

**The City of Toronto's Response to
The Ontario Government's Consultation Paper on Residential Tenancy Reform**
Prepared by the Tenant Defence Subcommittee May 31, 2004

As some 50% of Toronto's residents are tenants, it is essential that the new reforms improve the security and affordability of their homes.

The City of Toronto is pleased to provide our recommendations on residential tenancy reform.

- (1) **Rents Charged to New Tenants:** Permit a landlord to charge a new tenant up to the same amount paid by the previous tenant. Continue the existing rule of no rent increase until 12 months after a new tenant moves in. Create a provincial rent registry system listing the rent for every rental unit for new tenants to check the previous rent. No exemption for any class of rental accommodation from regulation of new rents. Discontinue rent control exemption for new units or those built or occupied since 1991.
- (2) **Rent Increase Guideline:** Remove the current 2% guideline and permit rent increases solely on the basis of increased operating costs.
- (3) **"Costs No Longer Borne" for Utility Costs:** Allow charges to tenants of Above Guideline Increases (AGIs) based on utility costs for one year only, until the landlord can prove that the utility costs have not decreased. Any allowance awarded should not double count the utility cost allowance already built into rent increases through the annual guideline.

"Costs No Longer Borne" for Capital Expenditures: Bring back the "cost-no-longer-borne" provision consistent with the Rent Control Act. Define necessary capital expenditures and only allow recovery for capital expenditures of significant scope and cost necessary for building preservation and compliance with safety and accessibility standards. Rent increases should not be permitted for capital expenditures that are necessary due to on-going neglect. Lengthen the amortization schedule for capital items to reduce the impact on AGIs. Landlords should provide evidence of a transparent bidding process for capital work to prevent unnecessarily high AGIs.

- (4) **Maintenance of Buildings and Rents:** Freeze all rent increases where the landlord has not complied with a work order, and expand what the Tribunal can order a landlord to do when there is inadequate maintenance, such as forbidding rent increases or forcing permanent rent reductions. The Tribunal should work with the City to set up an automated system for direct access to work orders and notices. Clarify and expand the municipal authority to charge the property owner for the costs of providing alternative accommodation to tenants in emergency repair situations. Explore the feasibility of requiring landlords to establish reserve funds to preserve existing rental housing in good condition while maintaining affordability for tenants.
- (5) **Regional Decontrol:** Maintain rent control in all regions under all vacancy rate conditions.
- (6) **Interest on Rent Deposits:** The interest rate on rent deposits should be equal to the annual rent increase charged to the tenant, so that the deposit is equal to the last month's rent. The landlord would have no need to pay interest on the deposit, and the tenant would have no need to top-up the deposit over the length of their tenancy. For social housing, the interest rate on last month's rent deposit should be equal to the annual rent guideline.
- (7) **Dispute Resolution – Default Process:** Change the default eviction process to make it fairer and easier for tenants to respond to eviction applications (extend the dispute period from 5 days to a minimum of 14 days; allow tenants to dispute by phone or e-mail; waive the default process for evictions due to the landlord's or purchaser's own use, and evictions due to demolition, conversion to non-residential use, or extensive renovations; and extend the notice period for eviction applications based on demolition, conversion to non-residential use, or extensive renovations to at least six months). Shift the focus from evictions as the only remedy to a principle of preserving tenancies (make mediation mandatory before a hearing; require both parties to develop a repayment schedule where arrears are low, or where the tenant may be eligible for rent bank assistance or other government assistance; and implement other reasonable approaches.) Make written communications fairer and more effective (rewrite all application forms, notices, and other information materials for public distribution in plain English; provide forms, notices, and communications materials into languages commonly spoken by immigrants in Toronto; and for eviction applications and notices, provide inserts in key languages indicating the important and urgent nature of these documents, and notifying tenants to seek advice as soon as possible).
- (8) **Dispute Resolution – Notification of Hearing:** The Tribunal should improve the notification process to ensure that tenants are aware that an application has been made that affects their tenancy or rent level, so that they can reasonably respond to that application by: mailing a brief notice to tenants advising them that an application has been filed by their landlord, and that the applicant will be serving them with the formal notice of hearing and application; including with the mailing, information materials about the eviction application process to help tenants understand Tribunal procedures and about support agencies in the community which may be able to provide assistance; and requiring landlords to give tenants notice of applications for above guideline rent increases at the time that the application is made, and ensuring that tenants have at least 90 days before the hearing date to prepare their case.

