

A Guide to Fighting an Above Guideline Rent Increase RenovictionsTO.com - April 2020

If you received an N1 - Notice of Rent Increase and your landlord is trying to increase your rent above the rent increase guideline, you may be able to fight the above guideline increase (the “AGI”).

Every year landlords are allowed to increase rents according to the guideline released by the [Government of Ontario](#)¹. Landlords can automatically increase your rent by this amount (usually between 1% and 2.5% but no more than 2.5%) simply by notifying you on your N1. However, landlords can also apply to increase your rent more than the rent increase guideline. If so, they will have checked the appropriate box on the first page of your N1.

In order for your landlord to increase your rent above and beyond the rent increase guideline they must file an application (an L5) with the Landlord and Tenant Board. That application begins a process that will end with the Board delivering a ruling. Throughout this process tenants can take action to try to fight the AGI. This guide will provide you with some information about what you can do to fight.

Being notified that your landlord wants to raise your rent sucks. You may already find your rent unaffordable or be shocked that your landlord can raise rents so much despite the disrepair of your building and living space. While it’s normal to be angry or to feel powerless, there are things tenants can do to organize and fight back.

It’s not easy to fight an AGI. The rules regarding AGIs were part of landlord-friendly reforms and the way the laws are currently written gives landlords a huge advantage. But if tenants are organized they may be able to have the AGI reduced, the application denied, the landlord back down, or have serious maintenance issues addressed. The reason most AGIs are granted is because tenants don’t try to, or don’t know how to, fight them. Yet tenants in Toronto have organized to successfully oppose AGIs—including with significant victories like those in Parkdale in 2017 and 2018. There’s no guarantee that fighting back will lead to a win, but it gives you a chance.

The Importance of Organizing

Trying to take on your landlord is hard, but doing so alone is even harder. There’s strength in numbers and the most important thing tenants can do to give themselves a chance is to organize and work together. While not everyone in your building may get their N1s at the same time, in all likelihood if you’re facing an AGI then so are most, if not all, of the tenants in your building. By working together you can mount the most effective fight and build the strongest case against your landlord.

Start by asking your neighbours if they also got an N1 with an AGI. Share this guide and other resources and information relating to AGIs with your fellow tenants. Set up a meeting with as many tenants in your building as possible to discuss the AGI and whether you want to challenge it.

There are resources available for tenants who want to organize or set up a tenants’ association in their building. For help with setting up an association you can contact the [Federation of Metro Tenants’ Associations](#)².

A tenants' association can be useful even when you're not facing an AGI. When tenants are organized it puts you in a better position to deal with your landlord, have maintenance issues resolved, access resources and expertise you may need, as well as providing support and fostering a stronger community. You have a legal right to set up a tenants' association.

Whether or not you and your neighbours decide to set up a tenants' association, it's important that you come together and organize if you want to fight an AGI.

Above Guidelines Increases (AGIs)

A landlord may apply for an AGI if they (a) experience an extraordinary increase in property taxes and charges or (b) incur costs related to eligible capital expenditures, security, accessibility, or environmental conservation. This guide will focus on AGIs in the second category because these are the most common cases and the ones tenants can fight. You can find more information about AGIs from the Landlord and Tenant Board [here](#)³. For a more detailed version, see [here](#)⁴.

An AGI allows the landlord to transfer the significant costs incurred onto their tenants. The landlord must file an L5 application with the Landlord and Tenant Board where they document all of the costs incurred in order to justify the requested rent increase. There are various requirements these costs must meet, which will be discussed below. If the costs the landlord claims do not meet the relevant requirements the AGI may be decreased or even denied.

If your landlord applies for an AGI you will get an N1 notifying you of this at least 90 days before the proposed rent increase. The Landlord and Tenant Board will schedule a hearing for all of the tenants in your building subject to the AGI. You should receive notice about this hearing at least 30 days before it takes place. Tenants can contact the Landlord and Tenant Board directly for this information or find the information online by checking the status of their case [here](#)⁵. You will also have access to the landlord's application and supporting documentation. At this first hearing the landlord will present their case and then tenants, or someone representing the group of tenants, will have a chance to respond. A mediator will then attempt to negotiate an agreement between the landlord and tenants. If no agreement is reached at this first hearing there will be a second hearing scheduled. At the second hearing an adjudicator will listen to both sides and deliver a ruling based on the current laws about AGIs.

If no tenants show up to the first hearing, then the landlord's application will be accepted. If only a few tenants show up, it will seem like most tenants are fine with the AGI and it will be hard to fight it. And even if you don't show up to the hearing you're legally bound to the decisions made there. For these reasons, it's important for tenants to organize, prepare, and have as many tenants as possible attend the hearings. This will give you the best chance against your landlord.

