



Guide to Renovations What a Tenant Needs to Know

FEDERATION OF METRO TENANTS' ASSOCIATIONS



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Disclaimer: This guide is not a substitute for legal advice and provides general information. Please consult with a lawyer for advice on your specific situation

Overview

There are a number of laws that cover your rights when a landlord is renovating in or around your apartment. This guide does not deal with situations where a tenant is required to move out due to renovations: that topic is dealt with separately in our publication “Renovation, Conversion and Demolition and the Residential Tenancies Act.”

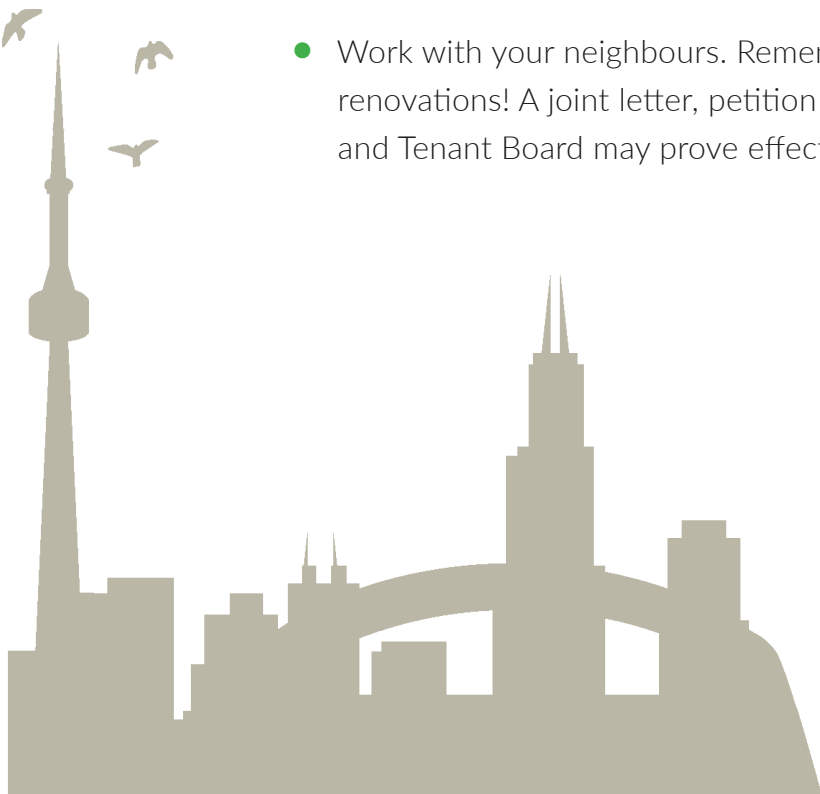
Often tenants are understandably frustrated with ongoing or planned renovations; dust, noise, disruptions and other violations are commonplace. However unless there are extenuating circumstances, it is not always possible to stop a renovation altogether. As a property owner, the landlord does have rights to renovate or modify their property. With that said, a tenant wishing to slow down a renovation to investigate health and safety concerns or other municipal issues; or to ensure that the landlord does not interfere with a tenant’s basic rights under either the Human Rights Code or Residential Tenancies Act, may have recourse to various options discussed in this guide.

Some of the applicable laws which protect your rights are:

- Residential Tenancies Act
- Ontario Human Rights Code
- City of Toronto Municipal Code
- Occupational Health and Safety Act (regulation 278 regarding asbestos)
- Public Health Act
- Ontario Building Code
- Ontario Electrical Safety Act (Electrical Safety Code, regulation 169/99)
- Planning Act

Practical Tips and Framing the Issue

- Document everything: although you have likely phoned more times than you can recall, its time to start keeping receipts, take pictures, keep correspondence with landlords and others in writing to establish a paper trail.
- Maintain a log of important dates and times
- This guide can help you establish ways to effectively intervene when you have concerns with renovations. Figure out the right issues to tackle and the right agencies to contact. For example, the police won't get involved to stop a renovation; but you could go to the Landlord and Tenant Board or the City of Toronto to intervene.
- Often tenants complain that renovations (capital improvements or upgrades to vacant units) are planned even though essential and long-overdue repairs in their building/ apartment don't get done. There is no trade off here: it's not an either or situation. If a landlord is neglecting to make repairs (which are required under health, safety or housing standards), they need to do this regardless of any proposed major renovations and you have ways to enforce your right to a well maintained apartment.
- Sometimes, renovations cannot be avoided (due to health and safety requirements). Even so, a landlord cannot interfere with your reasonable enjoyment of the unit or other tenant rights and must work with you to minimize the impact of any renovation activities.
- Work with your neighbours. Remember you aren't alone in dealing with the renovations! A joint letter, petition or even a joint application to the Landlord and Tenant Board may prove effective.



