



Psychiatric Patient Advocate Office

Bureau de l'intervention en faveur des patients des établissements psychiatriques

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Housing Consultation
Ontario Human Rights Commission
Policy and Education Branch
180 Dundas Street West, 7th Floor
Toronto, ON M7A 2R9

Via E-mail (RSVP@ohrc.on.ca) and Regular Mail

Dear Sirs and Mesdames:

RE: Housing Consultation

The Psychiatric Patient Advocate Office (PPAO) is pleased that the Ontario Human Rights Commission is undertaking a comprehensive survey respecting human rights issues and housing. Many consumers of mental health services inform our office of the difficulties they encounter with regards to housing.

The PPAO provides independent and confidential advocacy services and rights advice to consumers of and those seeking access to mental health services. We work to empower mental health consumers to make informed decisions about their care, treatment and legal rights.

Our vision is that persons with mental illness in Ontario are treated with dignity and respect, their legislated rights and entitlements are upheld at all times and they are actively involved in decisions affecting their life, care and treatment. We believe in the autonomy of all people and in each person's right to make informed choices.

People with mental illness are often among the most vulnerable in our communities. Stable and safe housing is identified as one of the key determinants of health, yet for persons with a mental illness, finding a home can be daunting, if not impossible. Our clients encounter many barriers including stigma, discrimination and inadequate social assistance, particularly minimal shelter allowances provided by Ontario Works and the Ontario Disability Support Program.

Studies have shown that choice and control over housing for people with mental illness promotes well-being, housing satisfaction, psychological stability and an increase in independent living.¹

Please find our responses to the questions posed in your planning and priorities survey over the course of the following pages.

¹ R.J. Calsyn, J.P. Winter & G.A. Morse (2000) "Do Consumers who have a choice of treatment have better outcomes?" *Community Mental Health Journal*, 44: 439-450.

Raising Public Awareness and Addressing Discrimination

What can the Commission do to raise public awareness about human rights issues in rental housing and to more effectively combat discrimination in this area? What role do others have in this regard?

The Commission can raise awareness about human rights issues in rental housing via public education. For instance, the Commission should create and distribute easy to read information brochures, in addition to holding workshops for tenants, landlords and social service agencies. The Commission should also embark on a high profile media education campaign to ensure its message is heard by a large audience. By partnering with consumer-survivor groups, not only will the Commission gain invaluable information about the actual experiences of persons with a mental illness, but be able to educate the people who are suffering the consequences of discrimination.

It is crucial for the Commission to properly educate social service agencies so they are able to properly impart the correct information to their clients. Social service agencies should also be involved in public education. It should be borne in mind, however, that materials and presentations delivered by the Commission carry more weight due to its authority and expertise.

The Commission should also collaborate with the Canadian Mortgage and Housing Corporation. As the Canadian Mortgage and Housing Corporation assists Canadians who cannot afford housing in the private market, improves building standards and housing construction, and provides policymakers with the information and analysis they need to sustain a vibrant housing market in Canada, it has the potential to influence a large audience of both landlords and renters.

What can be done to promote better access to resolution of human rights issues in housing?

Human rights issues in housing could be better resolved if individuals were aware of their legal rights under both the *Code* and the *Residential Tenancies Act*. Knowledge is power; unfortunately, many individuals are unaware of their legal rights. Although landlords have an obligation under the *Residential Tenancies Act* to provide information to a tenant relating to the rights and responsibilities of landlords and tenants, as well as the role of the Landlord Tenant Board, it contains no mention of the *Code*. This is a regrettable but correctable oversight – the Commission should work together with the Landlord Tenant Board to create a new document that includes information about human rights.

Affordable Housing

What can the Commission do to support the goal of adequate and affordable housing for persons who experience hardship, disadvantage or discrimination because of *Code* grounds?

The average wait for affordable housing ranges from 5 to 15 years in Ontario.² This is not acceptable. The Commission should lobby all three levels of government – municipal, provincial and national – to agitate for a national housing policy that supports the goal of adequate and affordable housing.

As the government agency responsible for housing, the Commission should work with the Ministry of Municipal Affairs and Housing to raise awareness about the advantages of affordable and supportive housing and its positive impact on all citizens of Ontario.

The Commission should petition the municipal and provincial governments (particularly the Ministry of Community and Social Services) to increase social assistance rates provided to recipients of Ontario Works and the Ontario Disability Support Program. The maximum shelter allowance for a single person in receipt of assistance from the Ontario Disability Support Program is a mere \$436 while the average cost of rent in Ontario for a one-bedroom apartment is \$787 per month.³

The Ministry of Health and Long-Term Care and the Local Health Integration Networks are also important stakeholders with whom the Commission should work to educate about the human rights violations in rental housing experienced by persons with a mental illness.

