

Submission to the UN Special Rapporteur
on the Right to Adequate Housing

Rental Housing in Toronto, Ontario, Canada

Federation of Metro Tenants' Associations

October 20, 2007

I. The Federation of Metro Tenants' Associations

Founded in 1974, the Federation of Metro Tenants' Associations is the oldest tenant advocacy organization in Canada. We work with tenants across the City of Toronto, educating them about their rights, advocating on their behalf, and organizing tenants to collectively improve their living conditions.

Through our Tenant Hotline, Outreach & Organizing Team, and Tenant Education workshops, we consistently hear from tenants about some of the most egregious violations of tenant protection legislation in Ontario. While the current law, the *Residential Tenancies Act*, has sought to remedy some of the injustices of its predecessor, the ironically named *Tenant Protection Act*, there continues to be a lack of real legal protection for tenants in Ontario. Further to this, there continue to be serious systemic barriers for many tenants attempting to access justice under the *Residential Tenancies Act*.

II. Affordable Housing and Discrimination

Vacancy decontrol, the policy whereby landlords may raise rents on vacant units to any amount, came into effect in Ontario in 1997 with the introduction of the *Tenant Protection Act*. Generally speaking, vacancy decontrol is considered a 'market rent' system – with the vagaries of supply and demand determining starting rents and theoretically spurring capital improvements in buildings. Instead of capital investments, what vacancy decontrol spurred was a rapid increase in starting rents. Between 1997 and 2003, the number of one-bedroom units with rents below \$700 per month shrank by 85%, and the number of two-bedroom units with rents below \$800 per month shrank by 89%.ⁱ The recently introduced *Residential Tenancies Act* left the policy of vacancy decontrol intact and does nothing to address the unaffordability of rental housing for low-income tenants and elderly tenants on fixed incomes.

Because starting rents are determined by the landlord, they can simply pick and choose tenants by asking certain tenants to pay a rent that is unaffordable, producing, in effect, a license for unlicensed businesses to economically evict tenants. This practice significantly affects people belonging to vulnerable groups.

The *Ontario Human Rights Code* clearly delineates business practices that landlords may use to screen prospective tenants. However, despite having progressive legislation in place to address discrimination, tenants continue to be vulnerable to various forms of discrimination when they are attempting to secure rental housing.

Because of the appalling cost of living in cities like Toronto, low-income tenants often know that they are being discriminated against, but lack of money often

leads to a lack of choices. Low-income tenants do not have any real choices when it comes to accommodation, and consequently cannot participate the 'free market' of rental housing.

III. Social Housing

According to the *Analysis of Evictions in the City of Toronto under the Tenant Protection Act*ⁱⁱ, of tenants interviewed who were facing eviction due to arrears, 39% cited job-related reasons for being in arrears, 17% cited medical reasons, 12% cited other financial reasons, and 7% cited family issues. Combined, these reasons account for 75% of reasons tenants gave for being in arrears (12% cited 'other' reasons and 13% cited landlord/tenant conflict). The reality is that almost nothing will prevent a tenant from losing their job, falling severely ill, or experiencing a family breakdown. We believe that it is the duty of government to provide protection for vulnerable tenants. In many cases, government has provided this protection through social housing.

Significantly, in cities like Toronto, social housing [often referred to as subsidized housing] has become 'housing of last resort'. People who are included in the definition of protected groups under the *Ontario Human Rights Code* are overrepresented in the lower end of the income spectrum; consequently, these are also the people who are most likely to need social housing. It is our belief that social housing providers therefore ought to set the standard for accommodating people who belong to these protected groups.

For example, we have been hearing from tenants with mental health issues who face evictions from social housing as a result of their disruptive behaviour. While we are aware that accommodating tenants affected by mental health issues is a delicate balancing act for landlords, particularly when the duty to the unwell tenant conflicts with a duty to keep other tenants safe from real or perceived danger, we believe that tenants with mental health issues are in fact less likely to be able to afford to live outside of a social housing context. Simply evicting tenants with mental health issues is not the solution to dealing with a disruptive tenant. That tenant has very few options in terms of affordable housing, and in the end the problem may simply be transferred to the street.

At the root of accommodating the needs of protected groups is the lack of funding for social housing. Since the province downloaded social housing to municipalities in 1998, social housing providers have been unable to keep up with the demands of maintenance and repairs to their crumbling housing stock, never mind *improving* social services and implementing community building models of social housing. We need all levels of government to renew their commitment to a national housing strategy and to ensure that affordable, adequate housing is available to all Canadians.

IV. Lack of Legal Protections for Tenants

Tenant protection legislation in Ontario does not adequately address the root cause of many of these human rights violations, namely, poverty. Despite assurances from the provincial government that the current legislation balances the interests of both landlords and tenants, the systemic barriers that exist prevent many tenants from actually having any real protection.

For tenants living in social housing, the *Social Housing Reform Act*, which is the law that sets out the rules for the administration of rent subsidies for social housing tenants in Ontario, provides no external review process for calculation of subsidies. This leaves social housing tenants vulnerable to the whims and errors of already overburdened social housing providers. We believe this violates a social housing tenants ability to access justice.

For tenants living in private market rental housing, neither the *Ontario Human Rights Code* nor the *Residential Tenancies Act* apply when a tenant shares the kitchen or the bathroom with the landlord or a member of the landlord's immediate family. Human rights ought not to be attached to one's living situation. This gap in protection isolates already vulnerable tenants. Newcomer tenants are more likely to live in this type of housing scenario, and are the least likely to have access to community resources to assist them in dealing with an attack on their human rights.

The systemic barriers are many, though the most significant are: the fact that the law is not proactive – tenants must make applications to the *Landlord and Tenant Board*, which often interferes with their ability to work; the fact that the culture of the *Board* relies on a quasi-legal framework that severely disadvantages tenants who have no comprehension or facility with negotiating government bureaucracies; and the fact that despite having their forms and literature translated into French, the *Landlord and Tenant Board* has no system in place for accommodating people whose first language is neither English or French, which is significant for the City of Toronto, the home of the majority of newcomers to Canada.

V. Conclusion

Canada signed onto the *UN International Covenant on Economic, Social and Cultural Rights* in 1976. We feel strongly that the Federal, Provincial, and Municipal governments must be held accountable for upholding the *Covenant* and must work to ensure that housing is the right of all Canadians.

As people working in the realm of housing, whether as advocates, volunteers, service providers, or tenants, we continue to work to ensure that all Canadians have access to decent, affordable housing. We look forward to working with the

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UN Special Rapporteur on the Right to Adequate Housing to promote the right of housing for all.

ⁱ Shelter, Support & Housing Administration, City of Toronto. July 2006. *Rental Housing in Toronto: Facts & Figures*

ⁱⁱ Lapointe, Linda. March 2004. *Analysis of Evictions in the City of Toronto: Overall Rental Housing Market*