

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

**JENNIFER TANUDJAJA, JANICE ARSENAULT, ANSAR MAHMOOD,
BRIAN DUBOURDIEU, CENTRE FOR EQUALITY RIGHTS IN ACCOMMODATION**

Applicants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO,
ATTORNEY GENERAL OF CANADA and
ATTORNEY GENERAL OF ONTARIO**

Respondents

APPLICATION UNDER Rule 14.05(3)(g.1) of the *Rules of Civil Procedure*, R.R.O. 1990, O. Reg. 194 and under the *Canadian Charter of Rights and Freedoms*

AFFIDAVIT OF J. DAVID HULCHANSKI

I, **J. David Hulchanski**, of the City of Toronto in the Province of Ontario, **MAKE
OATH AND SAY:**

A. QUALIFICATIONS

1. I am the Associate Director for Research at the Cities Centre, University of Toronto (since 2006) and a tenured full professor in the Faculty of Social Work (since 1991) where I hold the Dr. Chow Yei Ching Endowed Chair in Housing (since 1997). I am also cross-appointed to the Graduate Program in Planning in the Department of Geography (since 1991). I am the former director of the Centre for Urban and Community Studies at the University of Toronto (2000-2006). My teaching and research focus on housing, homelessness, social policy and human rights, discrimination in housing markets and human rights issues in relation to social welfare and land use planning. I teach graduate courses and supervise dissertation research in housing policy and programs, homelessness, comparative international housing systems, social planning, neighbourhoods, and community development. One of my graduate courses, Social Housing and Homelessness (SWK 4422) is offered annually.

2. I received my Masters and Ph.D. in Urban and Regional Planning from the University of Toronto in 1974 and 1981, respectively. I have been a Registered Professional Planner, RPP, with the Ontario Professional Planners Institute and a member of the Canadian Institute of Planners. Prior to my appointment to the University of Toronto (1991), I was a professor in the School of Community and Regional Planning at the University of British Columbia (1983-1991) and served as Director of the UBC Centre for Human Settlements (1987-1991). During that period I was a member of the Planning Institute of British Columbia and was elected to its executive council (1986-1991).

3. I served as the convener and co-chair of the June 2004 international housing research conference in Toronto on behalf of the International Sociological Association's Research

Committee on Housing and the Built Environment, and as the North American editor of the international research journal *Housing Studies* (1993-2001).

4. Between 1995 and 1997 I was a member of the Board of Directors of the Ontario Housing Corporation, which is responsible for the 54 local housing authorities that manage Ontario's 84,000 public housing units.

5. I am also a member of a variety of community organizations which focus on the needs of lower income Canadians and promote access to adequate housing, including the Rupert Community Residential Services of Toronto Inc. (member of the Board of Directors), the National Housing and Homelessness Network (steering committee, co-founder) and the Toronto Disaster Relief Committee (steering committee, co-founder). I am affiliated with the Canadian Housing and Renewal Association, the American Sociological Association's Housing Research Committee, the Urban Affairs Association, and the European and Asia-Pacific networks for housing research.

6. I have written extensively about public policy and homelessness, and have co-edited two books on this topic: *Finding Room: Policy Options for a Canadian Rental Housing Strategy* (University of Toronto, 2004) and *Finding Home: Policy Options for Addressing Homelessness in Canada* (2009) (www.homelesshub.ca/FindingHome). Both books, with about 30 chapters each, compile some of the best Canadian research on the topics.

7. A copy of my CV is attached as **Exhibit A**.

8. This affidavit presents my observations, expertise, opinions and research findings regarding the definition, evolution, and demographics of homelessness in Canada, the role of the

governments of Canada and Ontario in creating and perpetuating this crisis, and the measures necessary to adequately address the problem of homelessness in Canada. It is based on my own research, and the research of others in related fields. My affidavit is organized into four principle sections:

- What is homelessness?
- The demographics of the homeless population
- Government policy and homelessness in Canada
- Solutions to homelessness

B. WHAT IS HOMELESSNESS?

9. Although the term “homeless” has been used throughout history, “homelessness” did not come into widespread use as the name for a set of social problems in developed countries until the early to mid-1980s. The usage arose because a term was needed to define an emerging social phenomenon: the fact that in wealthy countries, an increasing number of people who were once housed were no longer housed.

10. There is no single definition of homelessness, but for policy and program purposes, homelessness is generally understood to mean the absence of a safe, secure and adequate place to live.

11. Experts concerned with homelessness have divided the problem into three categories of persons affected: (1) those who suffer from “absolute” homelessness, (2) those whose homelessness is “concealed” (hidden homelessness), and (3) those who are precariously housed (at risk of becoming homeless).

12. “Absolute” homelessness refers to people sleeping on the street, in public places or in any other place not meant for human habitation or who are living in temporary shelters for the homeless. ‘Concealed’ homelessness refers to people who are not absolutely homeless, but do not have adequate housing such as those who are temporarily living with friends (often referred to as “couch surfing”), living in unsafe or violent circumstances, or institutionalized because of lack of housing or support services in the community. Those who are precariously housed are living in such insecure circumstances that they are experiencing serious hardship, struggling to maintain their housing and are at serious risk of losing their housing.

C. THE DEMOGRAPHICS OF THE HOMELESS POPULATION

13. The Government of Canada estimates that there are 150,000 homeless people while others have estimated there are 300,000. In my opinion, there are serious methodological problems in reaching such estimates given that homelessness is often concealed. These estimates are generally extrapolated from local shelter-use data or are based on a snapshot of the number of homeless people sleeping rough and using shelters on a given night. Such counts invariably miss some of those who are absolutely homeless and never include any of the concealed homeless.¹

14. While we cannot determine a precise number of homeless people, researchers can detect general trends. For example, researchers can determine whether homelessness is increasing or decreasing, and they can undertake an analysis of the demographics of the homeless population.

¹ City of Toronto, Shelter, Support and Housing Administration, *2009 Street Needs Assessment: Results and Observations* (Toronto: Shelter, Support and Housing Administration, 2010) (The City of Toronto engages in a periodic one night count of homeless people. According to the 2009 count: “there were a minimum of 5,086 homeless people staying outdoors, in shelters, in health care and treatment facilities, incarcerated in Toronto-area detention centres from a Toronto court, and in Violence Against Women shelters” at 5).

15. It is certainly the case that the number of homeless people has generally increased across Canada since the 1980s in all three categories: absolute, concealed, and those who are precariously housed.

16. Until the 1980s, people in Canada who were referred to as being homeless were generally middle aged men who were not part of a traditional family, drifted from job-to-job, and lived in rooming houses and flop houses. Some would occasionally use the services of charities, such as the Salvation Army.² They were “homeless” because they were transient and unattached to a traditional family home. This one demographic group is now a small part of a much larger and diverse group of those who are homeless in Canada.

17. Homelessness is directly linked to prevalent systemic patterns of social and economic disadvantage. Several groups are disproportionately affected amongst the homeless population. These include: youth, families with children, elderly people, aboriginal people, and people with disabilities.

18. *Youth.* There is no data on youth that fall into the concealed or precariously housed categories. The federal government’s E-SYS database³ provides the following socio-demographic summary of Canada’s “street youth” or the absolute homeless:

- About two-thirds male, one-third female in all survey years.
- The age of street youth ranged from 15 to 24 years, with an average of 19 years.

² See Social Planning Council of Metropolitan Toronto, *Report of Committee on Homeless and Transient Men* (Toronto: Social Planning Council of Metropolitan Toronto, 1960); Canadian Welfare Council, *Homeless Transient Men* (Ottawa: Canadian Welfare Council, 1961).

³ The Enhanced Surveillance of Canadian Street Youth, or E-SYS, initiated in 1998, is a health monitoring collaboration between the Public Health Agency of Canada, Health Canada, the participating surveillance sites and the youth who provide the data and samples collected.