Discrimination in Rental Housing

What are the ways in which people experience discrimination in rental housing on the basis of each ground of the *Code*? How does the intersection of *Code* grounds impact on discrimination in rental housing?

As the PPAO is most knowledgeable about the discrimination experienced by our clients with regards to disability, particularly mental disability, our discussion for the purposes of this survey will be focused on this one particular ground of the *Code*.

Having said that, many clients of the PPAO experience intersecting grounds of discrimination since they are members of more than one historically disadvantaged group. For instance, individuals with a dual diagnosis (developmental disability and mental illness) often experience discrimination with respect to access to supports and services that meet their unique needs. Or, consider the obstacles facing a female with mental illness who receives social assistance and also happens to be a member of a religious minority. These individuals are twice or even three times as marginalized, making access to housing exponentially difficult.

² Ontario Non-Profit Housing Corporation (May 2006), *Ontario Non-Profit Housing Corporation 2006's Waiting List Survey*.

³ ODSP Action Coalition, *Social Assistance Rates Backgrounder*, <http://www.incomesecurity.org/documents/SABackgrounder.pdf>.

What barriers do people face in securing rental housing? What discriminatory practices should the Commission be aware of? What can be done to proactively prevent these barriers and practices?

Consumers of mental health services face huge obstacles in securing rental housing.

As social service workers or medical practitioners sometimes assist individuals to obtain housing, landlords become aware that that person has had or continues to have contact with the mental health system. Many landlords and housing providers incorrectly assume that the person will be a “problem” and tenancy is refused. Or, the tenant will require either verbal or written assurances that the tenant will take psychiatric medications or seek treatment with medical practitioners.

Other landlords will require the prospective tenant to provide specific information as a means of screening tenants, such as: numerous pieces of identification; a social insurance number; a criminal records check; and/or verification of employment. Besides being inappropriate and unnecessary, such requirements prevent some individuals with a mental illness from obtaining rental housing. For example, some individuals may not be able to work due to a mental illness and thus are unable to provide verification of employment.

Individuals who have been found not criminally responsible due to a mental disorder for an offence under the *Criminal Code of Canada* frequently face discrimination due to both disability and involvement with the criminal justice system. Some landlords fear individuals involved in the forensic system and assume they committed violent offences. However, persons found not criminally responsible must appear before the Ontario Review Board on an annual basis to determine if they represent a significant risk to the safety of the public. Individuals will not be granted the opportunity to live in the community if the Ontario Review Board does not think it is appropriate.

Unfortunately, some community agencies that administer rental housing are the perpetrators of discrimination. For instance, individuals in the forensic system are sometimes forced to disclose details surrounding the offence that led to the not criminally responsible finding. Although the index offence may have been committed several decades ago and the Ontario Review Board feels the person is able to live in the community, housing is denied. Consequently, some individuals are forced to languish either in the hospital or substandard housing.

What are the legitimate considerations in assessing prospective tenants? Bearing in mind the Commission’s role in promoting a progressive interpretation of the Code, what policy position should the Commission take with regard to O. Reg 290/98 and other practices that are commonly used to select tenants?

The PPAO understands that landlords are entitled to assurances that prospective tenants will pay their rent. Having said that, the PPAO believes Regulation 290 of the *Code* should be overhauled because it places onerous burdens on many individuals with a mental illness.

A reasonable screening process for landlords would be a requirement that first and last months rent be paid at the start of the tenancy. If individuals are in receipt of assistance from the Ontario Disability Support Program, additional monies can be obtained from the

community start-up fund. We acknowledge that paying rent for two months up front may be difficult for some individuals due to limitations on the community start-up program and the fact that shelter rates for social assistance recipients are extremely low and do not reflect market value rates. Therefore, both the Ministry of Community and Social Services and the Ministry of Municipal Affairs and Housing should work together to increase shelter rates and develop a rent bank whereby funding is available to top-up first and last month rent expenses to prevent discrimination in the rental industry.

If potential tenants are not able to provide first and last months rent, they should be able to submit proof of income to the landlord to show that there are sufficient funds to pay the rent. It is hoped that the landlord would not discriminate on the basis of the receipt of social assistance or disability as this is contrary to the *Code*. In an effort to prevent such practices, the Ministry of Community and Social Services should require banking institutions to provide documentation, if requested by a prospective tenant, verifying that a specific rental amount can be paid but without revealing any details about the person's global financial situation or the source of income.

In what ways do individuals and families experience harassment and discrimination with regard to the occupancy of rental housing on the basis of *Code* grounds?

