



# ACTO recommendations for a successful National Housing Strategy

## **A Human Rights-based National Housing Strategy for Canada**

### **I. Who we Are**

The Advocacy Centre for Tenants Ontario (ACTO) is a community legal clinic, funded by Legal Aid Ontario, with a province-wide mandate. We work for the advancement of human rights and social justice in housing for low-income Ontarians through legal advice and representation, law reform, community organizing, and education and training. The clinic also coordinates the Tenant Duty Counsel Program across Ontario which provides legal information and assistance to self-represented tenants appearing at the Landlord and Tenant Board. ACTO works closely with Ontario's 76 community legal clinics to help co-ordinate and inform law reform activities on housing issues.

For a number of years, ACTO has been advocating for the establishment in legislation of a rights-based National Housing Strategy (NHS), along with the allocation of adequate, stable, long-term funding. Our advocacy to achieve this goal has been done in partnership with many similar-minded individuals and organizations across Canada (list attached in Appendix A for your easy reference), including the Right to Housing Coalition which ACTO coordinates.

ACTO was extremely pleased to see the federal Liberal Party commit to the adoption of a National Housing Strategy in its election campaign platform and then announce in the 2016 federal budget that it would be consulting with provinces and territories, Indigenous and other communities, and key stakeholders in the coming year to develop the National Housing Strategy.

We welcome this opportunity to share with you the following recommendations for what we believe is essential for a National Housing Strategy that will effectively address the affordable housing crisis in Canada and prevent homelessness. Our recommendations are informed by the concluding observations of the UN Committee on Economic, Social and Cultural Rights

(CESCR)<sup>1</sup> which we fully support and ACTO's experience as the legal representatives of low-income tenants and the homeless in Ontario whose housing needs we have come to understand through years of working closely with them to enforce their right to a decent home.

## **II. What a National Housing Strategy must include**

All three levels of government in Canada must ensure access to adequate, affordable and accessible housing for all, especially for the most vulnerable and marginalized communities. In addition, a National Housing Strategy must have a distinct strategy to address the unique challenges facing Canada's indigenous peoples.

The existing patchwork of federal and provincial programs and inadequate, short term funding envelopes needs to be replaced with a comprehensive and well-integrated national plan. Municipalities require a strategic federal response that addresses the underlying structural causes of poverty, precarious housing and homelessness, provides a framework for coordination and policy alignment with provincial/territorial governments and across government ministries, and which dedicates new, long-term funding at the levels required to end homelessness in Canada.<sup>2</sup>

### **Rights-based, incorporating three types of obligations**

- i. Immediate Obligations – These apply to all existing programs and policies and include obligations to administer programs without discrimination and meet basic and emergency needs.
- ii. Short-term Commitments and Targets – These are obligations to meet agreed upon targets with established timelines – for example, to increase levels of social assistance or minimum wage by a particular percentage or to put in place a new program for community living within a year. Short-term commitments should be concrete and realistic and based on firm government policy. Commitments should be regularly updated.
- iii. Longer Term Goals – The central long-term goal should be an expressed commitment by the government to eliminate homelessness as a violation of human rights, and not as a matter of policy. This commitment should be incorporated into a national housing and homelessness strategy. It should be achieved without

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<sup>1</sup> See Appendix B for a list of the CESCR's recommendations on housing and related matters from its concluding observations from the 2016 periodic review of Canada's compliance with its international human rights commitments

<sup>2</sup> See: Abra Adamo, Fran Klodawsky, Tim Aubry and Stephen Hwang, Ending Homelessness in Canada, October 2016, <http://www.stmichaelshospital.com/pdf/news/20161010.pdf>

unreasonable delay, and should be based on an established timeline that is realistic in light of resources and other challenges.<sup>3</sup>

## **A Multiplicity of Solutions**

In regions across Canada, the reality of diverse Indigenous communities and various groups with specific housing needs calls for flexible and diverse housing options and solutions. An effective, rights-based housing initiative must take this into account. However, the principles of housing as a right should not be violated, and integrating solutions that ensure affordability, adequacy and suitability is vital.

