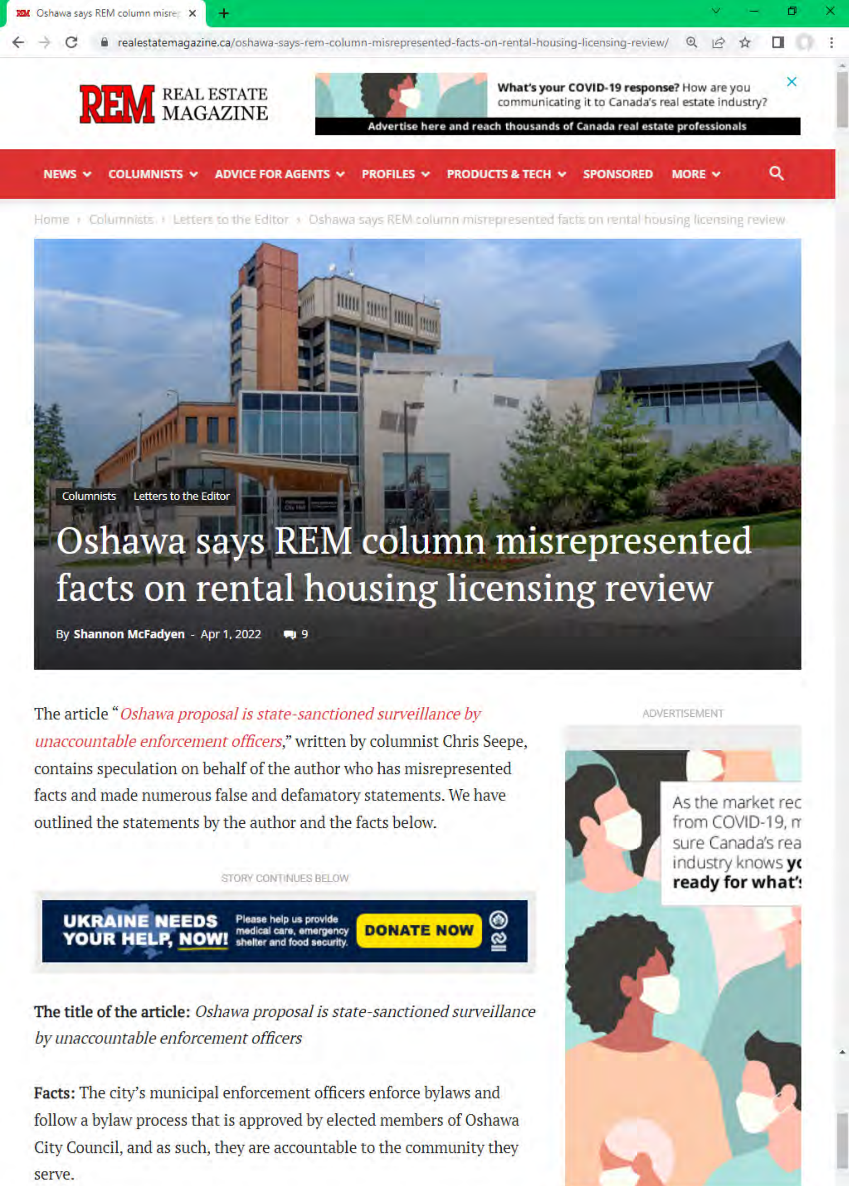
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Oshawa says REM column misrepresented facts on rental housing licensing review

By **Shannon McFadyen** - Apr 1, 2022 9

The article "*Oshawa proposal is state-sanctioned surveillance by unaccountable enforcement officers*," written by columnist Chris Seepe, contains speculation on behalf of the author who has misrepresented facts and made numerous false and defamatory statements. We have outlined the statements by the author and the facts below.

STORY CONTINUES BELOW

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The title of the article: *Oshawa proposal is state-sanctioned surveillance by unaccountable enforcement officers*

Facts: The city's municipal enforcement officers enforce bylaws and follow a bylaw process that is approved by elected members of Oshawa City Council, and as such, they are accountable to the community they serve.

