

February 9, 2023

BY EMAIL TO [submissions@ontario.ca](mailto:submissions@ontario.ca)

The Honourable Peter Bethlenfalvy, Minister of Finance  
c/o Budget Secretariat  
Frost Building North  
3<sup>rd</sup> Floor, 95 Grosvenor Street  
Toronto ON M7A 1Z1

Dear Minister Bethlenfalvy,

Re: Spring 2023 Budget Consultations

I am writing on behalf of the Advocacy Centre for Tenants Ontario (ACTO), a community legal clinic funded by Legal Aid Ontario to provide legal services to low-income tenants across Ontario on issues that affect their ability to provide and maintain decent homes for themselves and their families.

### **A Deepening Affordable Housing Crisis**

We ask the government to make secure housing for everyone in Ontario, particularly low-income and vulnerable residents, a cornerstone of your government's strategy.

We all know that Ontario is facing a worsening affordable housing crisis, which is disproportionately affecting the province's 1.7 million renter households. Increases in the average income of renter households have been greatly outpaced by increases in average shelter costs. Four in ten tenant households in Ontario are spending 30% or more of their income on shelter; 15% spend 50% or more of their income on shelter, placing them at higher risk of homelessness.<sup>1</sup> Low-income and vulnerable Ontarians, many of them tenants, were the most impacted by the Covid-19 pandemic due to increased exposure to the virus and loss of employment in major sectors forced to close or restrict their operations. These Ontarians now experience increased struggles with rapid inflation and escalating housing costs. For low and moderate income tenants, there are very few rental options that will not force them to pay unaffordable rents and cut back on other necessities—60% of tenants in Ontario reported cutting back on food in order to pay shelter costs.<sup>2</sup>

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<sup>1</sup> Statistics Canada. Table 98-10-0248-01 Core housing need by tenure including presence of mortgage payments and subsidized housing: Canada, provinces and territories, census metropolitan areas and census agglomerations

<sup>2</sup> <https://www.acto.ca/a-new-poll-shows-the-majority-of-ontario-renters-are-having-to-choose-between-food-and-paying-their-rents-when-it-comes-to-housing-affordability-this-province-is-on-fire/>

For the past 20 years, we have lost affordable rental housing units without building enough units to replace them. As a result, average rents have rapidly increased as the stock of affordable units has decreased. Between 2006 and 2016, Ontario experienced a 26% decline in units that rent for less than \$1000, while units renting by over \$1,500 increased a shocking 360%. This trend has further accelerated. Between 2016 and 2021, units renting for under \$1,000 have decreased by another 36%. The highest increase has been in luxury rentals, renting for over \$3000, which have increased by 87%.<sup>3</sup> As a result, CMHC's recently published Rental Market Report found that units affordable to low- and middle-income renter households had the lowest vacancy rates in the GTA.<sup>4</sup>

We offer the following recommendations:

**1) Eliminate vacancy decontrol and extend rent regulation to units built after 2018 to keep market rentals affordable**

Ontario currently has vacancy decontrol, which means that a landlord can charge any amount of rent to new tenants when moving into vacant units. Over time, this leads to a reduction of the number of rental units that are affordable. As mentioned earlier, the past 15 years have seen a drastic reduction in units renting at affordable rent and an increase in luxury rentals.

CMHC's annual Rental Market Report illustrates the impact of vacancy decontrol on the rental market. The report noted that in 2022 vacancy decontrol sharply increased rents for two bedroom apartments that had turned over by 26% in Hamilton, 17% in Ottawa, and 29% in Toronto compared to 1.2% for existing tenants who were protected by rent control provisions.<sup>5</sup>

Vacancy decontrol creates an incentive to remove long-term tenants, resulting in higher rates of eviction, increases the cost of housing far above inflation, and discourages tenants from moving when necessary due to unaffordable rents elsewhere. The government should set limits to rent increases in vacant units.

Under the current regulations, units first used for residential purposes after 2018 are exempt from rent regulation. This has resulted in rapidly escalating costs for many of

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<sup>3</sup> Statistics Canada. Table 98-10-0254-01 Shelter cost by tenure including presence of mortgage payments and subsidized housing: Canada, provinces and territories and census subdivisions affiliated with First Nations or Indian bands

<sup>4</sup> CMHC Rental Market Report, January 2023 [Rental Market Report | CMHC \(cmhc-schl.gc.ca\)](https://www.cmhc-schl.gc.ca/en/rental-market-report)

<sup>5</sup> CMHC Rental Market Report, January 2023 [Rental Market Report | CMHC \(cmhc-schl.gc.ca\)](https://www.cmhc-schl.gc.ca/en/rental-market-report)

these newer units. It is not unusual for tenants in these units to see rent increases of 20% or 30%.<sup>6</sup> Combined with the increases in cost of living, this places tenants in a precarious position, leading to economic evictions and displacement.

