

# Abuses Against Ontario Landlords by Government, Ontario Housing Crisis Origins, and Solution Recommendations for Consideration

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*"Every society gets the kind of criminal it deserves. What is equally true is that every community gets the kind of law enforcement it insists on" - Robert Kennedy*

I believe this is also true for a society's politicians and non-police enforcement agencies (eg. by-law, planning, etc.)

## **REASON FOR THE LANDLORD MEETINGS**

Many smaller landlords enter the landlording business as a means to secure self-sustaining income so that they are not a burden on the state or on loved ones, to improve their lifestyle, and to have some control over their destiny. They may have worked for decades to achieve self-sufficiency. Current legislation is having a monumental negative effect on these long term plans and goals. One of the key purposes of the Residential Tenancies Act (RTA) is to balance the rights and responsibilities of residential landlords and tenants. The current result of this purpose could not be further from the truth.

Landlords are awakening to the harsh realities of the dystopian legal and financial environment of Ontario landlording created in large part by short-sighted legislation that either seeks to provide additional unwarranted revenue to various levels of government or panders to the large tenant voter base, all at the expense of private sector landlords.

Private sector landlords are investor-business people willing to assume extraordinary financial and legal risks, who aspire to be socially-responsible residential rental property operators that want to provide safe, reliable, comfortable and healthy housing and associated amenities in exchange for a recurring service fee that generates an appropriate profit. Landlords are not social workers, financiers or otherwise an extension of government social housing programs, policies and other political agendas. (See "Private Sector Residential Landlord Manifesto" further below).

Of course there are exceptions but these slumlord operators are not the norm just as professional tenants, created wholly by government policies, are not the norm. However, tenant law assumes a median demographic; landlord law assumes the lowest common denominator.

## PRIVATE SECTOR RENTAL HOUSING INDUSTRY SNAPSHOT

### Ontario Private Sector Rental Housing

\$23.4 billion in Ontario GDP annually

Over 162,000 Ontario jobs

\$8.3 billion in tax revenue to governments

\$7.4 billion in capital expenditures

#### **Provides:**

##### **Homes for more than 9 million Canadians**

Relatively-affordable housing to a subset of more than 3 million

Canada's total social housing sector accommodates about 1.5 million Canadians

37% of Canadian households are rentals

39% of Canadian population are renters

30% of Ontario households rent

### Historical Toronto Apartment Completions

From 1964 to 1974 (10 formative years) - 149,300 completions

From 1988 to 2012 (25 rent control years) - 46,396 (mostly condos)

#### **Why?**

3.8 million people came to Ontario over same 25 years

### **Pandemic shortage of housing of every kind**

Skyrocketing sales prices

Wildly increasing rent rates

Some geographies are experiencing the lowest vacancy rates in living memory

171,360 **families** (households) waiting for affordable housing (2015)

6,600 households added in 2014 alone

Average wait time is 6 to 8 years

Syrian refugees in 2016 alone added roughly 40,000 more immigrants to housing requirement

- Public social housing repairs and maintenance backlog is far worse than the private sector
  - 270,000 social housing units in Ontario with a capital shortfall of \$1.2 billion
  - Toronto Community Housing Corp is facing \$2.6 billion in repairs for its aging stock
    - TCHC will close 400 homes in 2017
    - Total of 1,000 closings by 2018
- **The affordable housing crisis will never be resolved until the housing crisis is resolved**
  - People who want to purchase homes can't do so because of high prices due to no inventory. Therefore, they rent longer.
    - Pushes affordable housing tenants applicants down the applications list
  - No rental inventory means 30 to 40 inquiries per rental unit
  - Private sector landlords will rent first to tenants who are saving for a home because:
    - Greater financial stability
    - Willing to pay prevailing market rates
    - Greater legal recourse for landlords to collect rent arrears
    - Likely to move out sooner than affordable housing tenants
      - Allows landlords to adjust rent to prevailing market rates
  - Government does not have the money to build affordable housing

- Government has a proven track record of not being able to manage financial viability of properties due to capital costs and ongoing repairs and maintenance
- Investment risk and stability - CMHC states that the following are 'riskier' (more volatile) investments than multi-unit rentals:
  - Stocks - 4 times
  - Gold - 3 times
  - Single-family & Condos - 2 times
  - Bonds - two times
  - Residential REIT - same as multi-unit

### **CAUSES OF SKYROCKETING HOUSING PRICES & SHORTAGE**

- Investor speculation is a symptom, not the cause, of housing shortage:
  - Same as investing in stocks
  - Same as recent unwarranted investor panic to divest from Home Trust (possibly the first financial institution to fail in Canada since 1929 (because of alarmist government action))
- **Demand far outstrips supply**
  - It's simple: law of supply and demand
  - **There's no supply** - mostly because of many poor government policies and legislation that have created unnecessary legal and financial risks (in addition to those intrinsic to the business), extraordinarily high administrative maintenance, unreasonably high operational costs (no profit) and disproportionate 'customer service' headaches.
- Rental housing pricing is based on property income, not speculation (unlike owner-occupied homes)
  - Some smaller rental housing properties (eg 3 to 12 units) are valued lower than single family homes literally next door.