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The actions of municipal law enforcement officers must be defendable in a court of law and enforcement orders and penalties most often include appeal mechanisms. Additionally, in instances when a community member feels an order was wrongly given, there are a number of avenues for appeal. The city has a robust appeals system and furthermore, public sector misconduct complaints can be made to the Ontario Ombudsman in the event that a community member feels an officer(s) were not performing their roles with integrity.

Statement in the article: "In January 2022, the City of Oshawa's City Council heard a proposal from its bylaw department to roll out a residential housing licensing program that would be the first of its kind."

Facts: Oshawa City Council directed city staff to undertake a public consultation regarding a potential city-wide expansion of the current Residential Rental Housing Licensing (RRHL) program and report back with findings on the potential impacts. The city has not decided to "roll out" a program but is seeking public input and consultation to understand stakeholder concerns and determine whether such a program would be appropriate or effective for residents of the city.

The RRHL would not be "the first of its kind" as London, Toronto and Waterloo also have city-wide licensing.

Statement in the article: "Oshawa wants to license every type of rental housing."

Facts: At this point, council is requesting feedback from all stakeholders on possible licensing. No decisions have been made.

In our consultation, one of the questions (Question 12 on the feedback form for property managers and landlords) asks property managers and landlords if they "think the program should be expanded to require all rental properties in the city to be licensed?" Additionally, question 13 on the feedback form gives property managers and landlords the opportunity to explain why or why not they feel this way, while question 14 asks property managers and landlords if they feel licensing should apply to individually owned dwellings, multi-unit dwellings under single ownership or both.

Statement in the article: "The city referenced data it created, managed and 'analyzed' using thinly veiled, one-sided surveys and carefully

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selected participants in 'public feedback' forums that could lead to only one pre-determined outcome."

Facts: There is no pre-determined outcome or opinion on RRHL. City Council is requesting public and stakeholder feedback on the potential city-wide expansion of the RRHL.

The consultation invites community members to complete one of three stakeholder specific feedback forms: general public; tenants and renters; or residential property managers and landlords.

The next report to council, planned for later this year, will provide details of all the feedback received.

Statement in article: "The city's foregone conclusion was that it must set up a demerit point system that rates how 'bad' every housing provider is by employing 33 additional bylaw officers at a cost of almost $5 million."

Facts: There is no proposed demerit point system as part of the RRHL In fact, a previous demerit point system was removed by council during a review of the RRHL in 2021.

None of the proposed options considered for public consultation indicated a need for 33 additional municipal law enforcement officers.

Statement in article: "The city essentially sanctioned a state-run surveillance regime comprising relentless mandatory 'spot' inspections using unaccountable law enforcement Praetorian guards empowered to make legal interpretations and pronounce financial penalties for even the most trivial infractions."

Facts: Again, no decisions have been made. Council has approved consultation to gauge feedback on a potential program expansion.

The city's municipal enforcement officers enforce bylaws and follow a bylaw process that is approved by elected members of Oshawa City Council, and as such, they are accountable to the community they serve.

The actions of municipal law enforcement officers must be defendable in a court of law and enforcement orders and penalties most often include appeal mechanisms.

Statement in article: "Tenants will ultimately suffer the most in the long run under Oshawa's proposed licensing program. The net result will be excessive property standards enforcement leading to minimalist property quality and no new housing construction, resulting in a grossly inadequate number of property standards-conforming rental units at extremely unaffordable rent rates."

Facts: The city is seeking to obtain input from the general public, tenants and renters, and property managers and landlords on the potential city-wide expansion of the RRHL.

Specific questions in the tenants and renters and property managers and landlords feedback forms list the RRHL-associated fees.

Question 11 of the feedback form for tenants and renters provides the RRHL-associated fees per rental type and asks the question, "If these fees were passed on to tenants through increased rent, do you think there is value in licensing to ensure your rental unit complies with minimum health and safety standards (e.g. property maintenance and fire safety)?"

Question 12 asks tenants and renters, "Would you be okay with a city inspector entering your rental unit to inspect it at a scheduled time?"

Question 11 of the feedback form for property managers and landlords asks if they feel the RRHL-associated fees for costs related to inspections and administering the program are "too much, fair or too little".

