

**ONTARIO ASSOCIATION OF SOCIAL WORKERS**

**L'ASSOCIATION DES TRAVAILLEUSES ET TRAVAILLEURS SOCIAUX DE  
L'ONTARIO**

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**RESPONSE TO**

**HUMAN RIGHTS AND RENTAL  
HOUSING IN ONTARIO**

**A CONSULTATION PAPER OF THE  
ONTARIO HUMAN RIGHTS COMMISSION**

**Presented by:**

**Ontario Association of Social Workers**

**August 30, 2007**

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## 1. INTRODUCTION

The Ontario Association of Social Workers (OASW) welcomes the opportunity to respond to the consultation paper of the Ontario Human Rights Commission (OHRC) on *Human Rights and Rental Housing in Ontario, March 28, 2007*.

As a professional membership association representing social workers and serving as “the social work voice in Ontario”, OASW offers firm support for the full implementation of the human right to adequate and affordable housing. Social workers provide a wide range of services to individuals, families and groups across the life span, and play a vital role in the development and implementation of social and economic policies at the provincial and national levels. As a profession with a long-standing history of advocacy on behalf of the rights of the vulnerable and disadvantaged populations within Canadian society, social workers are strongly committed to human rights issues and the provision of equal rights and opportunities without discrimination for all persons.

OASW members adhere to the *Canadian Association of Social Workers' Code of Ethics (2005)*, which contains core social work values and principles that uphold the human rights of individuals and groups. The same values are reflected in the *Canadian Charter of Rights and Freedoms (1982)*, as well as in other international documents. The first two core values asserted in the Canadian Code for social workers are: 1) to respect the inherent dignity and individual worth of all persons; and 2) to pursue social justice.

From our perspective, this means that the right of all Canadians to have fair, non-discriminatory access to housing that is adequate, affordable and appropriate to their family size, life situation, and life-stage must be achieved and protected.

Many households have no choice but to rent housing for part or all of their life. Rental housing should not be a neglected or secondary part of the housing system -- relative to owner occupancy. Rental housing presents unique issues because ownership and occupancy are separated. The rights of the occupants can at times conflict with the rights or desires of the owners. There are indeed more opportunities for discrimination in the rental sector. Lower-income tenants, in particular, have few choices and, as such, are even more vulnerable to discriminatory practices. Any discrimination limits their range of choice.

The supply of new rental housing is a well-known problem of our time. It is no longer economical for the private sector to build new rental housing as it once did. In addition, the public sector has not been providing many new social housing units since the early 1990s. The existing rental stock in Ontario is aging, and there are too few adequate units to meet the housing needs of all renters.

It is thus appropriate and timely that the Commission is considering the issue of human rights and Ontario's rental housing sector.

## 2. ABOUT OASW

The Ontario Association of Social Workers (OASW), a bilingual membership association, was incorporated in 1964. It is one of the ten provincial/territorial associations of social workers belonging to the Canadian Association of Social Workers which is, in turn, a member of the 78-nation International Federation of Social Workers.

OASW has 15 local branches across Ontario. Its mandate is to advance the interests and concerns of the social work profession and to enhance their contribution to social justice.

OASW has 3,600 members. The practising members are social workers with university degrees in social work at the doctoral, master's and baccalaureate levels.

We wish to commend the Commission for its helpful review of rental housing issues in the background paper released with the consultation paper (*Human Rights and Rental Housing in Ontario: Background Paper, March 2007*).

In this submission, we wish to emphasize several points drawn from the experience of our members, particularly those who work in government and community agencies that serve lower-income renter households.

Ontario receives over 50 per cent of all immigrants and refugees who come to Canada annually. Ontario is also a highly urbanized province with significant concentrations of low-income and poor households living in an aging rental housing stock. Social workers in the social welfare system, the health care system, the criminal justice system, and elsewhere, are deeply concerned about the serious problems many lower-income and newcomer households face in accessing and maintaining adequate housing in Ontario's rental sector.

