



Co-operative Housing Federation of Canada
Fédération de l'habitation coopérative du Canada

Ontario Region / Région de l'Ontario

313-720 av Spadina Avenue, Toronto Ontario M5S 2T9

Fax / télécopieur (416) 366-3876

www.chfcanada.coop www.fhcc.coop

Tel. / téléphone (416) 366-1711

January 26, 2010

The Honourable Jim Bradley
Minister of Municipal Affairs and Housing
777 Bay St. 17th Floor
Toronto, ON
M5G 2E5

Dear Minister:

Re: Minister Watson's letter on reform of the co-op eviction system

On January 8, 2010, Minister Watson wrote to our Managing Director, Dale Reagan, concerning the proposal by CHF Canada's Ontario Region to reform the eviction system used by housing co-operatives in Ontario. In the letter, Minister Watson informed us that the cost of making the planned changes to the Landlord and Tenant Board systems would be significantly higher than first estimated and that growing financial pressures on the Ontario government meant that it would not be in a position to pay for the cost increases. As a result, he said that it would be necessary to change the terms that had been agreed to earlier for eviction law reform. Most significantly, he said that, for reform to go ahead:

- the co-op housing sector would have to fund the cost increases beyond the share that the government was prepared to cover through a one-time contribution
- housing co-ops would have to pay the full cost of processing applications at the Landlord and Tenant Board through a much higher fee than paid by other landlord applicants.

Minister Watson offered assurances that he remained supportive of the reform initiative and hoped that, together, we could find a way to move forward.

A copy of Minister Watson's January 8 letter is attached.

Before outlining the response of CHF Canada's Ontario Council (the Ontario-level board of directors) I would like to provide some background on this initiative and the support we have received first from Minister Gerretsen and then from Minister Watson.

Reform of the co-op housing eviction system is a long-standing priority of CHF Canada's Ontario members, considered and supported at several annual meetings. While other landlords have used a tribunal system for evictions for more than a decade, housing co-ops continue to use the courts. The co-op eviction system is extremely costly, slow and uncertain both for the co-op and for the member facing eviction. I am attaching a copy of a resolution passed at the 2004 annual meeting

of Ontario members that outlines the problems and the improved system housing co-ops are calling for.

We felt that a perfect opportunity presented itself to implement changes to the eviction system when the government introduced the *Residential Tenancies Act* in 2006. We pushed hard to have eviction law reform included in this legislation but the government chose not to deal with co-op eviction at the time, not wanting, as we understand it, to lose focus on the main goals of the *Residential Tenancies Act*.

In 2007 Minister Gerretsen wrote to the Ontario Council outlining an approach to eviction reform that he was prepared to move forward on if supported by the Council. The approach was consistent with the one proposed by the Ontario Region and, backed by Ontario members, the Council confirmed their support.

When Minister Watson became Minister of Municipal Affairs and Housing, he too expressed his support for eviction reform. Early in 2009, however, he informed the Ontario Council that, because of the severe economic downturn, the government would not be able to pay for the cost of the changes needed to the Landlord and Tenant Board systems. In an April 2009 letter to the Ontario Council, he said that he would still be prepared to move forward on the initiative if the co-op housing sector could cover the start-up cost. A copy of the letter is attached.

The Council and Ontario members were surprised and disturbed by the proposal that co-ops pay for the cost of implementing a government service that all agreed was needed. At last year's AGM, however, the members reluctantly agreed to cover part of the cost through a one-time levy on their membership dues to CHF Canada. The Ontario Council agreed to cover the remaining portion through a substantial draw on reserves. The agreed-to contribution was \$400,000. Our understanding with the Ministry was that the Ontario government would be responsible for any cost overruns beyond this amount.

Following last year's annual meeting, we began work with Ministry officials and staff from the Minister's office on the reform. We were told that the goal was to have legislation passed in spring 2010.

Unfortunately, late last year, we learned from the Minister's office that, as noted above, costs would be much higher than expected. Ontario Region staff held one meeting in December with Ministry representatives to explore how to deal with these developments and then Minister Watson confirmed in his January 8 letter that reform could not go ahead on the terms previously agreed to.