The following sections cover the law and your rights:

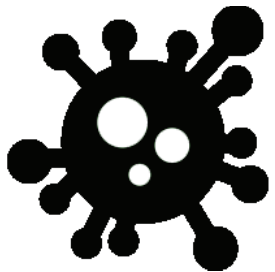
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Environmental Factors



1. Hazardous Chemicals

- For disposal of hazardous chemicals, the landlord is responsible for contacting 311 and arranging a pick-up. This is handled by Solid Waste Management and there are special treatment centres.
- Containers with hazardous chemicals are supposed to be clearly labelled. Contact Fire Prevention for more information on this (what they are and how they must be stored).



2. Mold

- For concerns around mold, call Public Health at 416-338-7600. Property Standards only gets involved if there are also structural issues such as a leak/flood.
- Mold is considered a public health hazard under the Public Health Act. There is no specific legislation to deal with mold. Public Health investigates any complaints they receive: generally providing information and often suggesting that people clean it up.
- Public Health will investigate in person if they believe that the mold is visible and viable (i.e. growing). For the mold to be viable it must be on a surface made of wood, paper, leather or on food (anything that would provide sustenance) and there must be a supply of water.
- For mold to be considered a health hazard, it must roughly cover a space of 30 sq. ft (not necessarily all in the same place).
- Normally, in apartment buildings, where there is mold, it is due to an underlying structural problem and the Public Health Office will refer the matter to Property Standards which typically gives the landlord 30 days to fix the problem. If the problem is fixed, the mold normally dies out or becomes dormant.

- Where the mold has spread to the extent that it is a public health hazard, the Public Health office can deem the property uninhabitable and the landlord then has an obligation to accommodate the tenant elsewhere.
- In general, Public Health deals with the mold in the same way, regardless of susceptibility but they recommend that people document everything in writing and by taking pictures.
- Public Health also often refers tenants to various Canada Housing and Mortgage Corporation resources, available online at:
<https://www.cmhc-schl.gc.ca/en/first-nation/care-for-your-home/mould/>



3. Lead

- There are no regulations relating to lead in multi-residential units because lead was not used in pipes in apartment buildings containing six or more units.
- In single family homes built before 1950 and in cases where lead was used to seal pipes (before 1990), the building owner (not the tenant) can request a water quality inspection.
- There are no regulations in place under the Municipal Code for lead content in paint used during renovation.



4. Particles/ fine dust

- While the Occupational Health and Safety Act applies to workers, there is no similar legislation for non-workers (i.e. tenants) living on renovation sites. With that said, the landlord as the person who ordered the renovation, is legally required to provide mitigation for dust and fine particles.
- This can be done in a number of ways: using water and using wet cuts for concrete, providing coverings, sealing doors and isolating construction zones so that non-workers are kept away. Tenants can use the RTA or municipal bylaws to deal with violations.
- Tenants who are facing discrimination (due to a respiratory illness for example) have recourse through the Ontario Human Rights Code.