About the Residential Rental Housing Licensing Program

On January 24, 2022, Oshawa City Council directed city staff to undertake a public consultation regarding a potential city-wide expansion of the Residential Rental Housing Licensing program and report back with findings on the potential impacts. No decisions have been made at this time. Here is a link to the original council-directed report.

The City of Oshawa encourages and welcomes feedback from your industry and invites you to share with your readers the Connect Oshawa project page at https://connectoshawa.ca/rentallicensing, which includes a link to the online feedback form specific to residential property managers and landlords.

Community members can also provide their feedback by attending either in-person or electronically a Special Meeting of the Corporate Services Committee on Monday, April 4 at 9:30 a.m. Details are available by viewing the city's meeting calendar.

Feedback on the RRHL Program will be received until noon Monday, April 18 and considered in the development of potential regulatory licensing standards that will be presented to the Corporate Services Committee later this year. More information is available by contacting mlels_policy@oshawa.ca or 905-436-3311.

TAGS Landlords Oshawa

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Shannon McFadyen

http://www.oshawa.ca/

Shannon McFadyen is Manager, Corporate Communications for the City of Oshawa.

RELATED ARTICLES

Oshawa proposal is state-sanctioned surveillance by unaccountable enforcement officers

Three-year delays in recovery of "forced loans" to tenants

Municipal snow removal bylaws not cut-and-dried

9 COMMENTS

Brent Regnier Apr 2, 2022 At 3:22 pm

Thank you for doing a great job informing those of us that have considered starting to rent again..i will await this councils desicion as this appears not only to cause cost of offering housing to others to go up. but also the hiring of more bylaw people is rediculus we have an over abundance now!

Reply

Steve Apr 2, 2022 At 2:38 pm

More Liberal bureaucracy is the last thing anyone needs and to pay for. It is simply another form of taxation. This is an admittance that the current property standards system is a bureaucratic failure not for the residents but for biased politicians to harass property owners into submission. Tenant groups have long exclaimed that "tenants pay property taxes too" therefore have a right to make policy decisions affecting property. This begs the question: who pays the taxes when the tenant does not pay their rent? Does the city and region go after the tenant in a futile effort to collect it? Not a chance. Governments go after the land owner.

The public questionnaire is biased right from the start by asking from what group you belong. Basically they are asking you to sort out the ones they will consider from the ones they won't.

If this is a benefit for the tenant, then have the tenant pay for it directly to the City. Then maybe the municipal government can experience what Landlords experience every month.

During the pandemic, municipal, provincial and federal governments increased their revenue through increases in costs to landlords while the provincial government mandated a zero rent increase rather than some paltry amount which was still better than nothing. They all patted themselves on their collective backs for it.

But lets be clear, the current housing problem is a culmination of decades of meddling by the various governments. The various governments think they are helping but make the situation worse, which can be said about everything the government touches.

Now the government want to meddle more, it will only be another mess, paid for by property owners.

Reply

John Lake Apr 2, 2022 At 10:05 am

Chris Seepe seems quite thorough and well experienced. While I cannot speak for individual councillors my experience with Town Councils in general is that they are often short-sighted in their efforts. We must continue to educate them and also seek ground support from the elected base.

In seeking to provide needed housing I simply cannot understand why levels of government think making the whole landlord-tenant act so difficult, lopsided, and near impossible to navigate. Who the heck would want to be a residential landlord given all the obstacles and with more on the horizon?

Reply

Brian Martindale Apr 1, 2022 At 12:54 pm

The city of Oshawa is an N.D.P. political enclave, and has been for years. Former N.D.P. federal party leader Ed Broadbent came from Oshawa. The N.D.P. party is a Marxist-dominated political organization. Thus, it is an anti-business (anti-profit-seeking) pro big-government group of socialists who want to run things from the top down. They want to control our lives. They're like union bosses who defend their members no matter how egregious their behaviour. Marxist governments are all in for tenants of all stripes against those so-called nasty profit-seeking landlords—as they see them—who provide accommodations, often for deadbeats and ner'-do-wells, who often don't pay their rents. Try getting them out and see where the Marxists' sentiments lie.