- The vast majority of street youth were born in Canada; less than 10 percent were born outside of the country.
- Homeless youth are of varied ethnic backgrounds, with about 60% reporting Caucasian ethnicity. About 12% of homeless youth reported being of African, Asian, Middle Eastern or other ethnicities.
- Aboriginal people are over-represented among street youth. Although Aboriginals represent only 3% of the Canadian population, approximately 33% of the street youth self-identified as Aboriginal.
- Approximately 15% of street youth reported their families had been homeless.⁴

19. The Public Health Agency of Canada reports that the “one constant found among all street youth is their precarious living conditions, which include poverty, residential instability and emotional and psychological vulnerability.”⁵ There is general agreement on the measures required to address youth homelessness. “Street youth require both basic care and ongoing support if they are to set their lives towards achieving productive, self-enhancing goals and a useful place within their community.”⁶

20. In a recent study of policies for Canadian homeless youth, it was found that federal/provincial programs addressing homelessness fail to adequately address the needs of this population. Many programs cover children and adolescents as long as they remain attached to their families, “[b]ut once young people step outside the structures designed to keep them inside

⁴ Public Health Agency of Canada, *Street Youth in Canada: Findings from Enhanced Surveillance of Canadian Street Youth, 1999-2003* (Ottawa: Public Health Agency of Canada, 2006).

⁵ *Ibid* at 1.

⁶ *Ibid* at 37.

their homes, there are few courses available to them.”⁷ A copy of Shirley Chau & Mike Gawliuk’s chapter “Social Housing Policy for Homeless Canadian Youth” (Toronto: Cities Centre Press, University of Toronto, 2009) is attached as **Exhibit B** to this Affidavit.

21. Chau and Gawliuk note that effective public policy for homeless youth requires the implementation of a new policy to address the housing needs of youth, including:

- a supply of affordable, safe and stable housing designated specifically for the youth population;
- income supports that provide young people with the financial resources to pay their rent and meet basic needs; and
- social supports that assist young people in developing the skills, knowledge and abilities to achieve self sufficiency.⁸

22. It is my opinion that such measures would be effective in addressing youth homelessness.

23. *Families with Children*. A significant and growing segment of Canada’s homeless population is families with children. Within this group are many immigrant and refugee families. Living in a homeless shelter imposes significant stress on parents and their children: schooling is disrupted, shared space causes tension within family relationships, families have increased exposure to illness and violence, ties to support and community networks are severed and parents experience loss of self-esteem. In their study of families in Toronto’s shelters, Paradis *et al.* report that “family shelters – intended as a crisis resource of last resort – are instead functioning

⁷ Shirley Chau & Mike Gawliuk, “Social Housing Policy for Homeless Canadian Youth” in J David Hulchanski et al, eds, *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book) (Toronto: Cities Centre Press, University of Toronto, 2009) at 17.

⁸ *Ibid* at 18.

as transitional and supportive housing for certain types of families for whom dedicated housing programs are needed.”⁹ This is because adequate housing is not available. They note that: “[e]ach time a family becomes homeless represents a failure of services and supports to keep them housed, and suggests a gap which must be filled.”¹⁰

24. *Elderly People.* Recent increases in the number of homeless single adults aged 50 to 64 suggest an emerging housing crisis for elderly people unless action is taken.¹¹ Elderly people are particularly vulnerable to the effects of homelessness. A recent study of formerly homeless older adults in Toronto and Calgary, found that being homeless rapidly affects health and well-being. Adequate and appropriate housing with proper support services is essential to addressing homelessness among older adults. The study also found that “this population can be appropriately and stably housed in a number of different forms of housing. Clearly, investment in age-appropriate, affordable housing and supports can help formerly homeless older adults find their way ‘in from the streets.’”¹²

25. *Aboriginal people.* Aboriginal people are disturbingly overrepresented among Canada’s homeless population. In Toronto, Aboriginal people comprise 0.5 percent of the population but 15 percent of Toronto’s homeless population and 26 percent of homeless people sleeping on the

⁹ Emily Paradis et al, “Better Off in a Shelter? A Year of Homelessness & Housing among Status Immigrant, Non-Status Migrant & Canadian-Born Families” in J David Hulchanski et al, eds, *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book) (Toronto: Cities Centre Press, University of Toronto, 2009) at 13.

¹⁰ *Ibid* at 14.

¹¹ Lynn McDonald et al, “Understanding the Health, Housing, and Social Inclusion of Formerly Homeless Older Adults” in J David Hulchanski et al, eds, *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book) (Toronto: Cities Centre Press, University of Toronto, 2009) at 16.

¹² *Ibid* at 2.

street.¹³ Attached as **Exhibit C** to this Affidavit, the December 2009 Standing Senate Committee on Social Affairs, Science and Technology report, *In From the Margins: A Call to Action in Poverty, Housing and Homelessness* notes that:

... urban Aboriginal peoples are also among those facing the greatest housing affordability and security challenges, and are increasingly concentrated in large urban areas – particularly Vancouver, Winnipeg, Toronto, Calgary and Edmonton. The barriers that exclude low-income Canadians from adequate housing are compounded for Aboriginal peoples by racism, high mobility rates, and inexperience in navigating the complexities of urban life. The combined effect of these factors makes housing for Aboriginal peoples a top priority...¹⁴

26. *Persons with Disabilities.* Mental disabilities, both intellectual and psycho-social, are correlated with extreme vulnerability to homelessness when programs are not put in place to meet the needs of this group for housing and support services. The Mental Health Commission of Canada reports that between “a quarter and a half of the absolutely homeless suffer from mental illness.”¹⁵ The government policy shift toward out-patient services with fewer patients kept in hospital was not backed up with the provision of enough community-based support services, including supportive housing.

¹³ Erika Khandor & Kate Mason, *Street Health Report 2007* (Toronto: Street Health, 2007).

¹⁴ Senate, Subcommittee on Cities of the Standing Senate Committee on Social Affairs, Science and Technology, *In from the Margins: A Call to Action on Poverty, Housing and Homelessness* (December 2009) (Chair: Honourable Art Eggleton, PC) [Senate].

¹⁵ Michael Kirby, “The Homeless and Mental Illness: Solving the Challenge” (Speech delivered at the Collaboration for Change Forum, Mental Health Commission of Canada, Vancouver, 28 April 2008) [unpublished, archived online at www.mentalhealthcommission.ca] at 4.

D. GOVERNMENT POLICY AND HOMELESSNESS IN CANADA

Overview

27. It is important when considering housing policy and the jurisdictional role of the three levels of government, to place the policy discussion in context. Canada has a "housing system," not just particular housing policies and programs for poor people. While it is common to refer to the healthcare *system* or the social welfare *system*, it is rare to refer to the housing *system*. In most housing discussions in Canada, people refer to the housing *market*, which suggests the private sector rather than governmental activity. But the housing market, in the ownership and the rental sectors, exists in its present form because of public policies and programs. Canada's current housing system is the result of a long history of government activity and the ongoing role of all levels of government.

28. Homelessness in Canada as we know it today emerged in the early 1980s as a result of a shift in housing and related social policy by the federal and provincial governments. This opinion was developed through my research and is supported by the research of others. An increasing mismatch between incomes (employment structure) and the cost of living, especially the cost of housing, which developed during these years was not addressed by government policy and indeed was exacerbated by policy changes. As it became increasingly difficult in the 1980s for lower income and vulnerable groups to obtain and maintain adequate housing, governments adopted policies and programs that made the situation even more difficult: decreasing housing and income supports, as well as other services for those most in need.

29. Housing policy in Canada, as in most other countries, has always involved an active role for the federal government as well as provincial and municipal levels of government.¹⁶ Over the decades, no matter how the constitutional jurisdiction over housing has been understood, it was the federal government that played the major role in shaping how Canada's housing stock was financed and allocated, and the degree to which critical social needs for adequate housing were met.¹⁷ Provincial and municipal levels of government have also played important roles in the shaping and administering of housing and social programs, often supplementing or cost sharing federal programs.

30. Intergovernmental arrangements concerning housing have been primarily determined by policy decisions of the governments of the day. The federal and provincial governments have historically engaged in many different programs, both unilateral and joint. There have been no apparent legal or constitutional impediments to federal or provincial governments engaging in a wide variety of housing policies and programs.¹⁸

31. At times, provincial governments in wealthier provinces have become more active in social housing and urban initiatives in response to tight housing markets. Between 1985 and 1995, for example, Ontario produced about 50,000 social housing units unilaterally, with its own funds. In addition, prior to the 1995 change in provincial government and the termination of the

¹⁶ See Kathleen Scanlon & Christine Whitehead, *International Trends in Housing Tenure and Mortgage Finance* (London: Council of Mortgage Lenders, 2004); Willem van Vliet, ed, *International Handbook of Housing Policy and Practices* (New York: Greenwood Press, 1990).

