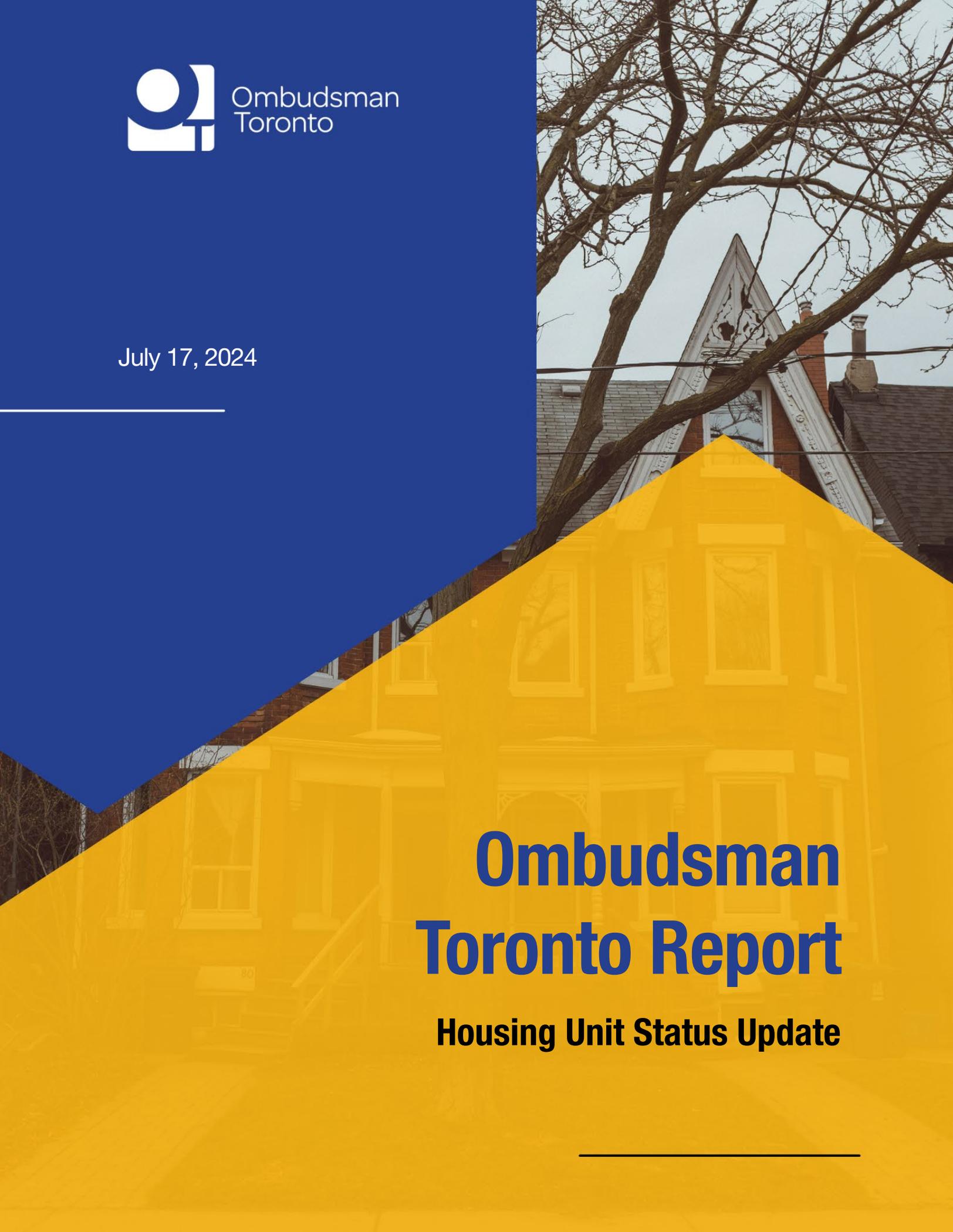




Ombudsman
Toronto

July 17, 2024

The background of the report cover features a photograph of a brick building with a prominent gable roof and a large, leafless tree in the foreground. The image is partially obscured by a blue diagonal shape on the left and a yellow diagonal shape on the right.

Ombudsman Toronto Report

Housing Unit Status Update



Land Acknowledgement

Ombudsman Toronto acknowledges that we are on the traditional territory of many nations, including the Mississaugas of the Credit, the Anishinaabeg, the Chippewa, the Haudenosaunee and the Wendat peoples, and that this land is now home to many diverse First Nations, Inuit, and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands. We are here because this land has been colonized, and we recognize the ongoing harm done to Indigenous communities by this colonial system, including the effects of broken treaty covenants.

At Ombudsman Toronto, we know we have a responsibility to uphold and ensure fairness in our local government. We understand that this must be done with a respectful and culturally responsive approach, and we commit to ongoing learning, unlearning, engagement, and relationship-building in order to do so.

African Ancestral Acknowledgement

Ombudsman Toronto is committed to continually acting in support of and in solidarity with Black communities seeking freedom and reparative justice in light of the history and ongoing legacy of slavery that continues to impact Black communities in Canada. As part of this commitment, we would also like to acknowledge that not all people came to these lands as migrants and settlers. Specifically, we wish to acknowledge those of us who came here involuntarily, particularly those brought to these lands as a result of the Trans-Atlantic Slave Trade and Slavery. We pay tribute to those ancestors of African origin and descent.