I had a run-in with Oshawa city council back in the 1990s re their then "Cash In Lieu Of Parkland" surcharge on basement apartments, of which I had one.

When the fire department was sent in to inspect the premises, a couple of minor deficiencies were recorded as needing rectifying. A permit was required from City Hall's building department to carry out the rectifications, which I would complete myself. When I personally applied for the fifty dollar permit, I was told I had to first pay almost six hundred dollars for the "Cash In lieu Of Parkland" fee. "That's extortion!" I exclaimed. I took back my plans and turned to walk out. "If you don't complete the repairs within the stipulated time period you will be fined and the apartment shut down. You must pay the fee before we can issue the building permit." I was warned by the counter person. I left.

I won. How? I engaged the Fire department to pass on to City hall that they had overheard me talking to my wife, saying I was going to contact CTV and CBC national news about this illegal cash grab by Oshawa. I had already clashed with the city's lawyer who also threatened me with legal action. "You're doing this just because you can, aren't you!" I stated. "Yes." he declared. I was pissed, and resolved to kick ass. I knew what they were doing was unconstitutional.

Word got to Mayor Nancy Diamond, who convened a general meeting, and requested my presence. During the meeting, held after the media had left, the city counsellors all tripped over themselves denouncing the immorality of the law, although pointing out that they thought it to be legal. Nevertheless, they voted the law down, and it was rescinded at 11:59 p.m. that night. It had been in effect for eleven years, and most landlords who had been affected by it just grumbled and paid the fees. I was the only one who fought the good fight. Of course, the city lawyer thought me an asshole.

Sometimes one has to be an asshole to win out against the tyranny of government, especially against "We know what's best for y'all" Marxist government types.

Reply

John Apr 2, 2022 At 9:55 am

I wish I had your balls Brian.

Peterborough put me through the wringer

several years ago. Extorted me on multiple occasions; outright lied to me about timelines. I would loved to have pushed back and even consulted with a lawyer to do so. But at the end of the day I had to remind myself this was a business and I had to take the course of action that would maximize profitability, not to mention minimize stress, so I totally caved.

Reply

Cameron Nolan Apr 2, 2022 At 10:29 am

A local municipal rental housing provider was accused of having a boarding house and won a landmark case against the municipality. At a significant personal financial cost.

BTW, could someone, anyone, help with understanding what is "free" about freedom of information rights. Governments have a regulatory environment in which they operate, and discretion exists, so it is. The problem is when the discretion is not uniformly applied, and inequity results.

If housing, of any kind, is to be kept to a safe standard….and if that standard is a municipal responsibility, why is rental housing a particular target, and why not a fee for every home in that city? Oh, sorry there is, it is called property tax.

Reply

Jez Apr 1, 2022 At 10:58 am

Excellent and appropriate response !

Reply

Christopher Seepe Apr 1, 2022 At 10:30 am

1. The rebuttal above states that by-law officers are accountable. When I last considered appealing an Oshawa by-law order, the "mechanism" required payment of a non-recoverable fee. Oshawa's policy was that the appeal fee was not refunded even if I was

successful and proved the order should not have been issued. The City claimed they have a right to "full cost recovery." In my opinion, any by-law officer can therefore issue any order without consequence. That makes by-law officers unaccountable.

Several years ago I attended a face-to-face meeting with the by-law department manager after I filed a formal complaint about a by-law officer's alleged poor behaviour. I asked whether any note would be placed in the officer's employment record and he replied that he wasn't at liberty to say.

I also participated in the update to Oshawa's property standards in 2021. There were numerous property standard violations targeted solely at rental housing providers, even though such violations had equal applicability to homeowners, public housing, institutional properties (like schools) and government buildings—but only rental housing providers would be in violation. I wrote arguably 80% of all the requested changes. I can provide my multiple pages of feedback to whomever requests it or better still, ask the City. They have it all in a spreadsheet which you can then use compare my input to what finally made it into the revised by-law.