## 3. RENTAL HOUSING DISCRIMINATION: THE ROLE OF HOUSING POLICY AND SOCIAL WELFARE POLICY

We must recognize the policy context in which discrimination in the rental housing sector takes place.

- ***Supply of Affordable Rental.*** Discrimination in rental housing is exacerbated when the supply of adequate and affordable rental housing is insufficient. Landlords can afford to be more selective, that is, they need not fear very high vacancy rates in their building, when demand and need far outstrips supply. Public policy, since the early 1990s, has ended most forms of support for rental housing supply -- market and non-market. This situation does not exist in the ownership sector where supply and demand are generally in balance. To establish and maintain an effective part of the housing system for those who can afford to buy a house or condominium, and to fail to do so for those who cannot afford to buy a house, is an inequality and a discriminatory practice in federal and provincial public policy.

- ***Income Support and Minimum Wage Levels.*** Discrimination in rental housing is also exacerbated when people who require social assistance or who earn minimum wage incomes receive amounts that are inadequate to meet their most basic needs. As the National Council of Welfare reports, the level of social assistance in Ontario is lower today than it was in 1986.<sup>i</sup> The inflation-adjusted value of the minimum wage in Ontario is also lower today than in the past. After paying rent and utilities, which must be paid each month in cash and on time, there is often very little money left over for other essentials. Families with children have an especially difficult time in finding appropriate housing at a rent they can afford. Social workers in Ontario's urban areas know first-hand about the severe overcrowding in aging rental apartment buildings -- though data on overcrowding is not systematically collected by any government body. Federal and provincial policy, by refusing to fund income support programs at adequate levels and refusing to adjust the minimum wage with the cost of living -- to mention just two important income policy areas -- maintains a group of renters in desperate need. This population will most likely end up in inadequate and overcrowded situations, and they are thus more vulnerable to discriminatory exploitation because they have no other options they can afford.

### **Recommendation 1:**

**Federal and provincial housing and social policy play a very significant role in exacerbating housing discrimination. It keeps the size of the problem very large, and it creates conditions in which people facing discrimination have few options. The Ontario Human Rights Commission is correct in focusing on rental housing discrimination, but due to the extent of the problem and its systemic nature, the solution is not simply better enforcement and prosecution of discrimination. Better enforcement and prosecution of discrimination is indeed required, but it is far from sufficient. This approach will be inadequate, as it has been thus far, due to the size of the problem and the maintenance of conditions that generate it. Progress requires attention to the public policies that are maintaining and exacerbating the problem.**

## **4. PUBLIC POLICY DISCRIMINATION IN OUR HOUSING SYSTEM: THE NEED TO COMPLETE CANADA'S HOUSING SYSTEM**

Addressing human rights violations in the rental housing part of our housing system requires government action. As a wealthy country, we have managed to fulfill, protect and enhance the human right to adequate health care for all. Yet as a society, we have failed to fulfill the human right to adequate housing for all. Progress against human rights violations in rental housing is made when we make progress on providing adequate housing to all in need.

Ontario's remaining housing problem is not huge, and addressing it is well within the financial means of this province and our country. Households fortunate enough to buy their own house and people fortunate enough to live in the small stock of good quality

social housing have, for the most part, their housing needs met. Higher-income households in the rental sector also tend to be able to obtain good quality rental housing that meets their needs. The remaining severe housing problem in Ontario, and in Canada generally, are the renters who cannot afford adequate housing appropriate to the needs of their household size, life stage and circumstances. These households represent about 15 per cent of all households in Ontario.<sup>ii</sup>

In contrast to the rental housing sector, our governments have created a home ownership sector that functions reasonably well. The Canadian government created and regulates an efficient mortgage system. Those who qualify obtain an insured amortized mortgage. The largest housing subsidy is provided to owners. The capital gain on the value of the owner-occupied house is not taxed. Owners can also use their RRSP savings as part of their downpayment. Renters have no equivalent subsidy benefits.

