

10 September 2013

VIA ELECTRONIC MAIL (trevor_day@ontla.ola.org)

Standing Committee on the Legislative Assembly
c/o Trevor Day, Clerk
99 Wellesley Street West, Room 1405
Whitney Block, Queen's Park
Toronto, ON M7A 1A2

Dear Mr. Day, Clerk, Standing Committee on the Legislative Assembly,

Re: Bill 14, *An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006*

Please accept this submission on behalf of the HIV & AIDS Legal Clinic Ontario (HALCO). HALCO takes the position that Bill 14, *An Act to amend the Co-operative Corporations Act and the Residential Tenancies Act, 2006*, can be amended to better protect tenants and co-operative housing members and improve fairness in Ontario's residential tenancies laws.

About HALCO

HALCO, founded in 1995, is a community legal clinic serving the legal needs of low-income people in Ontario who are living with HIV/AIDS. It is the only such organization in Canada. The clinic is governed by a board of directors, the majority of whom must be persons living with HIV. In addition to providing direct legal services, HALCO engages in public legal education, community development and law reform activities. In 2012-13, the clinic responded to over 4000 inquiries and conducted over 100 in-person workshops.

Housing and Health

Stable housing is essential for individuals with HIV/AIDS to achieve high quality medical outcomes and to prevent HIV transmission. Research has confirmed what those of us who work in the field have known for decades: there are strong correlations between improved housing status and reduced HIV risk and better health outcomes.¹

¹ For further information regarding the importance of housing for people with HIV, see <http://www.healthyhousing.ca>, a web initiative launched by the National HIV and Housing Collaborative (NHHC). The NHHC is an association of people living with HIV, housing and support organizations, researchers, service providers, policy makers and other stakeholders.

Lack of housing is a barrier to care, while improved housing stability increases access to treatment and adherence to life-sustaining anti-retroviral treatments.

Submission

Bill 14 deals with the process for resolving tenure and payment disputes involving members of non-profit housing co-operatives. The proposed legislation was generally supported by co-operative members and some tenant advocates. However, the Bill will expand a restriction on the powers of the Landlord and Tenant Board (LTB) that has been incredibly harmful to tenants.

Currently, section 203 of the *Residential Tenancies Act, 2006* prohibits the LTB from considering rent determinations that have been made by social housing providers pursuant to the *Housing Services Act, 2011*. Bill 14 includes a proposed expansion (section 203.1) of this prohibition to members of non-profit housing co-operatives. In all other cases where there is a claim for non-payment of rent the LTB must begin by determining the legal rent. In effect, if a social housing provider makes an application to the LTB based on non-payment of rent, the LTB member must accept, without question, the rental amount indicated by the housing provider. This is the case even in the face of evidence that the rental amount is clearly incorrect.

This prohibition can result in evictions of vulnerable tenants who are not in breach of any law, policy or regulation or who are not in arrears. Al Gosling was a frail senior on a fixed income who lived in Toronto Community Housing (TCHC). TCHC raised his rent improperly and he was subsequently evicted in 2009. Homeless, he died shortly thereafter. Justice Patrick LeSage led an inquiry that resulted in 81 recommendations to TCHC. Justice LeSage, at pages 76-77 of his *Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing (May 2010)*, identified s.203 of the *Residential Tenancies Act, 2006* as a significant issue in Mr. Gosling's case:

“This legislative restriction on the Landlord and Tenant Board’s authority over rent-geared-to-income decisions removes a safeguard for vulnerable tenants facing the final stage of the legal process.
[...]

It is possible that a vulnerable tenant could find themselves facing eviction proceedings at the Landlord and Tenant Board for non-payment of arrears that were never rightfully owed, due to a rent miscalculation and an unsuccessful internal review. In such a case, the Board’s hands would be legislatively tied since it cannot review the correctness of rent calculations. In this way the vulnerable tenant faces the additional indignity of appearing before an adjudicative body with the power to evict, but with no power to examine what may be the root cause of the tenant’s problem.”²

² The Honourable 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” (May 2010), pages 76-77, **online: Toronto**

Social housing residents are among the poorest of the poor and an eviction order based on non-payment will also mean loss of the rent subsidy and barriers to eligibility for future subsidies. The consequences for these families are so enormous that they should not be left with less procedural and substantive protection than other tenants.

Conclusion

We urge you to support the rights of tenants and stand for fairness in our legal system by amending Bill 14. Section 203 of the *Residential Tenancies Act, 2006* must be amended to give the LTB explicit power to review decisions about rent subsidies that affect individual social housing tenants and members of housing co-operatives. We cannot afford to see another case that ends in tragedy.

Thank you for your consideration of our concerns.

Sincerely,
HIV & AIDS Legal Clinic Ontario
per:



Ryan Peck
Barrister & Solicitor
Executive Director

The Honourable Linda Jeffrey, Minister of Municipal Affairs and Housing
Cindy Forster, MPP, Deputy House Leader, Municipal Affairs and Housing Critic
Steve Clark, MPP, Deputy House Leader, Municipal Affairs and Housing Critic