

**Right to
Housing**

in Toronto



**Evictions
Rights Review**

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Right to Housing in Toronto (R2HTO) is a network of individuals and organizational supporters that are working to ensure that the City of Toronto takes a rights-based approach to its housing planning and policy.

The work of R2HTO is guided by a Steering Committee that consists of ACORN Canada, Advocacy Centre for Tenants Ontario (ACTO), Centre for Equality Rights in Accommodation (CERA), Emily Paradis (Maytree Fellow, Housing and Homelessness Researcher), Federation of Metro Tenants' Association (FMTA), Joy Connelly (Housing Advocate), and Maytree.

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1. Executive Summary

Tenants across Toronto have been experiencing an evictions and inadequate housing crisis for decades. Housing instability and the risk of eviction has increased as a result of the COVID-19 pandemic and is only expected to worsen as the Landlord and Tenant Board (LTB) resumes issuing eviction orders following a brief province-wide moratorium on residential evictions.

The Right to Housing in Toronto Network (R2HTO) has completed a review of City of Toronto policies, strategies, programs and services relating to evictions and have invited City of Toronto staff to describe the City's response to the issue of evictions during the COVID-19 pandemic. R2HTO has also discussed City-run eviction prevention programs, services and the City's response to evictions during COVID-19 with community legal workers and grassroots tenant advocacy organizations to understand the impact of the City's eviction-related policies, programs and services on residents.

The City has established a number of policies and strategies on housing that include measures aimed at preventing evictions. In 2016, an Eviction Prevention Framework and a separate consultation report was issued by the City, which included a definition of eviction prevention, an outline of eviction prevention approaches taken by the City, challenges to providing eviction prevention services and possible solutions to these challenges. Both the Framework and the consultation report outlined seven (7) key principles for an eviction prevention system and outlined next steps in the development of a comprehensive eviction prevention strategy.

More recently, the City has adopted its HousingTO 2020-2030 Action & Implementation Plans along with an Interim Shelter Recovery and Infrastructure Implementation Plan. All three of these plans contain eviction prevention-related goals, benchmarks and policies that include expanding current eviction prevention programs, collecting and analyzing data on evictions, above guideline increase applications, and affordability, and preventing illegal evictions.

The City also currently administers and funds a number of programs and services aimed at preventing evictions, stabilizing housing, and assisting tenants with navigating the legal eviction process. These programs and services have undergone enhancements and adjustments to respond to the COVID-19 pandemic. We have heard directly from frontline community legal workers and tenant advocacy

organizations about this response and how the City can take additional steps to make these programs and services more effective going forward. We have also heard during these conversations about the limitations of individual tenant/household-based eviction prevention measures and the need to prioritize addressing the systemic and underlying causes of eviction.

The right to housing and its relationship to the issue of evictions has been the subject of extensive authoritative commentary including guidelines from the United Nations Special Rapporteur on Adequate Housing, which summarize the relevant international human rights law on evictions. In considering the City's human rights obligations in relation to evictions, it is important to understand that eviction is considered to be a *prima facie* violation of human rights that can only be justified in exceptional circumstances, and must not result in homelessness.

Drawing on all of the above, this report identifies tangible actions the City must take to align their eviction prevention policies, strategies, programs and services with its commitment to the progressive realization of the right to housing.

Our recommendations for the City are based on the following principles:

1. The City must meaningfully engage with and ensure the effective participation of individuals and communities at-risk of and/or affected by eviction.
2. The City must implement comprehensive and rights-based policies and strategies for preventing residential evictions.
3. The City must ensure access to justice for individuals and communities directly affected by eviction.
4. All feasible alternatives to eviction must be explored, in consultation with affected persons.
5. Evictions must not render people homeless.
6. The City must take measures to address the underlying causes of eviction.

2. Introduction

In December 2019, the City of Toronto took the historic step of recognizing and committing to progressively realizing the human right to adequate housing in its HousingTO 2020-2030 Action Plan. In doing so, the City committed to progressively realizing this right for all residents, according priority to those who are most disadvantaged, and dedicating the maximum of its available resources to the realization of this right. Since March 2020, the COVID-19 epidemic has led to widespread loss of income and severe economic hardship among residential tenants. As a result, the risk of eviction has increased during the pandemic and is expected to worsen as the LTB resumes issuing eviction orders following a brief province wide moratorium on residential evictions. In addition to evictions based on rental arrears, tenants across Toronto are experiencing displacement, housing instability, inadequate housing, and eviction due to “renovictions,¹” demolitions, landlord harassment, informal and illegal evictions, and deteriorating safety and maintenance conditions.² Compounding these issues is the provincial policy of vacancy decontrol, which allows landlords to raise rent by an unlimited amount when a tenant vacates an apartment, creating substantial financial incentives for landlords to evict tenants through both legal and illegal means.

Eviction from one’s home has serious consequences for an individual’s dignity, health and well-being and security. As such, eviction is considered under international human rights law to be a *prima facie* violation of human rights that can only be justified in exceptional circumstances, and can never be allowed to result in homelessness. Evictions that are not carried out in accordance with due process and with regard to human rights are considered to be a gross violation of human rights and a violation of the right to housing.³

This report is based on discussions R2HTO has conducted with staff at the City of Toronto, as well as with lawyers, community legal workers and grassroots organizations serving residential tenants who are at risk of being evicted from their homes. It also reviews the City of Toronto’s policies, programs and services relating to evictions, and human rights documents including the United Nations Special

¹ The term “renoviction” describes an eviction that is carried out to renovate or repair a rental unit.

² ACORN Canada. *City News: Rexdale Residents Fight Back Against Renoviction*. Nov 23 2020. <https://acorncanada.org/citynews-rexdale-residents-fight-back-against-renoviction>.

³ UN Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No. 7 The right to adequate housing (Art.11.1): forced evictions*. 20 May 1997. E/1998/22.