According to the current laws and regulations regarding AGIs, the Landlord and Tenant Board will grant a landlord their AGI unless the costs claimed in their application do not meet the necessary requirements or there are serious maintenance problems in the building or in the units impacted by the AGI.

So tenants can pursue two main strategies to fight an AGI at the Landlord and Tenant Board via the legal course set out in the Residential Tenancies Act. First,

tenants can scrutinize the landlord’s application to see if the costs claimed meet the necessary requirements. Second, tenants can document maintenance problems in the building and collect evidence to show that the landlord has failed to adequately maintain the building. There are resources available—discussed below—to help tenants do both of these things.

Tenants can also organize to put pressure on their landlord while pursuing one or both of these strategies. As much as landlords would like the increased revenue from an AGI, if tenants organize and fight back a landlord may decide it’s not worth the trouble and be open to a significant reduction of the AGI or even back down. Such organizing efforts, which have helped tenants fight AGIs in the past and will be discussed later in this guide, can complement your efforts at the Landlord and Tenant Board. However, it’s important to first understand the rules regarding AGIs and how the process unfolds.

How you try to fight an AGI can depend on what you hope to achieve by fighting, who your landlord is, where your building is located, the state of disrepair of your building, the resources at your disposal, and other factors. This guide will focus on the second strategy—fighting an AGI by documenting ongoing maintenance problems—but will outline what steps you can take at various points in the process depending on how you and your neighbours choose to act. Information about and links to helpful resources and organizations will be provided throughout and listed at the end. Note that this guide does not constitute legal advice; for legal advice, speak with a paralegal or lawyer.

Fighting an AGI

It’s hard to say with certainty which course of action tenants should take in response to an AGI. Part of the reason for this is that tenants rarely try to fight AGIs, so there’s not enough data to go on. But which strategy is the right one also depends on your goals as tenants and on other factors. This guide attempts to provide you with the information needed to make the best decisions possible. As more tenants learn about organizing to fight AGIs this guide will be revised to reflect the experiences learned from these fights and their outcomes.

The Federation of Metro Tenants’ Associations can help if your building is facing an AGI. The Federation of Metro Tenants’ Associations can help organize tenants in your building and provide information about fighting an AGI and obtaining legal representation for the hearings. The Federation can also help you apply for a grant from the City of Toronto to pay for a paralegal to represent the tenants in your building.

Having a lawyer or paralegal to represent you and your neighbours may be helpful, however there are a few important things to note. First, many legal representatives are unlikely to devote much time and effort to your case because the pay is less than they are accustomed to. In some buildings tenants have taken up a collection to raise money and pay more than is available from the city’s grant. This can increase your effectiveness. But even if you find a good paralegal who is willing to fight for you, they may only be willing to go so far and be uninterested in a drawn out process that could potentially lead to a better outcome for you. Second, you can’t depend on a paralegal to do all of the work for you. A paralegal can help, but tenants still need to organize, strategize, fight for themselves, and do what they can to oppose the AGI. And while the paralegal may offer legal advice to tenants, at the end of the day it’s up to tenants to direct their representative on how to go about things. Tenants can’t expect a paralegal to carry the whole

load and have to contribute themselves to be more effective. Third, the vast majority of AGI cases end at the mediation hearing, where there is a legal duty to negotiate and try to reach an agreement. A paralegal who sees it as their duty to reach an agreement and doesn't think they are getting paid much is likely to settle at mediation rather than continue to another hearing. Often, this will result in only a minor reduction of the AGI, if anything. This is not meant to say that paralegals won't do their best but simply to recognize that they also have limited resources.

If tenants truly want to fight the AGI and hope to achieve a significant reduction in the increase or have serious maintenance problems repaired, then they may decide it's better for them to fight the AGI on their own rather than have someone paid to represent them. Putting up a real fight will take time and draw out the process, and a paralegal who sees the fee they're getting as insignificant may not be willing to stick it out for the long haul. This is not to say that you should not get a paralegal or rely on legal advice. A paralegal may help you examine the landlord's application and provide sound advice about how to fight. But it's important to keep in mind what you hope to achieve and what the paralegal in question is willing to do for you. To learn more about the pros and cons of hiring a professional to represent you, as well as for help with finding a good paralegal, you can speak with the [Federation of Metro Tenants' Associations](#)⁶ or the [Akelius Tenants Network](#)⁷.

As noted, there are two main things that tenants can do to fight an AGI at the Landlord and Tenant Board. First, they can closely examine the landlord's application and supporting documentation. Second, they can document the landlord's failure to adequately maintain the building.

The reason you and your neighbours may want to closely examine your landlord's application and supporting documentation is that landlords often include things in the AGI application that do not belong. Basically, they may include costs that are not eligible or include apartments that are not impacted by the relevant work and so should not face an AGI. Unfortunately, tenants can't depend on the Landlord and Tenant Board to review the application as closely as required to catch the things your landlord may try to slip in.

