

**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,  
ATTORNEYGENERAL 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 ANN M. FITZPATRICK**

I, ANN M. FITZPATRICK, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY:**

**PART I: CREDENTIALS AND EXPERIENCE**

1. I am the Supervisor, Community Development and Prevention Services Team at the Children's Aid Society of Toronto ("CAST"). I have held this job since September 2010. I obtained my Bachelor of Social Work from the University of Western Ontario in 1982 and my Masters of Social Work from the University of Toronto in 1985. My *Curriculum Vitae* is attached as **Exhibit "A"** to this affidavit.

2. I have worked at CAST for over twenty-five years in various capacities including shelter liaison worker, community worker, and housing advocate. In these roles I have worked directly with low income children, youth and families and with child protection workers, community and tenant groups on issues of affordable housing and homelessness prevention.

3. I have also co-authored two research reports on the housing needs of CAST families, children and youth:

- Miriam Cohen-Schlanger, Ann Fitzpatrick, J. David Hulchanski, D. Raphael, *Housing as A Factor in Admissions of Children to Temporary Care: A Survey, Child Welfare*, Vol. LXXIV, #3, May 1995, attached as **Exhibit “B”**; and
- Shirley Chau, Ann Fitzpatrick, J David Hulchanski, Bruce Leslie, Debbie Schatia, *One in Five....Housing as A Factor in the Admission of Children to Care*, Centre for Urban and Community Studies, Research Bulletin #5, 2001 attached as **Exhibit “C”**.

4. I have been asked to describe the effects and impact of the lack of access to affordable, adequate housing on low income families and youth in Toronto, including families involved with CAST, and youth living independently of parents. To do this I have drawn on my work experience and research in Toronto. I have also drawn on other research available provincially and nationally where it is relevant to my knowledge and experience. I acknowledge my duty to the Court as an expert witness. My acknowledgement form is attached as **Exhibit “D”**.

## **The Nature of My Work**

5. The profile of families, children and youth with whom I have worked over the years has been diverse and includes:

- a) Families/youth on social assistance or in receipt of Ontario Disability Support Plan benefits;
- b) Mothers and children who were victims of domestic violence;
- c) Children who have experienced trauma, neglect and abuse;
- d) Families/youth from diverse racial, ethno-cultural and linguistic backgrounds, including new immigrants and refugees;
- e) Families/youth where one or more members have had physical or other disabilities including mental health challenges;
- f) Families, children and youth receiving ongoing services from the Catholic Children's Aid Society of Toronto ("CCAST") and the Children's Aid Society of Toronto ("CAST"), including children in the temporary or permanent care of the Societies;
- g) Youth aged 16-24 in Toronto, including those who have been Society or Crown wards in the care of child welfare, and those transitioning out of child welfare services aged 18-21;
- h) Seniors or other adult caregivers providing kinship care for children to prevent admissions to child welfare care, including grandchildren/relatives;

- i) Families, youth and communities seeking affirmation for their gender identity, and seeking equality as LGBTQ people.

6. The families and youth I have assisted were inadequately housed in a variety of ways. The issues they experienced included:

- a) Living in emergency shelters;
- b) Relying on temporary housing with friends and family, sometimes resulting in temporary or permanent separation of children from their parents/caregivers;
- c) Lacking an affordable apartment that would allow them to pay the rent and have sufficient funds for adequate food, and other basic needs such as clothing, transportation and medication;
- d) Income challenges, including: low-wages, intermittent or part-time employment, low social assistance rates, periods of unemployment, maternity leave, acute or chronic illness in the family impacting work and income, or family breakdown;
- e) Living in overcrowded rental housing due to the birth of a child, accommodating housing needs of other family members such as elderly parents, or because the family lacked the economic means to rent a larger apartment with a sufficient number of bedrooms;
- f) Living in substandard rental housing as a result of serious disrepair and maintenance issues;

- g) Safety concerns in their neighbourhood and/or living situations including risk of incidents of violence, harassment or exploitation;
- h) Other housing problems, including: pests, mice, cockroaches and bed bugs;
- i) Discrimination based on race, family status, source of income, disability, sex, age and other enumerated grounds when trying to access housing.

7. My roles have included:

- Providing information, consultation and referrals to assist low-income parents and young people for both housing and human rights issues;
- Providing child protection services and family supports, up to and including child admissions to care;
- Developing a range of programs and services in the community such as: Horizons for Youth – Emergency Shelter; Fairview Community Health Centre; Homefree Non Profit Corporation - Affordable Housing for Youth (negotiated housing allowances for youth aging out of CAST care); Villaways Arts Program for Children and Youth (child abuse prevention program in low-income public housing community);
- Developing housing policy within CAST and community networks.

8. I have previously testified in proceedings under the *Human Rights Code* before the Board of Inquiry (now the Ontario Human Rights Tribunal) in cases dealing with discrimination in relation to housing. In these proceedings, I have been recognized as an expert witness on child and family services and families' and children's housing needs:

- (i) *Ward v. Godina* (1984), CHRR Doc. 94-130 (Ont. Bd. Inq);
- (ii) *Shelter Corp. v. Ontario (Human Rights Comm.)* (No. 2) (sub nom. *Kearney v. Bramalea Ltd.* (No. 2)) (1998), 34 C.H.R.R. D/1.