Rapporteur on Adequate Housing's guidelines on the implementation of the right to adequate housing⁴ and on access to justice for the right to housing.⁵

Drawing on all these sources, this report provides tangible recommendations about how the City can ensure that its approach to evictions adheres to human rights principles and requirements. While we heard many different perspectives and experiences from the City staff, front-line workers, and human rights experts, there is one consistent point of agreement: the worsening eviction crisis across Toronto is unacceptable and requires an urgent and coordinated response. This is even more pressing with cold winter weather descending on the city and increasing uncertainty regarding the fallout from the COVID-19 pandemic. To be successful, this response must be founded on human rights principles, and must uphold human rights in every aspect of its implementation.

3. Eviction Moratorium

On March 19, 2020, in response to the COVID-19 pandemic and a request from the Ministry of the Attorney General, a province-wide moratorium on residential evictions was ordered by Justice Geoffrey Morawetz of Ontario's Superior Court of Justice.⁶ The moratorium suspended enforcement of all residential eviction orders, including pre-pandemic orders, issued by the LTB.⁷

In response to the moratorium, on March 19, 2020 the LTB announced a suspension of all hearings related to evictions, unless the matter involved was urgent, such as illegal acts or serious impairments of safety. The LTB also suspended the issuance of eviction orders, including orders for hearings that occurred prior to March 19, 2020, except for those related to urgent matters such as illegal acts or serious impairments of safety. The LTB continued to accept and process eviction applications during the eviction moratorium.⁸

⁴ UN General Assembly Human Rights Council (UNHRC), *Guidelines for the Implementation of the Right to Adequate Housing* 26 Dec 2019, A/HRC/43/43. <http://www.unhousingrapp.org/user/pages/04.resources/Access%20to%20justice%20Report.pdf>.

⁵ UN Human Rights Council (UNHRC), *Access to Justice for the Right to Housing* 15 Jan 2019 A/HRC/40/61.

http://www.unhousingrapp.org/user/pages/04.resources/A_HRC_43_43_E-2.pdf.

⁶ <https://www.ontariocourts.ca/scj/chief-justice-court-order-susp-resid-evict/>.

⁷ Ibid.

⁸ Landlord and Tenant Board Press Release. July 30, 2020. <https://tribunalsontario.ca/en/latest-news/>.

Justice Morawetz’s order was amended on July 6, 2020 to clarify that the moratorium would remain in place until the end of the calendar month during which the State of Emergency declared under the *Emergency Management and Civil Protection Act*⁹ is terminated. That occurred in July 2020, which resulted in the LTB returning to its normal operations on August 1, 2020. On this date, the LTB:

- began issuing eviction orders for pending matters;
- began issuing consent eviction orders based on settlement agreements reached between landlords and tenants;
- continued to hear urgent eviction matters; and
- began to schedule hearings for non-urgent evictions.

4.1 The City of Toronto’s Policies and Strategies Regarding Evictions

While the City does not govern or have jurisdiction over the formal legal eviction process in Ontario, it currently administers a number of programs and services aimed at preventing evictions, stabilizing housing, and assisting tenants with navigating the legal eviction process (see Appendix for a detailed description of these programs and services). In addition, the City has established a number of policies and strategies focused on housing that include measures aimed at preventing evictions. The most recent of these are the HousingTO 2020-2030 Action Plan¹⁰ and Implementation Plan¹¹ and the Interim Shelter Recovery and Infrastructure Implementation Plan,¹² which are discussed in detail below.

This section begins by reviewing past and current policies/strategies regarding evictions developed and implemented by the City. A description of measures taken by the City relating to eviction prevention in response to the COVID-19 pandemic follows.

⁹ R.S.O. 1990, c. E.9.

¹⁰ City of Toronto. *HousingTO 2020-2030 Action Plan*. December 2019. <https://www.toronto.ca/wp-content/uploads/2020/04/94f0-housing-to-2020-2030-action-plan-housing-secretariat.pdf>.

¹¹ City of Toronto. *HousingTO 2020-2030 Action Plan Implementation Plan*. September 2020. <https://www.toronto.ca/legdocs/mmis/2020/ph/bgrd/backgroundfile-156646.pdf>.

¹² City of Toronto. *Interim Shelter Recovery and Infrastructure Implementation Plan*. September 28 2020. <https://www.toronto.ca/legdocs/mmis/2020/ec/bgrd/backgroundfile-157088.pdf>.

The City of Toronto’s Eviction Prevention Framework & ‘What We Heard’ Consultation Report

As part of the City’s Shelter, Support and Housing Administration’s (SSHA) 2014-2019 Housing Stability Service Plan (HSSP), the City began developing an Eviction Prevention Strategy (the Strategy). The stated objective of the Strategy was to develop an integrated approach to eviction prevention that included a standardized definition of eviction prevention, mechanisms to identify households at risk of eviction, and a coordinated range of services to prevent these evictions. An Eviction Prevention Framework (the Framework) was issued in August 2016 and provided context for development of the Strategy.¹³ The Framework includes a definition of eviction prevention,¹⁴ an outline of eviction prevention approaches taken by the City (current to August 2016), assessed a number of challenges around eviction prevention, and identified possible solutions to these challenges. The Framework also outlined seven (7) key principles for an eviction prevention system and outlined next steps in the development of a comprehensive eviction prevention strategy.

In the Fall of 2016, the SSHA conducted consultations with City staff, community partners, and stakeholders to receive feedback on the above Framework and on the development of the Strategy. A report was issued that summarized the findings of the consultations.¹⁵ This report expanded the seven key principles from the Framework as follows:

1. **Accessible Information and Education:** Easy to access, up-to-date information about services and resources, as well as tenant and landlord rights and responsibilities;
2. **Timeliness of Intervention:** People need access to supports and services early enough to avoid crisis situations where they may lose their housing;
3. **Access to Financial Supports:** People need income supports and flexible financial assistance that is available, timely and comprehensive to help stabilize their housing;

¹³ City of Toronto. *Eviction Prevention Framework*. August 2016. <https://www.toronto.ca/wp-content/uploads/2017/10/96e5-SSHA-Eviction-Prevention-Framework.pdf>.

