

**Submission on Bill 140, *Strong Communities Through  
Affordable Housing Act, 2010***

**to the  
Standing Committee on Justice Policy**

I am happy to provide feedback to Standing Committee today on behalf of the Housing Action Coalition of Kingston.

I want to address 3 aspects of Bill 140:

1. an independent review process for decisions made by service managers and landlords;
2. remedies available to address service manager non-compliance; and
3. consultation on the new rent calculation model.

My colleagues and I feel it is important that local concerns regarding this legislation be addressed. Affordable housing is an important issue in Kingston, where the vacancy rate for apartments is just 1%. That is the worst vacancy rate in Ontario. Average rents in Kingston are increasing at a rate faster than the provincial average, and a growing student population is crowding low-income renters out of the market.

We are in an affordable housing crisis. We need Bill 140 to be perfect.

**1. Independent Review Process**

Landlords and service managers make a variety of decisions every day that affect subsidized housing tenants and applicants. For instance, a landlord might revoke a subsidy for one of its tenants, causing the rent to increase to market rent. For a single person on Ontario Works in Kingston, this could mean the rent increases from \$100 per month to \$700 per month. Or, the service manager may determine that an applicant who has been on the waitlist for 6 years is no longer eligible for subsidized housing due to high earnings.

These are decisions that have significant impact. The *Social Housing Reform Act, 2000* ("SHRA") contains an inadequate dispute resolution mechanism. It allows a tenant or applicant to seek an 'internal review' of the decision that is disputed. The internal review is conducted by staff in the same office; it is not independent. In Kingston, the internal review is conducted on paper only. There are no oral hearings.

Bill 140 improves on the dispute resolution mechanism set out in the SHRA, but does not go far enough. It requires service managers to create

a system for dealing with reviews, including appointment of a review body. However, Bill 140 is silent on composition of the review body, and on the review process. At a minimum, we believe that an effective dispute resolution mechanism must have independent decision-makers and the right to an oral hearing.

The lack of an adequate dispute resolution mechanism creates injustice. In Kingston, the greatest area of concern has been about former tenant arrears. Any landlord in the province can effectively blacklist a person, and block her re-entry into subsidized housing, by alleging that a debt is owed.<sup>1</sup> Because there is no adequate dispute resolution mechanism, some landlords are able to take advantage of tenants. For instance, one tenant in Kingston was charged for the cost of cleaning carpets despite that her former rental unit did not contain a stitch of carpeting. Another tenant was making regular payments on a payment plan for over a year when I discovered that her debt was increasing. I assumed it was a mistake, but was instead advised that the debt was subject to interest at a rate of 24%. Her monthly payments, which were a great burden on her family, were not even covering these hidden interest charges.

Tenants and applicants for subsidized housing must have a forum for resolving disputes that is effective. It is not enough to require service managers to simply craft a system; you must ensure the system is fair. At a minimum, this means ensuring the review body is independent and impartial, and that hearings are conducted in person.

***Recommendation:***

We ask that the Committee amend section 155(3) as follows:

155. (3) The system must include,

(a) provision for ~~a review body~~, **an independent three-member review panel to hear oral appeals**, including rules for the appointment and removal of members and their remuneration...

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<sup>1</sup> The SHRA requires that old debts owed to subsidized housing landlords be considered when an applicant seeks to be re-housed in a subsidized rental unit. When an application is received, the service manager consults a database containing allegations about debts owed across the province. If the person applying for subsidized housing is alleged to owe money on a past tenancy, the service manager instructs the applicant to make a payment plan. The application for subsidized housing is put on hold until a deal is worked out.

## **2. Remedies for Service Manager Non-Compliance**

Bill 140 is designed to give greater flexibility to municipalities through the use of community-based planning. Municipalities will apparently be able to direct housing and homeless resources to where they are needed most. While we welcome the move toward increased local flexibility, we are concerned about continuing oversight and accountability.