## **PART II: THE IMPACT OF THE LACK OF AFFORDABLE HOUSING ON FAMILIES AND CHILDREN**

### *i) Context*

9. Between 1990-2008, median tenant incomes fell as compared to median owner incomes. At the same time, average rents in Ontario increased by twice the level of median tenant incomes. (Ontario Non-Profit Housing Association and Co-operative Housing Federation of Canada, *Where's Home? The Need for Affordable Rental Housing in Ontario*, September 2011 at 9, attached as **Exhibit "E"**)

10. In 2009, the Toronto region moved from the 'seriously' unaffordable to the 'severely' unaffordable among six regions (Canada, US, UK, Ireland, Australia and New Zealand). This has had a dramatic impact on low income renters:

The 2009-2011 period will likely see a drop in tenant incomes and worsening housing affordability... Already in 2009, estimated incomes for a number of occupations and groups put affordable

housing out of reach. (Toronto Community Foundation, *Toronto's Vital Signs*, 2010 at 45 attached as **Exhibit "F"**.)

11. In fact, in 2009, Toronto landlords filed more than 25,000 eviction applications against tenant households for rental arrears alone and number of children in shelters increased by 20% in (**Exhibit "F"**, at 47, 48). According to Raising the Roof, families with children are the fastest growing group of homeless people.<sup>1</sup>

12. The cost of housing is a key driver of food bank use and food bank use is on the rise. Food bank clients spend an average of 68% on their rent/mortgage and utilities, leaving little for other basic necessities. A copy of the Daily Bread Food Bank report, *Fighting Hunger – Who's Hungry – 2020 Profile of Hunger in the GTA* (at 5) is attached and marked as **Exhibit "G"**.

13. According to "Hunger Count" 2009, food bank use in Canada rose by 17.6% between March 2008 and March 2009. The breakdown of those assisted included: 85.4% renters, 6.3% home owners, and 6% homeless. Thirty-seven percent of those assisted by food banks were children and youth under 18 years old. See Food Banks Canada, *Hunger Count 2010: A comprehensive report on hunger and food bank use in Canada and recommendations for change*, attached as **Exhibit "H"** at 2, 6, 8.

14. Families who are forced to spend a disproportionate amount of their income on rent often face food insecurity and even malnutrition. They are unable to participate in healthy community activities such as active recreation and children's social programs. There is often little or no

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<sup>1</sup> Raising the Roof, a Canadian charity working on housing and homelessness issues, see: [www.raisingtheroof.org](http://www.raisingtheroof.org), Facts on Homelessness.

money left for transportation, clothing and school supplies. See: *Housing as a Determinant of Health*, November 2002, attached as **Exhibit “I”**.

15. One solution is to live in rent geared to income or “social housing.” Unfortunately, the waiting lists for social housing are extremely long.

16. In 2001, the Ontario government stopped collecting statistics on province-wide waiting lists for social housing. As a result, the Ontario Non-Profit Housing Association (ONPHA) now surveys Service Managers in each municipality to determine the number of people on the active wait list for social housing.

17. In 2011, ONPHA found that there were 152,077 Ontario households on active wait lists for social housing, an increase of 7.4% since 2010. The wait times vary considerably across the regions but for the majority of families it will be three to five years before they are housed. The most devastating example of wait lists is in Peel Region where families can wait of up to 21 years to obtain subsidized housing. (See: *Where’s Home Report*, **Exhibit “E”** at 30). A copy of the social housing wait list maps are attached as **Exhibit “J”**.

*ii) Impact on Children*

18. Research has repeatedly demonstrated that adequate and stable housing in supportive, safe communities is correlated with positive child outcomes in areas of health, development and wellbeing. See: Merrill Cooper, *Housing Affordability: A Children’s Issue*, attached as **Exhibit “K”**.



19. Inadequate housing and homelessness can have a profound impact on children's physical and mental development, their ability to learn, their chances of making a positive contribution in life and their economic wellbeing. See: Lisa Harker, *Chance of a Lifetime: The Impact of Bad Housing on Children's Lives*", Shelter 2006, attached as **Exhibit "L"**.

20. Homelessness has a particular impact on children in the area of education. Homeless children and those in overcrowded conditions are two to three times more likely to miss school due to the disruption of moving between temporary accommodations as well as due to illnesses and infections. Children in these circumstances have delayed cognitive development and communication skills (Harker, **Exhibit "L"** at 10). In addition,

Homeless children are more likely to have behavioural problems such as aggression, hyperactivity and impulsivity, factors that compromise academic achievement and relationships with peers and teachers. (Harker, **Exhibit "L"** at 27.)

21. *Lost in the Shuffle: The Impact of Homelessness on Children's Education in Toronto*, warns of similar adverse impacts to children's educational prospects. The impacts of homelessness include: transience and disruption in education; the stigma of living in a shelter internalized with anxiety and depression or externalized through bullying behaviours; and the lack of access to sufficient quiet space in shelters for studying or computer access. See Ann Decter, *Lost in the Shuffle*, Community Social Planning Council of Toronto, September 2007, attached and marked as **Exhibit "M"**.

22. The report found that when a family becomes homeless a child generally attends three different schools in a given year: "They start the school year in their home school, or school of origin, transfer to a second school close to their emergency housing, and move to a third school

when they are rehoused” (**Exhibit “M”** at 35) In the study, 58% of the children had already attended three or more schools, even though 50% were only in grade 3 or lower (**Exhibit “M”** at 3).