¹⁴ Services directly linked to support housing retention or assist a household to be re-housed, where the household is at imminent risk of eviction. Imminent risk of eviction is defined as having a formal eviction notice, or at-risk of losing housing within 60 days.

¹⁵ SSHA. *Eviction Prevention Framework What We Heard Consultation Report*. February 2017. <https://www.toronto.ca/wp-content/uploads/2017/10/9749-SSHA-Eviction-Prevention-Consultation-Report.pdf>.

4. Access to Legal Support: People need access to legal assistance and representation to safeguard tenancies to the greatest extent possible;
5. Building Effective Landlord Relationships: Building processes and partnerships with landlords can help resolve tenancy issues for people facing imminent eviction;
6. Coordinated Approach: A coordinated approach that includes system navigation and case management is a leading practice to link eviction prevention to other services; and
7. System Level Support and Solutions: A systems approach to eviction prevention is most effective in preventing evictions.

Following the release of the Framework, the City launched the Eviction Prevention in the Community (EPIC) program pilot. More information about the EPIC program can be found in the Appendix.

HousingTO 2020-2030 Action Plan and Implementation Plan

In December, 2019 the City released a Housing TO 2020-2030 Action Plan (the Action Plan) which called for increased enhancement of the City's eviction prevention measures. Specific goals relating to eviction prevention referenced in the Action Plan include:

- preventing 10,000 evictions of low-income households;
- taking action to prevent illegitimate evictions;
- increasing early intervention measures to help tenants avoid eviction;
- extending and expanding the EPIC program; and,
- funding the EPIC program in the amount of \$33 million.

In October 2020 the City adopted the HousingTO 2020-2030 Implementation Plan (the Implementation Plan) as an accountability framework to monitor the City's progress towards implementing the policies and meeting the targets included in the Action Plan. The Implementation Plan contained the following eviction-related benchmarks:

- complete program review and changes to the Tenant Defence Fund and develop new tools (i.e. tenant rights webinars and videos) for tenants between 2021-2022;
- continue advocacy and issue management for youth homelessness and eviction prevention between 2023-2025;
- develop a database that collects data on such factors as above guideline rent increases, evictions, and asking rent prices for rental housing between 2021-2022; and,
- prevent illegitimate eviction efforts through educating tenants about their rights and responsibilities and City programs.

Interim Shelter Recovery and Infrastructure Implementation Plan

In October, 2020 the City adopted the Interim Shelter Recovery and Infrastructure Implementation Plan (Shelter Recovery Plan) which outlines the City’s planned response to the COVID-19 pandemic for homelessness and shelter services for the 12-month period between October 2020 and October 2021. The Shelter Recovery Plan acknowledged the importance of eviction prevention measures as a key component to the City’s COVID-19 response efforts.¹⁶ Specifically, the Shelter Recovery Plan calls for:

- enhancements and increased funding for the EPIC and Toronto Rent Bank programs;
- partnering with the United Way to redesign their drop-in model; and
- continued advocacy efforts to other orders of government for legislative changes to extend eviction prevention measures and enhance residential rental assistance programs.¹⁷

Toronto Community Housing Corporation (TCHC) Policies on Evictions

In 2014, TCHC released an Eviction Prevention Policy for Non-payment of Rent (Arrears). The stated purpose of this policy is to “to ensure rent is collected as required and to evict as few tenants as possible for not paying their rent.”¹⁸ The policy includes standards for TCHC staff to follow prior to proceeding with an eviction application through the LTB.¹⁹ Examples include a policy that TCHC staff must make three documented attempts to make personal contact with a tenant and provide at least one “accessible and reasonable” offer of a face-to-face meeting with a tenant during the eviction process.²⁰ Among other policies, TCHC staff must also provide information to tenants on the financial and legal supports available to them including services available at the LTB including mediation, interpretation, and the Tenant Duty Counsel program.

In 2015, TCHC updated its Policy on Evictions for Cause. The stated purpose of the policy is to “guide decision-making and to set minimum standards of procedural fairness, investigation and

¹⁶ General Manager, SSHA *Interim Shelter Recovery and Infrastructure Implementation Plan* Sept 28 2020 at page 30. <https://www.toronto.ca/legdocs/mmis/2020/ec/bgrd/backgroundfile-157088.pdf>

¹⁷ Ibid at page 30.

¹⁸ Toronto Community Housing Corporation. *Eviction Prevention Policy for Non-Payment of Rent (Arrears)* at page 2. July 2014.

¹⁹ Ibid at page 3.

²⁰ Ibid at page 3.

communication when seeking eviction” for matters related to anti-social behaviour, illegal activity, excessive clutter (“hoarding”) or unhealthy unit conditions.²¹

In 2014, the TCHC Board of Directors created the Office of the Commissioner of Housing Equity (OCHE) in response to the 2009 death of Al Gosling, a senior TCHC tenant who was evicted into homelessness following the loss of his Rent Geared to Income subsidy. An inquiry into Mr. Gosling’s eviction and TCHC’s eviction prevention policies began in 2009 and recommended a new independent office be created to assist seniors and vulnerable TCHC tenants in resolving rental arrears and issues arising due to loss of subsidies, and reduce the number of eviction matters that proceed to the LTB. More information on OCHE can be found in the Appendix.²²

In 2019, a City of Toronto Subcommittee on the Protection of Affordable Rental Housing was formed in response to, among other issues, the loss of existing affordable rental housing to “renovictions” and other “no-fault” evictions.²³

4.2 Response to COVID-19

Following the lifting of the province-wide moratorium on evictions, the LTB is now issuing eviction orders and the Court Enforcement Office (the Sheriff) is now enforcing these orders and carrying out evictions. Legal experts across the province are warning of a sharp increase in evictions occurring now that the eviction moratorium has been lifted.²⁴ There are also growing concerns over access to justice-related issues that are arising at the LTB as it has shifted to conducting eviction hearings exclusively online.²⁵

²¹ Toronto Community Housing Corporation. *Evictions for Cause Policy* at page 2. May 1 2015.