The Landlord and Tenant Board's [Interpretation Guideline](#)⁸ for AGI applications clarifies what sorts of expenses are eligible for inclusion in the application and provides details about when costs are ineligible. The sorts of things you will be looking for are the time frame of the work, making sure the work involved necessary capital expenditures (as opposed to, for example, merely cosmetic work), verifying whether the work was actually completed, making sure the cost of labour was reasonable, and making sure the apartments listed in the application are impacted by the work. The landlord has a legal obligation to provide you with the supporting documentation you will need to examine their application. For more information about how to review the application and supporting documentation, see the Interpretation Guideline, or contact the Federation of Metro Tenants' Associations or the Akelius Tenants Network. These resources clarify when expenses are eligible and when they are not. You may also choose to have a paralegal help you review the documentation and build your case against your landlord. The Akelius Tenants Network has produced a helpful [guide](#)⁹ that discusses how to review the application.

Reviewing your landlord's application and supporting documentation can result in a decrease of the AGI if there are costs included that should not be there. It's important to get started on this work early and review the application prior to the first hearing. If you're able to argue that certain costs are not eligible, or that there are other issues with the application, certain expenses may be removed from the application and you will strengthen your negotiating position. How

you and your neighbours choose to navigate the hearings may depend on how significant the problems with the application are and how willing your landlord is to negotiate at the first hearing. Your landlord's legal representation may advise them to reduce the AGI in accordance with updated calculations that exclude the ineligible costs or have removed the unaffected apartments. You can then negotiate a reduction to the AGI with the mediator's help. However, if your landlord included lots of ineligible costs and is unwilling to negotiate an appropriate reduction in the AGI even after this has been demonstrated, you may choose to move on to the second hearing and have the adjudicator rule on the case. A paralegal may be able to help negotiate a decrease in the AGI at the first hearing if there are issues with the application and can offer strategic advice to you and your fellow tenants.

Another thing to note is that it's the landlord's responsibility to support their application with detailed documents and receipts. If tenants notice that supporting documentation is missing or incomplete they can use this to their advantage, either to negotiate a larger reduction at the first hearing or by bringing the issue to the attention of the adjudicator at the second hearing.

Carefully reviewing the application and supporting documentation is worthwhile because landlords often try to slip in ineligible costs, assuming no one will notice. However, it's important to know that in most cases the reduction to the rent increase that results from this work is minor. There have been cases where certain apartments are dropped from the application or there's a significant reduction in the rent increase, but more often than not removing ineligible costs will only result in a small reduction to the AGI. That being said, since it's one of the few things you can do to fight you have nothing to lose by pursuing this strategy, especially if you and your neighbours have reason to be suspicious of your landlord. Also, you can do this work while also building a case around serious maintenance problems or putting pressure on your landlord in other ways.

The rules regarding AGIs state that an application may be delayed or dismissed if there are serious maintenance problems in the building or in certain units included in the application. If the case goes to the second hearing, the Landlord and Tenant Board can also rule to remove certain units from the application or grant the AGI only on the condition that the maintenance problems are fixed. **So if there are serious maintenance problems in your building, then constructing your case around these may be the best approach.** If the maintenance problems are significant, you and your neighbours may choose to focus all of your attention on this strategy, especially if time and resources are limited.

Because an application can be dismissed due to ongoing serious maintenance problems, pursuing the strategy of documenting these problems may give you the best chance of fighting the AGI. It's important to note that it's possible that only units impacted by the serious maintenance problems will see the AGI dismissed. It's also important to note that the maintenance issues must be serious and that there's no guarantee that the application will be dismissed by the Landlord and Tenant Board even if such issues are present. However, organizing with your fellow tenants to document maintenance problems can also greatly strengthen your position in negotiations with your landlord and can be part of a larger organizing effort against your landlord to fight the AGI.

Also, you and your fellow tenants may decide that your primary goal is to have certain maintenance issues in the building fixed. Or this may simply be one of your goals, or the bare minimum you want to achieve. If this is a goal, then documenting these maintenance problems and bringing them up in the AGI process can force your landlord to address them. Basically, you can use the AGI as leverage to get the maintenance problems fixed: if your landlord wants the

rent increase, then they'll have to fix these problems. However, if you don't document maintenance problems and simply go through the process and try to oppose the AGI, the result may be that the AGI is granted in full or a fraction is shaved off but that the maintenance problems are not fixed.

The next section will outline in detail how to document maintenance issues and what sorts of issues may be relevant. If you and your fellow tenants decide to fight the AGI in this way, there are organizations and resources that can offer support. For more detailed information about the hearing process and how to prepare for the hearings, contact the [Federation of Metro Tenants' Associations](#)¹⁰ or the [Akelius Tenants Network](#)¹¹. For additional information about the process and strategies tenants can pursue, contact [Kevin Laforest](#)¹², a lawyer with experience fighting AGIs. For help with organizing against your landlord to fight the AGI and to learn more about different things you can do to strengthen your position against your landlord, contact [Cole Webber](#)¹³, an organizer at Parkdale Community Legal Services with experience fighting landlords. For summary legal advice about the Landlord and Tenant Board, contact [your local legal clinic](#)¹⁴.