¹⁷ See JC Bacher, *Keeping to the Marketplace: The Evolution of Canadian Housing Policy* (Montreal: McGill-Queen's University Press, 1993); KG Banting, "Social Housing in a Divided State" in G Fallis & A Murray, eds, *Housing the Homeless and Poor: New Partnerships among the Private, Public, and Third Sectors* (Toronto: University of Toronto Press, 1990) 115.

¹⁸ See generally JD Hulchanski, "What Factors Shape Canadian Housing Policy? The Intergovernmental Role in Canada's Housing System" in R Young & C Leuprecht, eds, *Canada: The State of the Federation 2004: Municipal-Federal-Provincial Relations in Canada* (Kingston: McGill-Queen's University Press, 2006) 221.

Ontario housing program, Ontario also used its own funds to supplement the federal-provincial social housing program to eliminate what it considered to be several regressive regulations imposed by the federal government in the 1980s and early 1990s.

Historical Commitment to the Right to Adequate Housing: World War II – 1970s

32. From the end of the Second World War until the end of the 1970s, the housing policy of the Government of Canada was committed to ensuring the availability of adequate housing for everyone. The federal government played the lead role in re-establishing the house building and residential rental sectors following the Great Depression and World War II. It was this commitment that resulted in there being little to no homelessness in Canada during the post-war period prior to the 1980s. If the commitment to the right to adequate housing for everyone had continued into the 1980s and 1990s, homelessness would not be nearly as severe as it is presently. Homelessness is not a “natural” phenomenon; it is a by-product of public policies and a result of governments’ role within the current housing system.

33. In the period between the end of the Second World War until the late 1970s, the explicitly stated policy objective of the federal government was to adequately house everyone. Even people living in poverty during this period generally had housing. As a result, the federal government engaged in a variety of programs. Governments were committed to addressing the basic needs of Canadians who required support in old age or because of economic difficulties, or ill health. After the War, the federal government revived the housing market, created a functioning mortgage system with government mortgage insurance (introduced in 1954), began to build a significant number of social housing units annually (via major amendments to the *National Housing Act* in 1949, 1964, and 1973), and subsidized private-sector rental housing

construction (a series of programs with the final one terminated in 1984). Universal health insurance, Unemployment Insurance, Old Age Pensions, and the Canada Assistance Plan (CAP) were all introduced or improved at this time as national cost-shared programs. Under the terms of CAP, from 1966 until March 1996, the federal government paid a share of the cost of welfare and social services. These social programs were in addition to the federal housing programs that sought to create a complete housing system – complete in the sense that it sought to meet the basic needs of all households. The federal government did so by recognizing and actively addressing problems in each component of the housing sector: homeownership, private rental housing, and non-market social housing.

34. The following chronology lists some of the key initiatives that formed the basis of the national housing strategy during the post-war period prior to the 1980s:

Federal Housing and Social Welfare Initiatives, mid-1960s to late-1970s	
1966	Canada Assistance Plan adopted, providing for an expanded federal role in financing social assistance through conditional cost-sharing requiring that provincial social assistance programs cover the cost of basic necessities including shelter.
1967	The first Federal-Provincial Conference on Housing and Urban Development.
1968	The Federal Cabinet establishes a Task Force on Housing "... to report on ways in which the federal government, in company with other levels of government and the private sector, can help meet the housing needs of all Canadians...".
1969	The <i>Report of the Federal Task Force on Housing and Urban Development</i> is published, recommending an expanded federal role. (Attached as Exhibit D of this Affidavit) The federal government announces a target for housing production: one million units over the next five years, with an emphasis on the needs of low-income people.
1970	A special \$200 million Low Cost Housing Program is introduced, and the largest housing budget ever is approved as part of the five year target of a million housing starts.

1971	<p>Established a Federal Minister of State for Urban Affairs</p> <p>The Assisted Home Ownership Program is initiated with \$100 million funding.</p> <p>Federal white paper, <i>Income Security for Canadians</i>. Reform of unemployment insurance is implemented.</p>
1972	<p>The first national Tri-level Conference on urban issues and housing problems is held in Toronto.</p>
1973	<p>A federal/provincial conference on housing is held in Ottawa.</p> <p>The second national tri-level conference on urban affairs is held in Edmonton.</p> <p>The National Housing Act is amended, to implement recommendations of the previous studies through the following new housing programs: Assisted Home Ownership (AHOP) to assist moderate income households to become homeowners; Non-Profit Housing to develop other forms of social housing in addition to public housing; Neighbourhood Improvement (NIP) to provide funds to municipalities to improve the physical quality of low income neighbourhoods; Residential Rehabilitation Assistance (RRAP) to provide assistance to landlords in renovating older rental housing; and On-reserve Housing.</p>
1974	<p>CMHC establishes regional offices in each of the ten provinces.</p> <p>The Registered Home Ownership Savings Plan (RHOSP) is introduced to “ease the formidable difficulty facing young people” in accumulating a down payment.</p> <p>Multiple Unit Residential Building (MURB) tax provision is introduced “to provide a quick and strong incentive to the construction of new rental housing units.”</p> <p>The Rural and Native Housing Program (RNH) is established.</p>
1975	<p>The Assisted Rental Program (ARP) is introduced to encourage the development of modest rental housing.</p> <p>The June 1975 federal budget increases funding for AHOP and ARP to “stimulate demand and help make adequate housing more accessible to Canadians of moderate means.” A total of 122,647 units are subsidized by ARP between 1975 and 1980. A total of 94,205 ownership units are subsidized by AHOP between 1975 and 1979.</p>
1976	<p>United Nations Conference on Human Settlements is held in Vancouver (an initiative promoted and financed by the federal government).</p>
1977	<p>Additional funding for ARP is provided.</p>
1978	<p>The Urban Native Housing Program and the On-Reserve Housing Program are established.</p>

35. The social insurance and income support programs developed in the 1960s and 1970s were all associated with the federal government’s commitment to adequately house everyone in

Canada. This commitment to adequate housing and to provide essential support services for everyone is reflected, for example, in the words of then Prime Minister Lester Pearson in a 1965 speech to the Ontario Association of Housing Authorities, where he noted “the necessity for everybody to have a decent dwelling; not to make all homes mansions, but to ensure that none of them will be hovels... This objective of decent housing simply has to be achieved in our democratic society.”¹⁹ A copy of Lester B Pearson’s speech “Public Housing – Building Toward a Great New Canada” (September 1965) is attached as **Exhibit E**.

36. The 1964 amendments to the *National Housing Act* created a large-scale federally-funded public housing program. The amendments provided for a direct relationship between the federal government and provinces or municipalities in the provision of subsidized housing. That new commitment to public housing resulted in 164,000 additional public housing units between 1964 and 1978 (an annual average of 11,680 units).

37. Introducing housing legislation in 1973, Ron Basford, the Minister of State for Urban Affairs, a federal ministry that no longer exists, clearly asserted that our society has an obligation to see that all people are adequately housed. He said:

When we talk about people’s basic needs – the requirements for survival – society and the government obviously have an obligation to assure that these basic needs of shelter are met. I have already acknowledged this obligation in stating that good housing at reasonable cost is a social right of every citizen of this country. ... [T]his must be our objective, our obligation, and our goal. The legislation which I am proposing to the House today is an expression of the government’s policy, part of a broad plan, to try to make this right and this objective a reality.²⁰

¹⁹ Lester B Pearson, “Public Housing – Building Toward a Great New Canada” (Speech delivered at the Ontario Association of Housing Authorities, September 1965) [unpublished, archived at University of Toronto, Canadian Urban Policy Archive].

²⁰ *House of Commons Debates*, 29th Parl, 1st Sess (15 March 1973) at 2257 (Hon Ron Basford).

A complete copy of Minister Basford's commentary in the House of Commons (15 March 1973) is attached as **Exhibit F**.

38. In the late 1970s, the federally-funded public housing program was phased out in most parts of the country and replaced by the more extensive use of municipal, private, and co-op housing programs. This shift from public housing to socially mixed non-profit housing programs resulted from dissatisfaction with large-scale public housing projects built for only the very poor.

