



Advocacy Centre for Tenants Ontario
Centre ontarien de défense des droits des locataires

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**Submission on the Right to Adequate Housing
Committee on Economic, Social and Cultural Rights
Canada's Sixth Periodic Review
Geneva, February 24th -25th, 2016**

**Right to Housing Coalition
February 1, 2016**

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Executive Summary

1. The Right to Housing Coalition¹ was formed in 2009 and is coordinated by the Advocacy Centre for Tenants Ontario. The coalition includes community activists, indigenous groups, lawyers, academics, and those with lived experience of homelessness. Members belong to local, provincial and national organizations.
2. Over one million Canadians are facing a serious housing crisis. Over 40% of renter households in Canada experience serious housing affordability issues.²
3. Housing affordability issues are the result of high rents, low incomes, and extremely little social housing.³ The failure of Canada and Ontario to take action has led to an ongoing and deepening crisis: today over 40% of renter households in Canada experience serious housing affordability issues.
4. There are 168,711 Ontario⁴ households on the active waiting lists for social housing where the average wait time is almost four years. In 2014-15, Ontario increased the supply of affordable housing by 720 units.
5. We have a minimum of 235,000 people who will experience homelessness in Canada in a year with 35,000 homeless on any given night. This is the direct result of low incomes, high rents and government inaction with regard to the crisis in affordable housing.⁵ There is a direct link between homelessness, poor health and mortality.⁶
6. The federal government has pointed to the *Canadian Charter of Rights and Freedoms* (“the Charter”) as a primary source of legal protection for the rights found in the *International Covenant on Economic, Social and Cultural Rights*, which includes the right to adequate housing.⁷
7. The persons affected by homelessness and the lack of affordable and adequate housing are disproportionately members of groups protected from discrimination under s. 15(1) of the *Charter*, including: women, single mothers, persons with mental and physical

¹For a complete list of those involved in the Right to Housing Coalition, please see Appendix A.

²<http://www.statcan.gc.ca/daily-quotidien/130911/dq130911b-eng.htm>;

³https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2015/10/Addressing_Core_Housing_Canada.pdf

⁴ Ontario is the largest province/territory in Canada.

⁵ Stephen Gaetz, Tanya Gulliver and Tim Richter, “The State of Homelessness in Canada 2014”, 2014: Toronto, The Homeless Hub Press, <http://homelesshub.ca/resource/state-homelessness-canada-2014>, see Infographic here: <http://www.homelesshub.ca/blog/infographic-homelessness-canada-numbers>

⁶ See Affidavit of Dr. Stephen Hwang (#16), <http://www.acto.ca/en/cases/right-to-housing/application-material.html>

⁷CESCR, *Concluding Observations: Canada (1998)*, at para. 5

disabilities, indigenous persons, seniors, youth, racialized persons, newcomers and persons in receipt of social assistance.

8. As such, in May 2010, in the context of increasing homelessness and a critical shortage of affordable housing, the Advocacy Centre for Tenants Ontario, together with the right to housing coalition launched a *Charter* challenge, *Tanudjaja v. Attorney General of Canada and Attorney General of Ontario*.⁸ The basis of the claim was that Ontario and Canada were violating the *Charter* by withdrawing government funding for affordable adequate housing and by failing to take action to address the growing crisis of homelessness.
9. There were five applicants in the case: Jennifer Tanudjaja, Janice Arsenault, Brian Dubourdiou, Ansar Mahmood and the Centre for Equality Rights in Accommodation.
10. In May 2012, Ontario and Canada brought a motion to strike the application on the ground that it disclosed “no reasonable cause of action”. On a motion to strike no evidence can be before the court. As a result, the expert witness and applicant affidavits detailing the devastating impacts of homelessness and precarious housing, and the governments' actions and inactions which led to this crisis, were not before the court.
11. Ontario and Canada argued that the issues before the court were not justiciable. They argued that housing and homelessness are “political determinations” for the “legislature” and were part of “multiple competing social and economic factors”. Their position was that access to adequate housing was not about rights but about policy, the courts had no business meddling in policy, and that social and economic rights have no protection under the *Charter*.⁹
12. With no evidence before him, a single judge at the Ontario Superior Court of Justice allowed the motion, striking out the application. The decision ultimately means that the right to adequate housing is not an enforceable human right in Canada.¹⁰ On appeal to the Ontario Court of Appeal, the majority (two justices) upheld the lower court’s decision. The Supreme Court of Canada denied leave to appeal in June 2015 and the application was not allowed to proceed.
13. The primary remedy requested in *Tanudjaja* was a rights-based national housing strategy.

⁸ The Notice of Application can be found here: <http://www.acto.ca/en/cases/right-to-housing/application-material.html>.