### **PART III: CHILD WELFARE CONTEXT**

#### *i) Child Welfare in Ontario*

23. In Ontario, child welfare programs and services are delivered by 52 Children’s Aid Societies (CAS) throughout the province and governed by the *Child and Family Services Act* (“*CFSA*”), R.S.O. 1990.

24. The paramount purpose of the *CFSA* is to promote the best interests, protection and well-being of children. Services to children and their families are to be provided in a manner that supports the autonomy and integrity of the family and respects the religious, cultural, linguistic and regional differences.

25. The goal, whenever possible, is to keep children with their own families. When children cannot remain at home or live with relatives safely, CASs offer a variety of substitute care programs, including foster care and kinship care. For children who become Crown Wards (permanent wards of the province), efforts are made to develop permanency plans, including adoption.

26. Where a child is deemed to be in need of protection, authorities may offer services under voluntary agreement with the parent or guardian. Where a child is considered to be in imminent danger, child welfare authorities may apprehend the child. Where a child has been apprehended,

or a voluntary agreement is not feasible or appropriate, a child protection hearing is scheduled in the appropriate court of law. The court determines whether the child is in need of protection, and may issue an order concerning the care, custody and/or guardianship of the child. Section 37(2) of the *Child Family Services Act* provides the grounds on which a child may be found in need of protection. See Appendix “A”.

27. In Ontario, between April 1, 2008 and March 31, 2009, CASs received 156,653 calls. More than 27,000 children and almost 25,000 families received services from CASs. In 90% of cases, CASs worked with the families while the child remained in the home.<sup>2</sup>

28. As of March 31, 2009, 17,876 children were in the care of Ontario’s CASs. Of the 17,876 children in care, approximately 9,200 children and youth were permanent wards of the Crown.

*ii) The Children’s Aid Society of Toronto (CAST)*

29. The Children’s Aid Society of Toronto is one of the largest child welfare organizations in Canada. It is an incorporated not-for-profit agency governed by a volunteer board of directors. We serve predominantly low-income families.<sup>3</sup> A report of the Children’s Aid Society, QSR Department, *Feedback from Former Protection Service Clients*, 2009, is attached as **Exhibit “N”**.

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<sup>2</sup> Ontario Association of Children’s Aid Societies (OACAS), *Child Welfare Report 2009/10*

<sup>3</sup> Our annual telephone survey to a sample of families we served found that 12% had less than \$10,000 annual income; 30% had incomes ranging from \$10,001 – 20,000; 18% had incomes of \$20,001-30,000; 12% had incomes of \$40,001- 60,000; and 15% of families had incomes over \$60,001.

30. In 2009-2010, the CAST provided services to 11,486 families for a variety of racial, ethnic and cultural backgrounds.<sup>4</sup> We provided services to 25,710 children, including 2,332 who were in child welfare care. In 2009-2010, 576 children/youth were discharged from CAST care.

#### **PART IV: HOUSING AS A FACTOR IN CHILD ADMISSIONS TO CARE**

##### *i) Overview*

31. I co-authored two research studies which investigated the link between housing issues and child admissions to CAST care.

32. The studies were a partnership between the CAST and the University of Toronto. The initial study, *Housing as a Factor in Admissions of Children to Temporary Care* was carried out in 1992 and is attached as **Exhibit “B”**. A replicated study, *One in Five... Housing as a Factor in the Admission of Children to Care* was conducted in 2000 and is attached as **Exhibit “C”**.

33. In both studies, family service/child protection workers were surveyed and asked two primary questions and a number of follow up questions about the housing conditions of their clients. The primary questions were: (i) in your opinion, was the family’s housing situation one of the factors that resulted in admission of a child or children to care, and (ii) in your opinion, was there any delay of the return home of the child/children from care due to housing related problems?

34. A premise of both research studies was that while access to adequate and affordable housing will not necessarily prevent all admissions to care, adequate housing may:

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<sup>4</sup> Children’s Aid Society of Toronto (CAST), *Annual Report, 2009-2010*

- a) reduce the number of admissions by stabilizing families' living situation in ways that promote children's well-being; and
- b) reduce the delay in the reunification of children to their families because of housing problems.

35. Both studies raise the broader question: Would the incidence of child abuse and neglect be reduced if more families had access to affordable, adequate, and appropriate housing?

***ii) Context***

36. Under Ontario's *Child and Family Services Act*, CAST has a legal responsibility to protect children at risk of abuse and/or neglect. One form of intervention involves removing children from their parents' home and providing substitute care.

37. Insecure or inadequate housing, homelessness, and use of shelters are not specifically listed under the list of grounds for finding a child in need of protection under subsection 37(2) of the CFSA (see Appendix "A"). However, housing problems could be a factor impacting on parental stress levels and behaviours, which could result in identification of a child, or children in need of protection.

38. For example, if evicted or forced to move to a family shelter, a parent could become emotionally distraught resulting in an incident of neglect or abuse. In addition, children have emotional and behavioural reactions to housing instability and homelessness and this can have an impact on the parents' stress levels and coping ability. In short, housing problems could be a factor which could result in parenting falling below the acceptable child protection legislated threshold, placing children at risk, and thereby bringing the family to the attention of CAST.

*iii) Method & Goals*

39. The decision to place a child in care is based upon a variety of professional assessments by community and child welfare workers. These assessments are coordinated by family service workers.

