



**Submissions on Bill 184, Schedule 4
Amendments to the Residential Tenancies Act**

to the Standing Committee on Social Policy
of the Legislative Assembly of Ontario

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Community Legal Services of Ottawa

1. Community Legal Services of Ottawa (CLSO) is a not-for-profit legal clinic governed by an independent, community-based Board of Directors. CLSO provides legal services to low-income and vulnerable individuals in the City of Ottawa in the areas of public benefits, tenant rights, and immigration.
2. We provide assistance to thousands of tenants each year by way of summary advice, full representation, and tenant duty counsel services.
3. Our services are heavily focused on the most vulnerable members of our communities, including individuals living in poverty, people living with disabilities, individuals facing language and communication barriers, people with literacy barriers, and members of racialized and Indigenous communities.

Recommendations

4. Based on our understanding of the needs of low-income and vulnerable tenants in Ottawa, we make the following recommendations for Bill 184, Schedule 4, with respect to amendments to the *Residential Tenancies Act*:
 - **Recommendation #1: Remove the amendment to s. 206 that would permit evictions for rent arrears without appearance before the Landlord and Tenant Board.**
 - **Recommendation #2: Remove the amendment to s. 135 that would permit illegal rent increases that have been paid for 12 months.**
 - **Recommendation #3: Remove the amendment to s. 82 of that would prohibit tenants from raising repair and maintenance issues at arrears hearings without prior notice.**

- **Recommendation #4: Remove the additions of s. 88.1 and s. 88.2, and the amendments to s. 87 and s. 89, which greatly broaden the number of applications that the Landlord and Tenant Board will have to process.**
- **Recommendation #5: Enact positive measures to protect people’s homes during the COVID-19 crisis, including rent relief assistance and guidelines for COVID-19 eviction relief at the Landlord and Tenant Board.**

Background

5. Bill 184 is being introduced during a time of unprecedented crisis. Housing is increasingly unaffordable in Ottawa and across the province. For years, rents have been increasing at rates that far outpace inflation and low-income earner’s wages or salaries. Over the past 5 years in Ottawa, average rents have increased approximately 25%.¹ Last year alone, average rent increased by 8.4%; for comparison, the allowable rent increase guideline set by the province was 1.8%.² As of the most recent census in 2016, 23.8% of all Ottawa households had unaffordable housing – meaning more than 30% of household income is spent on housing.³ Disturbingly, a study undertaken last year concluded that a worker would need to earn at least \$26 per hour in order to afford an average 2-bedroom apartment in Ottawa.⁴ With rents at such wildly unaffordable levels, it is no wonder there are 12,513 households on the waiting list for subsidized housing and more than a 5-year wait time for these units.⁵
6. Unfortunately, one of the ramifications of this housing crisis has been a devastating homelessness crisis. Simply put: our shelters are full. The cost of providing shelter to a single homeless individual has been estimated to be \$1,932 per month, which is a hefty cost for taxpayers to bear.⁶ For individuals who are unable to secure a shelter bed, “sleeping rough”

¹ <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>.

² <https://www.cmhc-schl.gc.ca/en/data-and-research/publications-and-reports/rental-market-reports-major-centres>.

³ <https://www.neighbourhoodstudy.ca>.

⁴ <https://www.cbc.ca/news/canada/ottawa/ottawa-gatineau-kingston-rent-wage-1.5216379>.

⁵ <https://www.housingregistry.ca/housing-providers>.

⁶ “Fact Sheet: Homelessness in Canada and Ontario”, Advocacy Centre for Tenants of Ontario, July 2017, www.acto.ca.

such as on park benches, in makeshift encampments, or vehicles is a sad necessity. Indeed, it is estimated that close to 100 people sleep outside every night in Ottawa. For families who are unable to secure shelter beds, the city provides emergency hotel housing. Approximately 600 families are living in emergency hotels, which cost the tax payers \$9.4 million dollars in 2019.⁷

7. The world is now also contending with a health and economic crisis of historic proportions. Research has shown that homeless populations are disproportionately affected by pandemics, both in terms of infection rates and mortality rates.⁸ People facing homelessness are at greater risk of contracting COVID-19 for the simple fact that they cannot do what the rest of us are being told to do: they cannot socially isolate.
8. Renters have also been greatly impacted by the COVID-19 pandemic, with many losing their jobs, falling behind in rent, and accumulating debt.⁹
9. The confluence of the housing and homelessness emergency and the COVID-19 pandemic has created an unprecedented housing-related crisis in Ottawa and across the province. A crisis of such scale, with such deadly consequences, should be at the forefront of every public effort, every policy decision, and indeed, every legislative reform.
10. Unfortunately, Bill 184 does nothing to address this crisis. Instead, it contains provisions that could serve to exacerbate our housing problems and put at particular risk Ontario's most vulnerable.