⁹ [http://www.acto.ca/assets/files/cases/Factum%20of%20the%20Respondent%20-%20Motion%20to%20Strike%20\(R2H\).pdf](http://www.acto.ca/assets/files/cases/Factum%20of%20the%20Respondent%20-%20Motion%20to%20Strike%20(R2H).pdf)

¹⁰ <https://www.canlii.org/en/on/onsc/doc/2013/2013onsc5410/2013onsc5410.html?autocompleteStr=Tanudjaja&autocompletePos=2>

14. The UN Committee on Economic, Social and Cultural Rights as well as the UN Special Rapporteur on Adequate Housing have repeatedly recommended that a national strategy that ensures the right to adequate housing be implemented on an urgent basis to address the “national emergency” of lack of affordable housing and homelessness. Despite these concerns and recommendations, Canada and Ontario have failed to implement an effective strategy to address homelessness and the lack of adequate affordable housing.¹¹
15. The 10,000 pages of evidence filed with the court in *Tanudjaja v. Attorney General of Canada and Attorney General of Ontario* not allowed before the courts included two affiants who found themselves both homeless and battling mental illness.
16. One of them is Linda Chamberlain. She lived on and off the streets for close to 35 years. She speaks with a compelling voice about the importance of holding the state accountable for ensuring adequate housing is truly a right for all and about what the right to housing really means:

When I got my apartment at Mainstay Housing, it felt like I was awake for the first time in my life. I was 47 years old. I had a clean home, my own space, and a feeling of safety after thirty years of living in shelters, on the street, or in rooming houses. At first I thought it was a mistake; that I wasn’t good enough; that it was too good to be true. I didn’t unpack for the first year I lived there because I was so afraid that I wouldn’t be able to stay.¹²
17. We urge all three levels of government in Canada to ensure access to adequate housing so that everyone can experience the security and community that Linda Chamberlain finally found.

Summary of Recommendations:

- a. Canada must ensure access to justice for marginalized groups. We urge Canada to allow individuals and organizations to claim social and economic rights before courts and tribunals on a full evidentiary record.
- b. Canada and Ontario must clarify their housing commitments. Specifically, we urge Canada and Ontario to commit to rights-based housing strategies which includes the right to adequate, affordable, and accessible housing for all, and a definition of affordability as 30% of household income for low income and marginalized communities.

¹¹ See: Affidavit of Miloon Kothari, Former UN Special Rapporteur on Adequate Housing, <http://www.acto.ca/assets/files/cases/Afd.%20of%20M%20KOTHARI,%20Special%20Rapporteur%20on%20Adequate%20Housing%20-%20FINAL.pdf>

¹² <http://www.acto.ca/en/cases/right-to-housing/application-material.html>

Submission on the Right to Housing (Article 11)

I. Who We Are

1. The Right to Housing Coalition¹³ formed in 2009 and is coordinated by the Advocacy Centre for Tenants Ontario. The coalition includes community activists, indigenous groups, lawyers, academics, and those with lived experience of homelessness.¹⁴ Members belong to local, provincial and national organizations. This submission is made specifically on behalf of:

Aboriginal Legal Services: <http://www.aboriginallegal.ca/>

Advocacy Centre for Tenants Ontario: www.acto.ca

ARCH Disability Law Centre: <http://www.archdisabilitylaw.ca/>

Canadian Pensioners Concerned: www.canpension.ca

Centre for Equality Rights in Accommodation: www.equalityrights.org/cera

Children's Aid Society of Toronto: www.torontocas.ca

Colour of Poverty: <https://colourofpoverty.wordpress.com>

Dream Team: thedreamteam.ca

Habitat Services: 0374dc6.netsolhost.com

Housing and Homelessness Umbrella Group: www.hhug.ca

Neighbourhood Legal Services: www.nlstoronto.org

Nellie's: www.nellies.org

ODSP Action Coalition: www.odspaction.ca

Springtide Resources: www.springtideresources.org

Tenants for Social Housing: tenantsforsocialhousing.com

Workers Action Centre: www.workersactioncentre.org

Working for Change: workingforchange.ca

Cathy Crowe, Distinguished Visiting Practitioner, Ryerson University, Toronto

Emily Paradis: <http://homelesshub.ca/users/eparadis>

Peter Rosenthal:

http://www.thestar.com/news/crime/2014/01/05/peter_rosenthals_passions_for_law_and_math_make_for_a_beautiful_if_different_life.html

¹³For a complete list of those involved in the Right to Housing Coalition, please see Appendix A.