²² Hon. Patrick J. Lesage, C.M., O.Ont., Q.C. *Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation*. May 2010. <https://www.toronto.ca/legdocs/mmis/2012/ex/bgrd/backgroundfile-44396.pdf>.

²³ Paula Fletcher. *Subcommittee on the Protection of Affordable Rental Housing*. 2019. <http://councillorPaulaFletcher.ca/issues/tenant-information/>.

²⁴ Alastair Sharp. *Ontario tenants rushed through online evictions, advocates say*. November 19 2020. <https://www.nationalobserver.com/2020/11/19/news/ontario-tenants-online-evictions-covid-19>.

²⁵ Aidan Macnab. *Legal clinics across Ontario decry access-to-justice barriers at Landlord and Tenant Board Hearings*. November 19 2020. https://www.lawtimesnews.com/practice-areas/real-estate/legal-clinics-across-ontario-decry-access-to-justice-barriers-at-landlord-and-tenant-board-hearings/335412#.X7Z_436e7Qc.twitter.

The City does not have access to data on the number of eviction orders that have been issued against tenants in Toronto during the pandemic. However, the City has been able to confirm that over 5,111 eviction applications, including 3,371 eviction applications for nonpayment of rent have been filed by landlords in Ontario between March 16, 2020 and September 30, 2020.²⁶ It is important to note that these numbers do not reflect informal and illegal evictions that have occurred during this time.

Below is a description of the actions that the City has taken related to evictions since the onset of the COVID-19 pandemic:

Moratorium on evictions

- The City has communicated information about the province-wide moratorium on evictions with its portfolio of social and affordable housing providers through regular pandemic response updates. Where applicable, housing providers were instructed to provide information to their residents.
- On September 30, October 1 and 2, 2020, City Council requested the Province of Ontario to immediately reinstate the moratorium on eviction of tenants.²⁷

Increased income support payments from province

- The City coordinated requests to the Province for funding to support vulnerable individuals experiencing or at risk of homelessness, including ensuring money be made available for meals/food.
- A Community Services working group was established by the City to coordinate its response across community based social service programs.

Moratorium on Loss of Eligibility for RGI Assistance

- From March 17 to August 31, 2020, social housing providers were instructed to discontinue issuance of all activities related to Notices of Decision for Loss of Eligibility – Rent-Geared-to-Income (RGI) Assistance. This included issuance of new Notices of Decision and suspension of existing notices.

²⁶ SSHA. *Where We Are and Where We Want to Go - Steps to Protect Affordable Rental Housing*. Nov 23 2020. <https://www.toronto.ca/legdocs/mmis/2020/rh/bgrd/backgroundfile-158789.pdf>.

²⁷ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH16.8>.

Payment of rent in social housing

- The City directed housing providers to be flexible and exercise discretion on rent payments particularly as they apply to households whose primary source of income is from employment.
- The City instructed housing providers to work with impacted tenants to defer rent payments and/or enter into payment agreements.

Toronto Rent Bank Program

- Between April and September 2020, the Toronto Rent Bank granted 489 loans for rental arrears valued at \$1.9M and 36 rental deposit loans valued at \$98,000.²⁸
- In April 2020, the City increased funding to the Toronto Rent Bank program by \$2 million dollars through the Provincial government's Social Services Relief Fund (SSRF).²⁹
- All Toronto Rent Bank loan repayments were automatically deferred for a period of up to 12 months.
- The City eliminated the eligibility requirement that households demonstrate a steady income on a go-forward basis to qualify for the Toronto Rent Bank.
- SSHA, Toronto Employment and Social Services, and Neighbourhood Information Post partnered to implement a temporary Toronto Rent Bank Pre-Screening Call Centre in anticipation of an increase in call volumes and in response to closure of in-person services due to the pandemic.
- The City is reporting a 32% increase in the number of approved loans for the Toronto Rent Bank between April-October 2020 as compared to January-March 2020, although the City notes that it is not possible to draw a direct correlation between an increase in loan approvals and the impact of COVID-19 on Torontonians.³⁰

Eviction Prevention in the Community (EPIC)

- The EPIC program continues to operate at its previous capacity.
- The total number of referrals for the EPIC and Housing Stabilization Fund programs have been lower than anticipated during the pandemic, although the City attributes this drop to the eviction moratorium and closure of the LTB between March and July, 2020. The City anticipates the lower number of referrals to be temporary.³¹

²⁸ General Manager, SSHA. *Toronto Rent Bank and Eviction Prevention in the Community Programs - Update November 23, 2020*. <https://www.toronto.ca/legdocs/mmis/2020/ec/bgrd/backgroundfile-158769.pdf>.

²⁹ Ibid.

³⁰ Supra note 26.

³¹ Ibid.

Provincial Government Relations

- The City made a submission to the Provincial government on the Bill 184, Protecting Tenants and Strengthening Community Housing Act, 2020 with recommendations on the protection of affordable rental housing, access to justice for tenants and landlords, eviction prevention and compensation, enforcement and oversight, data collection and dissemination, and LTB administrative improvements.³²

Toronto Community Housing Corporation

- TCHC has implemented rent adjustment and deferral measures for market-rent and RGI tenants who have lost income due to COVID-19. Under these measures, RGI households are eligible for a recalculation of their monthly rent due to lost income. In addition, tenants who pay market rent (non RGI) were eligible for rent-deferment options including the ability to pay one-third, half or three-quarters of their rent for the months of April, May and June. They were given the option of paying the balance of their rent in six to eight months.³³

Office of the Commissioner of Housing Equity (OCHE)

- TCHC continued to make referrals to OCHE during the eviction moratorium. OCHE was able to maintain capacity during this time.
- During the early months of the pandemic (March - July), OCHE was unable to conduct face-to-face outreach/meetings with clients. Communication with tenants occurred via telephone, in writing, or by coordinating the delivery of communications/messages with TCHC building staff/superintendents.
- OCHE requested earlier access to tenant files during the eviction moratorium to ensure more files were resolved before being escalated to the LTB process, in anticipation of increased number of eviction applications following the end of the eviction moratorium.
- OCHE adjusted their mandate and requested referrals from TCHC for files relating to tenants who were not seniors or considered vulnerable TCHC tenants.
- OCHE negotiated longer repayment agreements with TCHC for arrears relating to pandemic-related loss of income.