39. The commitment to implementing the right to adequate housing in domestic policy from the Second World War through the 1970s was also reflected in Canada's involvement in the drafting of the Universal Declaration of Human Rights in 1948, the adoption of the International Covenant on Economic, Social and Cultural Rights in 1966 and Canada's ratification of this treaty in 1976. Both of these international human rights instruments recognize the right of everyone to an adequate standard of living, including adequate housing.

The Eroding Commitment: 1980s – Present

40. Since the mid-1980s, the federal and provincial governments have made housing policy decisions that have reversed the history of ensuring adequate housing for everyone, resulting in ever-rising homelessness. Governments have made policy choices to diminish their role with respect to housing, income, and support programs – precisely those programs that help prevent people from becoming homeless and facilitate access to adequate housing. Both the governments of Canada and Ontario have cut back in housing supply and income support programs, resulting in burgeoning homelessness. These changes in programs were not preceded by studies indicating that they were no longer needed nor were they replaced with a different set of policies and programs to achieve similar results. Programs assisting people in need of certain basic services,

including adequate housing at a price households could afford to pay, were simply decreased in scale (number of people assisted) or eliminated.

i. Decreasing Affordable Rental Housing Supply

41. In comparison to other Western countries, Canada's housing policy is biased toward benefitting homeowners rather than renters.²¹ Low-income households in Canada are predominantly renters. Since it is low-income renters who are primarily vulnerable to becoming homeless, housing policy biased toward homeownership has contributed significantly to the rise of homelessness in Canada. Housing policies that benefit lower-income Canadians would have to focus on the rental housing sector, both private sector and non-profit sector rentals, as well as programs that assist with rent payment such as rent supplement and housing allowance programs.

42. A bias in a housing system in favour of one particular form of housing tenure (freehold ownership, condominium ownership private rental, social rental, etc.) is referred to in the housing literature as a lack of tenure neutrality. If government policy discriminates in favour of one housing tenure over others, or certain socio-economic and/or ethno-cultural groups over others in providing housing support, there needs to be a rationale. The policy issue is that all households ought to have access to adequate and affordable housing. There are many ways of achieving that and, in democratic societies, households ought to be treated fairly – rather than face a discriminatory bias on the basis of which part of the housing system they happen to be in (owning, renting, or unhoused).

²¹ Hulchanski, *supra* note 18.

43. As I documented in *Housing Policy for Tomorrow's Cities*,²² two-thirds of Canadians own their own homes and one-third of Canadians live in rental accommodation. In the late 1960s, when a great deal of private rental housing was built, the income gap between homeowners and renters was about 20 percent. This gap has been increasing ever since. In 1984, homeowners had almost double the income of renters (192%). By 1999, the gap had increased to more than double (208%), which is approximately where it remains today. During the same period, the wealth of homeowners (which, for most people, is mainly the mortgage-free portion of their house) increased from being 29 times that of renters in 1984 to 70 times that of renters in 1999. While owner households saw their incomes rise by about 6 percent during the most recent five-year period for which numbers are available, tenant household incomes dropped by as much as 5 percent over the same period. On average, tenant incomes are one-half of owner incomes. Poverty and housing tenure are now much more closely connected than in the past and renters have become increasingly vulnerable to homelessness. This is a result of government housing policy, both acts of commission and omission, that allowed this situation to arise. A copy of my report, *Housing Policy for Tomorrow's Cities* (Canadian Policy Research Networks, 2002) is attached as **Exhibit G**.

44. The systemic bias of Canadian housing policy toward assistance for homeowners has been exacerbated by progressive cutbacks to programs aimed at assisting low-income households to access affordable rental housing. Initial cutbacks to social housing programs began modestly in 1978,²³ became much more significant after 1984, and then became even more dramatic in

²² J. David Hulchanski, *Housing Policy for Tomorrow's Cities* (Ottawa: Canadian Policy Research Networks, 2002).

²³ *National Housing Act* program changes in 1978: The Assisted Rental Program (ARP) and the Assisted Home Ownership Program (AHOP) are terminated. The public housing program is discontinued in much of the country – though the non-profit and co-op housing program continues. The Urban Native Housing Program and the On-

1993,²⁴ when all federal support for housing was terminated.²⁵ The supply of social housing fell from an annual level of 25,000 new units in 1983 to zero new social housing unit allocations in the 1993 budget.

45. The federal government further removed itself from low-income housing programs in its March 1996 federal budget, when it announced that it would transfer administration of federal social housing programs to provinces and territories, ending fifty years of direct federal involvement in the provision and management of social housing. As stated in the 1996 *Budget Plan*:

CMHC will phase out its remaining role in social housing, except for housing on Indian reserves. The first step has already been taken – there has been no funding for new social housing units since 1993. To further clarify jurisdiction in the social housing field, the federal government is now prepared to offer provincial and territorial governments the opportunity to take over the management of existing social housing resources, provided that the federal subsidies on existing housing continue to be used for housing assistance for low-income households. This should result in simpler administration and improved service to Canadians. The issue of the role for third parties in the administration of the social housing stock will be discussed with the provinces and territories.²⁶

46. This was a *unilateral* federal policy decision implemented by then Finance Minister, Paul Martin, adopted in the context of cutbacks to federal support for these programs. It was a means of saving money at the federal level. It was not based on research indicating that the problems

Reserve Housing Program are established. The November 1978 federal budget extends the MURB program for another year (tax incentives for building private rental housing).

²⁴ The November 1984 Economic Statement permanently reduced annual funding for the non-profit housing programs and the Rural and Native Housing program; the 1989 budget terminated the RRAP program; the 1992 budget terminated the co-op housing supply program; the 1993 budget terminated all further social housing supply programs except for the native on-reserve program.

²⁵ Tom Carter, “Current Practices for Procuring Affordable Housing: The Canadian Context” (1997) 8:3 Housing Policy Debate 593.

²⁶ Canada, Department of Finance, *Budget Plan* (Ottawa: Communication Group, 1996) at 43-44.

these programs addressed were no longer needed. It was not based on a decision to tackle the problems with different policies and programs. No new policies or programs were announced. The March 1996 unilateral federal policy decision focused on one part of Canada's housing system – the part that assisted those in need of adequate housing. It greatly exacerbated the lack of tenure neutrality in Canada's housing system. The federal government maintained its role in the ownership sector and continued to play a major role in the housing market through CMHC (e.g. CMHC's Mortgage Insurance Fund) and by introducing CMHC's mortgage backed securities program. The March 1996 decision meant that the federal government would not provide any new money for meeting the housing needs of low-income renters who have no possibility of buying a house or addressing homelessness. The decision further meant that the federal government would not be responsible for any social housing subsidies once the initial funding packages for the approximately 500,000 federally subsidized social housing units in the country expired.

47. The decision to download responsibility for social housing to the provinces and municipalities was in sharp contrast to what Paul Martin, as opposition housing critic, had recommended a few years earlier in his 1990 task force report on housing:

The federal government has abandoned its responsibilities with regards to housing problems ... The housing crisis is growing at an alarming rate and the government sits there and does nothing ... The federal government's role would be that of a partner working with other levels of government, and private and public housing groups. But leadership must come from one source; and a national vision requires some national direction.²⁷

²⁷ National Liberal Caucus Task Force on Housing, Press Release, "The Government Has Given Up On Housing" (14 May 1990); See also: Paul Martin & Joe Fontana, *Finding Room: Housing Solutions for the Future* (Ottawa: National Liberal Caucus Task Force on Housing, 1990).

A copy of the press release and full report of the National Liberal Caucus Task Force on Housing (14 May 1990) is attached as **Exhibit H** to this Affidavit.

48. While Martin was responding to a perceived need for fiscal reform in the mid 1990s, it is significant that the cutbacks in housing targeted programs for low-income renters rather than higher income homeowners and that there was no reversal of these cutbacks once the fiscal situation improved in subsequent years. If the provision of new social housing had been maintained at the same level as the early 1980s – approximately 20,000 to 25,000 new units per year – there would be about 400,000 more social housing units today. Thus, there would be significantly fewer homeless families and individuals if the federal government had continued this one rather modest social housing supply program or even if it had been restored once the fiscal situation improved.