40. Family service workers are usually graduates of social worker programs. They visit client families in their homes on a regular basis, and have first-hand information of a family's housing circumstances. They have intimate knowledge of the major factors affecting the wellbeing of the families and children with whom they work.

41. In both the 1992 and 2000 studies, all family service workers employed by CAST were asked to complete a questionnaire on two of their case files. The files were selected at random by the research team. One question asked whether housing was a factor in the admission of the child into care and/or a factor in delaying the child's return. If the answer was affirmative, the worker was asked to identify the nature of the housing problem.

42. The results of the 1992 study were based on a sample of 128 cases. The results of the 2000 study were based on a sample of 191 cases. The increased sample size in 2000 was due to the increased number of children in care that year, and a greater response rate from family service workers.

43. The research also examined the data on all children in care, including the average monthly cost and length of time in care, to extrapolate the results to the whole universe of children in care at CAST in 1992 and 2000.

v) *The Findings*

44. In 1992, we found that the family's housing situation was a factor in 18.4% of the child placements into care. Issues identified by family service workers as important or very important included: eviction (67%); difficulties paying rent (64%); no permanent home (50%); overcrowding/insufficient living space (40%); and housing below basic standards (31%). See: **Exhibit "B"**, *Housing as a Factor in Admissions ...* at 557, 554.

45. The study demonstrated that while access to safe and affordable housing will not necessarily prevent all child admissions to CAS care, adequate housing may reduce the number of admissions by stabilizing the family's living situation which in turn promotes children's well-being.

46. The study further demonstrated that families and children who are clients of CAST in Metropolitan Toronto faced substantial obstacles in obtaining affordable, adequate and suitable housing in Toronto. According to the social workers, housing conditions played a role in the parents' ability to care for their children.

47. In 2000, we found that the family's housing situation was a factor in 20.7% (one in five) of the child placements into care. Issues included: no permanent home for the family (75%); inadequate income (73%); inadequate health standards in the home (71%); and an inadequate amount of living space (6%). See: **Exhibit "C"**, *One in Five*, at 2.

48. In 2000, 29% of families in the study did not have affordable housing compared to 23% in the 1992. In 2000, 21% of families did not have housing considered to be "safe and appropriate to meet their physical housing needs" compared to 14% in 1992. In other words, between 1992

and 2000 there was a decline in affordability as well as the safety and adequacy of the housing faced by the families.

49. The 2000 study also found that housing problems delayed the return of children to their families in 11.5% of cases. This meant that children faced a delay in returning to their home in 250 cases. This was a significant increase from the 8.6% reported in the 1992 survey. (**Exhibit “C”** at 2)

50. Extrapolating from the studies to the total number of children in care, the number admitted to care where housing was a factor increased by about 60% between the 1992 study and 2000 study, from about 290 children in 1992 to about 450 in 2000.

51. The CAST client profile is predominantly single parent households and predominantly female headed. In the 2001 study, 74.2% of the randomly chosen files were single parent households.<sup>5</sup>

*vi) Costs of Admission to Care*

52. In 2000, the cost for a child admitted to care averaged \$40,761 per child (**Exhibit “C”** at 4). This figure was based on the CAST estimate of an average of \$1,941 per month per child multiplied by 21 months, the average length of time children remained in care following admission.

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<sup>5</sup> This data was not published in the study.



53. In 2000, we extrapolated that 450 children entered care where housing was a factor. The estimated in-care cost was \$873,450 per month. Based on an average stay of 21 months, the cost to CAST was approximately \$18 million.

54. The CAST has not replicated the housing studies since 2000. However, based on the housing needs of families we serve, the lack of affordable and adequate housing in the community, and family homelessness in Toronto, I would anticipate that the 20.7% figure of housing as a factor in child admissions to care has increased.

55. It is difficult to compare the financial impact of children in care with housing as a factor in 2000 to 2009 as some of the methodologies to calculate in care costs have changed. However, based on costs and the number of children in care in 2009, I can extrapolate the following:

- 2332 children were in the care of CAST;
- the average monthly cost in care was \$4,071.42;
- of the 2332 children in care, at least 482 (20.7%) would have come into care in 2009 where housing was a factor, and at least 268 children (11.5%) admitted to care would have had reunification with caregivers/parents delayed due to housing issues<sup>6</sup>;
- the cost for one month of the children admitted to care where housing was a factor would be approximately \$1.96 million dollars<sup>7</sup>; and

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<sup>7</sup> In 2000, 20.7% of children came into care where housing was a factor. In 2009, there were 2332 children in care; 20.7% of 2332 children equals 482. The estimated average monthly cost in care of \$4,071.42 multiplied by 482 equals \$1.96 million per month in total costs.

- the cost of a one month delayed return of children in care due to housing problems would be approximately \$1.09 million dollars.<sup>8</sup>.

56. In other words, a significant proportion of CAST's budget for in-care cost is associated with the inability of some families in Toronto to obtain adequate housing. Addressing the housing needs of low income families would reduce the number of children admitted into care and facilitate the return of children to their families. It would also reduce the financial costs of admitting children to care.

57. In addition to financial costs there are, of course, tremendous social and emotional costs of admitting children to care. Research has demonstrated that children experience trauma not only from the abuse and neglect they may have experienced but from the emotional impacts of removal from their families and admission to state or child welfare care. See: Deborah Harburger and Ruth White, *Reunifying Families, Cutting Costs: Housing- Child Welfare Partnerships for Permanent Supportive Housing*", Child Welfare League of America, 2004 at 495, attached as **Exhibit "O"**.