Solutions include a mix of new purpose-built truly affordable social housing units and adequate resources to ensure housing quality and sustainability (e.g. reduction of GHG emissions). Truly affordable housing means tenants are paying rents that are not more than 30% of net before-tax income.

It could also include a form of rent supplements/housing allowances in the private rental market sector. When designing portable allowances or rent supplement program, however, it is essential that there is accountability where the standards of the housing provided are monitored by the local government to ensure tenant rights are not violated.<sup>4</sup>

Housing solutions go beyond just affordable rents, or the bricks and mortar, and in some cases need to include supports for those who need services and programs to live independently and with dignity (e.g. people with physical or mental health issues). Designs of buildings/housing units also need to build on barrier free accessible designs, and include community amenities and spaces to create opportunities for greater social cohesion. In addition, a national strategy should also include homelessness/eviction prevention, and supports to those in an immediate housing crisis (e.g. violence against women and children; intimate partner violence; newcomers/refugees).

## **Integration with Poverty Reduction Strategies**

An estimated one in seven Canadians live in poverty. That means that 4.8 million people struggle to meet their most basic needs every day and must make challenging decisions like paying the electricity bill or buying nutritious food, paying the rent or buying a transit pass. A national housing strategy must be developed in conjunction with income security issues such as inadequate social assistance rates (see Appendix C which illustrates the ever-widening gap

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<sup>3</sup> See: <http://www.cwp-csp.ca/wp-content/uploads/2015/12/Dignity-for-All-A-National-Plan-for-Poverty-in-Canada.pdf>.

<sup>4</sup> See: <https://www.theguardian.com/housing-network/2016/jul/20/private-rental-sector-poverty-housing-joseph-rowntree>. The article details the problems, and some solutions, in England with regard to portable housing allowances.

between social assistance and market rent), minimum wage, access to employment insurance, and the definition of “affordable” housing.<sup>5</sup>

### **III. Priority Recommendations**

#### **Canada**

The federal government must develop the National Housing Strategy through broad and inclusive consultations. The NHS should be rights-based and adequately funded with firm targets and timelines for implementation. All provincial and territorial housing and homelessness strategies should be aligned with the NHS.

The federal government should enact legislation that clearly establishes the right to secure, adequate and affordable housing (e.g. similar to Bill C-400).

The federal government should monitor and evaluate targets and timelines annually, with a published report.

The federal government should provide for new non-profit, co-operative, and supportive housing (also known as social housing), with annual targets to substantially increase this portfolio of affordable housing. The targets shall be developed in consultation with the provinces, territories and municipalities.

The federal government will provide funding for the ongoing repair and maintenance of existing social housing.

The federal government will define affordable housing as housing for which the residents will pay less than 30% of their before-tax household income.

The federal government will ensure that legislation on forced evictions is compatible with international norms, particularly with respect to the obligation to ensure that no persons find themselves homeless or victims of other human rights violations due to evictions, and that compensation or alternative accommodation is provided to victims.

The federal government will progressively increase federal and provincial resources allocated to housing, and reinforce that the social assistance shelter allowance must be commensurate with shelter costs.

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<sup>5</sup> Both Ontario and Canada have eroded the concept of “affordability”. For low-income people affordable housing has commonly been understood to mean paying 30% or less of one’s pre-tax income for housing. However, increasingly both Ontario and Canada have begun to use the term “affordable” to mean housing that is rented at 80% of market rent. In other words, rent which is unaffordable for low-income communities.

The federal government will take effective measures to ensure that availability of adequate emergency shelters throughout Canada.

A disability perspective should be integrated in all housing plans and policies at all levels.

## **Ontario**

Ontario must address inadequate social assistance amounts. In particular, Ontario must ensure that shelter allowances reflect average market rents. Ontario should set targets and implementation dates to increase social assistance levels and shelter allowances to reflect market basket expenses and market rents.