³² City of Toronto. *City of Toronto staff comments on Bill 184, Protecting Tenants and Strengthening Community Housing Act, 2020*. June 26 2020. <https://www.toronto.ca/legdocs/mmis/2020/ph/bgrd/backgroundfile-148397.pdf>.

³³ <https://www.torontohousing.ca/residents/community-services/Pages/Rent-flexibility.aspx>.

4.3 Forthcoming Eviction Prevention Measures

Toronto's City Council and Committees are considering the following steps to improve, expand and make several eviction-related programs and services more accessible. While these steps have not yet been approved or implemented, they are worth mentioning and we will be monitoring progress to ensure these measures are implemented using a human rights-based approach.

In October 2020, Toronto's Planning and Housing Committee (PHC) directed the General Manager of SSHA to report back by December 8th, 2020 on the feasibility of expanding the Toronto Rent Bank and EPIC programs to:

- introduce non-repayable grants to residents who cannot afford a temporary loan; and
- expand the eligibility criteria of the Toronto Rent Bank and the Eviction Prevention in the Community program to capture more low-income residents and families.³⁴

The PHC and its Subcommittee on the Protection of Affordable Rental Housing are also currently considering a number of measures to strengthen the City's eviction-related programs and services and the City's response to the growing concern over the rise in legal and illegal evictions. Specifically, they are considering the following measures:

- expanding eligibility for the Tenant Defence Fund;
- reviewing and updating the City's Tenant Web Portal that includes information relating to tenants' rights and eviction prevention;
- improving the City's ability to monitor trends relating to evictions, including the better collection and sharing of data related to evictions;
- exploring a data sharing agreement with the LTB to collect and analyze data on eviction trends;
- establishing a Tenant Advisory Committee to collaborate with on tenant-related issues including eviction; and
- developing a city-wide policy on "renovictions."³⁵

The City received an allocation of \$9M over the next two years (\$7M in 2020/21 and \$2M in 2021/22) under the Canada-Ontario Housing Benefit program (COHB) announced as part of the National Housing

³⁴ September 30, 2020 Planning and Housing Committee Meeting. *Agenda Item 16.5 - Improving Outcomes for Toronto Residents through Implementation of HousingTO 2020-2030.*

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH16.5>

³⁵ Supra note 26.

Strategy (NHS). (SSHA) estimates the City will be able to use this funding to provide a portable monthly housing benefit to approximately 900 low-income households.³⁶

5. Reports from the ground: What the community is saying about the City’s approach to evictions

As adequate and affordable housing becomes increasingly unattainable for tenants, the risk of evictions has increased and threatens to continue destabilizing the lives of tenants and entire communities across the City. The COVID-19 pandemic has only compounded the problem and, with the lifting of the province-wide eviction moratorium, the urgency for addressing the eviction crisis is mounting. During R2HTO’s conversations with frontline community legal workers and tenant advocacy organizations we heard, overwhelmingly, about the necessity of expanding, adapting, and increasing funding for City-run eviction prevention programs and services in response to this mounting crisis. Another common theme that emerged was on the limitations to individualized eviction prevention programs that assist individual tenants and households with stabilizing their housing. While the importance of these programs and services was acknowledged, we repeatedly heard that the City must take immediate and comprehensive action to address the systemic causes of eviction to which these programs and services cannot fully respond.

Toronto Community Housing Corporation

- Frontline workers expressed concerns regarding TCHC’s continuation of serving Notices of Termination during the pandemic and eviction moratorium.
- Delays with rent recalculations and retroactive rent adjustments are causing concern among RGI tenants who have lost employment due to the pandemic. Recipients of the Canada Emergency Response Benefit (CERB) report uncertainty and inconsistencies regarding their rent recalculations following the expiration of CERB.

City-run Eviction Prevention Programs and Services

- Frontline workers have found the Toronto Rent Bank and EPIC programs to be responsive and adaptive to the circumstances that have arisen due to the pandemic.

³⁶ October 26th, 2020 Communication from City Staff.

- Frontline workers pointed out that the response time and overall efficiency from these programs remained very high in spite of necessary adjustments made due to the pandemic.
- Frontline workers universally agreed that City’s eviction prevention programs remain vastly underfunded and under-resourced. Frontline workers do not think these programs are resourced enough to deal with the increased number of evictions occurring now that the eviction moratorium has been lifted.
- Better coordination between City-run programs and community legal clinics is needed to ensure clinic staff can respond quickly to emergencies and are kept up-to-date on program changes.
- The Toronto Rent Banks’ current loan-based format is not suitable for the economic reality faced by tenants due to the pandemic. Frontline workers expressed the need for a grant-based program to account for widespread loss of income.
- Changes to the EPIC program policy that only permits access to the program through a referral network are needed to make this program more accessible.
- Better communication from the City regarding what types of help are available from the EPIC program and who is eligible to receive this help is necessary.
- Frontline workers described increased difficulty securing Housing Stabilization Fund (HSF) (see Appendix) supports for their clients. This difficulty stems from difficulty reaching caseworkers, inconsistent timing and resource availability, and inconsistent application of eligibility rules.
- One frontline worker pointed out that HSF funding is often required on an emergency basis, and any delay could result in eviction.
- The total amount available from HSF is too low to account for increasingly high amounts of rental arrears due to loss of income during the pandemic.
- Frontline workers described receiving “resistance” from OW and ODSP caseworkers to releasing funds for arrears balances that are higher than normal due to the pandemic.

Maintenance, Safety and Stability

- Tenant advocates report increasingly aggressive actions by landlords to evict tenants through demolitions, renovations, and no-fault eviction applications. We heard from these advocates for a coordinated response and strategy from the City to assist tenants with preventing these types of evictions.
- Better communication by City staff is needed on how tenants can enforce building maintenance and safety standards. Tenants report vacating units in response to widespread disrepair and maintenance concerns, which results in the loss of affordable rental units.