Documenting Maintenance Problems to Fight an AGI

It's important to always document maintenance problems in your building and living space and to keep a record of any correspondence with your landlord regarding maintenance issues. Having a log of maintenance issues in the building is always useful and can help in having those issues resolved. (If your landlord is neglecting these issues you can also contact the [City of Toronto](#)¹⁵, which can issue work orders to your landlord.) And a log of maintenance problems can help fight an AGI.

At the end of this guide there are templates for logging maintenance problems. You and your fellow tenants can use these templates to create a log of the various maintenance issues in your building, whether these are within rental units or common areas. First, there is a template for notifying your landlord about a maintenance issue. Notify your landlord as soon as problems arise. Edit the template to include your landlord's correct address and the address of your building. Be sure to keep a copy of any letter sent to your landlord for your own records. If your building has its own digital system for submitting maintenance requests then use that system instead of the template; however, be sure to keep a printed copy of any maintenance request sent. Second, there is a template for logging each maintenance issue in detail. Use this template to keep a more detailed record of each maintenance problem and any correspondence with your landlord, as well as recording whether the issue is outstanding or resolved. Attach photographs (if possible) to create a file for each maintenance issue. Third, collect all of this documentation together in a binder or folder in order to have a complete log for your building. It's helpful to have all of this information gathered together. If your building has a tenants' association, someone from that group can be responsible for maintaining and safely storing this information. It's also important to have hard copies (i.e. printed rather than digital) because that's what you will need for the hearings. [Contact us](#)¹⁶ for versions of these templates in Word.

The current rules regarding AGIs state that the Landlord and Tenant Board can take various measures, including dismissing the application entirely, if the landlord is in serious breach of their maintenance obligations. See the Landlord and Tenant Board's [Interpretation Guideline](#)¹⁷ for more information (see the section "Responding to an AGI Application" near the end). A landlord's responsibility to adequately maintain a building is set out in the [Residential Tenancies Act](#)¹⁸ (see Section 20, Paragraph 1). The act also outlines that a serious breach of this

obligation is relevant when considering an application for an AGI (see Section 126, in particular Paragraph 12). If possible, tenants should cite these documents and sections when presenting their case at the hearings.

The rules note that in order to be relevant to an AGI application the maintenance issues must be serious and ongoing. However, what constitutes a serious breach of a landlord's maintenance obligations is not made fully explicit in the law. The Landlord and Tenant Board interprets "serious" to mean "substantial and ongoing and not merely minor, trivial or of passing concern" and something which "adversely, materially and substantially, affects a tenant's enjoyment of the rental unit." Rulings in previous cases set precedents for what may or may not be considered a serious maintenance problem. Malfunctioning or broken windows and doors, flooding or water leaks from the ceiling, and pest problems are all things that may be considered serious. While it may be useful to review previous cases to see what has and has not been considered a serious breach, it's not at all necessary to do this. Logging all maintenance issues is a worthwhile activity, and common sense is a good guide to what may be considered serious. If it really prevents you from enjoying your living space or being comfortable in your home, if it puts your health and safety at risk, or if it prevents you from easily accessing your apartment (e.g. persistent elevator problems), then it's reasonable to view it as a serious issue. (Previous cases can be found [here](#)¹⁹. It's worth noting that while previous cases are a good guide and it's likely that "serious" will be understood similarly across cases, there's no guarantee that what was deemed a serious breach in one case will be considered as such in the context of an AGI.)

Whether or not a landlord is found to be in serious breach of their maintenance obligations is not simply a matter of the seriousness of any particular maintenance problem(s). Maintenance problems will only be considered relevant to an AGI if they are existing and unresolved. It's also important that the landlord has been made aware of the issues but has failed to adequately address them in a timely fashion. Importantly, a landlord may be considered to be in serious breach if they have failed to address a number of non-serious issues they have been made aware of. The Landlord and Tenant Board's Interpretation Guideline states that: "A landlord who has been given notice and failed to make a number of minor repairs within a reasonable time, or repeatedly ignores requests for necessary repairs and maintenance may be found to be in serious breach. This is so even if each one of the minor repairs...would not be considered severe." (For example, see [this case](#)²⁰, Paragraph 24 and [this case](#)²¹, Paragraphs 16-26.)