Ontario must implement planning regulations that ensure all new residential developments include a percentage of affordable housing units.

Ontario must develop, implement and fund strategies to address eviction prevention and homelessness prevention.

Ontario must implement a rent regulation system to prevent economic evictions in private rental housing.

Ontario must regulate rental arrangements with a view to ensuring that tenants are not vulnerable to forced evictions and enjoy the right to affordable housing that is well-maintained and in a good state of repair.

Ontario must ensure access to adequate affordable housing for all low-income communities.

## **Municipalities**

Municipalities must implement planning regulations that ensure all new developments include a percentage of affordable housing units.

Municipalities must develop strategies to address eviction prevention, homelessness prevention, and access to affordable housing.

## **IV. Time to Act: Liberals have long advocated for the Right to Housing**

From the end of the Second World War until the late 1970s, the Canadian housing system was explicitly directed to ensuring that residents of Canada were securely housed in adequate

housing. Ron Basford, Minister of Urban Affairs under Prime Minister Pierre Trudeau, called housing a social right when he introduced Canada's then-new housing legislation in 1973. In introducing amendments to the **National Housing Act**, Minister Basford clearly stated that our society – and our government – has an obligation to see that all people are adequately housed:

...good housing at reasonable cost is a social right of every citizen of this country. ... [T]his must be our objective, our obligation, and our goal. The legislation which I am proposing to the House today is an expression of the government's policy, part of a broad plan, to try to make this right and this objective a reality.<sup>6</sup>

Minister Basford went on to note that such a right includes not just a home but a community, in which individuals can live and grow and flourish. The government acted on this belief, investing money in housing construction across the country for people with limited incomes.

In the May 1990 final report of the National Liberal Caucus Task Force on Housing titled **Finding Room: Housing Solutions for the Future**, the following statements were made on page 10 in the section on Adequate Shelter: A Fundamental Human Right:

The Task Force believes that housing is a fundamental human right: all Canadians have a right to decent housing, in decent surroundings, at affordable prices. Shelter is a necessity of life and adequate shelter must be viewed as both an individual and a collective right for all Canadians. Such a right would impose an obligation on governments and there make them accountable to their citizens to create the conditions necessary to ensure an adequate supply of shelter.

More recently, and while in opposition, the Liberal party supported two private member's bills which would have recognized housing as a right and which laid the foundation for the development of a rights-based housing strategy: Bill C-304 and Bill C-400. The former was scuttled when the Conservative government prorogued parliament; the latter was defeated by the Conservative majority.<sup>7</sup>

The Liberal party 2015 election platform recognized housing as a human right and called for an adequately funded national housing strategy.<sup>8</sup> The development of an NHS is an opportunity for the Liberal government to realize a long time vision to recognize the right to housing.

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<sup>6</sup> House of Commons Debates, 29th Parl, 1st Sess, (15 March 1973) at 2257 (Honourable Ron Basford).

<sup>7</sup> <https://openparliament.ca/bills/40-3/C-304/>; <https://openparliament.ca/bills/41-1/C-400/>

<sup>8</sup> [http://www.acto.ca/assets/files/Forums-conferences/ACTO-HousingFedElection-ReportCard\\_Postcard.pdf](http://www.acto.ca/assets/files/Forums-conferences/ACTO-HousingFedElection-ReportCard_Postcard.pdf); <https://www.liberal.ca/files/2015/09/Affordable-housing-for-Canadians.pdf>