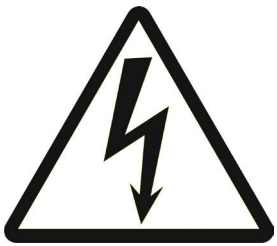
5. Asbestos

- The applicable law is Regulation 278 of the Occupational Health and Safety Act (2007) which applies to all buildings, including residential. Exceptions include residential units that are owner occupied and residential units containing no more than 4 units where 1 unit is owner occupied.
- Subsection 10 of regulation 278 “owners responsibility before requesting tenure or arranging work” states that the landlord has a responsibility to obtain a “designated substances report” prepared by an accredited company, before commencement of renovation activities which should have the following information:
 - Is there asbestos
 - Location of the asbestos
 - The type of asbestos
 - Inform tenants of the location of the asbestos within their units or in common areas. Unfortunately, there is no definitive guideline about how long before the commencement of renovation the landlord must provide such a report; though a tenant can lodge a complaint with the Occupational Health and Safety division if the report is not provided.
- There are three types of asbestos and the regulations sets out the rules for the handling, removal and disposal of each type. It is not possible to know what type of asbestos there is unless there is an inspection. But generally:
 - Type 1 includes floor tiles,
 - Type 2 could include a false ceiling
 - Type 3, the most hazardous, includes cladding for pipes etc
- As a rule, it is best to leave asbestos undisturbed. If it becomes air-borne, asbestos becomes a public health hazard. Although prevalent in the 70s, the use of asbestos has tapered off with some industrial uses which are few and far between.
- It is unclear if a tenant can request an inspection if renovations are not planned. If renovations are proposed or underway, and a tenant has concerns they can call Public Health which acts as a information resource mostly or contact the Ministry of Labour.



6. Building materials

- This is regulated by the Building Code which stipulates that in taller buildings (six storeys or more) there is a requirement for non-combustible materials.
- There are several places tenants can call for support:
 - The Permits offices which issues building permits
 - Occupational Health and Safety or the Infrastructure Health and Safety Association which offer advice and enforcement related to minimum quality control, handling and disposal
- Although highly unlikely that Occupational Health and Safety (which is concerned with workers) would investigate any problems flagged by tenants, the likelihood goes up if there are workers on site. It was recommended that tenants access the Landlord and Tenant Board and the civil process if they have concerns around building materials or equipment handling. If a tenant is injured, there are civil procedures in place to deal with that.



7. Electrical Safety:

- Regulation 169/99 of the Electrical Safety Code turns the Canadian Safety Association guideline on electrical safety into law. Older buildings do not have to comply with modifications to the code. Newer buildings must be in compliance with the latest version of the code in effect at time of construction. Having said that, if something is unsafe it won't be in compliance with the code.
- Specific rules for electrical equipment, renovations or for basements can only be answered by a licensed electrician. In general, if there is sparking, there is likely a problem.
- If either a landlord or tenant wants to make a complaint, they can contact the Electrical Safety Authority which will forward the complaint to an inspector assigned to the area. The response time varies depending on the issue and remedies can range from fines to orders to comply as well as power disconnection to the building, in extreme cases. If a tenant modifies the electrical fittings or systems, the landlord can also contact the ESA and ask them to inspect.

- If an electrician is licensed, their license number must be on all correspondence and on their truck. There is some work excluded from the Electrical Contractor and Master Electrician regulation which a building owner can perform, provided the person doing the work has the competencies' to do the work. The work must still be inspected.
- After an electrical fire, power is generally disconnected to the building until suitable repairs are made. Damaged equipment cannot be used. Generally considered an emergency.



8. Air quality:

- In relation to mould, public health does not generally recommend air quality tests as they are not particularly useful. The threshold for establishing mould as a health hazard is a moving target given that a sample of indoor air is compared to a sample of outdoor air and there is always some mould in the air at all times (depending on the season, there is more or less).



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Municipal Issues

1. Permits

- Permits are required in order to do construction. This includes removal and modification of load-bearing walls, as well as plumbing. Permits for Electrical work are handled by the Electrical Safety Authority. Permits are not required for cosmetic work (painting, changing cabinetry, flooring etc).
- There is a fee for obtaining a permit. The landlord is required to obtain a permit before commencing any work and this permit must be prominently displayed for the inspector to see. If a landlord is working without a permit, the inspector can put a stop to the work. There is some latitude for situations where a landlord has started work and it is imminent that a permit is forthcoming.
- If a tenant would like to complain, please call the Divisional inspection office (by calling 311) and an inspector can come out within 48 hours.
- If a landlord does not obtain a permit or performs work outside of the limits of their permit during a renovation, the landlord and tenant board (in considering an abatement of rent) can order a larger reduction of rent for affected tenants

2. Noise

- According to Chapter 591 of the Municipal Code of the City of Toronto, a landlord can only operate construction equipment between:
 - 7 A.M. through 7 P.M. Mondays through Fridays
 - 9 A.M. to 7 P.M. on Saturdays
 - Not at all on Sundays or statutory holidays
- To make a complaint, the tenant can call 311. The property is added to the rounds of the noise monitor and the city will follow-up to ensure there are no further violations.
- This municipal bylaw is referenced by the Landlord and Tenant Board in determining questions of interference with reasonable enjoyment during renovations. The percentage of any abatement of rent ordered by the board is determined in part by whether or not the landlord complied with the municipal noise bylaws.