In addition to the government support for the ownership sector, Canada once had a federal/provincial social housing supply system that provided 20,000 to 25,000 social housing units annually. This system was dismantled by the federal government in 1993 and by the Ontario government in 1995. It was not dismantled because there was no longer a need, but rather to save money to both decrease government deficits (and now the public debt) and to pay the cost of tax breaks for middle- and high-income households.<sup>iii</sup>

Discrimination in the rental housing sector is worse than in the rest of the housing system, because rental housing is neglected by public policy. People with desperate need for adequate income (a well-paying job or adequate social assistance) and for adequate housing receive very little, if any, assistance. They often find themselves in the worst quality rental stock. They and their landlords are often trapped in a situation where each blames the other for problems.

An entirely avoidable unhealthy and anti-social set of circumstances has been allowed to emerge and fester for many years. This is the context -- the root cause -- of the ongoing and worsening rental housing situation and the related discrimination in access and maintenance that we observe today throughout the province and especially in the larger cities.

Canada does not have a neutral housing system in terms of the way it treats owners, renters and those in need of social housing. Owners are privileged, as are the firms that build ownership housing. We have no problem with this fact. The problem is that there are no incentives to build private rental housing, and there is no national and provincial housing strategy that aims to make annual progress on meeting the housing needs of all Canadians.

The lack of tenure neutrality is a well-recognized problem, a problem many European countries have tackled. In 1993, on the issue of rental housing, UN-HABITAT noted the following about government rental housing policy:

“The first priority in redressing the current crisis in rental housing is to establish tenure-neutral housing policies. Too many governments provide generous incentives for owner-occupation and too few attempt to maintain, let alone, increase the rental housing stock. Governments need to rethink their priorities in the housing arena in the light of the arguments presented in this report. There are strong reasons why rental housing should receive equality of treatment from government vis-à-vis that afforded to owner-occupation.”<sup>iv</sup>

## **Recommendation 2:**

**Guided by the principle of equality, we strongly support the equal rights of all people regardless of their housing tenure to obtain adequate housing they can afford free of discrimination. We urge the Ontario Human Rights Commission to frame its report and recommendations within the context of explicitly recognizing Ontario’s two-part unequal housing system, a system that is not housing tenure-neutral. Those best able to help themselves in our market system, people able to buy a house, are disproportionately assisted. Those least able to help themselves receive very little assistance, if any, and are forced to live in some of the worst quality housing. Addressing this imbalance means more renters will have access to adequate housing; the housing system itself will be less discriminatory; and fewer households will face discrimination.**

## **5. RENTAL HOUSING AND HUMAN RIGHTS: THE ADVICE OF THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

In 1976, the Parliament of Canada ratified the treaty bringing into force the Covenant on Social, Economic and Culture Rights (ESCR). This treaty defines further the human rights outlined in the *Universal Declaration of Human Rights*, adopted in 1948.

All human rights charters, as with our *Canadian Charter of Rights and Freedoms, 1982*, emphasize that every effort must be made to address discrimination. Article 2(2) of the Covenant on ESCR states:

“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

One of the essential economic and social rights is the right to an adequate standard of living, which includes adequate housing. Article 11(1) of the Covenant states:

The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.

The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.<sup>v</sup>

Canada, as is the case with all countries that have ratified the Covenant on ESCR, is reviewed every five years with respect to the progress it is making in implementing and protecting these rights. Canada has been reviewed in 1993, 1998 and 2006.<sup>vi</sup>

Unfortunately, neither the Government of Canada nor the Ontario Government take these three United Nations human rights compliance reports (called “Concluding Observations”) seriously.

***We urge the Ontario Human Rights Commission to review the observations and recommendations in these three reports by the UN Committee on ESCR.***

We highlight below the introductory paragraph in the section on “principal subjects of concern” of the recent 2006 report.