## Appendix A

### List of organizations and individuals with whom ACTO has worked on the Right to Housing in Canada

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- Aboriginal Legal Services
- ACORN
- Advocacy Centre for Tenants Ontario
- Amnesty International
- Anduhyaun Inc.
- Anglican Church Child Poverty Committee
- ARCH Disability Law Centre
- Asper Centre for Constitutional Rights
- Canada Without Poverty
- Canadian Pensioners Concerned
- Canadian HIV/AIDS Legal Network
- Centre for Equality Rights in Accommodation
- Charter Committee on Poverty Issues
- Children's Aid Society of Toronto
- Colour of Poverty
- Covenant House
- The Dream Team
- Elizabeth Fry Toronto
- ESCR.Net
- Federation of Metro Tenants Association
- Fred Victor Mission
- FORWARD
- Habitat Services
- Hamilton Community Legal Clinic
- HIV/AIDS Legal Clinic Ontario
- Holland Bloorview Kids Rehab
- Housing and Homelessness Umbrella Group
- Income Security Advocacy Centre
- June Callwood Centre
- Justice for Girls
- Kensington-Bellwoods Community Legal Clinic
- Metro Toronto Chinese and Southeast Asian Community Legal Services
- National Aboriginal Housing Association
- National Anti-Poverty Organization
- Native Women's Association of Canada
- Native Women's Resource Centre
- Nellies

- ODSP Action Coalition
- Older Women's Network
- Pivot Legal Society
- Registered Nurses' Association of Ontario
- Sistering
- Social Rights Advocacy Centre
- Springtide Resources
- Steering Committee on Social Assistance
- Tenants for Social Housing
- Toronto Disaster Relief Committee
- Voices From the Street
- Wellesley Institute
- Women's Legal Education and Action Fund (LEAF)
- Working for Change
- Workers' Action Centre
- Fay Faraday, Faraday Law
- Professor David Hulchanski, University of Toronto
- Professor Martha Jackman, University of Ottawa
- Emily Paradis, Research Associate, University of Toronto
- Peter Rosenthal, Roach, Schwartz and Associates
- Dean Lorne Sossin, Osgoode Hall Law School



## Appendix B

### The United Nations has consistently found Canada to be in violation of the Right to Housing

A number of United Nations bodies responsible for monitoring Canada's compliance with international human rights commitments have raised grave concerns about the effects of homelessness and inadequate housing on vulnerable groups and the failure of Canada to take positive measures to protect the right to life. The UN Committee on Economic, Social and Cultural Rights (CESCR) as well as the UN Special Rapporteur on Adequate Housing have repeatedly recommended that a national strategy that ensures the right to adequate housing be implemented on an urgent basis to address this "national emergency".<sup>9</sup>

On the occasion of the United Nations' most recent periodic review of Canada's compliance with the CESCR, ACTO travelled to Geneva in February 2016 to make detailed oral and written submissions on the housing and homelessness crisis in our country on behalf of the Right to Housing Coalition.

In April 2016, the CESCR found that Canada is in violation of the right to housing and made the following recommendations:

#### Right to housing

The Committee is concerned about the persistence of a housing crisis in the State party. It is particularly concerned at: (a) the absence of a national housing strategy; (b) the insufficient funding for housing; (c) the inadequate housing subsidy within the social assistance benefit; (d) the shortage of social housing units; and (e) increased evictions related to rental arrears (art. 11).

The Committee urges the State party to develop and effectively implement a human-rights based national strategy on housing and ensure that all provincial and territorial housing strategies are aligned with the national strategy.

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<sup>9</sup> CESCR, *Concluding Observations: Canada (1998)*, at para. 5 *Core Document Forming Part of the Reports of States Parties (Canada)*, HRI/CORE/1/Add.91 (12 January, 1998) at para.127; United Nations Committee on Economic, Social and Cultural Rights, *Summary Record of the Fifth Meeting*, E/C.12/1993/SR.5 (25 May, 1993) at paras. 3, 21; Government of Canada, *Responses to the Supplementary Questions to Canada's Third Report on the International Covenant on Economic, Social and Cultural Rights*, HR/CESCR/NONE/98/8 (October, 1998) questions 16, 53. *Supplementary Report of Canada in Response to Questions Posed by the United Nations Human Rights Committee*, CCPR/C/1/Add.62 (March, 1983) at p. 23. See: Affidavit of Miloon Kothari, Former UN Special Rapporteur on Adequate Housing, <http://www.acto.ca/assets/files/cases/Afd.%20of%20M%20KOTHARI,%20Special%20Rapporteur%20on%20Adequate%20Housing%20-%20FINAL.pdf>