We would propose that the government end these two rent control exemptions. In the alternative, the province may institute a rent increase ceiling, or set in place a sunset clause to restrict how long these units would be exempt from rent control.

**2) Ensure that new affordable housing developed with public funds remains affordable over the long-term and provides value to the taxpayer by prioritizing projects that are owned and managed by the non-profit community housing sector.**

One of the most effective ways to increase the supply of affordable housing is to invest in the development of non-market rental housing, including social housing, non-profit and co-op housing. They have a proven track record of providing affordable housing for Ontarians for many decades. These stable, secure, and affordable homes are the type desperately needed in communities across Ontario.

New market supply alone cannot provide the affordable rental housing needed by low and moderate income renters. In 2022, the average rent for a new 1 bedroom apartment in the GTA was \$2,199-- 45.4% higher than the average rent for all units.<sup>7</sup> These new units are affordable only to tenants with an annual income of at least \$87,960. Furthermore, increasing the number of non-market rental homes would counter the increasing financialization of housing. Investing in the non-profit housing sector will also create new jobs, and improve disposable incomes for low-income households along with social, educational, and health outcomes.

The Provincial Auditor's 2017 report concluded that giving tax dollars to private developers to provide time-limited affordability in housing they built and owned was not providing good value and more should be done to encourage development by non-profit organizations. The benefits of non-profit construction and ownership noted by the Auditor included:

1. Not-for-profits' objectives are to contribute to the community – by either not earning profits and gains, or re-investing profits and gains to building new units. The affordability benefits they provide can continue in perpetuity.
2. Not-for-profits can provide the affordable rentals in a more cost-effective manner than private developers because they do not have an incentive to mark up prices to make a profit.

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<sup>6</sup> <https://www.cbc.ca/player/play/2165123651901>

<sup>7</sup> CMHC Rental Market Report, January 2023 [Rental Market Report | CMHC \(cmhc-schl.gc.ca\)](https://www.cmhc-schl.gc.ca/rental-market-report)

We urge you to follow this advice in allocating funds for affordable housing development. We ask that you continue to support the community housing sector as represented by the Ontario Non-profit Housing Association and the Co-operative Housing Federation of Canada (Ontario Region).

### **3) Dedicate surplus land only for affordable housing**

The provincial government should use surplus land and properties for the development of affordable housing, leasing or selling the properties below-market value to non-profit developers who will guarantee the housing developments will be affordable in perpetuity.

The province should also promote innovative models of land ownership, such as the community land trusts model. Community land trusts are local private not-for-profit organizations that purchase land and use it for the benefit of a community. This approach is a way for the government to remove properties from the speculative land market and to allow the non-profit sector to develop affordable housing for middle and low-income families.

### **4) Prevent detrimental impacts from Bill 23 on municipal housing programs**

Bill 23 proposed significant changes to the *Development Charges Act* and *Planning Act*. Some will be helpful in promoting affordable housing, for example eliminating development charges (DC) for non-profit housing and affordable rental units. Other changes have the potential to be detrimental to municipalities and taxpayers. We are concerned about the financial impact on municipalities of proposed reductions to the market housing development charges, community benefits charges, and parkland dedication levies. Municipalities already face heavy financial burdens and have limited sources for generating revenue. The loss of DC funding will have a serious impact on their ability to pay for critical infrastructure and services that are needed to support existing residents' needs and future growth, and will shift the burden from developers to taxpayers.

Of even greater concern to renters, Bill 23 will also eliminate the ability of municipalities to implement development charges to fund affordable housing development and services. These funds are a critical component in municipalities' plans to create new affordable homes and support existing housing programs. Eliminating development charges for housing services will further reduce municipalities' ability to create new affordable rental housing. Funding from development charges is part of the planning for affordable housing development in municipalities across the province. In Toronto alone,

it has been estimated that Bill 23 will result in a reduction of \$200 million in annual revenue.

Without financial support from the provincial government, these changes to DCs will counter existing efforts to build more affordable housing, and shift the financial responsibility of growth-related infrastructure onto taxpayers. We ask the government to ensure that municipalities are not forced to choose between cutting much-needed housing programs, services, and infrastructure, or placing the burden on existing taxpayers.