11. The Committee regrets that most of its 1993 and 1998 recommendations in relation to the second and third periodic reports have not been implemented, and that the State party has not addressed in an effective manner the following principal subjects of concern, which are still relevant:

- (a) The State party’s restrictive interpretation of its obligations under the Covenant, in particular its position that it may implement the legal obligations set forth in the Covenant by adopting specific measures and policies rather than by enacting legislation specifically recognizing economic, social and cultural rights, and the consequent lack of awareness, in the provinces and territories, of the State party’s legal obligations under the Covenant;
- (b) The lack of legal redress available to individuals when governments fail to implement the Covenant, resulting from the insufficient coverage in domestic legislation of economic, social and cultural rights, as spelled out in the Covenant; the lack of effective enforcement mechanisms for these rights; the practice of governments of urging upon their courts an interpretation of the *Canadian Charter of Rights and Freedoms* denying protection of Covenant rights, and the inadequate availability of civil legal aid, particularly for economic, social and cultural rights;
- (c) The absence of a legally enforceable right to adequate social assistance benefits for all persons in need on a non-discriminatory basis and the negative impact of certain workfare programmes on social assistance recipients;
- (d) The disparities that still persist between Aboriginal peoples and the rest of the Canadian population in the enjoyment of Covenant rights, as well as the discrimination still experienced by Aboriginal women in matters of matrimonial property;
- (e) The absence of an official poverty line;

- (f) The insufficiency of minimum wage and social assistance to ensure the realization of the right to an adequate standard of living for all; and
- (g) The authorization given to provinces and territories to deduct the amount of the child benefit under the National Child Benefit Initiative from the amount of social assistance received by parents on welfare.

With regard to social assistance rates, the 2006 report notes:

21. The Committee is concerned that the State party has not provided detailed information as to whether current provincial and territorial social assistance rates allow recipients to enjoy an adequate standard of living. It notes with concern that in most provinces and territories, social assistance benefits are lower than a decade ago, that they do not provide adequate income to meet basic needs for food, clothing and shelter, and that welfare levels are often set at less than half the Low-Income Cut-Off.

The Committee also mentioned the inadequacy of the minimum wage in its 2006 report:

18. The Committee notes with concern that the minimum wages in all provinces and territories of the State party are below the Low-Income Cut-Off and are insufficient to enable workers and their families to enjoy a decent standard of living.

### **Recommendation 3:**

**The first recommendation in the 2006 Concluding Observations on Canada's human rights compliance calls upon Canadian governments "to address the specific subjects of concern that date back to its second and third periodic reports and strongly reiterates that the State party should consider implementing the Committee's suggestions and recommendations in this regard" (paragraph 34).**

**A person or household's right to adequate housing is violated when a society fails to continually make progress to the extent that its resources allow. The drafters of the Covenant on Economic, Social and Cultural Rights recognized that no jurisdiction can solve its housing problems all at once. Continual improvement ("progressive realization") is the assessment criteria in the Covenant. There must be measurable progress. The Ontario Human Rights Commission must call on the Government of Ontario to adopt a housing strategy, set reasonable targets, and allocate sufficient funds to make steady progress on ending homelessness, improving rental housing options and addressing the discrimination that exists in the housing system.**

## 6. RENTAL HOUSING AND CHILD WELFARE: AN EXAMPLE OF A SPECIFIC FORM OF HUMAN RIGHTS VIOLATION AFFECTING MANY ONTARIO FAMILIES

14. The Committee received information from non-governmental organizations about families being forced to relinquish their children to foster care because of inability to provide adequate housing or other necessities (from the 1993 Committee report on Canada).

24. The Committee notes with concern that 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. (from the 1993 Committee report on Canada)

In 1992 and again in 2000, a team of researchers from the Faculty of Social Work at the University of Toronto and the Children's Aid Society of Toronto (CAST) carried out a study designed to determine the extent to which housing is a factor in the decision to place children in care and the decision to return them to their family homes.<sup>vii</sup> The survey asked family service workers two key questions and a number of follow-up questions about the housing conditions of CAST clients:

- In your opinion, was the family's housing situation one of the factors that resulted in admission of a child or children into care?
- In your opinion, was there any delay of the return home of the child from care due to housing-related problems?