¹⁴Homelessness describes a range of housing and shelter circumstances, with people being without any shelter at one end, and being insecurely housed at the other. Homelessness encompasses a range of physical living situations, that includes 1) Unsheltered, or absolutely homeless and living on the streets or in places not intended for human habitation; 2) Emergency Sheltered, including those staying in overnight shelters for people who are homeless, as well as shelters for those impacted by family violence; 3) Provisionally Accommodated, referring to those whose accommodation is temporary or lacks security of tenure, and finally, 4) At Risk of Homelessness, referring to people who are not homeless, but whose current economic and/or housing situation is precarious or does not meet public health and safety standards. See: Canadian Observatory on Homelessness, <http://homelesshub.ca/sites/default/files/COHhomelessdefinition.pdf>

II. Access to Justice Denied: Ontario¹⁵ and Canada prevent right to housing claims made by homeless and precariously housed people from being heard

2. The federal government has pointed to the *Canadian Charter of Rights and Freedoms* (“the Charter”) as a primary source of legal protection for the rights found in the *International Covenant on Economic, Social and Cultural Rights*, which includes the right to adequate housing.¹⁶
3. The persons affected by homelessness and the lack of affordable and adequate housing are disproportionately members of groups protected from discrimination under s. 15(1) of the *Charter*, including: women, single mothers, persons with mental and physical disabilities, indigenous persons, seniors, youth, racialized persons, newcomers and persons in receipt of social assistance.
4. As such, in May 2010, in the context of increasing homelessness and a critical shortage of affordable housing, the Advocacy Centre for Tenants Ontario, together with the right to housing coalition, launched a *Charter* challenge, *Tanudjaja v. Attorney General of Canada and Attorney General of Ontario*.¹⁷ The basis of the claim was that Ontario and Canada were violating the *Charter* by withdrawing government funding for affordable adequate housing and by failing to take action to address the growing crisis of homelessness.
5. Four individuals and one organization were applicants in the case:
 - i) Jennifer Tanudjaja was a 19 year old single mother with two sons. Due to the serious inadequacy of the social assistance shelter allowance¹⁸ she was forced to use her entire social assistance cheque to pay her rent. She relied on her Child Tax benefit to pay for food, clothing, transportation and all other costs for herself and her two boys. Given the precarity of her housing she lived in constant fear of homelessness.
 - ii) Brian Dubourdieu lost his job due to cancer and depression and, as a result, lost his home. At the time of application he lived primarily in a shack on the Don River in Toronto. He avoided shelters for fear of losing all his belongings, pests such as bedbugs, and high levels of violence.

¹⁵ Ontario is the largest province/territory in Canada.

¹⁶ CESCR, *Concluding Observations: Canada (1998)*, at para. 5

¹⁷ The Notice of Application can be found here: <http://www.acto.ca/en/cases/right-to-housing/application-material.html>.

¹⁸ In 1994 the average rent for a 2 bedroom apartment in Toronto was \$784 while the shelter allowance for a single parent with 2 children was \$707. In 2014, the average rent was \$1251 and the shelter allowance \$655, a gap of \$596. This forces social assistance recipients to dip into their basic needs allowance – monies intended for groceries, clothing, etc. – to pay their rent. See attached chart at Appendix B illustrating the widening gap between the Ontario Works shelter allowance and average market rent.

- iii) Janice Arsenault lost her home when her common law spouse died while undergoing routine surgery. Unable to find affordable accommodation, Janice and her two young sons lived with various neighbours. After ten months they were forced to move to a homeless shelter. In despair, Janice sent her sons to live with her parents in a city 2000 kilometres away. She lived on the streets for many years and continues to be precariously housed.
 - iv) Ansar Mahmood had a catastrophic accident in his workplace that rendered him unable to work. He, his wife, and his four children, lived in a two bedroom non-accessible apartment. One of his sons is autistic; his 8 year old son has severe cerebral palsy and is in a wheelchair. As the apartment was not accessible and the hallways not wide enough for the wheelchair, Ansar and his wife had to carry their son from room to room. When they applied for subsidized accessible housing, they were told that it would be a twelve year wait. Their son would be twenty.
 - v) The Centre for Equality Rights in Accommodation is a non-profit agency that defends housing rights and human rights by educating individuals and communities, advancing progressive and inclusive housing law and policy, and providing legal information and services to marginalized Ontarians.
6. Specifically, we argued that Canada and Ontario were in violation of section 7, the right to life and security of the person and section 15(1) which states that, “Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.” The remedy sought was a rights-based national housing strategy.
7. To support our claim, we compiled 10,000 pages of expert evidence to support the challenge¹⁹. This work was carried out primarily by volunteers and pro bono counsel. The evidence demonstrated the serious health impacts, including mortality, of the governments’ failure to provide sufficient affordable housing to those in need. It also demonstrated that some groups were impacted more than others, including: women and girls fleeing abuse, indigenous communities, those with physical or mental disabilities including addictions, and racialized communities. It also documented the direct link between the federal government’s withdrawal of funding for affordable housing twenty years ago and the extreme rise in homelessness in Canada.²⁰

¹⁹ All expert witness affidavits can be found here: <http://www.acto.ca/en/cases/right-to-housing/application-material.html>

²⁰ Some have called this “the making of a crisis”. See: Stephen Gaetz, Tanya Gulliver and Tim Richter, “The State of Homelessness in Canada 2014”, 2014: Toronto, The Homeless Hub Press, <http://homelesshub.ca/resource/state-homelessness-canada-2014>. Over the past 25 years Canada’s population has increased by 30% but the annual national investment in housing has decreased by over 46% and federal spending on low-income housing (per capita) dropped from \$115 to \$60.