In summary, whether a landlord is found to be in serious breach of their maintenance obligations depends on a number of factors: the seriousness of the maintenance problems, whether or not the problems are existing at the time of the AGI application, whether the landlord is aware of the issues and has made adequate efforts to repair them, and whether there is an accumulation of many maintenance problems. This makes it imperative that tenants document all maintenance problems, keep detailed records of each issue, and keep a record of any correspondence with their landlord. Collecting all of this information and bringing it to the hearings will help you oppose your landlord. Having a huge binder filled with maintenance problems can serve to dramatically demonstrate the prevalence of maintenance issues, making your landlord look bad and strengthening your position. Even if only existing issues may be relevant to the AGI it won't hurt your case to have a larger record. It's also important to have this documentation so you can respond to false claims from your landlord; for example, your landlord may claim to have made an effort to address some problem, but if they have no record of this and you have evidence they haven't fixed the issue then their claim won't stand up (see, for example, [this case](#)²², Paragraphs 6-14).

With a log of their building's maintenance problems in hand tenants can decide how they want to proceed in response to the AGI. Tenants may try to execute one of three general strategies. First, tenants may choose to negotiate at the first hearing, using the maintenance issues to negotiate a reduction in the AGI. Second, tenants may state at the first hearing that they're not interested in negotiating and move on to the second hearing to present their case to the adjudicator in the hopes of having the application dismissed or the AGI granted only on condition that repairs are made. Third, tenants may try to use the maintenance issues to draw out the hearings process and put pressure on their landlord in the hopes that they will back down, using the sorts of direct action discussed in the next section. Which avenue is most promising, or appropriate, will depend on a number of factors specific to the case in question, including the seriousness of maintenance issues, the number of maintenance issues, the specific goals of the group of tenants, the negligence of the landlord, and the identity and track record of the landlord. Below are some considerations and suggestions that can help you decide how to proceed. What follows—and this guide as a whole—doesn't constitute legal advice and can't predict all the different possibilities you may encounter. For legal advice, speak with a paralegal or lawyer. And for additional information or insight, contact the resources noted at the end of the previous section. Finally, while having all of your documentation prepared prior to the first hearing gives you the most flexibility in terms of which strategy to pursue, if there are serious maintenance problems in your building but you haven't been able to document everything prior to the first hearing it may still be wise to press on to the second hearing and gather the necessary information prior to then.

If there are a number of significant maintenance issues in your building that you would like to have resolved, then you may want to go to the second hearing to try to ensure that, at a minimum, repairs are made. This is particularly true if your landlord has known about the issues for some time and has failed to address them. If your landlord has been negligent, you can use the AGI to try to force them to address longstanding issues. And if the maintenance issues are serious and/or numerous enough and you have evidence the landlord has been negligent, you may be able to have the AGI dismissed. The AGI can only be dismissed by the Landlord and Tenant Board due to a serious breach of a landlord's maintenance obligations at the second hearing. Note that in these instances you and your fellow tenants still need to attend the first hearing, where you can state your lack of interest in negotiating. You may be asked to say why you are unwilling to negotiate, at which point you can say that you will argue there has been a serious breach in your landlord's maintenance obligations. However, you need not even say that much, and you certainly do not need to say anything more than that or provide any documentation or evidence unless explicitly ordered to do so by the Landlord and Tenant Board—and only the Board can order this, so you should not feel pressured to do so by your landlord or the mediator. When making these decisions it's best to have the legal advice of a lawyer or paralegal.

If pursuing the above it's important to show that the landlord already knew about the problems prior to the hearings. If the landlord can show that they were unaware of the maintenance problems you have logged then they will simply be ordered to repair them and the AGI will be granted. If you can show that letters have been sent to the landlord or that the landlord was aware of the issues for some time and has not addressed them, then you're fine. But if there are new maintenance problems or some that the landlord has not be notified about you may want to send a disclosure letter to your landlord.

At the end of this guide there is a template for such a disclosure letter. The letter notifies your landlord of your intention to oppose the AGI on the grounds of their failure to maintain the building and lists the existing maintenance issues. Remember, you do not need to send this

letter if there is no order to do so from the Landlord and Tenant Board. And there is no need to send the letter if you have evidence the landlord has already been notified of the existing issues. Even if the landlord has not been notified about the issues, you may choose not to disclose, as will be discussed below. But the reason tenants may choose to disclose is to avoid the landlord pleading ignorance. If the adjudicator believes that the landlord was not aware of the maintenance problems they may simply grant the AGI and believe that the landlord will act in good faith and repair the problems, or they may grant an adjournment to allow the landlord to fix the issues and then will grant the AGI in full. And if the landlord is first made aware of the maintenance issues at the first hearing and is confident in their ability to repair them prior to the second hearing, they may not be inclined to negotiate a significant reduction of the AGI.