In one out of five cases in 2000 (20.7 per cent), the family's housing situation was a factor that resulted in temporary placement of a child into care. This is a significant increase from the 18.4 per cent in the 1992 study.

In 11.5 per cent of the cases in 2000, the return home of a child from care was delayed due to a housing-related problem (an increase from 8.6 per cent in the 1992 study). In the cases in which the return was delayed, the respondent was asked to estimate the length of the delay in months. Compared to the 1992 study, the length of the delay is three times as long.

According to Ontario's *Child and Family Services Act*, inadequate housing or housing problems are not sufficient grounds to consider a child in need of protection. Even homelessness, in the absence of other concerns, is not sufficient legal grounds for placement of a child into CAST care.

Within these legal restrictions, it is significant that the family service workers identified 20.7 per cent of their child admissions as cases in which they considered housing a *factor* in the decision to place the child in care. Housing was a factor in 26 per cent of the voluntary agreement cases, whereas it was a factor in 74 per cent of apprehensions.

This finding suggests that where housing is a factor, there may be a greater risk of the abuse or neglect of a child. In many of the cases in which housing was a factor, the family service workers had serious concerns about the child's welfare, including the risk of physical abuse, emotional abuse, or abandonment. This substantiates other findings in the literature that link the family housing situation with child welfare.

It is this 1992 CAST study that the UN Committee on ESCR is referring to in its 1993 Concluding Observations quoted above. The Committee asked Canada to explain why this was occurring, and made recommendations to encourage progress on this issue. In 2006, it again asked why these recommendations were being ignored. The University of Toronto and CAST plan to replicate the study once again in 2008.

These studies indicate that Toronto's housing situation is having a detrimental effect on the well-being of many families with children. The situation was worse in 2000 than it was in 1992. The families and children, who are clients of CAST, are among the most economically disadvantaged in Ontario. They face substantial obstacles to obtaining adequate and appropriate housing and, for some of them, this affects their ability to care for their children.

Access to safe and affordable housing will not necessarily prevent child admissions to care, but housing support may reduce the number of admissions, stabilize the family's living situation in ways that promote children's well-being, and reduce housing-related delays in the return of children to their homes. Unfortunately, there is no reason to expect this situation has improved since 2000.

#### **Recommendation 4:**

**Protection and advocacy for justice and fairness, with respect to vulnerable groups, is crucial to OASW. We urge the Ontario Human Rights Commission, in its follow-up to this consultation process, to emphasize the human toll Ontario's inadequate rental housing system is imposing on the more vulnerable families in the province. Ontario's aging stock of rental housing has fewer options for families. The human toll, physical and psychological, that this has on parents and children is huge but difficult to quantify. Adequate housing is vital to every other aspect of life and individual and family well-being. Ontario's rental housing system is failing, in particular, our lower-income families. The remedies are known, and a wealthy society can easily make rapid progress.**

## **7. HOMELESSNESS**

28. The Committee, while welcoming the National Homelessness Initiative and the adoption of numerous measures on housing, regrets that the information provided was not sufficient to assess the results of such measures. In particular, the Committee is concerned that the estimated number of homeless persons in Canada still ranges from 100,000 to 250,000. The Committee, while welcoming

the decrease in the proportion of households with core housing need, notes with concern that in 2001 such households still represented about 13.7 to 16 per cent of all households. The Committee is further concerned that shelter allowances and social assistance rates continue to fall far below average rental costs, and that waiting lists for subsidized housing remain very long (from the 2006 Committee report on Canada).