2. The rebuttal states, "The RRHL would not be "the first of its kind" as London, Toronto and Waterloo also have city-wide licensing." This is misleading. I relied on the City's report, CORP-21-32, regarding the proposed licensing program. Section 5.6 states, "There are four (4) municipalities in Ontario currently using a rental licensing system." Table 11 on page 228 lists Oshawa, London, Mississauga and Waterloo. Toronto is not listed. The three cities all have "city wide" programs but ONLY Oshawa is listed as licensing ALL rental property types. London does NOT license apartments or townhouses, Mississauga licenses ONLY lodging houses, and Waterloo licenses ONLY low-rise residential units. I believe my "first of a kind" interpretation remains correct. The report doesn't mention that there are 444 municipalities in Ontario so why isn't there so many more licensing programs if it's such a "good thing"?

3. The rebuttal cites questions 12 to 14 from the landlord form. The screen captures of the forms I did on March 12, 2022 have these questions as 11 through 13 but more importantly, Question 10 states, "Fees are required to recover the costs associated with inspections and administering the program." How was this determined if City Council didn't decide yet? This question presumes a pre-determined outcome and is reinforced with an already established fee schedule.

The rebuttal states, "There is no pre-determined outcome or opinion on RRHL." However, the forms for Tenants, Renters and non-rental Property Owners ask leading questions. For example, it asks if the City should regulate and license rental properties but then also asks "… what regulations should the City inspect for and confirm when issuing a two (2) year residential rental housing licence … fire safety, adequate heat, long grass, snow removal, noise and nuisance, etc. The question didn't say "if" but "when" issuing a license. Just about every respondent will, of course, say yes that these violations must be monitored and managed. However, all of the cited issues were already being handled city-wide, even with the limited-area program in effect. The questionnaire can mislead the respondent into believing that none of these important housing issues are being address without the licensing program.

The Landlord form states, "Licensing is a good way to let potential tenants know that your property is safe and complies with all applicable standards." Says who? In legal parlance, it's "leading the witness" so to speak. It presumes a predetermined position.

In any event, I stated in my article that there's a far better way to achieve the same goals. I presented a detailed proposal of this better way to the City on April 09, 2019 to which I received the response, "I have had an opportunity to review your suggestions with staff. Attached is a report that evaluated the Residential Rental Housing Licensing Demerit Point System. As this was completed a few years ago, we will be conducting another review and can address some of your suggestions as part of this process. However, given several major corporate initiatives including the implementation of significant IT systems, this review likely will take place in 2020. I have also noted your concerns regarding our enforcement approach. I have followed up with staff and have emphasized the importance of having a customer service approach."

The report mentioned above that was sent to me was, in my opinion, brutally punitive and assumed what I've stated repeatedly: that the City considers all housing providers to be slumlords. I replied, "I hope that a 'reward' or nurturing approach was discussed with your staff during your discussions. I didn't see that in the discussion paper which I admittedly only scanned rather than read every word. I did do a word search on the document for the individual words 'reward', 'award', 'certificate' and 'incentive' and none of those words appeared in the 54-page document."

It was only the sender's remark about the demerit point system that gave me reason to believe there was one in place, and I had no reason to believe that it was subsequently removed.

4. The rebuttal states, "… a need for 33 additional municipal law enforcement officers." Note that the $5 million program cost was not addressed in the rebuttal. I obtained the staff number from an InDurham news article dated 2022 03 12 titled, "Oshawa's rental licensing revamp goes back to staff and the public for review." It states, "…committee members deciding on Option 1C, a city-wide expansion that is expected to cost $4,920,000 in initial annual operating costs, require 33 new staff to run and incur $733,000 in annual capital costs." Among many insights it also stated, "That formula got Councillor Brian Nicholson out of his (virtual) seat Monday."

5. The rebuttal states, "Question 11 … for tenants and renters … asks … "If these fees were passed on to tenants through increased rent, do you think there is value in licensing to ensure your rental unit complies with minimum health and safety standards …" asked for the primary data for these forms and was told "… the

data is not readily available." When I asked about y-law officer salaries, I was told that I'd have to make a freedom of information application. The report further stated, "Nicholson said he would not support taxpayers getting stuck with extra cost." Well, if not taxpayers then who?