### **5) Increase the capacity of the Rental Housing Enforcement Unit (RHEU)**

The RHEU is responsible for enforcing over 50 offenses under the Residential Tenancies Act (“RTA”), monitoring compliance with offences, investigating cases of alleged failure to comply, and prosecuting alleged offenders where warranted.

The Landlord and Tenant Board has historically been the forum where tenants and landlords enforce their rights and the RHEU would supplement that work when parties are unable to participate in that process. However, due in part to the increased delays at the Landlord and Tenant Board with parties waiting almost a year for their hearing, the RHEU is facing increased demands for intervention. Responses to complaints are often limited to communications to encourage voluntary compliance, with very few cases being investigated, and fewer referrals for prosecution. Given the current state of the Board and the limited resources and mandate at the RHEU, some parties are acting with impunity with respect to their responsibilities under the Act.

We recommend increasing the RHEU resources with a fully staffed investigation unit. We also recommend a stronger mandate to prosecute parties, with dedicated prosecutors available to refer matters to. Other provinces have recognized the important role of these units in stabilizing the housing crisis. For example, in British Columbia the government is increasing the Residential Tenancy Branch’s (RTB) operating budget and staffing by 40%, including doubling the size of the Compliance and Enforcement Unit (CEU).<sup>8</sup> The CEU serves a similar function to the RHEU, investigating complaints and taking action on repeat or serious residential tenancy offences, and if necessary, levying monetary penalties.

An increase in the resources available for investigations and prosecutions would lead to more timely enforcement of the RTA and ensure that parties are abiding by their legal responsibilities under the Act.

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<sup>8</sup> [Improved processes will help renters, landlords | BC Gov News](#)

**6) Improve the safety and security of social assistance recipients by enhancing their ability to meet the rising cost of housing through increased rates and improved program design of social assistance programs.**

A large majority of Ontario Works and Ontario Disability Support Program recipients live in the private rental market. The shelter allowance portion of social assistance continues to fall dramatically short of the actual cost of housing and so money needed to meet other basic needs must be used to cover the rent. But we have not heard of any commitment to address this recognized shortcoming. The 2023 budget must contain measures that increase assistance and make these programs more fair and accessible.

**7) Build a centralized data system for housing indicators in Ontario.**

Progress on housing outcomes is often stymied by significant data gaps on critical topics such as formal and informal evictions, stock of affordable rental units, and rent levels. We need a centralized system that collects disaggregated data and uses data to identify and support communities most affected by housing needs. In order to develop this data system, Ontario could access support from the Innovation and Research fund of the National Housing Strategy.

**8) Address the needs of victim-survivors of gender based violence (GBV)**

ACTO is currently conducting a provincial research project to identify barriers that victim-survivors of gender based violence (GBV) face when trying to obtain and stabilize housing. The project is supported and funded by the Department of Justice, where over the next four years ACTO and eight partner clinics will develop and provide legal education, advice, representation, and holistic services for victim-survivors. We offer the following recommendations to better address the needs of victim-survivors of gender based violence.

- Increase funding for transitional housing. In 1995, the provincial government cut funding for transitional housing and that funding was never reinstated. Transitional housing does not receive any core funding and instead relies on grants. Transitional housing has been described by participants with lived experience as a lifeline, as it allows for extra time after they leave the shelter system to find stable permanent housing, as well as provides additional specialized supportive services. There is a discrepancy in the length of shelter stay (whether emergency or transitional shelter) and the time it takes to receive a subsidized housing offer through Special Priority housing. Expanding funding

would ensure clients are not evicted into precarious housing while awaiting permanent housing.

- Create a GBV victim-survivors support fund, which could cover first and last month's rent, rental damages, storage costs, and moving costs. The fund should also cover hotel stay costs for victim-survivors who are unable to access shelters. Lived experience participants have reported that the costs associated with moving act as a major barrier to stabilizing housing. The high cost associated with moving restricts victim-survivors ability to leave, and can force them to remain in unsafe situations for longer.
- Allocate funding to develop a provincial GBV strategy. Currently, the Ministry of Children, Community and Social Services (MCSS) has developed an Anti-Human Trafficking strategy, but does not include a broad based GBV strategy. The development of a provincial GBV strategy, that expands beyond the criminal context, will enhance the provinces ability to prevent GBV, allocate funding, and support the federal government's National Action Plan to End Gender-Based Violence

#### **9) Mitigating Heat Related Deaths in Ontario with a Municipal Maximum heat Bylaw**

There is currently no legal standard created to protect the health of vulnerable tenants. We call for legislation that would permit municipalities to enact a maximum heat municipal bylaw which would require landlords to maintain a maximum temperature of 26°C in rental units. The recommendation accounts for the worsening climate crisis and the disproportionate impact of extreme heat on vulnerable populations including the elderly, those with chronic illnesses and mobility challenges, and those that are socially and materially disadvantaged.