The Ontario Council met last week to discuss how to respond to Minister Watson's proposal on how eviction law reform could still happen. You can appreciate how disappointed and discouraged Council members are with these developments. At no point over the years has the Council doubted the sincere commitment of Minister Gerretsen or Watson to moving forward on changes to the eviction system but some of our members have questioned this trust as the process has dragged on and the terms of government support have changed. At our recent meeting, Council members struggled with the judgment call about whether we could go back to our

members and ask for an increased payment and for their trust that the government would deliver on reform.

Now, to come to the point. Reluctantly, the Council is prepared to recommend to members that they pay an increased levy on their CHF Canada membership dues to pay for set-up costs, provided our staff can reach an agreement with the Ministry on:

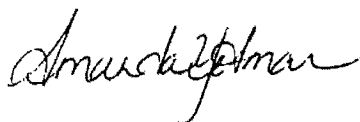
- what the increase in our contribution will be, with a strict limit on the Ontario Region's responsibility for cost overruns
- a process that offers the Ontario Region the opportunity to assure itself that the projected costs are legitimate and necessary and expenditures are controlled, and
- the goal of normalizing the application fees paid by housing co-ops in relation to those paid by other landlords over time.

We don't know what our members will decide. We do know that they will express considerable frustration and that there will be some strong resistance. The Ontario Council, however, still believes that the benefits of eviction law reform are significant and compelling and that it is in co-ops' interest to do what it takes to win government agreement to make the changes.

Minister, we recognize that you have inherited this file at a difficult time. We remain hopeful that we can find a way to proceed on eviction reform and look forward to working with you to resolve how to make this happen. We will need to do this quickly, however, as our annual meeting on June 11, is fast approaching.

We would welcome an early opportunity to meet with you to discuss this and other key issues of concern to our members.

Yours truly,



Amanda Yetman
President
Ontario Council
Co-operative Housing Federation Canada

Attachments:

- January 8, 2010 letter from Minister Watson
- Resolution R1: Eviction law reform, 2004 Annual Meeting of Ontario members.
- April 2009 letter to the Ontario Council

**Ministry of
Municipal Affairs
and Housing**

Office of the Minister

777 Bay Street, 17th Floor
Toronto ON M5G 2E5
Tel. 416 585 7000
Fax 416 585 6470
www.ontario.ca/MAH

**Ministère des
Affaires municipales
et du Logement**

Bureau du ministre

777, rue Bay, 17^e étage
Toronto ON M5G 2E5
Tél. 416 585 7000
Télééc. 416 585 6470
www.ontario.ca/MAH



09-3656

January 8, 2010

Mr. Dale Reagan
Managing Director, Ontario Region
Co-operative Housing Federation of Canada
720 Spadina Avenue
Suite 313
Toronto ON M5S 2T9

Dear Mr. Reagan:

I am writing to thank you for meeting with my staff to discuss the proposed reform of the eviction process for co-operative housing in Ontario and to provide some further comments on this important initiative.

As you know, I wrote to you earlier in support of reform of co-op eviction. At that time, the ministry provided you with an early estimate of the costs to create a process for adjudicating applications for co-op eviction at the Landlord and Tenant Board (LTB). In addition, I suggested that the co-op sector share in the cost – through enhanced application fees – of resolving these disputes.

I want to reassure you that I still support moving forward on this initiative. This would include asking the legislature to approve amendments to the *Residential Tenancies Act, 2006* and the *Co-operative Corporations Act, 1990* in order to reform the co-op eviction process.

However, as you know, fiscal conditions have worsened over the past year and the government is facing even greater financial pressures. Given current fiscal restraints, the government is no longer in a position to share the ongoing costs of resolving disputes about co-op evictions at the LTB. Another challenge is that, after due diligence, the cost estimates for developing the process for co-op eviction applications at the LTB are significantly higher than earlier estimates.

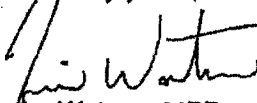
In light of the increased estimate, I am prepared to commit a one-time government contribution to fund part of the start-up costs – if CHF can find a way to fund the balance. It will also be necessary for providers of co-op housing to pay the full administration and maintenance costs of processing applications at the LTB. Ministry staff will follow up with you on the details of a cost-sharing arrangement.