49. The federal government resisted the many recommendations to address the growing housing and homelessness problem from a range of governmental and non-governmental bodies, including the Federation of Canadian Municipalities, legislative and parliamentary committees, international bodies, academic researchers, and numerous social service agencies. The worsening situation and the very strong financial position of the federal government (relative to the other levels of government) resulted in a few one-time only programs.

50. In 2001, the federal government established the Affordable Housing Program (AHP) through which the federal/provincial/territorial Affordable Housing Framework Agreement was reached. Under this agreement, each province and territory signed a bilateral housing deal with the federal government. In January 2005, the federal government revealed that of the \$1 billion promised through the AHP only \$200 million had been committed to new housing. Only 10,500

homes were funded through this program, constituting just 10 percent of what the federal government had promised and far short of what was and continues to be needed nationally.

51. The recession of 2009 presented a significant risk of increased homelessness. In its 2009 “stimulus” budget, the federal government announced \$2 billion in spending on social housing through a cost-shared program with the provinces/territories: \$1 billion for the construction of new units and \$1 billion for the refurbishment of existing units. \$200 million over two years was to be dedicated to funding renovation and construction of social housing in Canada’s three northern territories and \$75 million was allocated for supportive housing for people with physical or mental health concerns.

52. While this spending on social housing was needed, the response to the recession has not adequately addressed the needs of those who are homeless. As a result of long-term cutbacks to social housing programs, social housing makes up only 5 percent of overall housing in Canada. Increasing funding for social housing construction alone during a recession does not address the needs of most disadvantaged households. Most people who are insecurely housed live in privately owned rental housing, and the 2009 federal budget did not include any assistance to help these individuals maintain their housing. The federal budget was also silent on housing dollars for Aboriginal people living in urban, rural and remote parts of Canada.

53. The funding for social housing in the 2009 federal stimulus package has been inadequate to meet the increased need for subsidized housing during the recession. For example, at the beginning of 2010, a survey conducted on behalf of the Ontario Non-Profit Housing Association, found there were 141,635 households on Ontario’s municipal waiting lists for assisted housing. This is a significant increase in the number of households looking for assisted housing across

Ontario – an increase of 12,382 households from the January 2009 survey and of 20,000 since 2004. Housing managers also report that a growing number of inadequately housed households have simply given up and are no longer on the waiting list. Wait times of over 20 years in regions such as Peel discourage many families from bothering to apply for subsidized housing.²⁸

54. The following chronology provides a succinct summary of the policy decisions made by the federal government between 1984 – 1999 to decrease the affordable rental housing supply and then the stop-gap measures implemented from 1999 until the present time²⁹:

1984	The federal government announces a reduction in the non-profit and rural and Native Housing subsidy units, and eliminates the Residential Rehabilitation Assistance Program (RRAP) in relation to non-profits. The impact over the seven-year period from 1985-86 to 1991-92 was a decrease in funding for affordable rental housing by \$217.8 million.
1986	The federal government reduces rental RRAP as well as funds for research and communications.
1989	The federal government announces that the rental RRAP program would be discontinued as of 1992.
1990-1992	Between 1990 – 1992 the federal government reduces new commitments for social housing by 15% in each year.
1992	The federal government terminates the Co-op ILM program and imposes limits on new social housing commitments, limiting new delivery to a \$70 million cap in 1992 and \$45 million thereafter. Federal government puts a cap on new social housing commitments, limiting new delivery to \$41 million in 1993 and \$37.0 million for 1994 onward; The impact over the five-year period is included in the April 1993 budget (see below).

²⁸ Ontario Non-Profit Housing Association, *Waiting Lists Survey 2010* (Toronto: Ontario Non-Profit Housing Association, 2010) at 5.

²⁹ Carter, *supra* note 25 at 604.

1993	All new social housing commitments for 1994 onward are eliminated, except for native on-reserve programs.
1996	The federal government transfers the administration of federal social housing programs to provinces and territories, ending 50 years of federal involvement in the administration of social housing programs.
1998	Bill C-66 (amendments to National Housing Act) is passed. The new law contains measures that analysts fear will further erode the federal role in low-income housing.
1999	<p>At the National Summit on Homelessness in Toronto, federal government announces that there is no funding for homeless people; a junior minister is appointed to look into better co-ordination of existing federal spending on programs that serve lower income people.</p> <p>A few months later, the federal government makes a policy change and announces a new 3 year national program to help localities provide services to homeless people. It is called the Supporting Community Partnerships Initiative. In addition, enhancements were made to the federal Residential Rehabilitation Assistance Program (RRAP), extending housing repair program to include renovation of substandard buildings for conversion to housing. The federal homelessness funding was initially restricted to nine major municipalities, then a tenth municipality was added. After protests, the federal government decided to allocate 80% of the funding to the ten large urban areas, and 20% to an additional 51 communities (though the size of the budget allocation was not increased). The rest of the country was not eligible to receive any funding.</p>
2001	The federal government signs the Affordable Housing Framework Agreement with all the provinces and territories to flow \$680 million in new federal housing funding, which is supposed to be matched by \$680 million among the provinces and territories. Separate bilateral housing agreements are eventually signed between the federal government and every province and territory. The funding is supposed to be rolled out over a five-year period, but the second federal-Ontario deal is not signed until May 2005. This is <i>not</i> a new national housing program. It provides a per unit small capital subsidy. The program is revised eventually so that the modest (and inadequate) capital subsidy grows from about \$25,000 to as much as \$75,000 per unit, which still only covers about half the cost of a new unit in a major urban area. There is no development assistance, or rent-geared-to-income subsidy, associated with this program, although subsequent changes provide CMHC mortgage insurance for affordable housing projects.
2003	The 2003 federal budget adds an additional \$320 million for phase two of the Affordable Housing Framework Agreement of 2001. Additional changes are made to the program, but the main features remain the same. The program is mainly provides capital subsidies. It is not a comprehensive national housing program, but a limited-time capital subsidy. The 2003 federal budget also renews the funding for the national homelessness strategy (for another three years) and the national housing repair program (RRAP).

<p>2005</p>	<p>Parliament authorizes Bill C44 – which allocates \$1.6 billion from federal budgetary surpluses to flow to new affordable homes, including off-reserve Aboriginal housing. However, the federal government is defeated in the winter of 2005/06 before the government flows the housing dollars.</p> <p>In response to the continuing need for a comprehensive national housing plan, the provincial and territorial housing ministers meet at White Point, Nova Scotia, and set out the so-called White Point principles for a national housing plan. The federal housing minister joins with the provincial minister and welcomes the principles, but no comprehensive plan is agreed to. Although the practice from 2001 to 2005 was for annual national housing summits, no new national meeting for federal, provincial and territorial housing ministers is scheduled.</p>
<p>2006</p>	<p>The newly-elected federal government allocates \$1.4 billion of the \$1.6 billion from Bill C-44 to a series of housing trust funds to be administered by the provinces and territories, including specific funds for Aboriginal housing. As with the 2001 Affordable Housing Framework Agreement, there is a significant delay as individual arrangements are negotiated with each province and territory. Once again, Ontario is the last to sign more than a year later. As with AHFA, the Bill C44 funding is not a national housing program, but a limited-time capital subsidy. Federal government once again renews the funding for its national homelessness program (changing the name to the Homelessness Partnering Strategy) and the national housing repair program. The level of funding remains the same as the original announcements in 1999. A slight modification to the funding formula allows municipalities other than the ten large communities, and 51 others, to apply for funding. However, no new money is allocated, so any funding to other communities comes from cuts to allocations to existing communities.</p>
<p>2008</p>	<p>The federal government refuses to accept an invitation from provincial and territorial housing ministers to attend a national housing summit in Vancouver.</p> <p>The federal government announces cuts to the national homelessness program, but after political protests, reverses the decision and maintains the funding at the same level as back to 1999.</p> <p>The federal government announces that it will extend funding for the national homelessness program, and the national housing repair program, for five years. The first two years are to be under the same provisions as the 2006 extension, and the funding allocation for the remaining three years is to be negotiated. The overall funding envelope is the same as the amount going back to 1999.</p>
<p>2009</p>	<p>Federal ‘stimulus’ budget announces affordable housing funding of \$2 billion, including \$1 billion for social housing repairs, and \$1 billion for new housing for Aboriginal people, seniors and people with disabilities. The other housing needs of Canadians are not funded.</p>