8. In May 2012, Ontario and Canada brought a motion to strike the application on the ground that it disclosed “no reasonable cause of action”. On a motion to strike no evidence can be before the court. As a result the expert witness and applicant affidavits detailing the devastating impacts of homelessness and precarious housing, and the governments’ actions and inactions which led to this crisis, were not before the court.
9. Ontario and Canada argued that the issues before the court were not justiciable. They argued that housing and homelessness are “political determinations” for the “legislature” and were part of “multiple competing social and economic factors”. Their position was that access to adequate housing was not about rights but about policy, the courts had no business meddling in policy, and that social and economic rights have no protection under the *Charter*.²¹
10. With no evidence before him, a single judge at the Ontario Superior Court of Justice allowed the motion, striking out the application. The decision ultimately means that the right to adequate housing is not an enforceable human right in Canada.²² On appeal to the Ontario Court of Appeal, the majority (two justices) upheld the lower court’s decision. The third justice wrote a lengthy dissent. In her dissent, Justice Feldman argued that the application should be allowed to proceed on a full evidentiary record. She wrote:

This application is simply not the type of ‘hopeless’ claim for which Rule 21 [motion to strike] was intended. It has been brought by counsel on behalf of a large, marginalized, vulnerable and disadvantaged group who face profound barriers to access justice. It raised issues that are basic to their health and well-being. It is supported by a number of credible intervening institutions with considerable expertise in Charter jurisprudence and analysis. The appellants put together a significant record to support their application. That record should be before the court.²³

²¹ [http://www.acto.ca/assets/files/cases/Factum%20of%20the%20Respondent%20-%20Motion%20to%20Strike%20\(R2H\).pdf](http://www.acto.ca/assets/files/cases/Factum%20of%20the%20Respondent%20-%20Motion%20to%20Strike%20(R2H).pdf)

²² <https://www.canlii.org/en/on/onsc/doc/2013/2013onsc5410/2013onsc5410.html?autocompleteStr=Tanudjaja&autocompletePos=2>

²³ <https://www.canlii.org/en/on/onca/doc/2014/2014onca852/2014onca852.html?resultIndex=2> at para 88. Sixteen well-known public organizations with provincial, federal and international mandates were granted leave to intervene before the Ontario Court of Appeal. They included Amnesty International, The Canadian HIV/AIDS Legal Network, the Ontario Human Rights Commission, the Charter Committee on Poverty Issues, and the Colour of Poverty/Colour of Change Network. See: <http://www.acto.ca/assets/files/cases/Decision-of-Justice-Feldman%2C-March-31%2C-2014.pdf>

11. The Supreme Court of Canada denied leave to appeal in June 2015 and the application was not allowed to proceed.²⁴ This is despite the fact the government has pointed to the *Charter* as a primary source of legal protection for the rights found in the *International Covenant on Economic, Social and Cultural Rights*, which includes the right to adequate housing.²⁵

III. We do not have a national housing strategy in Canada

12. The primary remedy requested in *Tanudjaja* was a rights based national housing strategy.

13. A number of United Nations bodies responsible for monitoring Canada's compliance with international human rights commitments have raised grave concerns about the effects of homelessness and inadequate housing on vulnerable groups and the failure of Canada to take positive measures to protect the right to life. The UN Committee on Economic, Social and Cultural Rights as well as the UN Special Rapporteur on Adequate Housing have repeatedly recommended that a national strategy that ensures the right to adequate housing be implemented on an urgent basis to address this "national emergency". They recommend that this strategy be developed in collaboration with provincial/territorial governments and civil society groups. Despite these concerns and recommendations, Canada and Ontario have failed to implement an effective strategy to address homelessness and the lack of adequate affordable housing.²⁶

14. In the recent federal election the Liberal Party platform included both housing as a human right and the need for a national housing strategy. Ultimately the Liberal Party won and formed a majority government. However, in establishing a new government they have failed to reinstate a Minister/Ministry of Housing and have made no commitment to a national housing strategy or any targeted funds for affordable

²⁴<https://www.canlii.org/en/ca/sccl/doc/2015/2015canlii36780/2015canlii36780.html?resultIndex=5>; For an in-depth discussion of the genesis of the case and the impact of the court rulings, see: Tracy Heffernan, Fay Faraday, Peter Rosenthal, "Fighting for the Right to Housing in Canada", <http://digitalcommons.osgoode.yorku.ca/jlsp/vol24/iss1/2/>

²⁵CESCR, *Concluding Observations: Canada (1998)*, at para. 5 *Core Document Forming Part of the Reports of States Parties (Canada)*, HRI/CORE/1/Add.91 (12 January, 1998) at para.127; United Nations Committee on Economic, Social and Cultural Rights, *Summary Record of the Fifth Meeting*, E/C.12/1993/SR.5 (25 May, 1993) at paras. 3, 21; Government of Canada, *Responses to the Supplementary Questions to Canada's Third Report on the International Covenant on Economic, Social and Cultural Rights*, HR/CESCR/NONE/98/8 (October, 1998) questions 16, 53. *Supplementary Report of Canada in Response to Questions Posed by the United Nations Human Rights Committee*, CCPR/C/1/Add.62 (March, 1983) at p. 23.