*vii) The United Nations' response*

58. Canada is signatory to a number of United Nations Conventions and Declarations that include the right to housing and encompass the rights of children. The United Nations has made findings and recommendations on Canada's failure to address the housing needs of women and

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<sup>8</sup> In 2000, 11.5 % of children in care had their return home delayed where housing was a factor. In 2009, with 2332 children in care, 268 children would have their return home delayed due to housing problems. The estimated average monthly cost in care of \$4071.42 multiplied by 268 equals \$1.09 million per month in total costs.

children facing domestic violence and issues of families relinquishing children to child welfare due to the inability to provide housing or other basic necessities.

59. In May 1993, the United Nations Committee on Economic, Social and Cultural Rights noted:

The Committee received information from non-governmental organizations about families being forced to relinquish their children to foster care because of an inability to provide adequate housing or other necessities. (*Concluding Observations of the Committee of Economic, Social and Cultural Rights: Canada 06/03/1993* at 3, para. 14, attached as **Exhibit “P”**.)

60. In 1998, the Committee stated:

- The Committee is concerned that the significant reductions in provincial social assistance programmes, the unavailability of affordable or appropriate housing and widespread discrimination with respect to housing create obstacles to women escaping domestic violence. Many women are forced as a result of these obstacles, to choose between returning to, or staying in, a violent situation, on the one hand, or homelessness and inadequate food and clothing for themselves and their children, on the other.
- The State party did not take into account the 1993 concerns and recommendations when it adopted policies at federal, provincial and territorial levels which exacerbated poverty and homelessness among vulnerable groups during a time of strong economic growth and increasing affluence.
- The Committee is concerned at the crisis level of homelessness among youth and young families. According to information received from the National Council of Welfare, over 90 per cent of single mothers under 25 live in poverty. (*Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada 12/10/1998* at pp. 5-6, attached as **Exhibit “Q”**)

61. In 2006, the Committee said:

- The Committee regrets that most of its 1993 and 1998 recommendations in relation to the second and third periodic reports have not been implemented.

- ...low-income families, single-mother-led families and Aboriginal and African Canadian families, are overrepresented in families whose children are relinquished to foster care. The Committee is also concerned that women continue to be forced to relinquish their children into foster care because of inadequate housing.
- ...women are prevented from leaving abusive relationships due to the lack of affordable housing and inadequate assistance. (*Concluding Observations of the Committee on Social, Economic and Cultural Rights: Canada 22/05/06* at pp. 2, 5, attached as **Exhibit “R”**).

62. In 2009, Miloon Kothari, the United Nations Special Rapporteur, issued a report which included the following observations:

The lack of adequate and secure housing particularly impacts women who are disproportionately affected by poverty, homelessness, housing affordability problems, violence and discrimination in the private rental market ...The Special Rapporteur heard many testimonies from women concerning their inadequate living conditions including derelict and overcrowded houses, and insufficient social assistance entitlements to meet the cost of housing and other living expenses, the lack of shelter spaces for homeless women and women fleeing violence.

63. The Special Rapporteur also commented on the risk homeless women incur of having their children apprehended and the reality that “once a woman loses her children (to child welfare) it is very difficult for her to get them back because her welfare entitlement is reduced making adequate accommodation (essential to get her children back) more inaccessible.”

64. The Special Rapporteur cited the Ontario Human Rights Commission which indicated a concern that children in Ontario continue to be relinquished or apprehended by children’s aid societies due to inadequate housing. (Miloon Khotari, *Report of the UN Special Rapporteur on Adequate Housing*, February 2009 at 18-19, attached as **Exhibit “S”**).

## **PART V: YOUTH, HOUSING AND HOMELESSNESS**

### *i) Canada*

65. Raising the Roof is a national Canadian charity dedicated to long term solutions to homelessness, including funding local agencies to alleviate homelessness in their communities and building partnerships to participate in solutions. In 2004, there were approximately 65,000 homeless youth in Canada.

66. Raising the Roof released a study in 2009 which profiled the experiences of 689 homeless youth in three Canadian cities: Toronto, Calgary and St. John's. The research estimated that a third of Canada's estimated homeless population is 16-24 years of age. (Raising the Roof, *Youth Homelessness in Canada – The Road to Solutions*, May 2009 at 12-13, attached as **Exhibit "T"**.)

67. CAST was not involved with this study. However I participated along with several other CAST Youth Services staff at the National Youthworks Conference hosted by Raising the Roof to develop policy responses and recommendations to this research.

68. The youth ranged in age from 16-29 with the majority aged 16-21. Their living situations included: homeless shelter 40%; apartment 20%; rooming house 18%; family home 10%; and absolute homeless 12%.

69. Some key themes emerged from this research:

- 63% of youth were raised in a family that found it hard to maintain housing;
- 43% reported previous involvement with child protective services;

- 68% reported they were homeless after leaving foster care, group homes or a youth centre;
- 21% either had children, were pregnant or were with a pregnant partner, a signal that there may be further child welfare involvement in some of these youth's lives as young parents who are homeless; and
- The report also found that youth who are lesbian, gay, bisexual, transgendered/transsexual or queer (LBGTQ) are disproportionately represented among homeless and street involved youth, and that they face greater odds of experiencing violence and exploitation, health challenges, precarious housing and hunger.