### **DISINCENTIVES TO RENTAL PROPERTY CONSTRUCTION IN ONTARIO**

- Residential Tenancies Act (RTA) - see myriad abuses further below
  - Home owners considering building a second suite to offset mortgage costs are dissuaded by the complexities of 'landlording' and the significant legal and financial risks
  - Developers/builders must become knowledgeable about all things 'landlord'. Landlording in Ontario is a completely different skill set, knowledge base, and investor risk from real estate development (read book - *Landlording in Ontario*)
- Very little vacant land available with existing municipal services (water, sewer, electricity, etc.)
  - No business case for developers to pay to put in municipal infrastructure
  - Municipal development charges and fees are prohibitive for building rental properties
  - Most municipal planning and by-law depts are out of touch with (or don't care about) the realities of the housing shortage
    - Eg. parking space ratios and green space requirements don't reflect municipal infrastructure intensification goals
    - Uncooperative with landlords who try to accommodate more tenants in the same property boundary with creative options
- Construction financing very risky and therefore very expensive
  - Developers need 50 to 80% sold (eg condos) before they can begin construction

- Need the buyer's down payments to bridge the financing gap
  - Purpose-built rental units have no 'buyers' so they require builder to finance 100% of the construction out of their own pocket up front versus other types of real estate constructions
  - Main stream lenders won't finance affordable housing construction (I know this first hand) - too risky versus other types of real estate
  - Builders must populate rental property before they can sell it or re-finance it at a 'reasonable' (versus construction) financing rate
- Rent control means decades to recover initial investment and generate a return versus other types of construction
- New rent control on condos - **I predict that, within three years, the Ontario condo construction market will collapse, further contributing to the pandemic shortage of rental housing**
  - Condos took up the slack in rental housing when purpose-built building construction collapsed in the early 1980s
  - 30 to 50% of every condo built comprises units purchased by rental investors
  - Condo fees rise perhaps 3 to 5% annually. Buildings age and become more expensive to maintain. Condo fees never routinely drop. Maximum annual rent increase is capped by the RTA at 2.5%. Investors will quickly lose money each year.
  - Most condo investors will eventually exit the Ontario condo market.
    - Good perhaps in the short term for home owners, if they're willing to adopt a 'shared community' condo lifestyle
    - Bad for developers who rely on single unit investor purchasers to finance condo project construction.
    - **Ultimately, a massive decrease in rental housing stock**
  - Condo projects will take much longer to be sold
    - Return on and of investment may not be viable if cost recovery is capped
    - Many developers will exit the Ontario condo construction market
  - **Then, Ontarians will have NO rental housing options**
- Provincial and federal energy policies ...
  - Created massive spike in electrical energy costs through solar generation initiatives
    - Quebec - \$67.89/kWhr
    - Ontario - \$217.33/kWhr
  - Government then punishes landlords for government failure by preventing landlords from passing on utility costs to the actual consumers of that energy. **It's not the landlord's fault or responsibility.**
    - Government is demanding that landlords subsidize tenant energy consumption costs
- Smaller landlords are most impacted
  - Government 'second suite' initiative will collapse
- Eviction for non-payment of rent costs an average \$5,200 of uncollectable income. Eviction process timelines in work days:
  - Alberta - 17 days
  - Saskatchewan - 25 days
  - New Brunswick - 25 days
  - Ontario & Quebec - 75 days (about 4 months) plus RTA Section 82 adjournment delay tactic which adds minimum 30 days

- All claimed depreciation (CCA) must be paid back on selling (RCCA) a property. Huge disincentive to owners who have held the property for decades and want to sell to new owners, who statistically spend the most of repairs and upgrades
- Ontario Finance Minister (2017 03 20) called for capital gains tax increase on rental housing investment purchases in order to cool speculation.
  - Rental properties are not speculative investment purchases (owner-occupied homes might be)
  - Rental property purchase price is primarily driven by the income the property generates, regardless of its size
- Government significantly impacted available vacant land development supply with massive green belt limitations in order to drive infrastructure intensification (Places to Grow Act, Oak Ridges Moraine, etc.)
- Rental tenants taxed up to 2.5 times higher than owners of single family homes and condos. Top 20 of 444 Ontario municipalities listed below. All of Durham Region is in the top 20. Highlighted cities charge the highest value rates. **Rental housing tenants, especially the low-income ones, who pay the price**