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Human Rights

- The provisions of the Ontario Human Rights Code trumps other legislation. If a tenant requires accommodation or feels that they are facing discrimination, they can contact the Centre for Equality Rights in Accommodation or the Human Rights Tribunal.
- Some common ways in which tenants face discrimination during renovations include:
 - Chemical sensitivities
 - Allergies (such as to dust)
 - If a tenant has small children or is pregnant
 - If a tenant is elderly and has trouble with mobility
 - And any other prohibited grounds
- The landlord is required to ensure that the contractors they hire do not act in a discriminatory fashion.

4

The Residential Tenancies Act

1. Loss of service

- During a renovation, a tenant may lose access to one or more amenity, a common area or service, or even a part of their unit (such as a spare bedroom or balcony). In this situation, the tenant may be able to file an application for an abatement of rent. The tenant can file:
 - A T-2 if the loss of service can be reversed (such as re-opening a pool)
 - A T-3 if the loss of service is permanent (for example, the landlord converted storage lockers previously in use by the tenants into an utility room)

2. Interference with reasonable enjoyment:

- If a landlord or agent of the landlord substantially interferes with the use of an apartment by a tenant (or former tenants) or a member of their household during a renovation project, then as per regulation 516 of the Residential Tenancies Act, the board can order an abatement of rent for the tenant(s).
- The Regulation sets out the criteria for an abatement which include but are not limited to:
 - Whether the landlord provided sufficient notice. According to the regulation, the landlord must attempt to provide 60 days notice or in case of emergencies, provide notice as soon as possible. Also, a landlord has to inform a prospective tenant of any impending renovations as soon as possible.
 - The notice should describe the nature and duration of the work and the impact on tenants and should be accurate at the time. If there is a departure from the notice in terms of the nature and duration of the work; the landlord should have provided timely updates to tenants.
 - Whether the landlord made alternative arrangements for tenants in order to minimize the impact on reasonable enjoyment during renovations (such as providing alternative services, accommodations or facilities) and whether tenants availed themselves of these alternatives.
 - Whether the work was required under health and safety codes or to bring the structure into compliance with other applicable legislation such as to improve safety and security, promote hydro or water conservation or create a barrier-free environment
 - A larger abatement of rent is possible where a landlord contravenes municipal noise bylaws (described above) or fails to obtain a permit required by the Ontario Building Code (see above).
- When an abatement is ordered, a general ballpark is around 25% of the rent for the month though the board has discretion to go higher than that if warranted. The abatement will not exceed 100% of the monthly rent.

For more information:

The following government agencies and organizations can provide additional assistance:

- 1.** Tenant hotline (Federation of Metro Tenants Association): 416-921-9494
Provides general information on your rights as a tenant and your options under the law.
- 2.** Landlord and Tenant board: 416-645-8080
Provides information about the Residential Tenancies Act and Landlord and Tenant Board processes.
- 3.** 3-1-1:
Directory of all city services and can be accessed from anywhere within the city of Toronto. Call 311 to connect with Property Standards, fire prevention office, the Permits office or to make a noise complaint.
- 4.** Public Health (Health Connections): 416-338-7600
Can help if tenants have concerns about mould, pests or other public health hazards
- 5.** Centre for Equality Rights in Accommodations: 416-944-0087
Can provide support and advice relating to human rights concerns and educate tenants on the Ontario Human Rights Code
- 6.** Occupational Health and Safety Authority: 1-877-202-0008
The contact centre provides general information on issues such as fine dust-particles and asbestos. They are unlikely to take complaints from tenants; but the likelihood goes up if there are workers present on site
- 7.** Infrastructure Health and Safety Association: 1-800-263-5024
Provides information on general best practices related to handling of construction materials and equipment.
- 8.** Ontario Electrical Safety Authority: 1-877-372-7233
Provides information on the Ontario Electrical Code and can arrange inspections of electrical work. Also responsible for providing relevant permits.

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Canadian Union of Public Employees

Made with Union Labour