²⁶ See: Affidavit of Miloon Kothari, Former UN Special Rapporteur on Adequate Housing, <http://www.acto.ca/assets/files/cases/Afd.%20of%20M%20KOTHARI,%20Special%20Rapporteur%20on%20Adequate%20Housing%20-%20FINAL.pdf>

housing. Rather, the limited housing responsibilities will be fragmented between three ministries with widely varying agendas and commitments.

15. The Prime Minister's Office mandate letter to Jean-Yves Duclos, Minister of Families, Children and Social Development included this responsibility:

In your role as Minister responsible for the Canada Mortgage and Housing Corporation, work with the Minister of Infrastructure and Communities to develop a strategy to re-establish the federal government's role in supporting affordable housing...²⁷

16. The mandate letter to the Minister of Infrastructure and Communities, Amarjeet Sohi, included, among many other responsibilities:

social infrastructure, including affordable housing, seniors' facilities, early learning and child care, and cultural and recreational infrastructure; and work with the Minister of Families, Children and Social Development to create a housing strategy to re-establish the federal government's role in supporting affordable housing.²⁸

17. Finally, improving "housing outcomes" is included in the mandate of Minister of Indigenous and Northern Affairs, Carolyn Bennett.²⁹

18. Despite pre-election promises, a rights-based national housing strategy with specific funding and construction targets for affordable housing have not been included in any of the mandates. Moreover, although the current government campaigned on maintaining federal operating agreements for 350,000 subsidized units across Canada, they have not confirmed post-election that they will follow through on this promise.

IV. The failure of Canada and Ontario to take action has led to an ongoing and deepening crisis: today over 40% of renter households in Canada experience serious housing affordability issues³⁰

19. Over one million Canadians are facing a serious housing crisis. Housing affordability issues are the result of high rents, low incomes, and extremely little social housing.³¹ As

²⁷ <http://pm.gc.ca/eng/minister-families-children-and-social-development-mandate-letter>

²⁸ <http://pm.gc.ca/eng/minister-infrastructure-and-communities-mandate-letter>

²⁹ <http://pm.gc.ca/eng/minister-indigenous-and-northern-affairs-mandate-letter>

³⁰ <http://www.statcan.gc.ca/daily-quotidien/130911/dq130911b-eng.htm>;

³¹ https://www.policyalternatives.ca/sites/default/files/uploads/publications/Manitoba%20Office/2015/10/Addressing_Core_Housing_Canada.pdf

of 2011, over 26% of Canadians were in “core housing need” meaning that their housing is not affordable, not suitable or not in a good state of repair.³²

20. Compounding this situation, both Ontario and Canada have eroded the concept of “affordability”. For low-income people affordable housing has commonly been understood to mean paying 30% of one’s pre-tax income for housing.
21. However, increasingly both Ontario and Canada have begun to use the term “affordable” to mean housing that is rented at 80% of market rent. In other words, housing which is unaffordable for low-income communities.
22. In Ontario, the statistics speak to the crisis. There are 13.6 million people in Ontario. The vacancy rate is 2.4% - that is, there are 24 vacancies for every 1000 rental units. The average monthly rent for a two-bedroom apartment in Toronto (capital of Ontario where 34% of Ontario tenants live) is \$1301; in Ottawa (capital of Canada) it is \$1203. There are 168,711 Ontario households on the active waiting lists for social housing where the average wait time is almost four years, and considerably longer in urban centres. In 2014-15, Ontario increased the supply of affordable housing by 720 units.
23. A recent survey of more than 1500 families with children living in Toronto’s aging rental apartments found that 90% had housing that did not meet adequacy standards for affordability, overcrowding, safety, maintenance and/or security of tenure. One third of the families were at risk of homelessness.³³
24. In addition to low vacancy rates, high rents and an absence of legislation that controls escalating rents, stagnating household income is also a problem. Although the minimum wage increased in Ontario to \$11.25 per hour, it is still woefully inadequate when paying the high cost of rent in urban centres.³⁴
25. Moreover, although all employees pay into the Employment Insurance (“EI”) Fund, a safety net intended for times of unemployment, currently only 38% of applicants across Canada are found eligible. This is in contrast to 1990 when 80% were found eligible. Federal government changes to the rules and added restrictions resulted in a plunge in eligibility. This has had a devastating impact on women, newcomers and youth. In

³² Canadian Mortgage and Housing Corporation, http://www.cmhc-schl.gc.ca/en/hoficlincl/homain/stda/data/data_013.cfm