Targeted federal and provincial programs should be created to assist landlords with meeting the requirements of the by-law. Provincial and federal funding for energy retrofit programs should explicitly include building upgrades to provide cooling. Currently, there are a number of programs available to assist the owners of large buildings with energy retrofits. Those programs should be widened and targeted to low-income rental properties. The programs should explicitly include funding for retrofits to allow for cooling as a critical climate adaptation measure.

The Ontario Electricity Support Program (OESP) should account for any increase in costs to tenants from cooling. The OESP on-bill credit amounts need to be increased so

as to reflect any higher electricity usage to adequately cool dwelling units during the summer months.

### **10) Make meaningful reforms to the Landlord and Tenant Board (LTB) hearings**

Ontarians have voiced their concerns to their local legal clinics, the Ombudsman's Office, the Ontario Human Rights Commission, the Ontario Bar Association, and other justice sector partners have shared their concerns with how the LTB administers justice in Ontario. These concerns include unprecedented wait times and the creation of barriers for Ontarians when it moved to a remote service model.

There have been multiple studies that have confirmed the challenges that many Ontarians experience when forced to attend a full day digital hearing to assert their rights at the Board. The remote hearing model has also unnecessarily lengthened hearing blocks due to the confusion of the parties at the start of the hearings. Further, more disputes proceed to merit hearings compared to the in-person hearing process.

The LTB has had a 20 year history of providing quality, efficient adjudication when hearings were conducted in person before it moved to a remote service model. That high standard was achieved by providing regional in person services and offering barrier free access to its many users.

Solutions to tackle the delays and access to justice issues must include:

- 1) Providing parties a choice to have an in person hearing.
- 2) Schedule hearings regionally so that multiple applications for the same address are not scheduled in multiple hearing blocks. Scheduling provincially by matter is wasteful and leads to delays that cause an inefficient dispute resolution process.
- 3) Return in person counter service to the Tribunals Ontario offices that are currently empty although still facing operational costs.

### **11) Restore funding to Legal Aid Ontario to ensure access to justice for low-income Ontarians**

The 2019 provincial budget included a 30% reduction of Ontario's contribution to Legal Aid Ontario, which has had a long lasting impact on its services for low income Ontarians. Ontarians rely on a strong legal aid system to ensure there is access to justice for our most vulnerable residents. With fewer resources, courts and tribunals slow to a halt because there are more self-represented parties.



The issue of unrepresented litigants is also prevalent before the provincial tribunals that address poverty-related issues, such as the Landlord Tenant Board and the Social Benefits Tribunal. Without investment in legal aid, individuals will continue to be unrepresented and struggle to present their cases or even attend their hearings due to a lack of advocacy skills and financial resources. When the stakes are as high as the loss of basic shelter and income support, the spill-over costs to society are great. Poor households, the elderly, disabled persons, women, children, and youth are hit the hardest.

Besides greater efficiency in the legal system, legal aid investments also produces economic, social and health benefits for society and those using the system. Research has demonstrated (Investing in Justice: A Literature Review in Support of the Case for Improved Access Report<sup>9</sup>) that for every \$1 invested on legal aid there is a saving of \$9 to \$16 in justice services and programs. The budget of Legal Aid Ontario should be restored to at least its pre-2019 level to guarantee access to justice and ensure our courts processes run efficiently for low-income people across Ontario

Ensuring that everyone has a safe and secure home is a critical step to a thriving economy and a bright future. We ask you to use the budget process to move us closer to that worthy goal.

Thank you for your consideration of our submission.

Yours very truly,  
**Advocacy Centre for Tenants Ontario**  
per:



Douglas Kwan  
Director of Advocacy and Legal Services

c.c. Honourable Steve Clark, Minister of Municipal Affairs and Housing  
c.c. Honourable Doug Downey, Attorney General for Ontario  
c.c. Standing Committee on Finance and Economic Affairs

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<sup>9</sup> <https://cfcj-fcjc.org/wp-content/uploads/Investing-in-Justice-A-Literature-Review-in-Support-of-the-Case-for-Improved-Access-by-Lisa-Moore-and-Trevor-C-W-Farrow.pdf>