70. The finding that almost half of the youth had had previous involvement with child protective services is consistent with earlier research by Valerie Tarasuk and other researchers on street youth. In 2003, of the 261 homeless youth interviewed, 45% reported that they had spent time in foster care or a group home. See: *A study of nutritional vulnerability among Toronto street youth in 2003*” and follow up notes, attached as **Exhibit “U”**.

71. Homeless youth and street youth are at high risk of being victims of crime and violence. Seventy-six percent of homeless youth in a Toronto based study reported at least one instance of victimization, with almost three quarters of youth reporting multiple incidents.

72. Young homeless women are at particularly high risk of victimization, including high levels of sexual assault. LBGTQ female youth were more likely to report being victims of crime including property and violent crime, often on multiple occasions.

73. This research also found that younger youth (16-17) were the most prone to victimization, reported the highest levels of violent crime, and were twice as likely to report having been sexually assaulted.<sup>9</sup> Stephen Gaetz, Bill O’Grady, Kristy Buccieri, *Surviving Crime and Violence – Street Youth and Victimization in Toronto*, Justice for Children and Youth and the Homeless Hub Series, Report #1, 2010, attached as **Exhibit “V”**.

*iii) Youth Exiting the Care of Child Welfare*

**a) Context**

74. In 2008-2009, over 5000 youth aged 16-21 were in the care of Ontario’s child welfare agencies.<sup>10</sup>

75. Youth exiting or aging out of child welfare or State care face a number of challenges that put them at greater risk of homelessness. These include: failure to graduate from high school, becoming a parent at a young age, dependence on social assistance, unemployment, involvement with the criminal justice system, mental health problems and increased risk of substance abuse. See: Anne Tweddle, “*Youth Leaving Care – How Do They Fare*”, Laidlaw Foundation, 2005, at 9, attached as **Exhibit “W”**.

76. Many of these factors reflect the lack of supports available for youth leaving care. For many youth, these risk factors are often predictors of a cycle of poverty and homelessness as well as the potential for future child welfare involvement.

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<sup>10</sup> CAS of Toronto, “External and Environmental Scan”, November 2009.

77. This situation is compounded by the fact that many children/youth in care have more specialized needs than their peers. The 2007 Ontario Crown Ward Review reviewed the files of 5,548 children (approximately 60% of those in the permanent care of Ontario Child welfare services). Of these, 82% (4,564) were identified as having special needs. The most prevalent needs were: Attention Deficit Disorder/ Attention Deficit Hyperactivity Disorder – 29%; Psychiatric Diagnosis- 20%; Developmental Disability- 10%; Learning Disability – 9%. See: *The Child Welfare Review – Ontario’s Crown Wards Summary Report*, Ministry of Children and Youth Services, Client Services Branch, Service Delivery Division, December 2010 at 12-13, April 22, 2009, attached as **Exhibit “X”**.

**b) Programs for Youth Leaving Care**

78. Children who become permanent Crown Wards receive government funded residential care until their 18th birthday. In addition, youth wards who are 16 -18 years of age who are living independently and who have developed a plan with their child welfare worker receive an Independent Living Allowance until their 18th birthday.

79. The amount of the allowance varies across Ontario. At CAST the rate is \$943 per month. However, the average cost of a bachelor apartment in Toronto is \$802. This means a youth ward receiving an Independent Living Allowance can expect to spend 85% of his/her monthly income on housing alone.<sup>11</sup>

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<sup>11</sup> Budget 1: Youth 16-17 on Independent Living Allowance-ILA (CAST-2010)

\$ 943- Monthly Independent Living allowance for eligible Crown Wards.

\$ 802 - Average rent for a bachelor apartment in Toronto CMA, April 2010, CMHC Ontario Highlights.

\$ 141. Funds remaining for other basic needs.

**85 per cent of income from ILA spent on housing.**



80. At 18 years of age, youth wards can continue to receive counseling supports, some other benefits and a monthly Extended Care and Maintenance allowance (“ECM”) if they develop goals and a plan with their Children’s Services worker such as attending school, training, or employment. However, they have to find housing outside of the child welfare system.<sup>12</sup>

81. The ECM rate also varies across Ontario. At CAST the 2010 rate is \$884 a month. With the average cost of a bachelor apartment in Toronto CMA at \$802 per month these youth have only \$82 remaining for other basic needs.

82. Given the long waiting lists for subsidized housing, it is difficult for youth to access social housing: no priority is given to homeless youth or youth leaving care. There is no targeted affordable housing for youth.

83. Statistics Canada research shows that young adults are remaining in their family homes for much longer - into their late 20s and even early 30s. In addition, when they face any crisis or need, such as paying back student debt, changing jobs or losing a roommate, they often return

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Budget 2: Youth 18-21 on Extended Care and Maintenance ECM (CAST-2010).

\$ 884.00 Monthly ECM Living allowance.

\$ 802.00- Average rent for a bachelor apartment in Toronto CMA, April 2010, CMHC Ontario Highlights.

\$ 82.00- Funds remaining for other basic needs.