Mr. Dale Reagan

Finally, I understand how important this initiative is for the CHF and the co-op housing sector in Ontario. Unfortunately, we have all been put in a very difficult position due to the financial implications of the proposed reform. Despite these difficulties, it is my hope that we can continue to work together to find a way to move forward with this reform.

In closing, I look forward to hearing from you in the near future regarding CHF's position on the latest developments regarding this initiative.

Sincerely yours,



Jim Watson, MPP
Minister

Eviction Law Reform

Ontario Council

WE RESOLVE

THAT the Ontario Region keep pressing for reform to the law on co-op housing evictions so that the eviction process

- better protects members' rights,
- helps co-ops enforce the by-laws their members have put in place to make their communities work, and
- costs less and works better than the current system;

THAT the Region seek a process that includes

- a. a co-operative housing tribunal, linked to the Rental Housing Tribunal, to deal with evictions from co-ops, in place of the courts;
- b. a hearing process that has the Co-op Housing Tribunal deciding whether to evict, based on its own review of the case;
- c. freedom for co-ops to settle the details of their internal process in their by-laws, as long as they meet the standards below, which should be in the *Co-op Act*:
 - the decision to go to the Tribunal must be made by a resolution of the co-op's board of directors;
 - a co-op member must get at least 10 days' notice of the board meeting;
 - the notice to the member must include the general grounds for eviction;
 - the member must have the right to attend and speak at the board meeting, with or without agent or lawyer, before the board decides whether to ask the Tribunal to evict;

AND THAT, through CHF Canada's Web site and Ontario *Newsbriefs*, the Ontario Region keep Ontario members up to date on efforts to secure eviction law reform.

OUR REASONS FOR THIS RESOLUTION ARE

Last year, by unanimous vote, the Ontario Members directed the Ontario Council to look into ways to change the co-op eviction system in the province. Members asked that reforms to eviction law meet the three goals above.

Co-ops have told us this:

The current eviction system is slow. An eviction must start with a full process within the co-op. This can take months. Then, if the member does not leave, the case goes to court. Many delays can follow.

The system is uncertain. Co-op lawyers often can't say in advance whether a co-op has a good chance of winning the case. Co-ops may decide to live with a problem, to avoid the cost of an eviction that fails.

The system costs too much. A simple co-op eviction costs are at least four times as much as an eviction from a non-profit. Costs in a difficult case can run to tens of thousands of dollars. Co-ops can also lose thousands of dollars in housing charges because of long delays in the eviction process.

These problems have a number of causes:

- a. The courts are busy. The co-op's lawyer and witnesses must be ready and prepared for a hearing that may be put off several times.
- b. The procedural standards are high. Co-ops must follow to the letter their by-laws and the *Co-op Act's* detailed rules about evictions. And they must respect any other procedures that the judge thinks would be fair at a tribunal hearing, rather than a community board meeting. One small mistake and they may need to start over again. So co-ops need to talk to their lawyers early and often in the eviction process.
- c. There is legal uncertainty about who is making the eviction decision. Sometimes judges start fresh with the facts and decide on the merits of the case. They pass over mistakes in procedure. Others leave the eviction decision to the co-op but insist that the co-op's procedures be free of errors. By law, private and non-profit landlords need not allow a tenant a hearing or appeal before going to the Rental Housing Tribunal for an eviction. Once there, the case is decided on its merits.
- d. Since evictions are decided in the courts, a co-op needs a lawyer even for a simple case. In contrast, the staff of a non-profit can go to the Rental Housing Tribunal for a simple eviction without even a phone call to a lawyer.

Rethinking Co-op Housing Evictions, shared with the delegates last year and available on our Web site, has more to say about these problems.

After the 2003 AGM the Ontario Council named a reference group to study all the options for legislative change. The reference group looked for a fairer, faster, more affordable process that would be likely to win government support, while meeting our reform goals. They looked at a number of options and decided on the recommendations above.