³³ <http://neighbourhoodchange.ca/documents/2014/04/paradis-et-al-2014-nowhere-else-to-go-inadequate-housing-risk-of-homelessness-among-families-in-torontos-aging-rental-buildings-rp231.pdf>

³⁴ <http://www.cbc.ca/news/canada/hamilton/news/couple-on-ow-odsp-can-t-afford-average-rent-in-hamilton-1.3052548>

Ontario the number of applicants found eligible is 24%; in Toronto it is 20%. In the meantime massive EI surpluses accumulate and are used to pay off the federal deficit.³⁵

26. Most income security measures fall well below any measure of poverty used in Canada. Social assistance rates are woefully inadequate, including for those found to be disabled under the Ontario Disability Support Program (ODSP).
27. The maximum shelter allowance for a single person who is disabled and receiving ODSP benefits is \$479 while the average rent for a 1 bedroom apartment in Toronto is \$1067. This inequity between the allowance and actual rent is endemic across Ontario.³⁶ Eighty-four percent of ODSP recipients live in private rental housing. Of those in private rentals, 58% pay more than their shelter allowance in rent. Only 16% of recipients live in subsidized housing.
28. The lack of affordable housing and inadequate incomes leads to other risks:
 - a. Trauma and loss of security
 - b. Inadequate nutrition and hunger resulting in higher food bank reliance³⁷
 - c. Rising debt in Canada
 - d. Illness and death
 - e. Victimization/harassment
 - f. Involvement of the child welfare services /criminal justice system/ mental health systems
 - g. Community exclusion: citizens cannot participate and engage in their communities
29. These are just a few examples of a deepening crisis for many Canadians. Neither Ontario nor Canada has taken any substantial steps to remedy this situation.³⁸

V. The consequences are severe: people continue to die as a result of homelessness

30. We have a minimum of 235,000 people who will experience homelessness in Canada in a year with 35,000 homeless on any given night. This is the direct result of low incomes, high rents and government inaction with regard to the crisis in affordable housing.³⁹

³⁵ <http://www.theglobeandmail.com/report-on-business/rob-commentary/how-to-make-employment-insurance-more-accessible/article23015874/>

³⁶ <http://www.cbc.ca/news/canada/hamilton/news/couple-on-ow-odsp-can-t-afford-average-rent-in-hamilton-1.3052548>

³⁷ <https://www.foodbankscanada.ca/Hunger-in-Canada/HungerCount-2015.aspx>

³⁸ Ibid and see as well, Wellesley Institute, Precarious Housing in Canada, 2010 See: http://www.wellesleyinstitute.com/wp-content/uploads/2010/08/Precarious_Housing_In_Canada.pdf, pp. 26-28

31. There is a direct link between homelessness, poor health and mortality.⁴⁰ Extensive literature exists on the powerful and adverse relationship between homelessness and poor mental and physical health.⁴¹ Numerous studies have found that homeless people are at high risk for illness and have higher death rates than the general population. In a comprehensive 11-year study across Canada, Dr. Stephen Hwang and his colleagues note that living in shelters, rooming houses, and hotels is associated with a much higher mortality rate.⁴² Homeless women 18 to 44 years old were 10 times more likely to die than women of the same age group in the general population of Toronto.⁴³
32. A startling example of government indifference to homelessness can be seen in the city of Toronto, Ontario. A preventable cause of illness and death in Canada is ensuring that the homeless are not exposed to extreme cold. In Toronto, however, severe weather protocols - where warming centres and additional shelter beds are provided - are not implemented until the temperature falls below -15 degrees Celsius or -20 degrees Celsius with wind chill.⁴⁴ As a result there were four documented deaths of homeless people due to extreme cold in 2014/2015.
33. Despite these deaths, the city has refused to consider changing the extreme weather alert or to follow global best practices with regard to inclement weather.⁴⁵ This is a glaring example of the failure of governments in Canada, whether federal, provincial or municipal to adequately address the crisis of homelessness and affordable housing. As a result, people are literally dying on the streets of Canada.

³⁹ Stephen Gaetz, Tanya Gulliver and Tim Richter, "The State of Homelessness in Canada 2014", 2014: Toronto, The Homeless Hub Press, <http://homelesshub.ca/resource/state-homelessness-canada-2014>, see Infographic here: <http://www.homelesshub.ca/blog/infographic-homelessness-canada-numbers>

⁴⁰ See Affidavit of Dr. Stephen Hwang (#16), <http://www.acto.ca/en/cases/right-to-housing/application-material.html>

⁴¹ 5 Frankish; S.W. Hwang, "Homelessness and Health," Canadian Medical Association Journal 164, no. 2 (2001): 229-33; CIHI. Improving the Health of Canadians: Mental Health and Homelessness (Ottawa: CIHI, 2007); N. Pleace, and D. Quilgars. Health and Homelessness in London: A Review (London: The King's Fund).