**90 per cent of income from ECM spent on housing.**

<sup>12</sup> Society Wardship and Crown Wardship terminate on a youth's 18th birthday. Some youth ordered into CAS care withdraw from the control of the Society at age 16 or 17, and termination of their wardship is sought from the Ontario Court of Justice either by the Children's Aid Society or the youth. Former Crown Wards of the age of 18 or more may receive services from a CAS until the age of 21 years pursuant to an agreement for "extended care and maintenance".

home. In contrast, youth aging out of child welfare care and wardship, cannot return to care, and have no home to which they can return.<sup>13</sup>

84. At the age of 21, youth who were wards of the state are expected to support themselves entirely with no living allowances, residential supports or counseling.<sup>14</sup> As a result, for many youth aging out of care, turning 21 is not a celebration, but rather a cause of anxiety, stress and fear of abandonment.<sup>15</sup> See: *Aging out of care a major life obstacle: The Needs of Youth in Care*, Needs of Teens in Care Everywhere Newsletter, Winter 2010, attached as **Exhibit “Y”**.

## **PART VI: THE NEED FOR AFFORDABLE HOUSING**

85. Over the past fifteen years the housing circumstances of children, youth and families has deteriorated in Toronto. It has become increasingly difficult for low-income households to secure affordable, adequate, suitable and accessible housing.

86. Waiting lists for social housing have lengthened, the use of homeless shelters has increased, the conditions of rental housing have deteriorated in both public sector and private-rental housing, and low-income households face more overcrowding in rental accommodations.

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<sup>13</sup> See: Pascale Beaupre, Pierre Turcotte and Anne Milan, “*When is Junior Moving Out? Transitions from the parental home to independence*” Statistics Canada, 2001, pp.1-2.

<sup>14</sup> One exception is Pape Adolescent Resource Centre which provides voluntary youth support services in Toronto to current or former wards of the CCAS of Toronto and CAS of Toronto 16-24 years of age. Also, In January 2011, the Ontario Association of Children’s Aid Societies with Green Shields Insurance announced a two-year support service to former wards of child welfare in Ontario aged 21-23, a 24-hour counseling, information and referral service similar to a Employee Assistance Plan (EAP) support plan.

<sup>15</sup> *Aging out of care a major life obstacle: The Needs of youth in Care*. Needs of Teens in Care Everywhere Newsletter, Winter 2010.

87. A New York University five year longitudinal research study found that drug addiction, mental illness and other social problems were not the main causes of homelessness among families in New York City. The main cause of family homelessness was the scarcity of affordable housing. See: Mary Beth Shinn And Beth Weitsman, *Predictors of Homelessness among families in New York City: from shelter request to housing stability*”, The American Journal of Public Health, November 1998, 88:1651-1657, attached as **Exhibit “Z”**.

88. The study refuted the assumption that families cannot address homelessness until root issues or behavioural disorders are addressed. The researchers found that demographic characteristics and housing conditions were the most important risk factors for shelter entry and receipt of subsidized housing was the primary predictor of housing stability among formerly homeless families (*Predictors* at 1651).

89. A pilot project in New York City provided supportive housing and supports to chronically homeless families or those at risk of becoming chronically homeless. Supportive housing was defined as permanent affordable housing combined with a range of supportive services that help people with complex challenges including homelessness, poverty and mental illness.

90. As a result of having stable supportive housing, child welfare involvement decreased by 60 per cent. Admissions to foster care were reduced and children in care were reunified with their parents more quickly. Eighty-three percent of the children who were returned home, remained stable with their parents for more than 12 months. Children showed steady increases in school attendance after moving into the permanent affordable housing. See: Corporation for Supportive Housing, *Keeping Families Together*, Robert Wood Johnson Foundation 2011, attached as **Exhibit “AA”**.

91. For more than 30 years the CAST’s Board of Directors has recognized the importance of decent, affordable housing to support the well-being of children, youth and their families and has adopted and updated housing policy statements. Over the years the policy has been amended and now includes principles and a housing vision statement. See Appendices “B” and “C”.

92. In the CAST Annual Report 2009-2010, two organizational advocacy priorities were identified: affordable housing and supports to youth transitioning out of care. These priorities are rooted in our Strategic Plan. To move forward on these goals our organization works through our community development and prevention program and with our leadership team to collaborate with families, youth and with community partners to advocate for, and promote access to affordable housing for all children, youth and families.

93. CAST supports the fundamental right to housing and envisions a role for all levels of government to develop policies and provide resources to ensure that this occurs.

**SWORN BEFORE ME** at )  
 )  
the City of Toronto, in the Province )  
 )  
of Ontario, this 3rd day )  
 )  
of October 2011. )  
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**ANN FITZPATRICK**

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A Commissioner, etc.

## APPENDIX “A”

Section 37(2) of the *Child and Family Services Act*, R.S.O. 1990, Chapter c.1:

A child is in need of protection where,

- (a) the child has suffered physical harm, inflicted by the person having charge of the child or caused by or resulting from that person's,
  - i. failure to adequately care for, provide for, supervise or protect the child, or
  - ii. pattern of neglect in caring for, providing for, supervising or protecting the child.
- (b) there is a risk that the child is likely to suffer physical harm inflicted by the person of the child or caused by or resulting from that person's,
  - iii. failure to adequately care for, provide for, supervise or protect the child, or
  - iv. pattern of neglect in caring for, providing for, supervising or protecting the child.
3. The child has been sexually molested or sexually exploited, by the person having charge of the child or by another person where the person having charge of the child knows or should know of the possibility of sexual molestation or sexual exploitation and fails to protect the child.
4. There is a risk that the child is likely to be sexually molested or sexually exploited as described in paragraph 3.
5. The child requires medical treatment to cure, prevent or alleviate physical harm or suffering and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, the treatment.
6. The child has suffered emotional harm, demonstrated by serious,
  - i. anxiety,
  - ii. depression,
  - iii. withdrawal,
  - iv. self-destructive or aggressive behaviour, or
  - v. delayed development,and there are reasonable grounds to believe that the emotional harm suffered by the child results from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
7. The child has suffered emotional harm of the kind described in subclause (f) i, ii, iii, iv or v and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to remedy or alleviate the harm.