The Consultation Paper asks about homelessness and human rights:

*What steps, if any, do you think the government or others should be taking to address issues of discrimination related to socio-economic status, poverty and homelessness? What role can the Commission play in protecting and promoting social and economic rights and responding to homelessness?*

Having homeless people amidst great prosperity means that we have created and we are maintaining homeless-making processes. No one individual or particular group of individuals is causing homelessness. No one we know of is in favour of homelessness. Yet it continues. It continues because it is the "normal" day-to-day functioning of our society that results in vulnerable people becoming unhoused and remaining unhoused for longer periods of time. The housing market is a great place to make money. Paying people low wages is another great way to make money. Saving higher-income taxpayers money at the expense of low-income households is popular among some voters. The relationship between housing costs and household income and the level of social supports is central to explaining the growth in the number of people without housing.

Having a housing system that, as part of its natural and normal functioning, dehouses people is a human rights violation. The situation in Canada has been deemed as such by the U.N. Committee on ESCR. Our dehousing processes result in the failure of people to obtain one of the necessities of human life and one of the essential elements of achieving an adequate standard of living. Homelessness, as we know it today, began in the 1980s as housing costs began to rise faster than inflation, as the private sector sought to save money by paying lower wages and mainly creating part-time and minimum wage jobs, and as the public sector cutback spending on social supports for those in need.

#### **Recommendation 5:**

**A society with dehousing mechanisms must take action to stop the increase in the number of people being dehousing, and create an implementation plan with targets for eliminating existing and preventing any further homelessness. A good beginning is for the Government of Ontario and the Ontario Human Rights Commission to accept as a policy objective the wording in Article 31 of the European Social Charter:**

**"With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate standard; to prevent and reduce homelessness with a view to its**

**gradual elimination; to make the price of housing accessible to those without adequate resources."**<sup>viii</sup>

**These are achievable goals in Ontario. There is no secret in what is required to decrease and end the crisis we call homelessness.**

## **8. CONCLUSION: IT IS TIME TO BEGIN MAKING PROGRESS ON HUMAN RIGHTS OBLIGATIONS IN THE RENTAL HOUSING SECTOR**

24. The Committee is concerned that provincial human rights legislation has not always been applied in a manner which would provide improved remedies against violations of social and economic rights, particularly concerning the rights of families with children, and the right to an adequate standard of living, including food and housing (from the 1993 Committee report on Canada).

OASW's commitment, reflecting core social work values and principles, is to the primacy of human rights, non-discrimination, self-determination, the protection of the vulnerable groups and the well-being of all Canadians.

We are very pleased to note that under the *Human Rights Code Amendment Act, 2006*, the power of the Ontario Human Rights Commission to review legislation and policies has become very broad and that the role of the OHRC in preventing discrimination and promoting and advancing human rights in Ontario has been strengthened. The OHRC, with its new mandate to expand its work in promoting a culture of human rights in the province, is able to engage in proactive measures such as public education, policy development, research and analysis and it has been given broad inquiry powers. The current role of the OHRC, as a developer of public policy on human rights, is also made more explicit in the new legislation, as is the way those policies can be used in issues that are before the Tribunal. These are all welcome changes.

In this submission, we have focused on the part of the problem where the greatest progress can be made. Individual acts of discrimination are serious and must be pursued. However, substantial progress in the area of improved human rights compliance in the rental housing sector will only be made as fewer Ontario households are subject to the vulnerabilities caused by an inadequate rental housing system. One of the questions asked in the Consultation Paper is:

*Are there human rights issues in rental housing raised by municipal or provincial laws, policies and practices of which the Commission should be aware?*

In the area of government laws, policies and practices, which the OHRC has the mandate to review and advise on, there are acts of commission and omission that can constitute human rights violations. These have been defined over the years in the jurisprudence relating to the right to adequate housing. Examples of categories that may apply to Ontario – and ought to be explored by the OHRC – include the following.