There are also various reasons why you may want to use the log of maintenance problems to help you negotiate at the first hearing, rather than present your case before the adjudicator. If the maintenance problems are not so numerous and/or as serious as can be, then your log may be more valuable in negotiations than at the second hearing, as it may be unlikely for the adjudicator to rule in your favour. A big log of existing issues can shake a landlord's confidence and make them willing to accept a more significant reduction in the AGI through negotiation. Tenants may also decide that they prefer to have the AGI reduced significantly than have the maintenance issues fixed, in which case they can choose to negotiate at the first hearing after presenting their evidence (particularly if they're not confident about their chances in the second hearing). Finally, tenants may also choose to negotiate if there's concern the landlord can fix the problems prior to the second hearing. This point relates to disclosure. If the goal is to negotiate a reduction in the AGI at the first hearing then it may be beneficial not to disclose certain issues to the landlord and certainly not send a disclosure letter. If serious maintenance problems are discovered after tenants in your building have received their N1s you may choose to wait to bring this up at the first hearing in order to negotiate a significant reduction in the AGI. Whether this strategy is successful can depend on how serious the problems are, how bad their presence makes the landlord look, and how confident your landlord is in their ability to fix the problems prior to the second hearing. If your landlord has been negligent and has known about maintenance issues for some time, then it may be unlikely they will repair things prior to the second hearing, in which case it may be beneficial to tenants to see the process out. These are all things tenants need to weigh when deciding on how to approach the AGI process.

Lastly, tenants may try to use serious maintenance issues to draw out the hearings process and put pressure on their landlord with the goal that they back down. Signing up dozens of tenants to appear before the adjudicator as witnesses can draw out the process and cost your landlord in legal fees. Refusing to negotiate at the first hearing and building a case around maintenance problems can also give tenants time to put pressure on their landlord through other organizing efforts, which are the focus of the next section.

Organizing Tactics

Tenants fighting AGIs in the ways described above have sometimes won significant reductions to the increases requested by their landlords. But because the current rules are landlord-friendly, if tenants want to give themselves the best chance when fighting an AGI, they may want to organize in other ways while they pursue one or both of the above strategies. Tenants have shown that putting pressure on landlords can be extremely effective when fighting AGIs. For example, you can read about successes in Parkdale [here](#)²³ and [here](#)²⁴. We'll describe some of the tactics that have been a part of successful fights. However, keep in mind that each case is unique and you and your fellow tenants have to decide for yourselves which tactics may be most

effective. Also, the below tactics are things tenants can do to complement their participation in the legal process set out by the Landlord and Tenant Board for handling AGIs, not replace such participation. Regardless of what sorts of organizing you undertake, if you and your fellow tenants miss any hearings or neglect proceedings at the Landlord and Tenant Board, then your landlord will almost certainly be granted their AGI.

While preparing to fight an AGI, try to learn as much as possible about your landlord. Are they an individual or a large investment vehicle? If it's the latter, are some of the main investors pensions and unions? Do they own a single apartment building or dozens throughout the city? How have they dealt with tenants in the past, including regarding AGIs? This information can help you choose the actions that are most likely to help in your fight and give you an idea of what to expect from your landlord. Some landlords may prefer to avoid confrontation, while others will be more ideologically driven and may try to harass and intimidate organizing tenants. Two other things are important to keep in mind. First, whether big or small, landlords are businesses that care about their public image, run by individuals who care about their reputations. Second, in most cases landlords are doing extremely well even without charging you extra. Most landlords make very good profits and though they may attempt to recoup additional funds via an AGI, they may decide that the costs of doing so outweigh the benefits.

There's strength in numbers, and one thing that can help your fight is support from other tenants. Look into whether your landlord owns other buildings in your area (or even elsewhere in the city)—tenants in those buildings may also be facing AGIs or are likely to be in the near future. You can distribute flyers in those buildings to let tenants know about what you're facing; this can lead to tenants in those buildings setting up tenants' associations and build solidarity. This also sends the message to your landlord that you're organized and prepared to stand up to them.

Conducting rallies or demonstrations can help grow community support while also bringing attention to what your landlord is doing. Tenants facing AGIs often live in buildings that are poorly maintained and face being displaced if the AGI is granted—many tenants will be vulnerable people who have lived in the building for many years. It's also relatively well-known that landlords often apply for AGIs in order to price out older, rent-controlled tenants so that they can then raise rents to market value. Media coverage and public support for tenants will put pressure on your landlord to back down entirely or negotiate a significant reduction to the AGI. For example, tenants in Parkdale rallied at their landlord's office while delivering a stack of maintenance requests, [drawing attention](#)²⁵ to the disrepair of their buildings and the unfair rent being requested by the landlord. Depending on where you live, your city councillor, MPP, or MP may be able to support these efforts.

Tenants can also rally community support and put pressure on their landlord by organizing a call-in campaign, like [this one](#)²⁶. Such campaigns can show your landlord how much community support there is behind the tenants and that the costs of continuing with their AGI may be high.