Location	Residential	Multi-Res.	Diff.	Spread
Hamilton (Urban)	1.383361	3.451109	2.07	149.5%
Orangeville	1.410898	3.453851	2.04	144.8%
Toronto	0.7056037	1.7265482	1.02	144.7%
Halton Hills (Urban)	0.896794	1.782388	0.89	98.8%
Burlington (Urban)	0.910620	1.803566	0.89	98.1%
Burlington (Rural)	0.865139	1.710788	0.85	97.7%
Oakville	0.849481	1.675371	0.83	97.2%
Milton (Urban)	0.757464	1.467236	0.71	93.7%
Milton (Rural)	0.727371	1.399170	0.67	92.4%
Oshawa	1.572389	2.765896	1.19	75.9%
Brock	1.410671	2.464050	1.05	74.7%
Clarington	1.341171	2.334329	0.99	74.1%
Whitby	1.303649	2.264293	0.96	73.7%
Ajax	1.285391	2.230215	0.94	73.5%
Pickering	1.280144	2.220423	0.94	73.5%
Scugog	1.236323	2.138631	0.90	73.0%
Uxbridge	1.178204	2.030151	0.85	72.3%
Mississauga	0.888635	1.428825	0.54	60.8%
Brampton	1.115127	1.763816	0.65	58.2%

- One city's zoning dept. issues orders to rip out 4-5 units annually that are illegal but were used to accommodate rental tenants
  - Could any of these have been saved with, creative and less 'letter-of-the-law' solutions?
- One city's zoning dept. disallowed a landlord from building a basement accessory apartment because the lot was one foot (12") short of the by-law requirement but otherwise met all other requirements
  - Inconsistent with spirit of intent of provincial legislation to mandate all municipalities to accommodate accessory apartment development and encourage their use
  - Add brutal Residential Tenancies Act and **I predict the provincial strategy to relieve some of the housing shortage with accessory apartments is going to fail**

- One city's by-law and planning depts. both disallowed a landlord from using a parking spot to accommodate a large garbage bin to solve a growing garbage management issue because the parking space allocation requires 1.5 spaces per unit and the garbage bin would put the property in non-compliance.
  - Landlord offered (est. \$40,000 to \$50,000) to pave some of the ample grass lands on the property to create missing and needed handicap parking, visitor parking, and additional parking that would allow the landlord to attract families with two working parents (and two vehicles).
    - Same landlord approached by landlord neighbours to provide rental parking for so they could accommodate more tenants.
    - By-law and planning said no.
      - Property must maintain a certain percentage of green space
      - Must have certain amount of 'recreation' space (despite a huge park literally next door)
      - City does not allow landlords to rent parking spaces to anyone outside of the property
      - Parking ratios must be adhered to
      - If all of the above was accommodated, landlord still had to apply to the City for a minor variance at a cost of about \$1,700 with no reasonable assurances that the application would be approved
  - Landlord believes they're contributing to reducing the City's housing shortage (albeit for profit interests) but the City behaves as if it's doing the landlord a favour.

### **Purposes of Act (RTA)**

*"The purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, **to balance the rights and responsibilities of residential landlords and tenants**, and to provide for the adjudication of disputes and for other processes to informally resolve disputes. 2006, c. 17, s. 1."*

## **ABUSES AGAINST LANDLORDS**

**RTA Offenses** - The RTA lists 46 offenses:

- 34 specifically and solely benefit tenants
- 10 are reciprocal between landlords and tenants (eg. neither party can indiscriminately change door locks)
- 1 specifically and solely benefits the landlord (Tenant can't interfere in lawful entry into unit)
- 1 prevents landlords from asking vote-canvassing politicians to leave a the property

### **Real Role of the LTB**

- 91% of LTB applications are from landlords
- 75% are against tenants not paying their rent.
- The LTB collected about \$12 million from (landlord) application filing fees

- 2/3 of LTB's expenditures (\$19 million of \$28 million, or 67.8%) are for staff salaries, primarily 47 adjudicators, and their benefits
- Therefore The LTB spends more than two-thirds of its budget on a staff payroll that spends more than two-thirds of its time mediating disputes over non-payment of rent.
  - The LTB offers free, taxpayer-funded duty counsel service to tenants at hearings to help them win their cases against landlords. However, taxpaying landlords, who should be treated equally under the law, are offered no such similar assistance.