Recommendation #1: Remove Section 206 Amendment

⁷ <https://www.cbc.ca/news/canada/ottawa/homeless-family-motel-1.4939329>.

⁸ Leung, C. S., Ho, M. M., Kiss, A., Gundlapalli, A. V., Hwang, S. W. (2008). Homelessness and the response to emerging infectious disease outbreaks: Lessons from SARS. *Journal of Urban Health*, 85(3), 402–410.

⁹ <https://www.policyalternatives.ca/publications/report/rents-due-soon>.

11. Presently, a tenant who is facing eviction due to rent arrears cannot be evicted without an opportunity to appear at the Landlord and Tenant Board for a hearing. Bill 184 proposes an amendment to Section 206 of the *Residential Tenancies Act*, which would allow the Landlord and Tenant Board to authorize evictions as part of repayment agreements made between landlords and tenants outside of the Tribunal setting.
12. In essence, this means that tenants can give up their right to a hearing about rent arrears before one is even scheduled. In doing so, they will give up a myriad of existing protections that have been designed to ensure that they do not sign their own eviction orders due to fear, pressure, or even basic misunderstanding.
13. Currently, tenants who attend at the Landlord and Tenant Board for arrears are given basic information on their rights from Tenant Duty Counsel. They are given updated rent ledgers from their landlords, explaining precisely how much rent is owing and confirming that the landlord has not made an accounting error. They are given the option of seeking the assistance of a mediator to create a repayment plan that they can abide by and that their landlord can live with. They are given information about arrears assistance that may be available through municipal programs. They are given the opportunity to explain to an adjudicator the circumstances surrounding their arrears, the impact that eviction may have on them and their children, and to request extended repayment plans as relief. Most importantly, they are given the chance to confirm, in-person, after speaking with a lawyer or mediator, that they understand the no-notice eviction consequences that will result from failing to meet a term of their agreement.
14. With the amendments to section 206, tenants who are a just day late or just a dollar short in meeting their repayment obligations can now be subject to an eviction without notice or hearing.
15. Given the economic pressures created by the COVID-19 shutdown, and the recent pause on arrears hearings at the Landlord and Tenant Board, it is anticipated that a great many tenants will be facing rent arrears and pressure from their landlords to come to an agreement. Many

will not understand what they are signing onto, or will not be able to afford what they are signing onto, but will do so for fear of losing their homes during this dangerous time.

16. Individuals who are at particular risk of signing payment agreements that will result in their evictions are tenants who struggle with literacy, language, and other communication barriers; we routinely serve tenants who have signed documents that they do not understand for these very reasons. Without the requirement that parties attend the Landlord and Tenant Board before an eviction order can be enforced, there will be no way to ensure these individuals do not fall through the cracks.
17. **For this reason, we urge the Standing Committee to recommend to the legislative assembly that it remove from Bill 184 the amendment to s. 206 that would permit evictions for rent arrears without any appearance at the Landlord and Tenant Board.**

Recommendation #2: Remove Section 135 Amendment

18. For occupied units in Ontario, we have rent control. It is in everyone's interest to ensure that individuals and families are not priced out of their homes by an unaffordable housing market, wrenching people from their schools, communities, services they depend on, and seniors' supports. For this reason, the province sets an annual limit on the amount landlords can increase rents for existing tenants, with proper notice.
19. While many landlords follow the guideline rules, many do not. There should be no tolerance for illegal rent increases that run contrary to public interest and place undue burdens on tenants.
20. Unfortunately, Bill 184 lends explicit approval of illegal rent increases in its amendment of section 135 of the *Residential Tenancies Act*. The amendment provides that if a tenant has paid an illegal rent increase for 12 months, the rent increase is legitimate and cannot be challenged by the tenant.