6. Recommendations: How the City can uphold its human rights obligations

The right to housing has been the subject of extensive authoritative commentary and, in recent years, of decided cases.³⁷ In December, 2019 the United Nations Special Rapporteur on Adequate Housing published guidelines on the implementation of the right to adequate housing³⁸ and access to justice for the right to housing,³⁹ which summarize the relevant international human rights law and offer clear direction for the City on what can and should be done to uphold the rights of residential tenants facing eviction from their homes. Based on these guidelines, R2HTO has developed some key recommendations and actions for the City to take to align its eviction prevention policies, services and programs with its commitment to the progressive realization of the right to housing.

1. Meaningful engagement with and effective participation of individuals and communities at-risk of and/or affected by eviction.

Principle 1: Individuals and communities at-risk of or affected by residential evictions are entitled to meaningful engagement and participation in the design, implementation and monitoring of policies, programs and services developed to prevent evictions. This engagement and participation should reflect the diversity of communities and ensure that the needs of these communities are represented.

Recommendations for the City of Toronto:

- Ensure the full engagement of residents, communities, and their advocates during current efforts to expand and strengthen eviction-related programs, services, and policies.
- Continue to engage with residents, communities and their advocates as eviction-related programs, services and policies are developed. The City has a human rights obligation to consult

³⁷ See, for example, Ben Djazia et al v Spain CESCR UN Doc. E/C.12/61/D/5/2015 and UN Committee on Economic, Social and Cultural Rights (CESCR) *General Comment No. 7 The right to adequate housing (Art.11.1): forced evictions*. 20 May 1997. E/1998/22.

³⁸ Supra note 4.

³⁹ Supra note 5.

with residents as its approach to preventing eviction evolves and as it continues to make decisions that directly impact the ability of tenants to stabilize and secure their housing.

- Explore measures to collect and analyze data that shows which communities and populations are at most risk of eviction.⁴⁰ These communities and populations must be given priority for engagement efforts by the City.
- Establish engagement mechanisms that mitigate the power imbalance between tenants and landlords through a variety of measures, including ensuring tenants who are at risk of eviction have access to legal services and resources for developing legal empowerment strategies.

2. Implement comprehensive and rights-based policies and strategies for preventing residential evictions.

Principle 2: Eviction-related policies and strategies should encourage cooperation and coordination across all relevant City divisions, agencies, services, etc. They should identify the City’s obligations and powers to prevent eviction, establish clear goals and timelines, be independently monitored for progress, and be responsive to systemic and emerging challenges.

Recommendations for the City of Toronto:

- Establish requirements for landlords seeking to evict tenants through the LTB to notify a designated agency or office within the City when an eviction application has been filed with the LTB. The agency or office designated to respond to this notification must coordinate efforts to engage with the tenant(s) facing eviction and intervene to stabilize the tenancy while ensuring privacy concerns are addressed.

⁴⁰ Scott Leon and James Iveniuk. *Forced Out: Evictions, Race and Poverty in Toronto*. August 2020. <https://www.wellesleyinstitute.com/wp-content/uploads/2020/08/Forced-Out-Evictions-Race-and-Poverty-in-Toronto-.pdf>.

- The above designated agency or office must collect and share high-level data regarding evictions and share reports on the outcomes of notifications and interventions, including whether the intervention stabilized housing and prevented homelessness.
- Continue its efforts to establish a data sharing agreement between the City Toronto and the LTB to facilitate regular information sharing on evictions, above guideline increases, and other tenancy-related data.
- Work directly with tenant facing organizations, agencies, and tenant-led groups to develop information sharing agreements and collect/analyze data relating to evictions and eviction prevention measures, share information, best practices, educational, and capacity building strategies.
- Restrict the issuance of permits for renovations except in circumstances where it's clear the renovation is necessary and alternative accommodation, moving costs and supports, and a right to return has been provided to tenants.
- Implement a Certificate of No Harassment program that requires landlords to apply for and receive a certificate before applying for building permits.⁴¹
- Establish and implement penalties for landlords caught illegally evicting tenants through landlords own use evictions, eviction harassment, and/or renovations. Penalties can include bylaw fines, provincial prosecution, tax increase, or charges and/or denying any future zoning or rezoning applications for all owners/ beneficial owners.

⁴¹ New York City has implemented a program of this kind. Information and overview on the program can be found here: <https://www1.nyc.gov/site/hpd/services-and-information/certification-of-no-harassment-conh.page>.

3. Access to justice must be ensured for individuals and communities directly affected by eviction.

Principle 3: Access to justice must ensure procedural fairness and compliance with all human rights, including meaningful engagement with those affected, exploration of all viable alternatives, relocation to adequate housing, and other measures to ensure that no one is rendered homeless. Accessible legal services must be provided throughout the entire eviction process, not just when eviction is imminent, and these services should be provided through community outreach. Access to justice means more than access to legal services and to existing tribunals and courts that may not protect the right to housing. Community legal/human rights education and the development of legal empowerment strategies should be prioritized to secure access to hearings and effective remedies based on the right to housing.

Recommendations for the City of Toronto:

- While access to legal services is crucial throughout the entire eviction process, it is most effective when provided at the beginning of this process. To ensure tenants are able to access legal services at that time, City staff must work with the LTB to ensure that all tenants who are served with an eviction notice and/or application receive information about all available legal services and supports.
- This includes information about community legal clinics. Community legal clinics are only able to assist tenants who reside within a clinic's geographical catchment area. City staff should work with the LTB and community legal clinics throughout Toronto to ensure tenants who are served with an eviction notice and/or application receive information about which community legal clinic serves their geographical area. The City must take an active role in ensuring tenants are connected with these services at the earliest possible time in the eviction process.