### Abuse Caused by RTA and LTB

- On day of physical eviction by a sheriff, a tenant can pay their full rent arrears when the sheriff arrives and the 5-month eviction process starts all over again
  - Same as saying a store's customer caught shoplifting is permitted to continue shopping in the same store without any consequence to their attempt to steal by simply paying for what they tried to steal. Imagine the impact on our social fabric if that was an accepted business practice in any other form of commerce. **"I'll only pay for it if I get caught trying to steal it."**
- Unlike superior courts, there's no practical means to enforce collection of and LTB or SCC award once won
  - BUT municipal parking authorities have the means to collect unpaid parking and other tickets
  - Small Claims Court process is arduous and intended to discourage further collection
  - Can't serve the tenant if you can't find them
- Section 82 of RTA badly abused by tenants and their (often free, funded by government) legal counsel. Allows tenants to introduce issues that were not previously mentioned in order to deflect and postpone the landlord's non-rent payment complaint
- No legislation or other means exist to discourage a tenant from purposely damaging a rental property when they move out.
  - Tenants can damage a property with impunity with virtually no practical legal consequence
  - Disgruntled tenants leave all utilities they don't pay for running at maximum output
  - Tenants routinely leave large furniture and many bags and boxes of garbage for the landlord to dispose of
- Cost of electrical heat cannot be passed on to the tenant.
  - Eg. Kitchener - natural gas heat \$8 per mmbtu versus electricity at \$37.50 per mmbtu (Oct 2013).
  - Electrically generated heat costs more than **four times gas** equivalent
  - Tenants leave windows open in the winter time with thermostat set to max
- Smokers routinely break the law.
  - Tenants signs no-smoking clause as part of rental agreement, then smokes in unit
  - LTB won't evict for breach of the agreement
    - Landlord currently must prove tenant damaged the unit so landlord must wait until the unit is damaged before they can evict the tenant
  - SCC won't hear the case because it's an LTB issue
  - The whole health industry, including all public health agencies, wanted this clause in the new rent legislation but the government still declined - **Why?**
  - Damage from smoking can cause a rental property, especially a single family home or duplex, to lose as much as 30% of its property value

- In a multiunit property, average cost to remediate a smoked-in unit is \$1,000. Badly abused units can cost \$10,000 or more to replace drywall, ceilings, kitchen cabinets, flooring etc.
- Smokers increase property insurance and fire risk
- Statistics:
  - 14.6% of Canadians
    - 10.9% smoke daily
    - 3.8% smoke occasionally
  - 64% of Ontario renters prefer a smoke-free building
  - Remainder are indifferent
- LTB spends enormous resources and effort on educating tenants on their rights, including explanation of tenant rights on official forms, but doesn't provide same rights notices to landlords.
- LTB hearing venues offer free consultation to tenants but nothing for landlords
- Pets cause significant property damage but LTB rarely prosecutes tenants for agreement breaches
- RTA severely limits recoverable expenses:
  - Forces landlords to repair only what is absolutely necessary
  - Upgrades and energy conservation plans will be delayed as long as possible
    - Eg. property generates \$100,000 in annual income. This means roughly \$3,000 per year of cap-ex costs can be recovered, or \$9,000 over three years. This is the 'budget' the government (not landlord) has set for all capital expenditures. Routine repairs can't be passed on to tenants. A landlord will delay, for example, replacing an energy-inefficient boiler if any other capital expense is anticipated
- RTA and rent control have created unintended prejudicial practices among all landlords out of a landlord's fear of legal and financial consequences. Renting to the following demographic groups can be risky for a landlord:
  - Seniors
    - Seniors are generally the best tenants a landlord could want. However, they move in probably for the remainder of their 'active lifestyle' life. That means an apartment rented today at \$1,000/month might be \$1,200/month in ten years while the market rate may be \$1,500/month. \$300/month 'lost' income equals a loss of about \$72,000 in property value (in today's market), of which an investor could borrow 75% of that value to invest in another rental property. AND that's for only one senior.
  - Physically-, and especially mentally-challenged tenants
    - **Mentally challenged-focused agencies are exempt from RTA** but private sector landlords are subject to hugely-ambiguous and financially-devastating HRC law that requires landlords to accommodate challenged tenants to the landlord's 'point of undue hardship' ... solely at the landlord's cost
    - Landlords have no schooling and there are no training courses to handle the irrationality of a mentally-challenged tenant, especially when trying to maintain all other tenants' right to quiet enjoyment
    - A landlord sees a cane and thinks, next they'll have to install a chairlift for every landing and staircase





- ‘Abusive Relationship’ section of RTA puts landlords at great potential physical risk and adds additional significant costs to landlord
  - Tenant can make announcement anytime and change their minds the day before the planned move-out
  - Landlord can’t market the property
  - If a violent spouse learns that a landlord knew about the other spouse’s intended secret departure, the violent spouse could direct their anger at the landlord (who was following the law) who might be elderly, a woman, etc.
- Landlord apparent abuse of ‘eviction for personal use’ exists solely because government closed all other options for dealing with overarching issue of non-payment of rent
  - New law won’t change anything. Bad landlords will continue to abuse the clause by happily paying extra month's rent. How many tenants will actually go through arduous LTB application and process?
- Section 48 of new amendment requires landlord to compensate a tenant in an amount equal to one month’s rent or to offer the tenant another unit acceptable to the tenant when landlord wants to evict for personal use. Why the payment? Tenants already receive ample advance notice.
- RTA requires the rent of a tenant switching from a single energy bulk meter to an individual meter to be reduced by the amount of energy consumed over the previous twelve months. Therefore, the most energy-abusive tenants receive the greatest rent decreases while energy-conscious tenants are penalized.
- Landlord goes through an extensive LTB process to reduce property taxes. LTB then sends letters out to every tenant telling them how much their rent should be reduced by. Landlord derives no benefit from keeping municipalities ‘honest’
- RTA and municipal by-laws require landlords to remediate mould caused by a tenant’s actions, even though it’s not caused by building’s envelope.
- Landlords can't apply to the LTB for rent or damage recovery after a tenancy has ended.
- LTB allows only a paper communication for delivery of notices but anyone can deposit a cheque in a bank using their phone. Electronic signature technology could be a powerful equalizer.
- RTA allows only paper cheques to be the primary form of payment. Most financial fraud (87%) occurs with cheques. NSF's are a major administrative issue. In the 21st c. What happened to saving trees and conservation? 21st c. technology offers many alternative options.