If individuals having involvement with mental services are able to clear the first hurdle of obtaining housing, they then often face harassment and discrimination from the landlord and/or other tenants during occupancy of the rental unit.

Due to the vulnerability of and discrimination against many mental health consumers, there is often a power imbalance between consumers and housing providers, allowing particular landlords to mistreat consumers with little or no consequence. For instance, landlords will harass residents, ignore valid complaints and permit substandard living conditions for people with a mental illness due to negative attitudes and stereotypes. The paucity of available housing ensures individuals are afraid to speak out against improper landlords or to leave and seek alternate accommodation.

Another issue for psychiatric consumer-survivors is confidentiality of personal health information. As previously mentioned, landlords are sometimes privy to confidential information about residents. All too often, the PPAO has heard stories of landlords releasing confidential health information to third parties without the consent of the resident. For example, some landlords will call a resident's doctor with the goal of taking him or her to hospital in circumstances that clearly do not require such intervention.

Other Legislative Schemes

Are there human rights issues in rental housing raised by municipal or provincial laws, policies and practices of which the Commission should be aware?

Although the *Residential Tenancies Act* in some ways is an improvement over its predecessor, the *Tenant Protection Act, 1997*, it contains several provisions which are discriminatory.

Social housing tenants who question rental subsidies have access only to an internal, not independent, review under the *Residential Tenancies Act*. It is discriminatory against people in receipt of social assistance in that they do not have the same protections as private market tenants. There should be a higher standard of review of social housing landlords as their tenants are amongst some of the most vulnerable in the province.

Section 27(4) of the *Residential Tenancies Act* states that a landlord may enter a rental unit if written notice is given at least 24 hours before the time of entry to determine if the rental unit is in a good state of repair, fit for habitation and complies with health, safety, housing and maintenance standards. The PPAO believes this provision is extremely subjective and is susceptible to abuse; landlords may use this provision to harass tenants, especially mental health consumers, and impose their own values on tenants and their living conditions.

The *Residential Tenancies Act* is also silent about the training of the Board. Members of the Board encounter numerous people from many different walks of life, including those with mental illness. Accordingly, Board members should receive initial and ongoing training respecting mental illness. A culture of understanding and acceptance of mental illness is essential if we are to be an inclusive and caring community.

The Commission should also be aware of municipal policies which violate the *Code*. For example, some municipalities create by-laws that limit or prohibit either affordable housing projects or housing for persons with disabilities in specific neighbourhoods. Municipalities are also influenced by the phenomenon of NIMBY-ism (not in my backyard) and complaints by local citizens by sometimes delaying or prolonging the processing of applications for affordable housing or homes for persons with disabilities.

Homelessness and Economic and Social Rights

What steps, if any, do you think the government or others should be taking to address issues of discrimination related to socio-economic status, poverty and homelessness?

The statistics linking mental illness with poverty and homelessness are alarming. Research shows that between 30 and 35 per cent of the homeless in Toronto have a mental illness.⁴

In addition to the factors already discussed that hinder persons with a mental illness in their search for housing (e.g., discrimination, inadequate social assistance rates and lack of affordable housing), another factor contributing to homelessness is the lack of assistance to individuals leaving hospital or jail to find community housing.⁵ Both the Ministry of Health and Long-Term Care and the Ministry of Community Safety and Correctional Services should target housing as a priority for these two groups of people.

⁴ City of Toronto (1999), *Taking Responsibility for Homelessness: An Action Plan for Toronto*.

⁵ *Taking Responsibility for Homelessness*.

What role can the Commission play in protecting and promoting social and economic rights and responding to homelessness?

The Commission can play an important role in this regard via education and notifying relevant stakeholders about any discriminatory policies, bylaws or laws. It should also become more involved in protecting and promoting Canada's international obligations under the *International Covenant on Economic, Social and Cultural Rights*. The Commission should exercise its ability to intervene in cases before the Ontario Human Rights Tribunal and various levels of court to bring attention to these issues.

Other Issues

Based on the information the Commission has provided, and your knowledge of rental housing issues in Ontario, are there any other human rights issues in housing, discriminatory practices or systemic barriers you would like to tell the Commission about?

Smoking is a systemic barrier to many persons with disabilities. Research shows that the smoking rate among people with mental illness is higher than the general population. Housing providers and landlords, however, are permitted to deny housing to individuals who smoke. Consequently, there is a profound negative impact on those with a mental illness who smoke.

Conclusion

The PPAO applauds the efforts of the Commission to tackle the pervasive problem of discrimination in rental housing and we look forward to the Commission's much needed recommendations for change to the current system. Should you have any questions, please call me at (416) 327-7007.

Yours truly,



Vahe Kehyayan
Director

c.c.: Lisa Romano, PPAO, Legal Counsel