- Explore ways to provide universal access to legal services and/or representation for all tenants who are facing eviction at the LTB.⁴²
- Design and develop a proactive education and outreach campaign for tenants on understanding their legal rights throughout the legal eviction process. This should include, but not be limited to, specific information on understanding and responding to notices of termination, eviction applications, and eviction orders.
- Ensure access, wherever possible, to financial assistance and other necessary supports to avoid eviction and ensure that this is done in a rights-compliant manner and with procedural protections for tenants. Where eviction by the LTB cannot be prevented through these means, the City's procedures should adopt reasonable measures to ensure that no one is rendered homeless by an eviction.
- Provide access to legal services and advice, support, and resources for self-advocacy and proactive education, information and outreach regarding their rights for tenants who are being threatened with illegal or informal evictions.

4. All feasible alternatives to eviction must be explored, in consultation with affected persons.

Principle 4: Evictions should only occur as a last resort and after a full exploration of alternatives. Evictions based on rental arrears should not occur without full exploration of means to resolve outstanding debt including the provision of financial assistance. Relocation to a more affordable adequate housing unit must be considered as an alternative to eviction.

⁴² New York City has implemented a Right to Counsel program for all tenants facing eviction. Program details and information can be found here: <https://www.cssny.org/news/entry/nyc-right-to-counsel#:~:text=After%20years%20of%20advocacy%2C%20New,court%20access%20to%20an%20attorney.>

Recommendations for the City of Toronto:

- Establish and fund a program to provide an on-site presence at the LTB of EPIC, Toronto Rent Bank, and community/local organization based eviction prevention program staff for the purpose of connecting tenants with available resources and exploring all possible alternative means to eviction.
- In situations where tenants are facing eviction for rental arrears, efforts must be made by City staff to connect with tenants in advance of their eviction hearing to identify sources of financial support that can be used to stabilize and preserve a tenancy. If City staff are unable to connect with tenants in advance of their eviction hearing, City and other program staff on-site at the LTB must be able to offer rapid, on-the-spot access to financial support to tenants.
- In situations where tenants are facing eviction for matters not related to rental arrears, the City must intervene early in the eviction process and connect tenants with any available resources that can be used to stabilize and secure housing or provide other necessary supports.
- For tenants within the low-income household eligibility requirement, financial support programs like the Toronto Rent Bank must be converted from a loan-based program into a grants-based program and expanded so as to be available to any tenant in need of assistance with accumulated arrears during the pandemic. Tenants who are above the low-income requirements can be means-tested to receive financial assistance from the Toronto Rent Bank in the form of a loan.
- Expand and make current eviction prevention programs and services more accessible. Barriers to accessing services such as requirements for a referral from a third-party should be removed.

5. Evictions must not render people homeless.

Principle 5: In situations where evictions cannot be avoided, these evictions must not render people homeless.

Recommendations for the City of Toronto:

- Meaningfully engage with individuals who are unable to avoid an eviction and provide immediate assistance with relocation.
- Prior to being evicted, tenants must be provided with adequate alternative housing options of similar size, quality and cost and in close proximity to their community, employment, schools, services, etc.
- No evictions for the purpose of renovations should be permitted if the landlord has not ensured access to alternative housing during the renovation that is satisfactory to the tenant, and ensured a right of return at the completion of the renovation. Additionally, moving and other costs associated with vacating the unit during the renovation should be borne by the landlord.

6. The City must take measures to address the underlying causes of eviction.

Principle 6: The City has an obligation to address the systemic and structural causes of evictions. These include, but are not limited to, the lack of affordable and adequate housing, the financialization of housing, gentrification, racism, sexism, ableism, and other forms of discrimination.

Recommendations for the City of Toronto:

- Prioritize the development of social, non-profit, RGI and deeply affordable housing and invest significantly in the development of housing for those who are most vulnerable and those whose

needs are not met by the market.

- Implement measures to discourage the use of residential properties as investment vehicles, including but not limited to, implementing a vacant home tax and directing revenue raised from this tax towards building affordable adequate housing, continuing to regulate and enforce regulations related to the short-term rental market and requiring developers to engage with existing communities and ensure that developments will not result in the loss of affordable housing or of affordable, inclusive communities.
- Establish a Housing Commissioner and office to properly receive and address systemic issues that lead to eviction.
- Expand availability of portable housing benefits.
- Increase enforcement of maintenance/disrepair issues to ensure the protection of existing adequate housing and prevent displacement of tenants due to disrepair.
- Actively track building permits and utilize administrative data to ensure tenants are not illegally renocticed, and that they are able to exercise their rights of return.
- Actively track and monitor changes of ownership in rental buildings.

APPENDIX

Current City of Toronto Eviction Prevention Programs and Services

Toronto has a range of programs and services available that focus on preventing evictions and stabilizing tenancies. Some of these programs and services are operated directly by the City of Toronto while others are operated by community-based agencies and organizations. Current programs and services include telephone based “tenant hotlines,” financial assistance and literacy programs, landlord mediation services, programs that aim to preserve existing tenancies for seniors and people facing complex health and mental health issues, and services that assist tenants with obtaining legal services. A detailed description of these programs and services follows.

The Toronto Rent Bank Program

The Toronto Rent Bank program provides limited, interest-free repayable loans to eligible low-income households that are at risk of imminent eviction due to rental arrears. To be eligible for this program, tenants must pay market-rent with a tenancy covered by the *Residential Tenancies Act*, fall within the low-income household financial eligibility guideline,⁴³ and not be currently in receipt of Ontario Works (OW) or Ontario Disability Support Program (ODSP). Tenants may be eligible to have their Toronto Rent Bank loan repayments deferred for twelve months. The program is administered by a community not-for-profit partner, Neighbourhood Information Post (NIP). The 2020 planned budget included \$1,438,939 in funding for Toronto Rent Bank loans.⁴⁴

Housing Stabilization Fund (HSF)

The Housing Stabilization Fund (HSF) provides emergency financial support for tenants receiving income support through OW or ODSP. The HSF is intended to prevent evictions into homelessness and help households stabilize, secure and maintain housing. Financial support is available for:

- rental and/or energy arrears;
- rental costs (e.g. first and last month’s rent deposits) and moving/setup costs;

⁴³ City of Toronto. *Toronto Rent Bank and Eviction Prevention in the Community Programs - Update*. Nov 23 2020 at page 4.

⁴⁴ *Ibid* at page 3.