⁴² S.W. Hwang et al. "Mortality among Residents of Shelters, Rooming Houses, and Hotels in Canada: 11 Year Follow-up Study," BMJ 339 (2009): b4036

⁴³ A.M. Cheng, and S.W. Hwang. "Risk of Death among Homeless Women: A Cohort Study and Review of the Literature," Canadian Medical Association Journal 170, no. 8 (2004): 1243-47

⁴⁴ <http://www1.toronto.ca/wps/portal/contentonly?vgnextoid=f187fec7e1aa9410VgnVCM10000071d60f89RCRD>

⁴⁵ Public Health England's 2015 cold weather plan and related document, can be found here: <https://www.gov.uk/government/publications/cold-weather-plan-cwp-for-england>

VI. Recommendations for Action

Canada

34. Canada must ensure access to justice for marginalized groups. We urge Canada to allow individuals and organizations to claim social and economic rights before courts and tribunals on full evidentiary records.
35. Canada must clarify its housing commitments. In particular we urge the federal government to adopt a rights-based definition of affordable housing that defines affordability as 30% of household income, as part of a commitment to the right to adequate, affordable, and accessible housing for all, and especially for the most vulnerable and marginalized communities.
36. Canada must articulate its commitments to producing non-profit, social, co-operative, and supportive housing, and to build on commitments in the mandate letters provided to federal Ministers in 2015 to develop a comprehensive, funded, rights-based National Housing Strategy with targets and timelines for implementation.

Ontario

37. Ontario must ensure access to justice for marginalized groups. We urge Ontario to allow individuals and organizations to claim social and economic rights before courts and tribunals on full evidentiary records.
38. Ontario must address inadequate social assistance amounts, in particular, Ontario must ensure that shelter allowances reflect average market rents. Ontario should set targets and implementation dates to increase social assistance levels and shelter allowances to reflect market basket expenses and market rents.
39. Ontario must implement planning regulations that ensure all new developments include a percentage of affordable housing units.
40. Ontario must develop, implement and fund strategies to address eviction prevention and homelessness prevention.
41. Ontario must implement a rent control system to prevent economic evictions in private rental housing.
42. Ontario must ensure access to adequate affordable housing for all low income communities.

Municipalities

43. Municipalities must develop and implement a protocol for extreme cold weather alerts that is evidence-based and includes global best practices.
44. Municipalities must implement planning regulations that ensure all new developments include a percentage of affordable housing units.
45. Municipalities must develop strategies to address eviction prevention, homelessness prevention, and access to affordable housing.

VII. Conclusion

46. The 10,000 pages of evidence filed with the court in *Tanudjaja v. Attorney General of Canada and Attorney General of Ontario* not allowed before the courts included two affiants who found themselves both homeless and battling mental illness.
47. One of them is Linda Chamberlain. She lived on and off the streets for almost 35 years. She speaks with a compelling voice about the importance of holding the state accountable for ensuring adequate housing is truly a right for all and about what the right to housing really means:

When I got my apartment at Mainstay Housing, it felt like I was awake for the first time in my life. I was 47 years old. I had a clean home, my own space, and a feeling of safety after thirty years of living in shelters, on the street, or in rooming houses. At first I thought it was a mistake; that I wasn't good enough; that it was too good to be true. I didn't unpack for the first year I lived there because I was so afraid that I wouldn't be able to stay.⁴⁶

48. We urge all three levels of government in Canada to ensure access to adequate housing so that everyone can experience the security and community that Linda Chamberlain finally found.