#### **ADVERSARIAL LTB**

- The plentitude of unjust LTB decisions have led to many unflattering derivative LTB names:
  - *Let Tenants Be*
  - *Landlords To Blame (or Bleed)*
  - *Loves Tenants Best*
  - *Legalized (or Licensed) Theft Board*
  - *Licensed To Butcher*
  - Anagrams of LandlordTenantBoard:
    - *Blatant Lard Droned On*
    - *Abandon Rent, Add Troll*

#### **Other Sources of Landlord Abuse**

- Federal budget assisted social housing operators with a \$209.4 million **bailout** to address increasing demand for repairs as social housing units age, and to improve efficiency and reduce energy and water use, but nothing was provided for the private sector that faced the exact same issues.
  - Hypocritical government policy requires private landlords to maintain properties without any assistance under the same challenging property standards and related legislation
- A tenant's unpaid utility bill can be added to the property owner's property tax bill (abuse of loophole in the Municipal Act)
  - City refuses to put the utility bill in the tenant's name – setting up the landlord for potential legal exposure.
  - The landlord has no choice – because of the City – but to keep the utility bill in the landlord's name
  - Tenant doesn't pay the bill for many months so the utility company sends the whopping bill to the landlord
  - Landlord, who didn't know about the growing liability created by the tenant (which impropriety is fully supported by the City), and which situation the landlord wasn't given an immediate opportunity by the City to rectify, is justifiably outraged at the glaring injustice.
  - Informed tenants can act maliciously to create a substantial bill with virtually no practical recourse for landlord
  - Municipality punishes the landlord rather than the abusive tenant
  - **Same as saying police are held accountable for all the crimes committed by criminals that they didn't catch**
- If the police or fire department kicks in a door or otherwise damages a landlord's property in the commission of their job, the landlord pays for the repairs
- If a tenant doesn't sort their garbage:
  - Places janitor and garbage collectors at serious health risk from infections etc. from cuts on sharps (glass, tins, etc) mixed in with decaying biologics
  - Municipality/Region simply doesn't collect it and requires landlord to put their employees at risk
  - Neighbours complain to by-law enforcement
    - By-law issues work orders against landlord (not tenant)
    - Issues fines. Sometimes they'll fine the landlord for leaving the garbage
- Municipal bedbug by-law holds landlord responsible for cost of cleanup even if the source of the infestation can be proven to be tenant-related eg. tenant brings in infested furniture etc. off the street
- See RTA section above regarding HRC and physically- and mentally-challenged tenants
- This writer can identify many properties in Durham that would make the reader of this document physically ill. By-law depts only have 'success' with 'good' landlords. Bad landlords pay the fines and keep doing what they're doing, or resolve the issue to a minimum standard rather than the proper standard
- Housing shortages lead some tenants in private and public sector housing to illegally rent out a rental unit or portion at a higher rent
- Great concern over government's requirement for a standard lease

- This is okay if landlords can add clauses to cover likely shortcomings, oversights and particular circumstances - where there's ambiguity, standard body of lease takes precedence over any clauses added by landlord
- Untenable and definitely unacceptable if nothing can be added.
- A strong and robust rental agreement is a major deterrent against professional tenants and bad tenant behaviour

### IS RENT CONTROL EFFECTIVE?

- The principle metric of effective rent control is rental stock availability
- Purpose-Built Rental Stock Age (units, not buildings) and Unit Construction
  - About 39,000 rental units were built in 1972 alone
  - About 21,095 **net** rental units (not including condos) added since 1990 (25 years!!)
    - Equals about 844 rental units added per year for the last 25 years
    - 3.8 million people came to Ontario over same 25 years
  - **82% of Ontario's rental housing stock was built before 1980**
  - Average building age is over 50 years
    - 134,798 - built before 1960
    - 431,222 - built 1960 to 1979
    - 71,506 - built 1980 to 1999 (rent controls introduced in 1975)
    - 30,402 - built 2000 and later (tightened rent controls and RTA)
  - 96,000 new denizens moved into Ontario in 2015
    - 3,500 rental apartment units were added to Ontario's rental stock in 2015
- 42 years of Rent Control - first rent control amount in 1975 was 8% down to 0.7% in 2011
- Many municipalities are exiting social housing
  - Toronto Community Housing Corp is facing \$2.6 billion in repairs for its aging stock
    - TCHC will close 400 homes in 2017
    - Total of 1,000 closings by 2018
  - **Oshawa can't find any public sector agency to take three properties it owns** but refuses to sell it at fair market value to a private operator
- American Economic Review poll of 464 economists found that 93% of U.S. respondents agreed that, "A ceiling on rents reduces the quantity and quality of housing available." Another study reported that over 95% of Canadian economists polled also agreed.
- Nobel laureate Gunnar Myrdal, a 'leftist' architect of the Swedish Labor Party's welfare state said, "Rent control ... may be the worst example of poor planning by governments lacking courage and vision." His fellow 'rightist' Swedish economist Assar Lindbeck asserted, "... rent control appears to be the most efficient technique presently known to destroy a city—except for bombing."