Our service manager has failed, at times, to provide the minimum number of subsidies required by law. In 2009, for instance, the City had a shortfall of 135 subsidies. When questioned, a staff person at the City stated that the Province allows municipalities to be under target by 10%. If this is the Province's policy, it is troubling. Our service manager is required by the SHRA to subsidize 2,003 households. A shortfall of 10% would mean that more than 200 families would continue to languish on the waitlist unnecessarily.

Tenants are not allowed to discount their rent by 10%. Any tenant attempting to do so would be swiftly evicted. Why is it acceptable for municipalities to be under target? Why is the Provincial government condoning such non-compliance?

### ***Recommendation:***

We are asking that section 23 be amended to ensure the Province takes action on service manager non-compliance:

23. (1) If, in the opinion of the Minister, a service manager has contravened a provision of this Act or the regulations, the Minister ~~may exercise~~ **shall exercise one of the** following remedies:

1. The Minister may discontinue or suspend the payment of federal housing funding to the service manager under section 102.
2. The Minister may reduce the amount of any payment of federal housing funding to the service manager under section 102.
3. The Minister may apply to a judge of the Superior Court of Justice for an order,
  - i. directing the service manager to carry out a specified activity or course of action to rectify the contravention or to ensure future compliance, or

ii. prohibiting the service manager from carrying out a specified activity or course of action that would result in, or would be likely to result in, the continuation or repetition of the contravention.

4. The Minister may take away any of the service manager's powers or duties under this Act, other than a power or duty under Part VIII, and may,

i. exercise the powers or perform the duties that were taken away, or

ii. enter into an agreement with another service manager providing for that other service manager to exercise the powers or perform the duties that were taken away.

### **3. Transparency Regarding New Rent Calculation Model**

We commend the government for its commitment to simplifying the calculation of rents in subsidized housing. This is a measure that will provide important benefits to both landlords and tenants. However, we are concerned that this simplification may lead to inequity for some tenants. Trying to solve poverty using a 'one size fits all' approach is often problematic.

The new rent calculation model is not contained in Bill 140. We understand that there are practical benefits in keeping the rent calculation model in the regulations, rather than in the Act. However, it is vital that the public have a chance to consider the implications of the new rent calculation model. A rent increase of just \$50 can be catastrophic for someone living in a low-income household. For that reason, we are asking that you undertake broad public consultation on the new rent calculation model prior to its implementation in the regulations.

#### ***Recommendation:***

Undertake broad public consultation on the new rent calculation model prior to implementation of the regulations.

## BACKGROUND

### HOUSING ACTION COALITION KINGSTON

Housing Action Coalition Kingston is an independent group dedicated to the improvement of housing for all residents in our community. Made up of volunteers from the community, the goal of HAC Kingston is to increase understanding of Kingston's housing problems and to advocate for meaningful action at the local level to solve these problems. By providing information to our Council members and others responsible for addressing housing issues, we strive for better housing solutions in our community.

*Over the coming months, HAC Kingston will focus on current and upcoming issues such as:*

- *The development of housing on Queen Mary Road approved in January 2011*
- *Kingston's use of new provincial funding in 2010 for more rent supplement assistance and lack of use of on-going funding from the province for rent supplements*
- *Continuing inaction on use of \$5 Million in municipal funding earmarked in 2007 to develop new housing that is affordable to over 2000 people on the waiting list for assisted housing*
- *Costs of municipal subsidies for private housing development versus benefits of non-profit housing solutions*
- *The new Kingston Municipal Housing Strategy report*
- *Coming revisions to the Social Housing Reform Act (SHRA) that regulates municipal policies on assisted housing*
- *Changes in zoning by-laws to create additional affordable housing*

HAC Kingston is committed to working with other groups seeking to create housing solutions for people in our community. Current Members of HAC Kingston include:

Marilyn Birmingham, Barb Butler, Cindy Cameron, Julia Bryant, Terri Fleming, Stephen Fox, Tara Kainer, David Jackson, Marijana Matovic, Patricia Streich

For more information, please contact:

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