- costs associated with rodent and pest (e.g. bed bugs) removal; and
- moving/setup costs within the City of Toronto limits.

Eviction Prevention in the Community (EPIC) Program

The Eviction Prevention in the Community (EPIC) program was launched in March 2017 by SSHA as a one-year pilot. As of 2020, the EPIC program continues to operate and has received a funding enhancement by the City through the 2020 budget process.

The EPIC program consists of two streams:

1. EPIC Eviction Prevention Stream, which assists individuals and households to keep their existing housing unit; and
2. EPIC Shelter Diversion Stream, which assists individuals and households to secure new housing when an eviction cannot be prevented.⁴⁵

Through these streams, the EPIC program provides the following services:

- Short term intensive case management;
- Mediation with landlords to stabilize housing;
- Accompaniment to the LTB;
- Assistance securing income supports, trusteeship, or money management programs;
- System navigation and referrals to other public and community services and supports;
- Rehousing assistance when an existing tenancy cannot be sustained; and,
- Access to available funds to sustain or secure housing if not eligible or covered through other programs or services.

Tenants within the City of Toronto who have been served with eviction notices by their landlords and wish to preserve their tenancy are eligible for EPIC's support. Further eligibility conditions include a limit on household income that does not exceed the *Household Income Limits* (HILs) set by the Canada Mortgage and Housing Corporation and that the tenancy is covered by the *Residential Tenancies Act*.

EPIC receives service requests through a group of pre-determined referral sources that direct eligible clients into the program. Current referral sources include the Advocacy Centre for Tenants Ontario's (ACTO) Tenant Duty Counsel program, the Federation of Metro Tenants' Associations (FMATA), the City's

⁴⁵ Ibid at page 8.

Central Intake Program and some select private market landlords in the community. If accepted into the EPIC program, the client is assigned to one of the EPIC teams based on the client's geographic location.⁴⁶

Enhancements to the EPIC program are currently being rolled out to support increased service levels. These enhancements include:

- Contracts for community service providers are being increased to hire an additional 3.7 full time employees for a total of 9 FTE.
- The EPIC Prevention Fund, which pays for arrears and damages, is being increased by \$150,000.

A comprehensive evaluation of the pilot program published in 2018 found that, of the 97 tenants who accessed and were discharged from the EPIC program during the pilot, 90% of tenants were stabilized in their current housing, 8% were rehoused, and 2% exited the program into homelessness.⁴⁷

Office of the Commissioner of Housing Equity (OCHE)

OCHE operates as an arms-length accountability office for TCHC. Their mandate is to prevent evictions for non-payment of rent among seniors and vulnerable⁴⁸ tenants who reside in Toronto Community Housing.⁴⁹ Tenants can be referred to OCHE by TCHC staff or other community agencies. OCHE provides assistance to tenants with securing community support services, negotiating repayment agreements with TCHC, assisting with rent geared to income (RGI) subsidy loss, developing monthly spending plans, and identifying/securing income support entitlements.

Housing Access and Support Centres

Housing Access and Support Services are provided by non-profit organizations and can be specialized services (i.e. serving a specific client group or offering a specific type of support) or multi-service

⁴⁶ Ecker, J., Holden, S., & Schwan, K. (2018). An Evaluation of the Eviction Prevention in the Community (EPIC) Program. At page 3. Toronto, ON: Canadian Observatory on Homelessness Press.
https://www.homelesshub.ca/sites/default/files/attachments/EPIC_Exec_Summary.pdf.

⁴⁷ Ibid.

⁴⁸ The definition of "Vulnerable", for the purpose of accessing OCHE's services has been adopted from the City of Toronto's Vulnerability Definition Policy and Vulnerability Operational Guideline. <https://www.torontohousing.ca/about/policies-programs/policies/vulnerability/Pages/Vulnerability-Definition-Policy-and-Vulnerability-Operational-Guideline.aspx>.

⁴⁹ https://www.oche.ca/sites/default/files/inline-files/OCHE_Terms_of_Reference_Jan-15-2018_version.pdf.

Housing Help Centres that offer a range of services and referrals to services in one location to assist tenants with finding/securing housing and eviction prevention.

Eviction prevention related services include:

- landlord mediation and supports;
- access to information on tenant rights and responsibilities;
- referrals to Toronto Rent Bank and other financial and legal assistance programs (i.e. financial trusteeship); and,
- access to intensive cleaning services.

Telephone and Email-Based Tenant Information Services

The City funds a “Tenant Hotline” operated by the Federation of Metro Tenants’ Associations. This service offers information on tenant rights and obligations, including leases, maintenance, repairs and evictions.

The City also funds a telephone and email service operated by the Centre for Equality Rights in Accommodation (CERA) that provides assistance and support to individuals who are facing eviction or a human rights violation in their housing that may prevent them from remaining housed.

Financial Trusteeship Programs

The City funds voluntary financial trusteeship programs that are administered by non-profit organizations. These programs offer assistance ensuring tenants pay their rent when it is due and provide assistance with financial literacy, individual client-centred money management, and liaising with landlords, employers, creditors and income security programs.

Tenant Web Portal

The City has recently created a Tenant Web Portal that contains information for tenants’ about their rights and responsibilities.⁵⁰

Tenant Defence Fund

The City provides a Tenant Defence Fund that includes a Tenant Support Grant program and funding to provide information to tenants about their rights under the *Residential Tenancies Act* and help tenants'

⁵⁰ <https://www.toronto.ca/community-people/housing-shelter/rental-housing-tenant-information/>.

groups to organize, form tenant associations and apply for the Tenant Support Grant. This grant mainly supports tenant groups to hire professional services to dispute a landlord's Above Guideline Rent Increase application at the LTB, and can be used to support disputes of certain rental housing demolition and conversion applications. Tenants can access these services through FMTA, ACTO and CERA. The City is currently considering an expansion of this program to increase the amount of available funding, expand eligible application types to include disputes of a landlord's application to evict tenants to repair a building and simplify administration.⁵¹

⁵¹ <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.RH4.1>.



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