	<p>As part of its formal response to the United Nations' Universal Periodic Review of Canada's compliance with its international rights' obligations (including the right to housing), the federal government promises to work more closely with the provinces and territories on housing and homelessness strategies.</p> <p>Federal government refuses to accept an invitation from provincial and territorial housing ministers to attend a national housing summit in Vancouver.</p> <p>Bill C-304, a private member's bill that would require the federal government to consult widely and create a comprehensive national housing plan within 180 days, passes second reading with the support of a majority of Members of Parliament. The bill is amended in committee, and is scheduled for third reading debate in June of 2010. The Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities presented its report to the House of Commons on March 21, 2011 before dissolution of Parliament on March 26, 2011.]</p> <p>Ontario auditor-general devotes an entire chapter of his annual report to scrutinizing housing spending. Among his findings, the auditor-general notes that the province cannot properly account for hundreds of millions of dollars in federal housing dollars transferred to the province. This underlines a concern from housing advocates that the lack of public accountability in the federal-provincial and federal-territorial housing agreements of 2001, 2003, 2006 and 2009 mean that it is difficult to assess exactly how much money has actually been spent on housing. The Ontario auditor-general also notes that the affordability guidelines in the federal-Ontario program are so weak that the cost of the homes created under this program are twice the cost that households on the province's affordable housing waiting lists can afford to pay. The auditor-general's report underlines a concern from housing advocates that there is no effective way to measure the affordability of any of the homes created with the federal dollars going back to 2001.</p> <p>Federal housing minister accepts invitation to join with provincial and territorial colleagues for a national housing summit, but the final communiqué makes no reference to progress towards a federal-provincial housing plan.</p>
2010	Federal budget commits no new funding for affordable housing.

55. These decisions have further solidified and exacerbated the housing tenure discrimination (the lack of neutrality) in Canada's housing system. A recent study of housing subsidies for homeowners and private sector renters by housing economist Frank Clayton for the Federation of

Rental-Housing Providers of Ontario and the Canadian Federation of Apartment Associations found that:

- For the federal government: Total federal spending for homeowners and private renters in Canada was \$17.1 billion in 2008/09; 92.6% (or \$15.8 billion) of total spending assisted homeowners while the remaining 7.4% (or \$1.3 billion) went to private renters.
- For the Ontario government: Total Ontario spending for homeowners and private renters in 2008/09 amounted to \$8.9 billion, reflecting subsidies provided by all three levels of government to Ontario. 93.7% (or \$8.4 billion) of total spending went towards homeowners while the remaining 6.3% (or \$562 million) assisted private renters.³⁰

Many Canadians are not aware of the direct and indirect (tax system) subsidies that exist particularly for homeowners. In periods that necessitate fiscal restraint there is a range of options open to a finance minister who might seek temporary or permanent savings from the existing range of housing subsidies. Starting in the mid-1980s the focus of fiscal restraint within the housing system has been on vulnerable individuals and households who are either homeless, at risk of homelessness, or renters who are precariously housed.

ii. Insufficient Income Supports

56. With public and non-profit housing representing only 5 percent of the national housing stock, low-income households must rely on the private market for housing. This means, they must either have an adequate and secure income stream to access private market rental housing

³⁰ Frank A. Clayton, *Government Subsidies to Homeowners versus Renters in Ontario and Canada*, Toronto: Federation of Rental-Housing Providers of Ontario and Canadian Federation of Apartment Associations, August 2010.

or they must be able to meet the financial criteria to qualify for a mortgage to purchase a house. When individuals and families do not have the resources to meet their needs they turn to social assistance.

57. Social assistance is a program of last resort in Canada. There are 13 welfare systems in Canada – one in each province and territory. According to the National Council of Welfare, a federal government appointed advisory and research group that reports to the Minister of Human Resources, most people who currently receive social assistance are poorer in inflation-adjusted terms than those who received welfare in the 1980s. People in receipt of social assistance are invariably poor, but their depth of poverty is worsening. The incomes of all households receiving social assistance are well below the poverty line, as measured by Statistics Canada's low-income cut-offs.³¹ Single employable people who receive social assistance fare the worst, with incomes as low as one-fifth of the poverty line.

58. The very low social assistance rates can be traced back, at least in part, to the federal government's decision in the mid-1990s to cut its transfer payments to the provinces for social assistance. On April 1, 1996, the federal government replaced CAP with the Canada Health and Social Transfer (CHST). The CHST is a "block fund" covering healthcare and post-secondary education as well as welfare and social services. Unlike its predecessor, the CHST does not require the provinces to set social assistance rates at a level that covers average housing costs and other basic necessities. Along with the removal of this requirement, the federal government

³¹ Canada, National Council of Welfare, *Poverty Profile 2007* (Ottawa: National Council of Welfare, 2009).

decreased its contribution to the CHST by 16 percent between 1996 and 1998 – a cut that some provinces simply passed on to low-income households by lowering social assistance rates.³²

59. For example, the Ontario government cut social assistance payments by 21.6 percent in October 1995, constituting one of the more dramatic decreases in social assistance across the country. This, combined with other cuts to social assistance by the province, resulted in a net decrease of nearly 24 percent between 1994 and 1996 for Ontario's social assistance recipients or a 40 percent decrease when cost of living increases are accounted for.

60. At the present time, the shelter component of social assistance payments in Ontario and other provinces falls below the actual cost of rent for adequate housing. Rents in Ontario are increasing faster than the rate of inflation. Even in communities with higher rental vacancy rates (primarily Northern Ontario), where traditional economics would suggest that rents would moderate as demand for rental units drops, rents have increased faster than inflation. In some communities, such as Sudbury and Toronto, rents increased by about double the rate of inflation. Since rent controls were abolished on vacant units in 1998, rents have increased even more rapidly.³³

61. The combination of very low social assistance rates and escalating rents means that many households do not have enough money to pay the rent. Almost half of all Ontario tenant households are paying 30 percent or more of their income on housing. About one-in-four tenant households are paying 50 percent or more of their income on housing. The increase in economic

³² Michael J Prince, "Holes in the Safety Net, Leaks in the Roof: Changes in Canadian Welfare Policy and their Implications for Social Housing Programs" (1998) 9:4 Housing Policy Debate 825.

³³ For a survey of rent levels and vacancy rates, see: Lapointe Consulting, *Where's Home? 2008* (Toronto: Ontario Non-Profit Housing Association, 2009).

evictions as tenant households face the squeeze of rising rents and dropping incomes is the single most important factor in filling homeless shelters.³⁴

E. SOLUTIONS TO HOMELESSNESS

62. Compared to other Western nations, Canada's current housing system and the federal government's role in it is unique in two particular respects:

- **Lack of support for rental housing.** A 1996 Cambridge University study comparing the housing systems and housing policies in 12 Western nations found that, compared to all the other countries, "Canada has an essentially free market approach to housing finance. Owner-occupation has the advantage of not paying capital gains tax whilst there is very little support for investment in the private rental sector and tenants receive very little support in paying rents."³⁵ The Cambridge University study notes that the "social rental sector is minimal nationally" and that "the actual expenditure costs of private renting are more expensive than owner-occupation so that there is quite a significant advantage in owner-occupation."³⁶
- **Absence of national and provincial strategies to address homelessness.** Canada is the only major Western nation with a homelessness problem that has no national housing strategy aimed at reducing and eliminating homelessness. Provincially, Ontario passed into law Bill 140, *Strong Communities through Affordable Housing Act, 2011* on May 4, 2011, which is the legislation that implements its *Long Term Affordable Housing*

³⁴ *Ibid.*

³⁵ AJM Freeman, AE Holmans & CME Whitehead, *Is the UK Different? International Comparisons of Tenure Patterns* (London: Council of Mortgage Lenders, 1996).

³⁶ *Ibid* at 78-79.

Strategy, a plank in its *Poverty Reduction Strategy*. Unlike those of most other jurisdictions, Ontario's strategy fails to include any commitments or timelines to reduce or eliminate homelessness.

63. A vitally important question about the housing system in any country is the degree to which resources are provided towards the provision of housing assistance for those who cannot afford market housing (market rents or homeownership). This is the primary homelessness prevention mechanism. Housing assistance generally comes in two forms: the provision of subsidized social housing and/or the provision of cash assistance (rent supplements or housing allowance). Most major Western nations similar to Canada provide both forms of assistance.