Message from the Ombudsman

I am grateful to the community leaders and organizations that shared their expertise and insights on housing as a human right with our team. Their insight and guidance have helped us develop our Housing Rights Framework, and their work to push for the implementation of housing as a human right in Toronto has been, and continues to be, invaluable.

I am also grateful to all the members of the public who have spoken with us, especially those facing housing precarity and housing discrimination. This work is for you.

Kwame Addo, Ombudsman



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Introduction

This status report describes the activities of Ombudsman Toronto's Housing Unit since the creation of this unit in July 2023.

In less than a year, we have fully staffed the Housing Unit, developed its infrastructure, launched two investigations, provided consultations to City staff, and met with more than 170 people through our engagement work. Notably, we have also developed a framework that uses the concept of housing as a human right to guide our investigations, the first of its kind for an Ombudsman organization in Canada.

Overview of the Housing Unit

Ombudsman Toronto is an independent and impartial accountability office with the authority to review and investigate complaints about the administration of the City of Toronto, its divisions, agencies, boards, and corporations.

In 2019, City Council adopted the City's HousingTO 2020-2030 Action Plan, which provided for the appointment of a Housing Commissioner of Toronto to oversee the City's work in this area.¹

The City Manager hired external consultants with expertise in housing and accountability, Fiona Crean and the Maytree Foundation, to help develop options for this Housing Commissioner role. In their 2022 report,² Crean and Maytree recommended that the City needed accountability "both within the public service and through external bodies such as a housing commissioner, auditor general, and ombuds with a central locus in a housing commissioner or equivalent" to ensure that the City advances the human right to housing.

At the recommendation of the City Manager, City Council then asked my office to report back with recommendations on the resources and structure required for Ombudsman Toronto to focus on investigations and reports related to systemic

¹ Adoption of the City's HousingTO 2020-2030 Action Plan by City Council (December 17 and 18, 2019) <https://secure.toronto.ca/council/agenda-item.do?item=2019.PH11.5>

² Crean and Maytree Report (May 3, 2022) <https://www.toronto.ca/wp-content/uploads/2022/07/90d5-Crean-and-Maytree-Report.pdf>



housing discrimination and systemic hurdles in the City's housing planning and service delivery roles, including consideration of a dedicated Deputy Ombudsman (Housing).³

In early 2023, I responded to Council, proposing the creation of a Housing Unit within my office. City Council agreed,⁴ and in July 2023 I appointed a Deputy Ombudsman (Housing).

Our office has worked to ensure accountability and fairness in housing matters since it opened its doors to the public in 2009. Now, our Housing Unit has a specifically-focused mandate to assess the implementation of the City's housing plans through a housing as a human right lens. With this new unit, we are focused not only on the fairness of the City's actions, but also on the City's efforts to advance the progressive realization of the human right to adequate housing for all residents.⁵

“Progressive realization” means that, while the City can't solve the housing crisis right away, it must use all available resources and tools to constantly move forward and help people realize their right to adequate housing (which we explain in more detail below).⁶ As part of this work, the City must measure its progress and do so in a transparent way. Through the Housing Unit, my office will help to hold the City to account on this work.

Many divisions at the City deliver housing services and programs (from issuing building permits, to upholding property standards, planning new housing, and shelter management), and we have the authority to review them all.

To fulfil its mandate, the Housing Unit:

- Carries out **systemic investigations** and **systems reviews**⁷ and makes recommendations to help the City fulfil its housing rights obligations.

³ Review and Considerations for a Housing Commissioner Role or Function (July 19, 20, 21 and 22, 2022) <https://secure.toronto.ca/council/agenda-item.do?item=2022.EX34.7>

⁴ Review and Consideration for a Housing Commissioner Role or Function at Ombudsman Toronto (March 29, 30 and 31, 2023) <https://secure.toronto.ca/council/agenda-item.do?item=2023.DM5.2>

⁵ Review and Consideration for a Deputy Ombudsman, Housing by Ombudsman Toronto (March 15, 2023), <https://www.toronto.ca/legdocs/mmis/2023/dm/bgrd/backgroundfile-235369.pdf>

⁶ “Progressive realization” refers to Article 2(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR), which requires a government “to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

⁷ Systemic Investigations examine and address issues related to housing involving a practice/policy/rule that has an adverse effect on many people. Systems Reviews measure the degree to which housing policies/programs are meeting intended outcomes (like an audit).



- **Advocates** at a systems level for the right to adequate housing.
- **Develops and sustains relationships** with the broader housing community through meaningful and ongoing dialogue, learning, and information sharing.
- **Engages and consults** with people with lived experience of housing precarity and homelessness, community leaders, advocates and organizations, and all levels of government to listen and learn, identify systemic issues, and share information and best practices.
- **Offers advice** and acts as a sounding board to City staff.

Right to Adequate Housing

All orders of government have a role to play in furthering the progressive realization of the right to adequate housing. This includes municipalities.