8. There is a risk that the child is likely to suffer emotional harm of the kind described in subclause (f) i, ii, iii, iv or v resulting from the actions, failure to act or pattern of neglect on the part of the child's parent or the person having charge of the child.
9. There is a risk that the child is likely to suffer emotional harm of the kind described in subclause(f) i, ii, iii, iv or v and that the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, services or treatment to prevent the harm.
10. The child suffers from a mental, emotional or developmental condition that, if not remedied, could seriously impair the child's development and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, treatment to remedy or alleviate the condition.
11. The child has been abandoned, the child's parent has died or is unavailable to exercise his or her custodial rights over the child and has not made adequate provision for the child's care and custody, or the child is in a residential placement and the parent refuses or is unable or unwilling to resume the child's care and custody.
12. The child is less than 12 years old and has killed or seriously injured another person or caused serious damage to another person's property, services or treatment are necessary to prevent a recurrence and the child's parent or the person having charge of the child does not provide, or refuses or is unavailable or unable to consent to, those services or treatment.
13. The child is less than 12 years old and has on more than one occasion injured another person or caused loss or damage to another person's property, with the encouragement of the person having charge of the child or because of that person's failure or inability to supervise the child adequately

## **APPENDIX “B”**

These vision statements regarding the kind of housing options that should be achieved for families, youth and children involved in child welfare were developed in 1996 after a broad consultation with CAST staff and other stakeholders.

1. *The children, youth and families served by the Society should have equality of access to housing as per the Ontario Human Rights Code;*
2. *The children, youth and families served by the Society should have a full range of choices in housing;*
3. *The children, youth and families served by the Society should have access to housing, including rental housing, that is affordable (usually considered 25%-30% of family income);*
4. *The children, youth and families served by the Society should have access to housing that meets all minimum legal standards (The City of Toronto has comprehensive property standard by-laws to define these standards);*
5. *The children, youth and families served by the Society should have access to suitable housing to prevent over-crowding;*
6. *The children, youth and families served by the Society should have access to quality housing and planning designs that are child-youth centred;*
7. *The children, youth and families served by the Society should have access to models of housing that promote community well-being through tenant participation and management options that promote the dignity and respect of tenants;*
8. *The children, youth and families served by the Society should have legal protections including those that: promote security of tenure, prevent violations of privacy, prevent unfair rent increases, provide reasonable time periods after evictions to get belongings, provide due/fair processes in landlord/tenant disputes with adequate notice periods;*
9. *The children, youth and families served by the Society should have access to adequate income from employment, Employment Insurance, or social assistance to pay for basic needs including: food, shelter, clothing, transportation and medical needs;*
10. *The children, youth and families served by the Society should have access to barrier-free and wheelchair accessible housing for children, youth and parents with disability issues; and*
11. *The children, youth and families served by the Society should have access to housing for people with special needs and vulnerable people: such as young parents with no fixed*

*address, parents with mental health issues, youth leaving care towards independence, and youth/parents with developmental problems.*

*(Note: housing could include homeownership and rental housing and mixed income housing. “Affordable” generally understood by government policies as housing costs that are 25%-30% or less of gross household income.)*



## APPENDIX “C”

### CONSOLIDATED HOUSING POLICY STATEMENTS;

#### **1) Housing Mission Policy Resolution:**

Board approved first in: June 1981/ amended 28/04/1988; Previous review in 31/12/1996/Suggested changes Jan 2003-underlined).

THEREFORE BE IT RESOLVED that the Children’s Aid Society of Toronto supports *the fundamental right to housing*, that everyone has a right to access adequate, safe and affordable housing, including both families with children and youth, *including youth* living independently (including Crown Wards) and that it is the role of all levels of government to set and enforce policies to provide resources to ensure that this occurs.

#### **2) Government Role in Housing Policy:**

Board approved 31/12/1996; updated Jan 2003

BE IT FURTHER RESOLVED that the Children’s Aid Society of Toronto advocate for strong Federal, Provincial and City government mandates to support social and affordable housing, that reflects the needs of children, youth, families and youth leaving the care of CAS including:

- National, Provincial and Municipal policies and funding to preserve and expand affordable social housing supply; no sale of social housing units; funds to ensure the repair of aging housing stock and funds to create new affordable rental housing.
- All levels of government to develop policies and provide funding to meet the housing needs of special needs or vulnerable people including young parents with no fixed address, parents with mental health needs, youth leaving care, youth/parents with developmental problems.

**JENNIFER TANUDJAJA, et al.**  
Applicants

- and -

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA, et al.**  
Respondents

Court File No. CV-10-403688

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**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

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**AFFIDAVIT OF ANN FITZPATRICK**  
(Sworn October 3, 2011)

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