



Legal clinic housing issues committee  
Comité des cliniques juridiques en matière de logement

c/o Marcos Gomez, Staff Lawyer  
Algoma Community Legal Clinic  
[gomezmr@lao.on.ca](mailto:gomezmr@lao.on.ca)

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Sean Weir  
Executive Chair, Tribunals Ontario  
[Sean.Weir@ontario.ca](mailto:Sean.Weir@ontario.ca)

Mira Gamsa  
Director of Operations, Tribunals Ontario  
[Mira.Gamsa@ontario.ca](mailto:Mira.Gamsa@ontario.ca)

Harry Gousopoulos  
Executive Director, Tribunals Ontario  
[Harry.Gousopoulos@ontario.ca](mailto:Harry.Gousopoulos@ontario.ca)

Lynn Dicaire  
Registrar, Landlord and Tenant Board  
[Lynn.Dicaire@ontario.ca](mailto:Lynn.Dicaire@ontario.ca)

Karen Restoule  
Associate Chair, Landlord and Tenant Board  
[Karen.Restoule@ontario.ca](mailto:Karen.Restoule@ontario.ca)

*Sent via e-mail*

Dear Mr. Weir, Mr. Gousopoulos, Ms. Restoule, Ms. Gamsa and Ms. Dicaire:

**Re: Legal clinics' concerns about Tribunals Ontario Portal and the proposed discontinuance of fax filing**

The Legal Clinic Housing Issues Committee is a province-wide group of legal workers who assist low-income tenants through Ontario's community legal clinics. We write to thank you for inviting legal clinic staff to the recent demonstration of the new Tribunals Ontario Portal ("Portal"); and to highlight some initial thoughts and concerns arising from this demonstration.

**Implementation of the Portal should be paused to permit user-testing, plain language editing and publication of the revised Rules of Procedure**

The Portal demonstration took place less than one week before its scheduled implementation date and without any prior consultation with legal clinics and tenant representatives. From comments made at that presentation, we understand that the LTB will be revising the Rules of Procedure to facilitate this implementation. The presentation gave the impression that uncertainty remains around fundamental matters such as proper service of documents (notices of hearing, decisions, etc.), and the disclosure and filing of documents. At the time of writing, we do not know when the new rules will be published. Nor have we received draft rules that might have given at least some indication of their anticipated content. This uncertainty risks undermining the transition to the new system. Given that

eviction is at stake in most LTB proceedings, the consequences of a rough transition are potentially dire.

Beyond the specifics of Portal's procedural implications, the L1 and T6 application demonstrations and subsequent Q&A revealed that the LTB's online scripts had not been written with plain language in mind. This is especially problematic given the high percentage of tenants who lack legal representation and speak languages other than English and French. Inaccessible language is a significant barrier to the new system's success.

Given the above, we suggest that it is premature to begin implementation of a system that will – in its initial phase – involve the four most common application types. To ensure a smooth phase-in of what is obviously a very significant undertaking, legal clinics are prepared to assist the LTB in testing the Portal before it impacts more tenants. We would welcome the opportunity to discuss this further.

**The LTB must permit filing and service of documents in-person and by e-mail, fax and mail, making the Portal an “opt-in” alternative**

As a number of clinic staff identified following the LTB's presentation, many low-income tenants do not have regular access to the internet and instead rely on friends, family and public agencies to provide access on a sporadic basis. While a user-facing case management system has great potential to improve the LTB's processes, these vulnerable tenants would be substantially prejudiced if the Portal is used as the default method for service and filing.

We are pleased that the LTB has committed to the continued use of mail, courier and ServiceOntario options for filing and that use of the Portal will not be made mandatory. However, the LTB must take further steps to ensure that parties without access to technology or who lack the skills to use the Portal effectively are not excluded from its proceedings. These steps include:

- making it clear to the public that all manner of application, correspondence, request, evidence and other document can be filed in-person or by fax, e-mail, mail or courier if a party cannot access the Portal
- ensuring that merely logging-in to the Portal is not treated as a party's consent to stop receiving paper documents (it should be presumed that a party will continue to receive documents by other methods of service unless they have expressly requested that they do not wish to receive paper documents outside of the Portal)
- re-opening LTB offices for in-person filing

- increasing the number of ServiceOntario locations that accept service of documents on the LTB's behalf and ensuring that these locations email urgent documents to an LTB address that is dedicated for such purposes
- continuing the use of fax and e-mail as options for parties who have not opted-in to using the Portal as the default method of service and filing
- ensuring LTB staff upload documents filed by other methods to the Portal in a timely manner

While we acknowledge the Ontario government's policy direction towards discontinuing the use of fax, many agencies and businesses, especially in rural areas, continue to provide fax services to people who lack internet access. E-mail or Portal filing will not always be a viable option for filing time-sensitive documents. Given the circumstances of low-income tenants and the urgency of many LTB matters, the potential prejudice in rushing to end fax filing far outweighs any minimal cost to the LTB in adopting a technological solution to permit the continued use of fax. We urge you to reconsider the decision that you announced on December 2 to "decommission" fax by December 31.

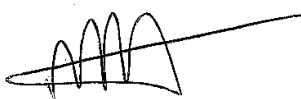
### **Other initial concerns**

Legal clinics have a number of other initial concerns and recommendations arising from last week's demonstration of the Portal. These include:

- the Portal must include a method to identify urgent tenant applications, so that these can be considered by a duty adjudicator in a timely manner rather than wait for online dispute resolution to take place;
- the Portal must generally require both parties to indicate that an agreement has been reached in order to request the involvement of a dispute resolution officer to finalize the agreement
- the Portal should provide information about where parties can find Legal Aid Ontario-funded services, which should be highlighted on every page

Thank you for considering our concerns. We welcome the opportunity to discuss these suggestions with you in a meeting.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcos Gomez', with a long horizontal line extending to the right.

Marcos Gomez  
On behalf of the Legal Clinic Housing Issues Committee