64. A recent Statistics Canada study notes: "In general, the lower one's income, the more likely one is to be a renter."³⁷ Even though Canada's rental sector is so thoroughly occupied by low and very low-income households, Canada provides a relatively insignificant amount of cash assistance (rent supplements, housing allowances) compared to other Western nations. The U.K.'s housing benefit covers 100 percent of the gap between the cost of housing and a defined affordability measure. A recent study compared the U.K.'s shelter allowance expenditures to those in other countries. For example, in 2006, France spent 84% of what the U.K. spends, Sweden 52%, New Zealand 42%, Netherlands 32%, Australia 27%, Germany 21%, U.S. 9%, and Canada, 2%.³⁸ In Canada less than 1 percent of households receive a housing allowance,

³⁷ Statistics Canada, Service Industries Division, *Changes and Challenges for Residential Real Estate Lessors* by Louis-Philippe Verenka & Don Little (Ottawa: StatCan, 2007) at 11.

³⁸ Peter A Kemp, ed, *Housing Allowances in Comparative Perspective* (Bristol: The Policy Press, 2007) at 272.

considerably lower than in countries such as France (23%), Sweden (20%), New Zealand (18%), the U.K. (16%), Australia (14%) and the Netherlands (14%).³⁹

65. Of all Western nations, next to the United States, Canada has the smallest percentage of non-market housing stock (i.e. social housing, or public housing or non-profit housing). In Canada it is about 5% whereas it is 35% in the Netherlands, 21% in Sweden, 20% in the U.K., 19% in Denmark, and 17% in France.⁴⁰

66. Most countries also have national programs to address homelessness. In the United States, the major federal legislative response to homelessness was the *Stewart B. McKinney Homeless Assistance Act*. The Act was signed into law by Ronald Reagan in 1987, and it has been amended through the years to expand the scope and strengthen the provisions of the original legislation. The McKinney amendments include housing assistance targeting people with disabilities, mental illness, HIV/AIDS, and substance addiction, and has had increased funding over the years. It now has a focus on “housing first.” On June 22, 2010, the United States Interagency Council on Homelessness tabled *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness*. The Council is comprised of several Cabinet secretaries and agency heads. Its homelessness strategy has four goals:

- finish the job of ending chronic homelessness in five years;
- prevent and end homelessness among Veterans in five years;
- prevent and end homelessness for families, youth, and children in ten years; and

³⁹ *Ibid.*

⁴⁰ Kathleen Scanlon & Christine Whitehead, *International Trends in Housing Tenure and Mortgage Finance* (London: Council of Mortgage Lenders, 2004) at 10.

- set a path to ending all types of homelessness.⁴¹

67. Much of the data used to create the plan came from the Department of Housing and Urban Development's *Annual Homeless Assessment Report* which has been compiled for the last several years to give American lawmakers a sense of the number of people who are homeless and the scope of the homelessness situation in their country. Canada has no equivalent annual report.

68. In the United Kingdom, the 2002 *Homelessness Act* imposes a legal duty on municipal housing authorities to develop a strategies to address homelessness, and provide permanent housing for a variety of people in need, designated as "statutorily homeless households." Those who are statutorily homeless, including families with dependent children, pregnant women and vulnerable single people, could qualify for permanent re-housing in public or non-profit social housing. The United Kingdom also has a detailed *Homelessness Strategy* (2005) that committed the Government to reducing homelessness by half in a five year period. One target within the strategy was to produce 75,000 social rented homes. Implementation of the strategy was through local councils and its efficacy was to be monitored by councils' self-assessments, quarterly reports on homelessness statistics and an annual estimate of rough sleepers. While there is concern that the dramatic expenditure cuts by the coalition government – which came into office in 2010 – may erode progress made under the 2005 strategy, the Coalition Government has nevertheless created "The Ministerial Working Group" with a mandate to prevent and reduce homelessness, and improve the lives of those people who do become homeless.

⁴¹ United States Interagency Council on Homelessness, *Opening Doors: Federal Strategic Plan to Prevent and End Homelessness, 2010* (Washington, DC: United States Interagency Council on Homelessness, 2010) at 7.

69. On December 21, 2008, Australia tabled the White Paper on Homelessness: *The Road Home, A National Approach to Reducing Homelessness*. This 12-year plan aims to halve homelessness and to provide supported accommodation to all ‘rough sleepers’ who need it by the year 2020. Through the *National Affordable Housing Agreement*,⁴² which is comprised of the *National Partnership Agreement on Homelessness*⁴³ and the *National Partnership Agreement on Social Housing*,⁴⁴ the Commonwealth, state and territorial governments have committed several billion dollars to implementing this plan. Monitoring will take place by a Council on Homelessness appointed by the Prime Minister. August 1-7, 2011 is National Homeless Persons’ Week in Australia. The next Australian census, which is carried out once every five years, will take place on August 9, 2011 and part of the data collection will include a snapshot of homelessness in the country on that day.

70. While the legislation and programs of other countries may not be appropriate models for Canada, they provide examples of the variety of policy choices that the federal and provincial levels of government can implement to address and prevent the problem of homelessness.

⁴² See Australia, Department of Families, Housing, Community Services and Indigenous Affairs, “National Affordable Housing Agreement” (17 July 2009), online: Australian Government Housing and Homelessness <<http://www.fahcsia.gov.au/sa/housing/progserv/affordability/affordablehousing/Pages/default.aspx>>.

⁴³ See Australia, Department of Families, Housing, Community Services and Indigenous Affairs, “National Partnership Agreement on Homelessness” (6 March 2011), online: Australian Government Housing and Homelessness <http://www.fahcsia.gov.au/sa/housing/progserv/homelessness/national_partnership_agreement/Pages/NPAHomelessness.aspx>.

⁴⁴ See Australia, Department of Families, Housing, Community Services and Indigenous Affairs, “National Partnership Agreement on Social Housing” (21 October 2009), online: Australian Government Housing and Homelessness <<http://www.fahcsia.gov.au/sa/housing/progserv/affordability/affordablehousing/Pages/NPASocialHousing.aspx>>.

i. Failing to Address Homelessness is Expensive for Governments

71. It is well documented that homelessness itself is costly and that solving homelessness would result in cost savings for governments.

72. The Standing Senate Committee on Social Affairs, Science and Technology concluded in its 2009 report on homelessness that "...in Canada's major cities, daily per-person costs for psychiatric hospital stays and even emergency shelters are many times more costly (in money terms alone) than the per-day per-person costs for permanent housing, even with supports."⁴⁵ A rough 2004 estimate suggested that Canadians are spending approximately \$1 billion per year in taxes to deal with the homelessness crisis.⁴⁶ In a 2001 study, the B.C. government compared the costs of emergency-based residential responses to homelessness (psychiatric hospitals, correctional facilities, drug and alcohol treatment and recovery centres, emergency shelters, etc.) and strategies that are part of a more comprehensive prevention-based approach (residential facilities for people with mental illness, supportive housing, etc). When combined, the service and shelter costs of the homeless people in the study were 33 percent higher on average per person for one year than the combined costs of services and housing for those who were formerly homeless but are now housed.⁴⁷ In 2008, the Alberta Health Secretariat for Action on Homelessness, established by the Government of Alberta, estimated that to "manage" homelessness over the next ten years would cost \$6.65 billion. To end homelessness by

⁴⁵ Senate, *supra* note 14 at 110.

⁴⁶ Canadian Broadcasting Corporation, "No Way Home: The Cost of Homelessness" *Fifth Estate* (10 March 2004), online: CBC <http://www.cbc.ca/fifth/main_nowayhome_cost.html>.

⁴⁷ British Columbia, Ministry of Social Development and Economic Security, *Homelessness - Causes and Effects: The Costs of Homelessness in British Columbia*, vol 3 by Margaret Eberle et al (Vancouver: Ministry of Social Development and Economic Security, 2001) at 2.

providing adequate housing would cost half: \$3.316 billion.⁴⁸ Copies of the British Columbia and Alberta costs associated with homelessness are attached as **Exhibit I** and **Exhibit J**, respectively.

ii. Solution: A national strategy focussed on adequate housing, income support and support services

73. There are three possible future scenarios for homelessness in Canada:⁴⁹

- Homelessness becomes routine, a normal and accepted part of Canada’s social and political landscape.
- Homelessness ceases to be a problem as we make progress in changing the homeless making processes that are at work and ensuring that housing, income and support are adequate.
- Homelessness worsens.