Another way to increase pressure on your landlord by inviting scrutiny and rallying public support is to distribute flyers throughout the landlord's neighbourhood or business community. Most landlords realize that their actions—trying to raise rent by so much, displacing vulnerable, long-standing tenants—will be frowned upon by many. Applying to raise rents through the Landlord and Tenant Board is one thing, but having their actions publicly revealed may elicit basic human emotions such as shame. Meanwhile, if your landlord is a large investment fund, there may be certain institutional investors who are uncomfortable displacing tenants through

an AGI. You can find examples of flyers that have been used [here](#)²⁷ and [here](#)²⁸. You can read about organizing efforts in the Mabelle neighbourhood [here](#)²⁹.

Finally, staging a rent strike can be an effective way to put pressure on your landlord. The most successful fights in Parkdale have involved the above tactics combined with rent strikes. A rent strike is not simply a matter of withholding your rent; it requires notification, publicity, and the commitment of a significant proportion of tenants to be effective. However, it's important to note that rent strikes carry significant risks for tenants, as tenants can be evicted for failing to pay rent. If you and your fellow tenants are considering a rent strike, it's important that you not only understand the risks involved, but understand the eviction process and how to navigate that in the event your landlord threatens eviction—landlords will often try to manipulate tenants who do not fully understand their rights when facing eviction. For more information about rent strikes, contact [Cole Webber](#)³⁰, one of the organizers of the strikes in Parkdale. For more information about tenants rights and the eviction process, please see the legal resources listed below. For more information about the successful organizing in Parkdale, see the newsletters posted [here](#)³¹.

Any action tenants take to stand up for themselves may face retaliation from their landlord. Tenants who lead organizing efforts may be unfairly targeted by their landlord and threatened with eviction. It's important that tenants understand what risks their actions carry, but also that they understand their rights. There are legal resources listed below that can help tenants understand their rights and also provide assistance if they are threatened with eviction. All this being said, the risk of eviction that comes with staging a rent strike may not worry a tenant who would not be able to afford rent if the AGI is granted.

And remember that tenants must participate in the process set out by the Landlord and Tenant Board for handling AGIs. The sorts of organizing efforts described in this section will be of no use if tenants are not diligently pursuing their fight at the Landlord and Tenant Board. In fact, the timeline of the legal process and hearings should inform and guide any organizing efforts to put pressure on your landlord, if those actions are going to be most effective.

Other Information

Fighting an AGI isn't easy, but tenants can give themselves the best chance against their landlord by being organized and prepared. The reason most AGIs are granted or only a minor decrease is negotiated is in part because the law favours landlords, but also because tenants rarely contest the AGI—and this is because tenants often don't know their rights or what options they have for fighting. There are organizations working for tenants to make housing laws more just. In the meantime, there's lots tenants can do to organize and fight back. The purpose of this guide is to give tenants the information and tools they need to organize together and fight an AGI.

You may wonder what rent to pay your landlord while this process unfolds. Until the Landlord and Tenant Board issues an order, you don't need to pay your landlord the full rent they're requesting in the AGI application. Rather, you need only pay your landlord what your rent would be with the [regular guideline increase](#)³², whatever the percentage increase is for that year. However, we recommend you set aside the difference between what you pay and the full rent being requested by your landlord in the AGI application. This is because at the end of the process you will have to retroactively pay any difference between your rent with only the guideline increase and the rent that the Landlord and Tenant Board grants your landlord, in the

event such a difference exists. For more information, see [this guide](#)³³ from Community Legal Education Ontario.

Resources and Contacts

However you choose to fight, there are resources available to help tenants.

The Federation of Metro Tenants' Associations is a non-profit organization advocating for tenants. They can help you set up a tenants association and organize in response to an AGI. For more information, see their website: <https://torontotenants.org/>

Cole Webber is an organizer with experience fighting landlords. You can contact him for help with organizing against your landlord to fight an AGI and to learn more about different things tenants can do to stand up to their landlord: webberc@lao.on.ca

For additional information about the AGI process and strategies tenants can pursue, contact Kevin Laforest: laforestlaw@gmail.com

The Akelius Tenants Network is a group of tenants organizing to support tenants throughout Toronto, in particular those living in buildings owned by Akelius Canada Ltd. They have produced informational guides about AGIs and how to fight them. You can access these guides and contact them at: <https://www.akeliustenants.org/>

The Landlord and Tenant Board provides useful information about AGIs, including the Interpretation Guideline linked to above, as well as links to previous cases. You can access these at: <http://www.sjto.gov.on.ca/ltb/>

For legal advice or assistance, you can contact the Community Legal Clinic that services your community, which you can find here: <https://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

You may also be able to find legal assistance and information via Community Legal Education Ontario: <https://www.cleo.on.ca/en> and the Advocacy Centre for Tenants Ontario: <https://www.acto.ca/>

The templates mentioned in the above guide appear on the following three pages. First is the template for notifying your landlord about a maintenance issue. Next is the template for logging each maintenance issue in detail. Last is the template for the disclosure letter. You can copy these templates and paste them into new documents, then edit accordingly.