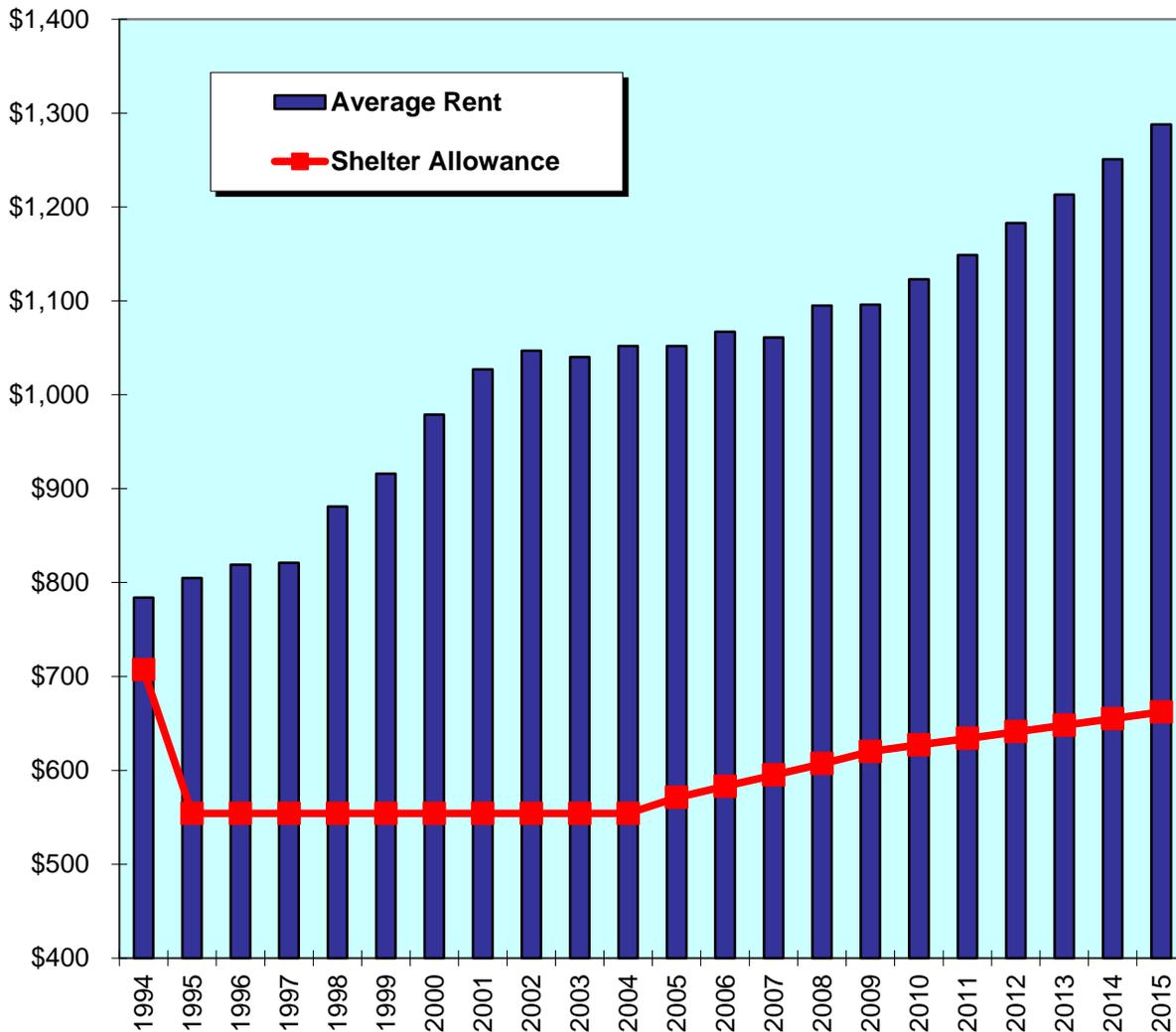
⁴⁶ <http://www.acto.ca/en/cases/right-to-housing/application-material.html>

Appendix A: Right to Housing Coalition Members

Aboriginal Legal Services of Toronto	Kensington-Bellwoods Community Legal Clinic
ACORN	Metro Toronto Chinese and Southeast Asian Community Legal Services
Amnesty International	National Aboriginal Housing Association
Anduhyaun Inc.	National Anti-Poverty Organization
Anglican Church Child Poverty Committee	Native Women's Association of Canada
ARCH Disability Law Centre	Native Women's Resource Centre
Asper Centre for Constitutional Rights	Nellies
Canada Without Poverty	ODSP Action Coalition
Canadian Pensioners Concerned	Older Women's Network
Canadian HIV/AIDS Legal Network	Pivot Legal Society
Centre for Equality Rights in Accommodation	Sistering
Charter Committee on Poverty Rights	Springtide Resources
Children's Aid Society of Toronto	Social Rights Advocacy Centre
Colour of Poverty – Colour of Change	Tenants for Social Housing
Covenant House	Toronto Disaster Relief Committee
The Dream Team	Voices From the Street
Elizabeth Fry Toronto	Wellesley Institute
ESCR.Net	Women's Legal Education and Action Fund (LEAF)
Federation of Metro Tenants Association	Working for Change
Fred Victor Mission	Fay Faraday, Faraday Law
FORWARD	Professor David Hulchanski, University of Toronto
Habitat Services	Professor Martha Jackman, University of Ottawa
Hamilton Community Legal Clinic	Emily Paradis, Research Associate, University of Toronto
HIV/AIDS Legal Clinic Ontario	Peter Rosenthal, Roach, Schwartz and Associates
Holland Bloorview Kids Rehab	Dean Lorne Sossin, Osgoode Hall Law School
Housing and Homelessness Umbrella Group	
Income Security Advocacy Centre	
June Callwood Centre	
Justice for Girls	

NB: The Coalition is coordinated by the Advocacy Centre for Tenants Ontario

Appendix B: Ontario Works - Comparison of Shelter Allowance to Average Rent



1994
Average rent: \$784
Shelter allowance: \$707
Dollar gap: \$77

2015
Average rent: \$1,288
Shelter allowance: \$662*
Dollar gap: \$626

This is the maximum shelter allowance received by a single parent with 2 children. The average rent is for a 2 bedroom apartment in Toronto.

Sources:

Canada Mortgage and Housing Corporation, Fall Rental Market Survey Reports

Ontario Ministry of Community and Social Services

* OW maximum shelter allowance for single parent (with two children under 18 years of age) increased by 1% effective October 1, 2015, rising from \$655 to \$662