In the light of its general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions, the Committee recommends that the State party:

- (a) Progressively increase federal and provincial resources allocated to housing and reinforce the housing subsidy within the social assistance benefit so as to be commensurate with living costs;
- (b) Take effective measures to substantially increase the availability of social and affordable housing units;
- (c) Regulate rental arrangements with a view to ensuring that tenants enjoy the right to affordable and decent housing and are not vulnerable to forced evictions or homelessness;
- (d) Ensure that its legislation on forced evictions is compatible with international norms, particularly with respect to its obligation to ensure that no persons find themselves homeless or victims of other human rights violations due to evictions, and that compensation or alternative accommodation is provided to victims.

### **Homelessness**

The Committee is concerned at the increasing number of homeless persons in the State party, the lack of adequate measures to prevent homelessness, the shortage of adequate emergency shelters and the existence of anti-camping and other by-laws that penalize homeless persons in some jurisdictions (art. 11).

The Committee recommends that the State party adopt a national strategy on homelessness to examine the root causes of the increase in the number of homeless persons and collect data on the extent of homelessness, disaggregated by geographic location, ethnicity, sex and social condition, and to combat homelessness. The Committee also recommends that the State party take effective measures to ensure the availability of adequate emergency shelters throughout the country and repeal provincial by-laws that penalize homeless persons for finding solutions necessary for their survival and well-being.

### **Adequate standard of living**

The Committee is concerned that indigenous peoples, notably the Inuit and First Nations, encounter poor housing conditions, including overcrowding, which generate, among other issues, health challenges for the communities concerned. The Committee is also concerned at the restricted access to safe drinking water and to sanitation by the First Nations, as well as the lack of water regulations for the First Nations living on reserves (art. 11).

The Committee urges the State party to intensify its efforts to address the indigenous peoples' housing crisis, in consultation with indigenous governments and organizations. The Committee also urges the State party to live up to its commitment to ensure access to safe drinking water and to sanitation for the First Nations while ensuring their active participation in water planning and management. In doing so, the State party should bear in mind not only indigenous peoples' economic right to water but also the cultural significance of water to indigenous peoples.

### **Housing for persons with disabilities**

The Committee is concerned that persons with psychosocial and intellectual disabilities continue to be placed in care institutions due to a lack of adequate housing for them. It is also concerned by the increased rate of incarceration of these persons and the excessive use of solitary confinement (arts. 11 and 12).

The Committee recommends that a disability perspective is integrated in all housing plans and policies at all levels. To that end, the Committee recommends that the State party increase the availability of affordable and social housing units for persons with psychosocial and intellectual disabilities, as well as community-based services. The Committee also recommends that the State party ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities.