MAINTENANCE LOG

Maintenance issue: _____

Location (where in the building/in which unit(s)): _____

Description of issue: _____

Photo attached? Yes No

Landlord notified of issue in writing on: __/__/____ (mm/dd/yyyy)

Copy of notice sent to landlord attached? Yes No

Response from landlord received on: __/__/____ (mm/dd/yyyy)

Action taken by landlord: _____

Additional comments (include here any further correspondence with landlord, dates of correspondence, and note if copies of correspondence attached):

Has this maintenance issue been resolved? Yes No

If yes, when: __/__/____ (mm/dd/yyyy)

[insert name and contact information of landlord]

[insert name(s) and contact info of sender/group]

[insert date]

Dear [insert landlord name]:

We, the undersigned tenants, are contesting your application for an above guideline rent increase on the grounds that you have not satisfied your maintenance obligations.

The ongoing maintenance problems affecting units included in the application for the above guideline rent increase include:

[-list all

-

-]

We consider the failure to repair these issues to be a serious breach of your maintenance obligations.

Best regards,

Endnotes

¹ <https://www.ontario.ca/page/rent-increase-guideline>

² <https://torontotenants.org/>

³

[http://www.sjto.gov.on.ca/documents/ltb/Brochures/Information%20about%20AGI%20Applications%20\(EN\)%20Revised June12 2018.pdf](http://www.sjto.gov.on.ca/documents/ltb/Brochures/Information%20about%20AGI%20Applications%20(EN)%20Revised%20June%2012%202018.pdf)

⁴ <http://www.sjto.gov.on.ca/documents/ltb/Interpretation%20Guidelines/14%20-%20Applications%20for%20Rent%20Increases%20above%20the%20Guideline.html>

⁵ <http://www.sjto.gov.on.ca/ltb/check-file-status/>

⁶ <https://torontotenants.org/>

⁷ <https://www.akeliustenants.org/>

⁸ <http://www.sjto.gov.on.ca/documents/ltb/Interpretation%20Guidelines/14%20-%20Applications%20for%20Rent%20Increases%20above%20the%20Guideline.html>

⁹ <https://www.akeliustenants.org/tenant-resources/above-guideline-increases-AGIs/how-to-refute-an-agi-application>

¹⁰ <https://torontotenants.org/>

¹¹ akelius.tenants.network@gmail.com

¹² laforestlaw@gmail.com

¹³ webberc@lao.on.ca

¹⁴ <https://www.legalaids.on.ca/legal-clinics/>

¹⁵ <https://www.toronto.ca/community-people/housing-shelter/rental-housing-standards/apartment-building-standards/rentsafeto-for-tenants/>

¹⁶ info@renovictionsto.com

¹⁷ <http://www.sjto.gov.on.ca/documents/ltb/Interpretation%20Guidelines/14%20-%20Applications%20for%20Rent%20Increases%20above%20the%20Guideline.html>

¹⁸ <https://www.ontario.ca/laws/statute/O6r17>

¹⁹ <https://www.canlii.org/en/on/onlrb/>

²⁰

<https://www.canlii.org/en/on/onlrb/doc/2014/2014canlii23584/2014canlii23584.html?searchUrlHash=AAAAAQAIInNlcmldXMgYnJlYWNoIgAAAAAB&resultIndex=2>

²¹ <https://www.canlii.org/en/on/onlrb/doc/2012/2012canlii21575/2012canlii21575.html>

²² <https://www.canlii.org/en/on/onlrb/doc/2017/2017canlii60324/2017canlii60324.html>

²³ <https://www.cbc.ca/news/canada/toronto/parkdale-rent-strike-ends-1.4245237>

²⁴ <https://www.cbc.ca/news/canada/toronto/parkdale-tenant-strike-rent-housing-landlord-1.4594662>

²⁵ <https://www.thestar.com/news/gta/2017/03/17/parkdale-tenants-rally-in-face-of-rent-increases.html>

²⁶ <https://twitter.com/ParkdaleOrg/status/1240630633208188930>

²⁷ <http://parkdaleorganize.ca/2018/02/20/michael-marsha-lax-drop-the-agi-at-1251-king-do-the-repairs-now/>

²⁸ <https://toronto.citynews.ca/2017/06/03/1590387/>

²⁹ <https://mabelleneighbours.com/>

³⁰ webberc@lao.on.ca

³¹ <http://parkdaleorganize.ca/this-is-parkdale/>

³² <https://www.ontario.ca/page/rent-increase-guideline>

³³ https://www.cleo.on.ca/sites/default/files/book_pdfs/tenantaccess.pdf