Being a rental housing provider for over 12 years and having personally dealt with hundreds of tenants, I'm keenly interested to know how many tenants and renters (I don't know the difference between the two) actually replied that they would be willing to pay more rent to "… ensure your rental unit complies with minimum health and safety standards …", especially once they saw the fee schedule. I'm equally certain that tenants/renters would have no issue with a substantially-enhanced inspection and enforcement regime if housing providers were paying for it. It's the human condition to say, yes, I want everything that benefits me, especially if it's free. The questions are leading and self-serving.

6. I received a phone call from one of Oshawa's councillors who said that they were abstaining from the meeting because they are a landlord and would have a conflict of interest. If all councillors who own a property abstain, the only remaining decision makers then are those who don't own a property. Does this not create an inherent bias against housing providers? Having one or more councillors who have ACTUAL experience the rental housing industry and the critical service that housing providers provide would bring a more balanced perspective to the decision process.

7. Speakers wishing to offer their comments at the April 04/22 meeting were sent "Remote Delegation Process" instructions. It stated that every speaker MUST (the only word that was bolded) submit their speaking notes at least one day in advance of the meeting, "… so that they may be shared with members of Council if there are any technical difficulties causing you to be unable to participate in the meeting."

I spoke with a couple of veteran lobbyists about this requirement and they both said that they've never been asked for this before. This demand is wide open to potential abuse to from technical difficulties arising with particularly vocal dissenters and the City preparing retorts in advance of knowing what the issues are. It also means speakers don't have the means to change their minds, position, opinion, etc. even at the last minute, perhaps after hearing what other speakers have said. It's simply not appropriate. In any event, this issue could be easily rectified with an email any time before April 18/22.

The instructions also included a link to the City's website-based "online player" for those people who wanted to watch the streaming video. That link would have been sent out by all speakers to their delegation and the listening public. That web link was "broken" with a "404 Not Found" error

The meeting coordinator also refused to provide the web streaming video link or the participants' web link until one business day before the meeting.

The above events in my point 7. may individually seem innocuous, except for sending the speaker notes in advance, but when considered all together, I can't help thinking there's more of a hidden agenda.

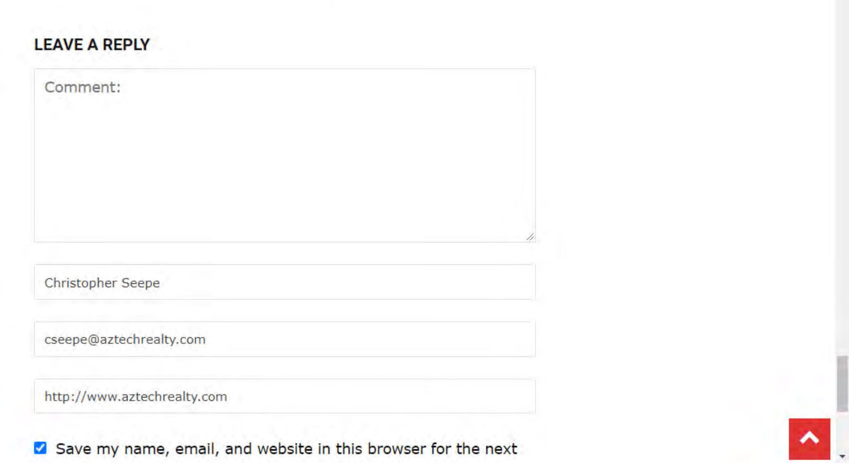
There were reader comments made in the original published article, which I also spent a great deal of time responding to. My explanations there chronicle the years of myriad abuses and sometimes blatant persecution against all housing providers and how I became "politically-activated" for the first time ever in my life because of this rental housing licensing regime. It's essential that all stakeholders understand the true short-term and long-term consequences this program holds for all stakeholders – tenants, housing providers and government.

Reply

Cameron Nolan Apr 2, 2022 At 10:25 am

Thank you Christopher for this information.

Reply



LEAVE A REPLY

Comment:

Christopher Seepe

cseepe@aztechrealty.com

http://www.aztechrealty.com

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