

January 8th, 2024

SENT BY EMAIL

Mayor Horwath and City Council
2nd Floor
71 Main Street West
Hamilton, Ontario
L8P 4Y5

Re: Challenges at the Landlord and Tenant Board and its Impact on Hamilton's Housing Crisis

Dear Mayor Horwath and Members of City Council;

We are writing to bring to your attention an item scheduled for the General Issues Committee meeting on January 17, 2024. This was originally scheduled as an oral presentation to the Committee however, due to a full agenda we are only permitted to provide a written presentation. Our materials to the committee will include a cover letter that provides further details, our 31-page slide deck, and a letter from the Municipality of Chatham-Kent written to the Province, Tribunals Ontario, and the Landlord and Tenant Board's ("LTB") seeking systemic changes to its service delivery. The following is a summary of our presentation, which is asking the committee to instruct staff to write a similar letter to Chatham-Kent seeking the same solutions for reform.

About HCLC and ACTO

The Hamilton Community Legal Clinic (HCLC) is a community legal clinic that serves low income residents from anywhere in the City of Hamilton, including the Mountain, Stoney Creek, Dundas, Ancaster, Waterdown, Flamborough, Mount Hope, Glanbrook and Winona. Our aim is to be as accessible as possible to those who may need our services. We are committed to adapting our services to meet community needs and working with individuals, groups and service providers to improve legal rights and promote access to justice. Our staff and board members are active in local as well as provincial networks, agencies and coalitions to further this goal.

The Advocacy Centre for Tenants Ontario (ACTO) is a specialty community legal clinic with a province-wide mandate to advance and protect the interests of tenants living with lower incomes. This is accomplished through our work in systemic litigation, policy and law reform, community organizing, and public legal education. ACTO also provides legal

information and assistance to self-represented tenants appearing at the Landlord and Tenant Board through the Tenant Duty Counsel Program.

Background

As Council may be aware, the Landlord and Tenant Board is entrusted to resolve disputes between tenants and landlords under the Residential Tenancies Act. When it is not operating effectively, the public loses faith that their rights and responsibilities will be protected, which has a direct impact on the housing and homelessness crisis that has gripped the province.

Three years ago the Board adopted a remote service model which permanently removed all in person services to the public. This change marked a significant decline in the Board's ability to resolve disputes in a timely fashion, created a digital divide for many tenants preventing them from fully participating in their hearings, and it created a situation whereby homelessness prevention programs that had worked well with the in-person services at the Board to save tenant households from being unfairly evicted and left homeless are now less effective.

Impact on Hamiltonians

For Hamilton residents this meant losing the regional office located at the Ellen Fairclough Building. That building also was known in the community as the ODSP office making it relatively easy for Hamiltonians to find and attend their hearing. Closing that office meant that Hamiltonians lost access to their counter service which provided support for people filling out forms and obtaining essential documents to understand their case. The loss also meant that Hamiltonians no longer had guaranteed access to the Board's Dispute Resolution Officers (mediators) on the day of their hearings and access to tenant duty counsel were reduced. Far more matters were proceeding to merit hearings because of the decreased support from mediators and duty counsel and thus lengthening the hearing blocks. Hamiltonian's also lost the benefit of having three dedicated days every week to hear only their disputes at the Board The removal of in person services created a situation where Hamiltonians in 2018 used to wait approximately 30 days to have their applications heard and now that wait has ballooned to between 6 months to two years.

The impact that this has had on the housing crisis has been profound. The removal of in person services created [situations](#), in Hamilton and elsewhere, where the majority of tenants (55.6%) participated in their hearings by phone whereas the majority of landlords (74%) participated by video and in other situations tenants could not participate at all due to the digital divide. This has led to evictions that could have been [prevented](#) and other negative outcomes that have exacerbated the housing and homelessness crisis.

Municipalities have had to devote more resources to supporting its vulnerable residents and in most cases are not able to bridge the digital divide that the LTB has created. Tenancies that would otherwise be sustained through intervention from a municipal homelessness prevention program, tenant duty counsel, or mediation services are now falling through the cracks because of the removal of in-person services at the LTB. As

you may know, once an affordable housing unit is taken from a community then it is lost forever because of rent control exemptions. As the city and the province are not replacing affordable units at the same rate as we are losing units it is imperative that the city does everything in can to preserve its affordable housing stock

With over three years of dysfunction with its remote service model, the Board is continuing to forge ahead with this system even despite a scathing [report](#) from the Ombudsman last year. Last year's announcements to substantially increase the number of adjudicators is merely a stopgap solution to address today's backlog. Prior to that announcement, the Board had been operating with an unprecedented number of adjudicators, which despite the additional resources, experienced an increase in its backlog from 32,800 in April 2021 to 53,057 by March 2023. The backlog increased despite the Board having yet to reach its pre-pandemic workload. Whereas other tribunals were tackling, their backlog during that period the Board saw its backlog increase due to its remote service model.

In summary, the appropriate solution must address the problems created when the Landlord and Tenant Board removed in-person services by making in-person services the default and not the exception, returning to regional scheduling to support municipalities other than Toronto and Ottawa, and re-opening counter services at the Ellen Fairclough building to improve early intervention supports to tenants.

We are available to answer any questions or comments that you may have.

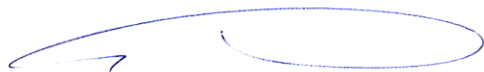
Sincerely,



Douglas Kwan
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