Acts of commission by governments that may constitute the violation of the human right to housing:

- (iv) acts of racial or other forms of discrimination in the housing sphere;
- (v) adoption of legislation or policies clearly inconsistent with housing rights obligations, particularly when these result in homelessness, greater levels of inadequate housing, the inability of persons to pay for housing and so forth;
- (vi) repealing legislation consistent with, and in support of, housing rights, unless obviously outdated or replaced with equally or more consistent laws;
- (vii) unreasonable reductions in public expenditures on housing and other related areas, in the absence of adequate compensatory measures; and
- (viii) overtly prioritizing the housing interests of high-income groups when significant portions of society live without their housing rights having been achieved.<sup>ix</sup>

The failure to act -- acts of omission by governments -- that may constitute breaches of housing rights obligations:

- (iii) failing to enforce legislation inherent in the fulfillment and recognition of housing rights;
- (iv) failing to intervene in the housing market, especially concerning rent levels, rent control, rent subsidies, issues of security of tenure and prevention of undue speculation;
- (v) failing to incorporate and implement accepted international minimum standards of achievement concerning housing rights;
- (viii) failing to utilize all available resources for the fulfillment of this right; and
- (ix) failing to integrate and fully consider the implications for housing rights when developing macro-economic policies impacting upon the housing or related social spheres.<sup>x</sup>

The Ontario Association of Social Workers urges the Ontario Human Rights Commission to use its authority to explore, educate and advocate on behalf of a fairer housing system. The Commission, Ontario's political leaders, and population in general need to address more effectively the systemic bias against renters and renting in our province. We appreciate the opportunity provided by the consultation process to address this extremely

important human rights issue which, ultimately, could significantly improve and enhance the quality of life, health and well-being of many Ontario citizens.

## **9. SUMMARY OF RECOMMENDATIONS**

### **Recommendation 1:**

Federal and provincial housing and social policy play a very significant role in exacerbating housing discrimination. It keeps the size of the problem very large, and it creates conditions in which people facing discrimination have few options. The Ontario Human Rights Commission is correct in focusing on rental housing discrimination, but due to the extent of the problem and its systemic nature, the solution is not simply better enforcement and prosecution of discrimination. Better enforcement and prosecution of discrimination is indeed required, but it is far from sufficient. This approach will be inadequate, as it has been thus far, due to the size of the problem and the maintenance of conditions that generate it. Progress requires attention to the public policies that are maintaining and exacerbating the problem.

### **Recommendation 2:**

Guided by the principle of equality, we strongly support the equal rights of all people regardless of their housing tenure to obtain adequate housing they can afford free of discrimination. We urge the Ontario Human Rights Commission to frame its report and recommendations within the context of explicitly recognizing Ontario's two-part unequal housing system, a system that is not housing tenure-neutral. Those best able to help themselves in our market system, people able to buy a house, are disproportionately assisted. Those least able to help themselves receive very little assistance, if any, and are forced to live in some of the worst quality housing. Addressing this imbalance means more renters will have access to adequate housing; the housing system itself will be less discriminatory; and fewer households will face discrimination.

### **Recommendation 3:**

The first recommendation in the 2006 Concluding Observations on Canada's human rights compliance calls upon Canadian governments *"to address the specific subjects of concern that date back to its second and third periodic reports and strongly reiterates that the State party should consider implementing the Committee's suggestions and recommendations in this regard"* (paragraph 34).

A person or household's right to adequate housing is violated when a society fails to continually make progress to the extent that its resources allow. The drafters of the Covenant on Economic, Social and Cultural Rights recognized that no jurisdiction can solve its housing problems all at once. Continual improvement ("progressive realization") is the assessment criteria in the Covenant. There must be measurable progress. The Ontario Human Rights Commission must call on the Government of Ontario to adopt a

housing strategy, set reasonable targets, and allocate sufficient funds to make steady progress on ending homelessness, improving rental housing options and addressing the discrimination that exists in the housing system.