### **Poverty**

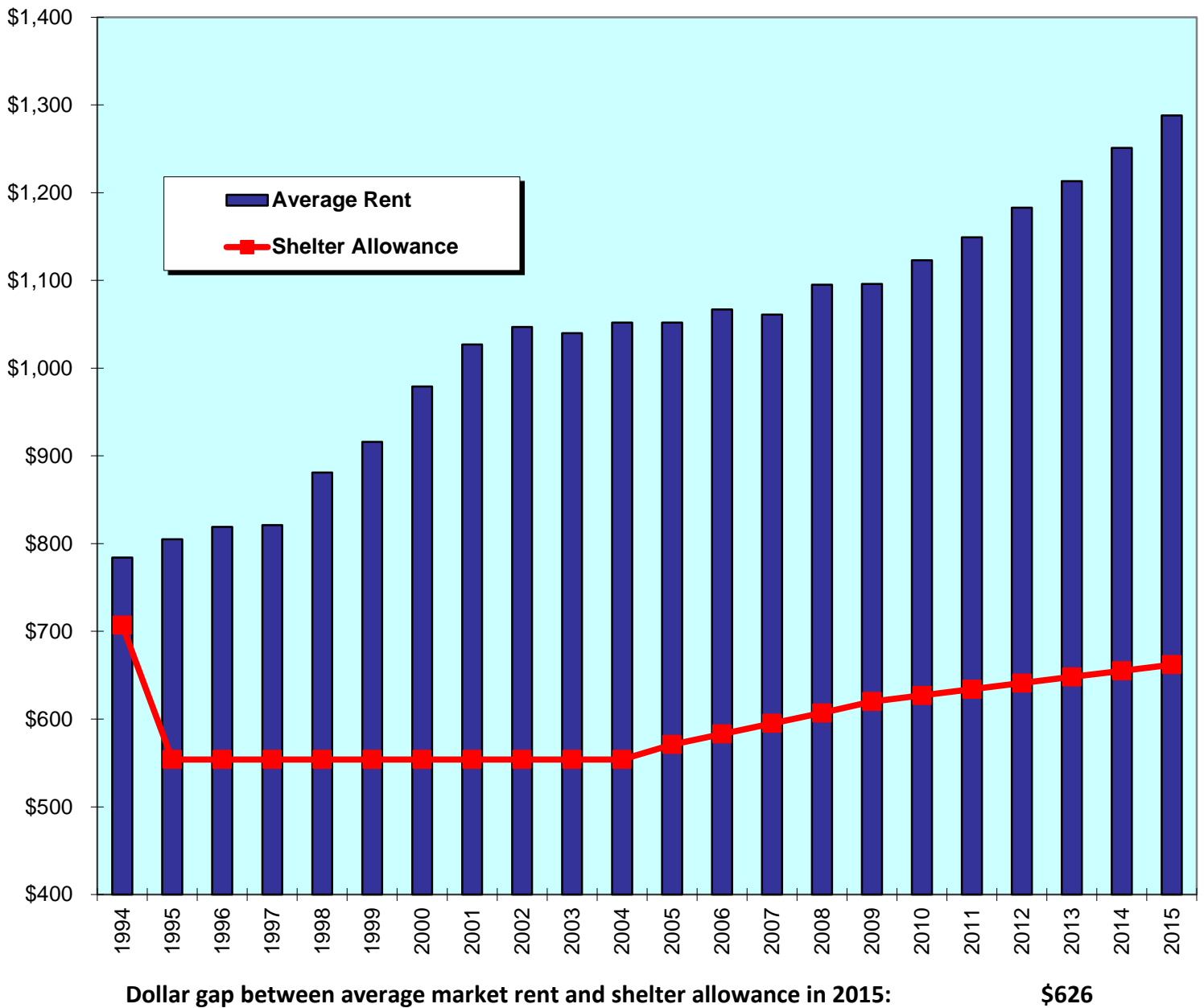
Considering the advanced level of development of the State party, the Committee is concerned about the significant number of people living in poverty. It is further concerned that indigenous peoples, persons with disabilities, single mothers and minority groups continue to experience higher rates of poverty and at the limited effectiveness of measures taken to address that issue (art. 11).

The Committee recommends that the State party take all measures necessary to combat poverty more effectively while paying particular attention to groups and individuals who are more vulnerable to poverty. The Committee recommends that the State party, in collaboration with provinces, territories and indigenous peoples and consultation with civil society organizations, implement a human rights-based national anti-poverty strategy, which includes measureable goals and timelines, as well as independent monitoring mechanisms. The Committee further recommends that the State party ensure that provinces and territories' anti-poverty policies are human rights-based and aligned with the national strategy

## Appendix C

### Comparison of Rent to Shelter Allowance – Toronto CMA, 1994-2015

#### Ontario Works - Single parent + 2 children, 2 bedroom apartment



Sources: Canada Mortgage and Housing Corporation, Fall Rental Market Survey Report. Ontario Ministry of Community and Social Services