21. There will be landlords who take advantage of this amendment, especially for rental units occupied by long-term tenants who pay below market rents. Tenants who are literate, proficient in English, and aware of their rights might catch an illegal rent increase and refuse to pay, but vulnerable and elderly tenants may not. Creating an amendment that will allow the unscrupulous to take advantage of the vulnerable is unacceptable, and even more dangerous during a public health and economic crisis.
22. **For this reason, we urge the Standing Committee to recommend to the legislative assembly that it remove from Bill 184 the amendment to s. 135 that would permit illegal rent increases that have been paid for 12 months.**

Recommendation #3: Remove Section 82 Amendment

23. Presently, section 82 of the *Residential Tenancies Act* permits tenants to raise issues of poor maintenance, disrepair, and other tenant rights matters at rent arrears hearings before the Landlord and Tenant Board, without notice. The purpose of this is clear: to allow rent owing to be offset by rent abatements in cases of significant landlord failings.
24. It is not unusual for tenants to experience maintenance and repair issues that are not dealt with expeditiously or adequately; in fact, Ottawa City Council has proposed new by-laws to address issues of sub-standard maintenance and repair of private residential rental properties, because these issues have become so pervasive.¹⁰ Sometimes these issues are quite severe, such as tenants forced to live in units with un-remediated mould, extensive vermin, or even interruptions to heat, electricity, and water.
25. While tenants are allowed to file their own applications to the Board about such issues, these applications are not heard as expeditiously as arrears applications. Generally, it takes months for a tenant application to be heard – and these delays have been worse over the last year

¹⁰ <https://ottawacitizen.com/news/local-news/new-regulations-for-long-term-rentals-heading-for-easy-approval-at-council>.

with member shortages at the Board.¹¹ Additionally, many tenants do not know how to bring applications against their landlord to deal with these issues. These tenants reasonably assume that when given a chance to explain the circumstances of their arrears at a hearing, they can discuss their maintenance and repair problems. Bill 184 will take that right away for tenants who do not inform their landlords in advance of their intention to raise these issues.

26. As with many other amendments, those who will be most acutely affected by this change will be tenants who are vulnerable by reason of disability, language, or literacy. Section 82, even in its current form, is beyond the average tenant's understanding of the *Residential Tenancies Act*. Only those tenants who have received legal advice will understand the new notice requirements; and the vast majority of tenants do not receive legal advice until the day of their arrears hearing, through Tenant Duty Counsel.

27. For this reason, we urge the Standing Committee to recommend to the legislative assembly that it remove from Bill 184 the amendment to s. 82 of that would prohibit tenants from raising repair and maintenance issues at arrears hearings without prior notice.

Recommendation #4: Remove Sections 88.1 and 88.2 and Section 87 and 89 Amendments

28. Bill 184 expands the scope of landlord claims against tenants. Broadly speaking, it proposes amendments and additions that would permit a landlord to pursue a tenant at the Landlord and Tenant Board for rent arrears, utility arrears, damages, or other incurred costs after a tenant has moved from their unit. Presently, such claims must be processed through the Small Claims Court. With these changes, landlords will have one year after the tenancy ends to file these claims at the Landlord and Tenant Board.

29. This is problematic for two reasons. Firstly, parties do not have to meet stringent service requirements at the Landlord and Tenant Board as they do in Small Claims Court. As such, it is not difficult to imagine a scenario wherein a landlord files a claim, but the tenant never

¹¹ <https://www.cbc.ca/news/canada/toronto/ontario-landlord-tenant-board-ombudsman-1.5420860>.

receives notice of the hearing because the landlord does not have their correct forwarding address.

30. Secondly, this will exponentially increase the number of applications to the Landlord and Tenant Board. The Board has been struggling with the high volume of existing applications, and this backlog will undoubtedly be amplified after the COVID-19 crisis which has put most matters on hold.¹² In fact, in January of this year, the Ontario Ombudsman announced it would be investigating delays at the Board due to the increased complaints to the Ombudsman about long waits for hearings and decisions.¹³ It is therefore inappropriate to enact a measure that would *expand* the responsibility of the Board at this time.
31. The Landlord and Tenant Board should remain a venue for managing *existing* relationships between landlords and tenants. These existing relationships are what impact the functioning of our rental housing system; they should be the priority. Pressing repair issues and arrears matters should without question take priority over alleged debts remaining from past tenancies. Without remedying the prevailing crisis at the Landlord and Tenant Board, the scope of its jurisdiction and responsibility should not be increased.
32. **For this reason, we urge the Standing Committee to recommend that the Legislative Assembly remove the additions of s. 88.1 and s. 88.2, and the amendments to s. 87 and s. 89, which greatly broaden the number of applications that the Landlord and Tenant Board will have to process.**

Recommendation #5: Enact Positive COVID-19 Measures

33. Rather than enacting the changes to the *Residential Tenancies Act* proposed by Bill 184, we would instead urge the government to focus on positive measures to alleviate the harm caused by the affordable housing and homelessness crisis, and the COVID-19 pandemic (which has exacerbated these crises, and particularly for vulnerable individuals). We would urge the

¹² <https://www.cbc.ca/news/canada/ottawa/landlord-tenant-board-ontario-1.5482471>.