#### **Recommendation 4:**

Protection and advocacy for justice and fairness, with respect to vulnerable groups, is crucial to OASW. We urge the Ontario Human Rights Commission, in its follow-up to this consultation process, to emphasize the human toll Ontario's inadequate rental housing system is imposing on the more vulnerable families in the province. Ontario's aging stock of rental housing has fewer options for families. The human toll, physical and psychological, that this has on parents and children is huge but difficult to quantify. Adequate housing is vital to every other aspect of life and individual and family well-being. Ontario's rental housing system is failing, in particular, our lower-income families. The remedies are known, and a wealthy society can easily make rapid progress.

#### **Recommendation 5:**

A society with dehousing mechanisms must take action to stop the increase in the number of people being dehousing, and create an implementation plan with targets for eliminating existing and preventing any further homelessness. A good beginning is for the Government of Ontario and the Ontario Human Rights Commission to accept as a policy objective the wording in Article 31 of the European Social Charter:

"With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate standard; to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources."<sup>x1</sup>

These are achievable goals in Ontario. There is no secret in what is required to decrease and end the crisis we call homelessness.

## **ACKNOWLEDGEMENTS**

*The Ontario Association of Social Workers gratefully acknowledges the invaluable contribution of J. David Hulchanski, Ph.D., Professor, Faculty of Social Work and Director of the Centre for Urban and Community Studies, University of Toronto.*

## 10. ENDNOTES

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- <sup>i</sup> National Council of Welfare, *Welfare Incomes, 2005*, October 2006, see Chapter 3.
- <sup>ii</sup> Based on estimates from the assessment of “core housing need” by the Canada Mortgage and Housing Corporation.
- <sup>iii</sup> For a discussion of this history, see: J. David Hulchanski, “What Factors Shape Canadian Housing Policy? The Intergovernmental Role in Canada’s Housing System,” chapter 10 in *State of the Federation 2004: Municipal - Federal - Provincial Relations*, editors Robert Young and Christian Leuprecht. McGill-Queen’s University Press, 2006, pp. 221-247.
- <sup>iv</sup> United Nations Centre for Human Settlements, *Support Measures to Promote Low-Income Rental Housing*, Nairobi: UNCHS, 1993.
- <sup>v</sup> The Covenant on Economic, Social and Cultural Rights (ESCR), information about the U.N. Committee on ESCR, and the Committee’s concluding observations on Canada are available at: [www.ohchr.org/english/bodies/cescr/](http://www.ohchr.org/english/bodies/cescr/)
- <sup>vi</sup> Committee on Economic, Social and Cultural Rights, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Canada*. 1993: 3 June 1993, E/C.12/1993/5. 1998: 10 December 1998, E/C.12/1/Add.31. 2006: 22 May 2006. E/C.12/CAN/CO/4.
- <sup>vii</sup> Miriam Cohen-Schlanger, Ann Fitzpatrick, J. David Hulchanski, and Dennis Raphael, “Housing as a factor in admissions of children to temporary Care: A survey,” *Child Welfare*, May 1995; and Shirley Chau, Ann Fitzpatrick, J. David Hulchanski, Bruce Leslie, and Debbie Schatia, *One in Five . . . Housing as a Factor in the Admission of Children to Care: New Survey of Children’s Aid Society of Toronto Updates 1992 Study*, CUCS Research Bulletin #5, University of Toronto, November 2001.
- <sup>viii</sup> See: [www.coe.int/T/E/Human\\_Rights/Esc/](http://www.coe.int/T/E/Human_Rights/Esc/)
- <sup>ix</sup> U.N. Commission on Human Rights, *The Realization of Economic, Social and Cultural Rights: The right to adequate housing: progress report submitted by Mr. Rajindar Sachar, Special Rapporteur*, 22 June 1993, paragraph 144. E/CN.4/Sub.2/1993/15
- <sup>x</sup> *Ibid.*, Paragraph 145.
- <sup>xi</sup> See: [www.coe.int/T/E/Human\\_Rights/Esc/](http://www.coe.int/T/E/Human_Rights/Esc/)