- (9) **Making Landlords and Tenants Aware of Their Rights and Responsibilities:** The Province should provide adequate resources for the Tribunal and the Ministry of Municipal Affairs and Housing to carry out public education and outreach to raise awareness of landlords and tenants about their rights and responsibilities and Tribunal procedures and processes; provide municipalities with funding to work with community agencies to develop resources, translate and distribute information, and outreach to tenants and landlords about their rights and responsibilities; increase funding to community agencies serving tenants such as the FMTA, housing help centres and drop-in centres, and landlord agencies such as the Landlord Self-Help Centre, to provide training for their staff regarding the new legislation. The Tribunal must allow more flexibility to tenants who do not speak English and provide translation services at the hearings.
- (10) **Demolition and Conversion of Rental Housing:** Immediately implement a temporary freeze on rental housing conversions in the City of Toronto to protect all rental properties, except those approved for conversion by Council under its Official Plan policies, until the Province decides on a permanent legislative solution.
- (11) **Ontario Rental Housing Tribunal Processes:** The Tribunal should make application fees more affordable for tenants who wish to apply for rent reductions; automatically add all units in the building to any application for rent reductions where more than one unit is affected by the problem, with no additional application fees; when making a decision on rent reduction, apply the reduction to the rent for every tenant in a building if the problem or issue affects them; provide a copy of the landlord's AGI application file to tenants free of charge; and reduce the fee charged for eviction applications and for internal reviews to a nominal amount, or not require tenants to pay the landlord's application fee.

The Province should provide funding to the Tribunal to develop and implement a website database of all Tribunal decisions for public access; provide the City and its agencies with accurate and timely data on eviction applications and outcomes through an effective tracking system, to help the City develop prevention strategies; schedule mediation in advance of the hearing date, provide adequate resources to the Tribunal for expanding the role of mediators, implement an independent review of the quality and effectiveness of the Tribunal mediation process and proposed improvements to ensure that the process is fair to tenants; establish a new Tribunal and choose members on the basis of relevant skills and experience through a competitive process; provide appropriate guidelines for the Tribunal to address human-rights related eviction applications; increase resources and powers of the Ministry of Municipal Affairs and Housing Investigation Unit to investigate and charge landlords or tenants who commit an offence; raise the maximum penalty for landlords charging illegal rents or deposits; and remove the cap on rent rebates for tenants to recover illegal rents or deposits.

- (12) **Long-Term Sustainability of Rent Banks:** The Province should provide ongoing funding for municipal rent banks to ensure long term support for tenants who experience occasional difficulties in paying their rent.
- (13) **Energy Savings Through Sub-Metering:** Any electricity conservation program should ensure tenant protection measures to address installation and administration costs for individual metering systems, and ensure fair rent adjustments when the utility cost is no longer included in the rent. Such programs should be implemented only after completion of a comprehensive study of costs and benefits, and consultation with tenants, building owners, municipalities and utility companies.
- (14) **Automatic Rent Reduction Due to Property Tax Decrease:** The Provincial government should research to determine the appropriate percentage to use to estimate rent reductions due to tax decreases for residential properties with fewer than seven units, or allow the City of Toronto to use 10% as the tax portion of the rental revenue, rather than 20%, in order to estimate the amount of rent reduction; allow all tenants in a rental building to co-apply for a rent reduction when property taxes have decreased; waive tenants' application fee for rent reduction due to tax decrease; require the Municipal Property Assessment Corporation to provide an accurate tax assessment database to help municipalities notify tenants about automatic rent reduction due to tax decreases; and pay the City of Toronto's costs for administering the rent reduction notification program.
- (15) **Social Housing:** All exemptions for social housing in the current legislation should continue. Extend all the current exemptions for social housing to all new social housing programs developed by municipalities. The new legislation should provide more flexibility and authority for supportive housing providers to deal with situations where a resident no longer needs the support services provided, including termination of the tenancy, transferring the resident to a new location with RGI housing if he or she needs a housing subsidy, and allowing the resident to stay in the supportive housing until the RGI housing is available.