74. Based on my research on homelessness, housing and social policy issues and my services to social agencies and charities that assist homeless people, I have concluded that homelessness is a problem that can be solved. People become homeless in Canada because they cannot access housing, income and, for some, adequate support services. Solving homelessness requires that these three causes of homelessness be addressed.

⁴⁸ “A Plan for Alberta: Ending Homelessness in 10 Years”, The Alberta Secretariat for Action on Homelessness, October 2008 at 11 http://www.housing.alberta.ca/documents/PlanForAB_Secretariat_final.pdf

⁴⁹ See Ralph S Hambrick Jr & Gary T Johnson, “The Future of Homelessness” (1998) 35:6 Society 28.

75. Eliminating homelessness, in my opinion, requires the development of a national strategy based on the following principles:

- all homeless people in Canada require adequate, affordable housing;
- there must be financial assistance for low-income households with housing affordability problems; and
- some individuals need support services within their home setting (for physical health, mental health, addictions, or simply to help recover from a long period of being homeless). These can include housing support services, job training and search assistance, education, substance abuse treatment, physical and mental health care, and counselling.

76. There has been a steady stream of high quality public and private sector analyses of homelessness in Canada, all of which recommend similar solutions, emphasizing the necessity for both provincial and federal governments to take similar actions. These include, as but a few examples:

- *Precarious Housing*, Wellesley Institute, August 2010. (Attached as **Exhibit K**)
- *Building from the Ground Up: Enhancing Affordable Housing in Canada*, Conference Board of Canada, March 2010. (Attached as **Exhibit L**)
- *In from the Margins: A Call to Action on Poverty, Housing and Homelessness*, Senate, Standing Senate Committee on Social Affairs, Subcommittee on Cities, December 2009. (Attached as **Exhibit C**)

- *Sustaining the Momentum: Recommendations for a National Action Plan on Housing and Homelessness*, Federation of Canadian Municipalities, January 2008. (Attached as **Exhibit M**)
- *Right at Home: Report on the consultation on human rights and rental housing in Ontario*, Ontario Human Rights Commission, 2008. (Attached as **Exhibit N**)
- *Moving Forward: Refining the FCM Recommendations for a National Affordable Housing Strategy*, Federation of Canadian Municipalities, October 2004. (Attached as **Exhibit O**)
- *Affordable, Available, Achievable: Practical Solutions to Affordable Housing Challenges*, Toronto Board of Trade, April 2003. (Attached as **Exhibit P**)
- *Affordable Housing in Canada: In Search of a New Paradigm*, Don Drummond, Chief Economist, et al., TD Bank Financial Group, June 2003. (Attached as **Exhibit Q**)
- *Toward a National Housing Strategy*, Federation of Canadian Municipalities, April 2000. (Attached as **Exhibit R**)

77. In addition to these Canadian reports and recommendations, there have been a number of similar recommendations from United Nations human rights bodies including the report of the UN Special Rapporteur on Adequate Housing.

78. In my opinion, a focus on the human right to adequate housing and ensuring access to adequate, affordable housing for all in Canada is an essential foundation on which to build a national and provincial solution to the homelessness and housing crisis in this country.

79. The history of housing and homelessness in Canada demonstrates that homelessness is primarily the result of a loss of federal and provincial governmental commitment to ensure adequate housing as a human right. When this commitment is lost, programs and policies are designed without enough attention to the needs of those who are homeless or at risk of homelessness. The notion of housing as a human right has become central to evolving solutions to homelessness in other countries. It reinstates a democratic accountability to the rights and needs of this vulnerable population and transforms the process of program design and policy into one which is focused on protecting human rights.

80. The precise contours of a housing strategy to end homelessness in Canada may vary. There are different policy options and ways of designing programs and allocating responsibilities. The critical factor, however, is the commitment to recognizing at both the federal and provincial levels that adequate housing is a right. In addition, it means committing to eliminating homelessness within a reasonable period of time, with measurable goals and timetables, and an independent review and complaints procedure through which those affected can bring to the attention of the public issues and problems that may be leading to homelessness.

81. In making this affidavit, I acknowledge my duty as an expert witness. A copy of this acknowledgement in Form 53 is attached as **Exhibit S**.

82. I affirm this affidavit in order to provide evidence on the application herein and for no other or improper purpose.

AFFIRMED BEFORE ME at)
)
the City of Toronto, in the Province of) _____
) **J. DAVID HULCHANSKI**
Ontario, this __ day of _____ 2011.)

List of Exhibits

Exhibit A: J David Hulchanski, *Curriculum vitae*, May 2011

Exhibit B: Shirley Chau & Mike Gawliuk, “Social Housing Policy for Homeless Canadian Youth” in J David Hulchanski et al, eds, *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book) (Toronto: Cities Centre Press, University of Toronto, 2009).

Exhibit C: Senate, Subcommittee on Cities of the Standing Senate Committee on Social Affairs, Science and Technology, *In from the Margins: A Call to Action on Poverty, Housing and Homelessness* (December 2009) (Chair: Honourable Art Eggleton, PC).

Exhibit D: Canada, Minister of Transport, *Report of the Federal Task Force on Housing and Urban Development* (Ottawa: Ministry of Transport, 1969) (Chair: Paul T Hellyer).

Exhibit E: Lester B Pearson, “Public Housing – Building Toward a Great New Canada” (Speech delivered at the Ontario Association of Housing Authorities, September 1965) [unpublished, archived at University of Toronto, Canadian Urban Policy Archive].

Exhibit F: *House of Commons Debates*, 29th Parl, 1st Sess (15 March 1973) at 2257 (Hon Ron Basford).

Exhibit G: J. David Hulchanski, *Housing Policy for Tomorrow’s Cities* (Ottawa: Canadian Policy Research Networks, 2002).

Exhibit H: National Liberal Caucus Task Force on Housing, Press Release, “The Government Has Given Up On Housing” (14 May 1990); Paul Martin & Joe Fontana, *Finding Room: Housing Solutions for the Future* (Ottawa: National Liberal Caucus Task Force on Housing, 1990).

Exhibit I: British Columbia, Ministry of Social Development and Economic Security, *Homelessness - Causes and Effects: The Costs of Homelessness in British Columbia*, vol 3 by Margaret Eberle et al (Vancouver: Ministry of Social Development and Economic Security, 2001).

Exhibit J: “A Plan for Alberta: Ending Homelessness in 10 Years”, The Alberta Secretariat for Action on Homelessness (October 2008)

Exhibit K: Michael Shapcott et al, *Precarious Housing in Canada* (Toronto: Wellesley Institute, 2010).

Exhibit L: Conference Board of Canada, *Building from the Ground Up: Enhancing Affordable Housing in Canada* (Ottawa: Conference Board of Canada, 2010).

Exhibit M: Steve Pomeroy, *Sustaining the Momentum: Recommendations for a National Action Plan on Housing and Homelessness* (Ottawa: Federation of Canadian Municipalities, 2008).

Exhibit N: Ontario Human Rights Commission, *Right at Home: Report on the consultation on human rights and rental housing in Ontario* (Toronto: Queen's Printer for Ontario, 2008).

Exhibit O: Steve Pomeroy, *Moving Forward: Refining the FCM Recommendations for a National Affordable Housing Strategy* (Ottawa: Federation of Canadian Municipalities, 2004).

Exhibit P: Toronto Board of Trade, *Affordable, Available, Achievable: Practical Solutions to Affordable Housing Challenges* (Toronto: Toronto Board of Trade, 2003).

Exhibit Q: Don Drummond, Derek Burleton & Gillian Manning, *Affordable Housing in Canada: In Search of a New Paradigm* (Toronto: TD Bank Financial Group, 2003).

Exhibit R: Federation of Canadian Municipalities, *Toward a National Housing Strategy: A Working Paper Prepared for the FCM Big City Mayors Caucus* (Ottawa: Federation of Canadian Municipalities, 2000).

Exhibit S: Form 53.