### UNINTENDED CONSEQUENCES OF POOR LEGISLATION

- Legislatively-forced
  - Strict tenant qualification process:
  - Low vacancy allows income earners to rise inherently to the top of the selection list
- Current apartment building property owners:
  - Won't sell since there's nothing else to invest in
  - Will bleed the properties and adopt lowest-maintenance standard

- Housing shortage continue to rise
- Rising utility costs making in-building laundry facilities financially not viable
  - Many landlords considering removing machines
  - Laundry room could be better used in some other capacity

## **RECOMMENDATIONS - “Steps to Justice and Equality”**

Working under the underlying premise of the purpose of the RTA (to balance landlord and tenant needs), below are some of my initial thoughts and recommendations:

The following modification to Fire Code is a perfect example of a balanced legislative change:

- Fire Code used to hold landlords accountable if a tenant disabled a smoke alarm, even if the landlord didn't know about it (especially smokers). Landlord could be fined
- Code modified to state:
  - No one can disable a smoke alarm
  - Tenants must immediately report to the landlord if the smoke alarm no longer functions

## **PIVOTAL BIG CHANGES (Hard)**

- **Housing Shortage** - If housing is in ample supply, landlords must compete by providing better amenities, newer facilities, attractive curb appeal, etc. ... **and lower rent**. Developers will have to compete with each other, and with alternate forms of housing, especially if prospective buyers decide (or are forced) to stay in rental housing longer.
- **How to encourage purpose-built rental housing construction?**
  - Research what worked in the early 1970s that drove exponential rental unit construction
  - Tax moratoria - no property taxes for first 2(?) years
  - Reduce capital gains payment on sale of multiresidential properties
  - Defer capital gains if proceeds of multiunit sale is reinvested in another multiunit purchase or construction
  - Reduce RCCA claw back - could dramatically encourage long term owner to sell to new investors who are willing to
  - Allow write-off of capital expenditures over 1 to 3 years, instead of 15 to 40
  - Significantly simplify cap/ex increases above the guideline applications with LTB. If there's ample housing, landlords won't be able to justify making these applications anyway
  - **Portable housing won't work unless affordable alternative housing options exist**
    - 'Portable' because rent supplement is attached to the individual not the rental unit.
  - If spread between cap rate and T bills is too narrow, why bother building or investing in rental housing with all its issues and problems. Investors will put their money into T bills and take a long term retirement vacation
  - Reduce development charges or create deferred payment plan as a percentage of rental income the property produces (better still, use net operating income, which data MPAC now collects)
  - Review government commitment to assigning higher priority to taking care of its own Canadian citizens first and then allowing in immigrants and foreign investors.
    - This was the principal reason UK citizens revolted en masse against its government in the BREXIT referendum, despite other significant consequences like security

- Involve all levels of government and their respective agencies to focus on becoming part of the housing crisis solution rather than being part of the problem
  - Compel planning depts. and empower planners to fast track at minimal (or no) expense minor variances (without a hearing) that in any way improves housing intensification
  - Examples:
    - Allow release of green space for more parking to accommodate
      - two working parents (and therefore two cars)
      - handicap parking for seniors
      - private visitor parking to take vehicles off the streets
    - Allow paving for alternate garbage options like large pick up bins
    - Allow
  - Empower by-law officers with some discretionary decision authority (or via an internal centralized 'exceptions dept) to accommodate situations that don't fit neatly within the by-law framework so officers can find amicable solutions between tenants and landlords
  
- **Rent Control**
  - Recognize, acknowledge and understand the 'butterfly effect' of rent control on everything else but especially its driving influence on the housing shortage
  - Work in good faith with private sector landlords and economists to create a working committee that finds a balance between the needs of the landlord and the needs of society in general, and tenants in particular. Current legislation is akin to trying to 'put the genie back in the bottle' or 'plugging a burst dam'.
  - Rent control is an artificial (not driven by market dynamics) ceiling placed on rents that creates market distortions that discourage the construction of housing by limiting (or removing) the profits owners can earn from them, which inevitably leads to the housing shortage government sought to prevent.
  - Quebec allows a landlord to raise the rent according to actual costs in a landlord's building. There's even a net profit adjustment.
  