¹³ <https://www.ombudsman.on.ca/resources/news/press-releases/2020/ontario-ombudsman-to-investigate-delays-at-landlord-and-tenant-board>

introduction of rent relief measures for residential tenants, and also arrears relief guidelines for the Landlord and Tenant Board.

34. Since March of this year, more than a million jobs have been lost in our province.¹⁴ People are experiencing unprecedented financial hardship. In late April, over 50% of Ontario tenants surveyed indicated that they either were, or might be, unable to make their May 1st rent payments in full.¹⁵
35. It is for this reason that tenants and elected officials have been calling for emergency rent assistance for residential tenants in Ontario. Other jurisdictions have done just this. They have enacted emergency rent supplement programs for low and moderate-income renters who have been affected by COVID-19.¹⁶ Keeping people in their homes must be the priority; emergency rent assistance can serve that purpose and relieve the hardships being experienced by landlords and tenants during this difficult time.
36. Additionally, there should be new guidelines prepared for the Landlord and Tenant Board about eviction relief for tenants who have accrued arrears due to COVID-19. Presently, when tenants are brought to the Board for rental arrears, the standard order that is issued is to pay the entire amount owing within 10 days, or face immediate eviction.
37. That standard order is not appropriate for current circumstances. We need people to remain in their homes at all costs. The adjudicators at the Landlord and Tenant Board should be directed to inquire into the circumstances of the tenants and landlords who appear before them, and to issue orders for year-long extended payment plans for arrears wherever possible.
38. **For this reason, we urge the Standing Committee to recommend that the Legislative Assembly enact positive measures to protect people's homes during the COVID-19 crisis,**

¹⁴ <https://toronto.ctvnews.ca/more-than-one-million-jobs-lost-in-ontario-since-pandemic-was-declared-1.4970777>.

¹⁵ https://www.thestar.com/news/city_hall/2020/04/28/as-may-1-nears-tenants-and-landlords-worry-about-lack-of-rent-relief-from-queens-park-ottawa.html.

¹⁶ <https://www.bchousing.org/BCTRS>.

including rent relief benefits and guidelines for COVID-19 eviction relief at the Landlord and Tenant Board.

Conclusion

39. Any changes to the *Residential Tenancies Act* must be enacted with this truth in mind: by and large, landlord and tenant relationships are not relationships between two equally powerful parties.
40. Landlords are business owners. Some of them are small business owners, but business owners nonetheless. As such, they have the resources of a business supporting them in meeting their rights, responsibilities, and needs as landlords.
41. Tenants are residents. They are individuals, households, and families keeping roofs over their heads. More often than not, they do not have the resources that their landlords do; in fact, it is estimated that almost half of renter households earn less than \$40,000 per year.¹⁷ They frequently do not have legal resources. Single parents, recent immigrants, people with disabilities, and members of racialized communities make up a disproportionate number of renters, as compared to homeowners, in our province.¹⁸ And a great many of them, those that we speak to at our legal clinic on a daily basis, face a myriad of life challenges that make it extremely difficult to understand and enforce their rights.
42. Failing to protect low-income and vulnerable tenants, especially during a time of an unprecedented health and economic crisis, will have terrible consequences.
43. While we believe Bill 184 contains some changes that will appeal to landlords, and others that will appeal to tenants, it will not protect the low-income and the most vulnerable, and in particular those who require assistance in enforcing their rights. They will be at greater risk of

¹⁷ “We Can’t Wait: Preserving Our Affordable Housing in Ontario”, *Advocacy Centre for Tenants of Ontario*, November 2019, www.acto.ca.

¹⁸ “We Can’t Wait: Preserving Our Affordable Housing in Ontario”, *Advocacy Centre for Tenants of Ontario*, November 2019, www.acto.ca.

unnecessary arrears-related evictions; they will be at greater risk of being held to unaffordable and illegal rent increases; and they will be barred from raising legitimate and serious repair issues when their landlords bring them to the Board for arrears.

44. In our respectful submission, Bill 184 should not be enacted in its current form – especially not during the COVID-19 crisis. We respectfully implore the Standing Committee to recommend that the legislative assembly reconsider Bill 184, and instead focus on enacting positive measures to keep people in their homes during these dangerous and unprecedented times.