A tribunal system would work better for co-ops. Co-op staff would be able to handle most evictions for arrears without a lawyer's help. Evictions would no longer fail for technical

reasons, such as not having the right person sign a notice. A faster process would reduce losses when a member isn't paying their housing charge.

A tribunal system would work better for members facing eviction. The matter would be decided faster. A member would be asked to leave only if the Tribunal found that the facts justified eviction. Members who did not qualify for legal aid would not have to choose between going into debt to pay a lawyer and going through a complex court process without the right help.

Tenants have complaints today about the Rental Housing Tribunal. But the Ontario Council believes that a tribunal system can work fairly for co-op members:

- a. Most criticism of the Tribunal has to do with its power to approve rental increases. A co-op tribunal would have no say over co-op housing charges.
- b. We will ask the government to make sure that Tribunal members who deal with co-op cases have special expertise or take training about co-ops.
- c. The government is set to review the new *Tenant Protection Act* and the Rental Housing Tribunal. A new Co-op Housing Tribunal will benefit from the changes that come out of this review.

A tribunal system would work better for the public. The court system is financed with tax money. It is often clogged with cases. Moving co-op evictions to a tribunal system would save money and free up court time for serious criminal and civil cases.

The Council has submitted a brief to the government to begin discussions. A copy of the executive summary of the brief can be found on the CHF Canada Web site.

The Ontario government is looking at making changes to the *Tenant Protection Act* next fall. This may open the door to making related changes to the *Co-operative Corporations Act*.

There is a risk in asking for changes from government. We may not get exactly what we want. Last year, delegates said that the risk is worth taking. The Council agrees and recommends that we try to win reform based on the recommendations in this resolution.

AGM ACTION:

Adopted as presented

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Municipal Affairs
and Housing**

Office of the Minister
777 Bay Street, 17th Floor
Toronto ON M5G 2E5
Tel. 416 585 7000
Fax 416 585 6470
www.mah.gov.on.ca

**Ministère des
Affaires municipales
et du Logement**

Bureau du ministre
777, rue Bay, 17^e étage
Toronto ON M5G 2E5
Tél. 416 585 7000
Télééc. 416 585 6470
www.mah.gov.on.ca



09-3341

April 8, 2009

Mr. Dale Reagan
Managing Director
Co-operative Housing Federation, Ontario Region
720 Spadina Avenue
Suite 313
Toronto ON M5S 2T9

Dear Mr. Reagan:

I am writing to follow up on our discussion regarding proposed reform of the process for co-op housing evictions. This is a very important issue. I appreciate hearing your concerns about the current eviction process and your views with respect to how the process can be reformed.

As I wrote last year, I support reform of co-op evictions and have carefully considered your proposal to move the eviction process for providers of co-op housing from the courts to a new co-operative housing tribunal. However, as you can appreciate, under the current fiscal climate, the government is not in a position to establish a new tribunal at this time.

I remain convinced that, despite fiscal constraints, we can make significant improvements to the co-op eviction process by working together. We can explore ways to allow providers of co-op housing to avail themselves of the processes of the Landlord and Tenant Board (LTB) to resolve eviction disputes while respecting the unique nature of co-op housing.

Given the financial pressures facing the government, I am interested in exploring ways in which the Co-operative Housing Federation of Canada and providers of co-op housing can contribute to making reform of co-op eviction a reality. We estimate that it will cost approximately \$400,000 to create an efficient and fair eviction process for providers of co-op housing through the LTB. In addition, I would expect that providers of co-op housing would share the costs of resolving these disputes through enhanced application fees.

I am interested in moving quickly on this initiative, provided that the co-op sector can find support from co-op members to make this possible financially and that we can obtain all the necessary government approvals.

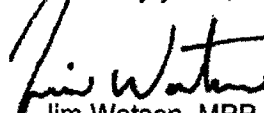
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Mr. Dale Reagan

In closing, I would like to thank you and your organization for the contribution you are making to the co-op housing sector in this province. This sector is an important part of the overall affordable – housing sector in Ontario.

I look forward to continue working closely with you on this important initiative.

Sincerely yours,

A handwritten signature in black ink that reads "Jim Watson". The signature is written in a cursive style with a large initial "J".

Jim Watson, MPP
Minister