- **Equal Justice**
  - Overwhelming singular concern of landlords (represented by 2/3 of all LTB applications) is the collection of rent that has been duly earned.
  - Landlords face serious consequences from failure to meet financial obligations, especially to their lenders and contractors (162,000 jobs) who depend on landlords.
    - CMHC reports that 2/3 of all household debt in Canada is mortgage debt
  - Reform the LTB
    - Substantially improve process for transferring LTB orders to small claims court
    - Implement some kind of legal consequence for non-payment of orders
      - Courts report non-compliance of orders to credit bureaus?
      - Implement rent collection enforcement in the courts
  - Stop municipal licensing of landlords
    - Perceived as a slap in the face to landlords - government stating it knows the landlording business better than the private sector (social services record doesn't support this)
    - Perceived wholly as another municipal cash grab, government civil servants staff bloating
    - Adds unnecessary government bureaucracy and business interference

- Does nothing to address slumlord behaviour
      - I believe many by-law depts. would agree off the record
    - Replace with By-Law Rating (BLR) program (see Recommendation - Small Changes further below)
  - Staff LTB adjudicators properly to reduce endless delays to get a court date and resolution
    - Add more court rooms
  - Amend Municipal Act to prevent any municipality from appending a tenant's outstanding utility bill on to a proven-innocent landlord's property tax bill
  - Amend the RTA to allow electric heat costs to be passed on to tenants, the same as gas heat.
  - Allow landlords to arrange their own suite metering and compel utility companies and municipalities to bill individual tenants, rather than hold landlords responsible
  - Find a way to compel tenants to sort their garbage (major problem foisted on landlords by municipalities who don't know how to solve the problem)
    - Allow or require blue bins (nothing organic/biologic that might decay, that is, non-perishable garbage) in apartment units
- **Social services**
  - Social services objectives aren't aligned with landlords. Therefore, landlords don't engage public sector services ...
    - Prospective tenants must be vetted and qualified according to landlord needs
    - Immediate suspension of future social service payments if landlord signs an online affidavit that they didn't receive rent (don't have to counter privacy law that gives tenants a payment choice)
    - Guarantee for landlords (like CMHC for lenders) to collect damages caused by tenants on move-out, subject to reasonable proof
      - Tenant held financially-liable for proven damages or at least moved down wait list by Social Services for proven bad behaviour
  - Crack down on social services abuses
    - Anonymous TIPS line
    - CRA track cash-under-the-table services
    - Crack down on well-known rent-geared-to-income (RGI) scams and abuses
  - Government and its employees cannot possibly do a better job at managing complex operational costs of housing. Let the private sector build and manage the bulk of mainstream housing needs.
    - Government should focus on segments that private sector landlords aren't trained to handle, or spend funds to encourage private sector to develop specialist expertise
      - Special needs - mentally- and physically handicapped
      - Terminally-ill
      - Assisted living
- **Investor Climate**
  - 85% of Ontario's housing was built by the private sector. Investor cooperation is essential
  - Investors are skeptical of any long term government policies



- Too many legislative changes pander to easy tenant votes and are implemented with little forethought
  - Campaign promises routinely not kept
- Reduce or remove inclusionary zoning requirements
  - Evidence from other jurisdictions state that this practice discourages new development
  - Costs more than the benefits it brings
  - Not supported by industry
- Implement tougher home and investor borrowing requirements to reduce unprecedented household debt
- Rental housing property owners must
  - Have a registered business office in Canada, or formally declare that they are directly managing the property (on pain of perjury), or have enlisted an established property manager operator
  - Perhaps pay a stiff fine or tax if more than xx% of the rental property is vacant - commensurate with prevailing vacancy rates

### **SMALL CHANGES (Easy) PRODUCING NOTABLE IMPACT**

I believe the following changes would be relatively easy for a political party in power to effect.

- Landlords should be permitted to collect rent by other means than only the current month's rent via paper cheque
- Housing is in pandemic shortage. Review what 1972 incentives existed:
  - If tenant rental options increase, landlords have no option but to decrease rents and/or increase amenities to compete for tenancies
- Curb runaway development charges
- Fix the broken rent dispute system (not as hard as it sounds)
- By-law departments should have an Exceptions Dept where enforcement officer make informed decisions (who knows by-laws better than an enforcement officer) refer situations that don't neatly fit the rules and laws. This makes the municipality more proactive in applying the appropriate solution. This might be like police officers making recommendations to the courts for a lighter sentence in return for a suspect's cooperation.
- Smokers who sign a no-smoking agreement must honour the agreement or be evicted.
  - The whole health industry was backing this proposal and the current government struck it out.
  - Only 10% of tenants are daily smokers. 65% don't smoke
  - No smoking of medicinal herbs in a unit if the tenant has signed a no smoking agreement. Especially, don't allow marijuana plants to be grown in an apartment unit
    - Causes significant mould damage to every property, which are already challenging to maintain
    - Medicinal benefits can be acquired through pharmaceutical products
- Allow independent bailiffs to process evictions and perhaps other sheriff duties (this could be a huge benefit with virtually no resistance, except perhaps budget-driven sheriffs' offices)
- Remove the 2.5% cap on rent increase
  - Interim increase the cap to a realistic number
- Allow legitimate expenses to be passed on to tenants, especially:

- Electricity costs. Landlords are being punished for the government’s costly (and failed?) solar power green incentives
- Remove ability where tenant can pay all arrears at the moment of eviction and stay in unit
  - Once eviction granted, tenant has been given their day in court. Landlord deserves closure
- Reduce LTB eviction cycle time - **major impact for minor effort**
  - 18-person RHEU team processes most complaints within 24 hours
  - 10% of complaints are escalated to court proceedings
- Immediate suspension of future social service payments if landlord signs an online affidavit that they didn’t receive rent (don’t have to counter privacy law that gives tenants a payment choice)
- Remove tenant right to complain about violation of quiet enjoyment when noise etc. is needed in order to effect repairs during business hours
- Define more specifically landlord’s HRC obligation to ‘accommodate to the point of undue hardship’
- Require that government agencies provide equal education outreach services to landlords, especially HRC
- Application and appeal fees should be paid by the losing party. This includes especially government agencies such as municipal by-law enforcement depts. that issue a work order that is reversed. There’s no downside for by-law depts. - open (and I personally have witnessed) to abuse
  - The City wins by getting what it wants if the landlord accepts the WO without an appeal – whether the WO is right
  - The City wins if the landlord is fined
  - The City wins if the work order is revoked. The City recovered its costs from the landlord, who also had to cover its own costs
  - The City wins if the work order is upheld. Again, the City recovered its costs from the landlord, who also had to cover its own costs
  - The fact that the City expended resources to defend its action is irrelevant.
  - The landlord receives no equal treatment and no justice. **This is an unjust and immoral practice that exists only through the City’s abuse of municipal power.**
- 311 should be instructed to provide RHEU phone number to landlords as well as tenants
- Fast track rental housing municipal zoning and site plan approvals
- Re-evaluate parking space ratios within context of intensification requirement in already built-up areas. 1.5 spaces per unit is untenable, wishful thinking, and prevents best use of vacant land when housing shortages are pandemic
- Allow electronic forms of communication for delivery of notices between tenants and landlords. Explore use of low-cost electronic signature technology.
- Require LTB to permit landlords to apply, and seek a judgement against tenants for rent and damages recovery *after* a tenancy has ended
- LTB requires all forms of every kind be physically brought into a brick-and-mortar LTB office. 91% of all applications are from landlords. RHEU takes all complaints over the phone and resolves majority of 25,000 annual phone calls within 24 hours.
- Stop endless appeals to higher courts by rent thieves and professional tenants
- By-law dept. anonymous TIPS line
- **By-Law Rating (BLR) program:** By-law dept. establishes an awards/recognition landlord (property owner) rating program - **major impact for relatively small effort**
  - Based on number of work orders, severity of work order, etc.

- Unbiased, objective quantifiable determination process
- **Positive encouragement rather than negative punishment. A good BLR system could be a positive replacement for the punitive and anti-landlord municipal licensing program**
- By-law Dept issues:
  - Annual certificates or first time certificate and then annual gold seals with year and rating
    - Rating might be like schools ... A+ to F
    - Rating might be 001 to 100
      - Landlords starts at 100 and has 'demerit' points like driver's license
      - Landlord offered chance to rectify before WO issued
      - Lose a point(s) if WO issued
      - Lose lots more points if WO not completed or landlord fined
      - All points restored is WO appealed and reversed
        - Appeal board can return some points for special considerations
  - Good landlords would likely want to post annual(?) certs in their foyers
  - Tells tenants their buildings are in good shape
  - Implies to abusive tenants they'll have a hard time bending by-law dept to tenant's agenda
  - Tenants knowing about the program would want to know the landlord's By-Law Rating (BLR)
- Could reduce work order administration volume
- High rankings receive benefits of some kind
  - E.g. enforcement officers give more credibility and consideration to tenant motivations for filing complaint
  - 1 or 2 WOs doesn't count against score perhaps
  - Maybe a gift card from the City
- Becomes a 'badge of honour' and point of pride among good landlords not to have WOs issued
  - Perhaps a "Top 10 Percentile" Club evolves
- Could add intangible value to
  - Sale of property – properties in good repair command higher prices
  - Increases lender comfort for financing and re-financing risk
- Low rankings are not used to punish bad landlords
- Bad landlords will quickly drop to the bottom ('natural selection', colloquially 'bottom feeders'). Much easier to be spotted by:
  - Tenants
  - Property purchasers and lenders
  - Other enforcement depts. - health, fire, waste, water, RHEU, LTB, etc.
  - Helps set City priorities for improving housing and other municipal agendas
- Perhaps a useful vehicle for LTB adjudicators to differentiate good and bad landlords