In fact, the United Nations states that “local governments are often at the forefront of the struggle for housing and can play a key role in protecting and realizing the right to adequate housing.”⁸

The City of Toronto recognizes that housing is essential to people’s inherent dignity and well-being and to building sustainable and inclusive communities.

The City of Toronto’s Housing Charter, adopted in 2019, moves to further the progressive realization of the right to adequate housing, and adopts a human rights-based approach to housing where all residents have the right to:

- A safe, secure, and affordable home.
- Housing that is maintained in a state of good repair.
- Housing that is accessible.
- Housing that is culturally appropriate.

⁸ HousingTO 2020-2030 Action Plan adopted with amendments by City Council (December 17 and 18, 2019), <https://secure.toronto.ca/council/agenda-item.do?item=2019.PH11.5>



- A home that is part of a complete community with equitable access to a range of opportunities.
- An equal stake and voice in decisions and policies affecting their communities and their housing.
- Equal treatment with respect to housing, without discrimination.

We have taken the principles of the Toronto Housing Charter and considered them alongside international law and other domestic laws that are relevant to the right to adequate housing. After consulting with human rights experts, we've created a framework to guide our work in holding the City to account for its housing rights obligations. A summary version of this framework is found at the Appendix.

We will promote this framework among City staff through our consultations and investigative work, and encourage them to refer to it when considering how their programs might advance the right to adequate housing. We will also share it with other Ombudsman offices in Canada, who may wish to use its principles in their work.

What We've Done So Far

In July of 2023, I appointed Reema Patel as the Deputy Ombudsman (Housing). She is on parental leave and will return in January 2025. In her absence, the Housing Unit is led by Luke Brown, normally our office's Investigations Counsel.

Housing Unit Setup

In the first five months of the Housing Unit's existence, we:

- Developed an organizational structure for the Housing Unit consisting of three investigators, one policy development officer, and an administrative assistant.
- Aligned existing Ombudsman Toronto policies and procedures with the new unit and developed new procedures specific to the Housing Unit.
- Started our preliminary engagement work with community groups and advocates.



- Trained all Ombudsman Toronto employees, including new Housing Unit hires, on housing as a human right.
- Met with senior City staff and members of Council to introduce the new Housing Unit, explain its mandate, and gather feedback about current housing issues faced by residents as well as challenges in delivering housing services.

Investigations and Reviews

On September 21, 2023, we launched the Housing Unit's first investigation, looking into the City's decision to deny refugee claimants and asylum seekers access to shelter spaces that were not specifically designated for refugees. Our team has carried out dozens of interviews and reviewed thousands of documents, some of which had more than 10,000 pages each. We expect to present our findings and recommendations in the fall of 2024.

In June 2024, we launched another investigation, looking at how the City responded to utility outages at a rooming house in York South-Weston following a fire in September 2023. Residents allegedly lived without heat, power, or water for approximately six months, forcing almost all of them to leave the building. This investigation came about through our engagement activities, which are helping us identify where to focus our efforts.

The Housing Unit is also monitoring how the City is implementing the recommendations our office made in our Investigation into the City's Clearing of Encampments in 2021, as well as how the Toronto Community Housing Corporation is implementing the recommendations from our Investigation into Toronto Community Housing Corporation's Tenant Human Rights Complaints Process.

We are assessing other potential issues for systemic investigations and systems reviews and will launch them in due time.

Systemic Work

When we identify systemic issues through the complaints that our office handles, we often work behind the scenes with City staff to improve their services. Some of the systemic fixes the Housing Unit has worked on include:

- Helping Toronto Community Housing Corporation improve its communications with residents living near its new developments.



- Working with Toronto Seniors Housing Corporation to ensure a fair approach to treating family members or caregivers who are living in a unit, but are not on the lease, after a tenant dies or moves out of the unit.
- Working with Revenue Services to update their tax arrears repayment plan process so that it considers the City's right to housing obligations.

Consultations with City Staff

City staff regularly come to Ombudsman Toronto for advice when developing and implementing policies and services. The Housing Unit helps in the following ways:

- We meet quarterly with the Housing Secretariat to review their ongoing projects and provide feedback on them, including on their plan for the MyAccesstoHousingTO housing portal and their eviction prevention resources.
- We are consulting with Toronto Shelter & Support Services on their Shelter Safety Action Plan.
- We are working with 311 to improve the information they provide tenants who are at risk of eviction, including referring them to the City's own eviction prevention resources.
- We will shortly be meeting quarterly with Toronto Community Housing Corporation leadership to discuss and resolve issues we have identified through our office's casework.

Public Outreach and Engagement

We continue to learn about the housing issues that are affecting people most impacted by housing precarity and homelessness. This is key to deciding what we investigate and will be an ongoing priority for the Housing Unit. To that end:

- We have engaged more than 170 members of community organizations, people with lived experience of housing precarity and homelessness, advocates, provincial and federal housing organizations, members of City Council, and City staff.



- We aim to be as accessible and inclusive as possible, meeting people in communities where they are located. We are always open to feedback about how to ensure we are hearing from those most impacted by housing precarity and homelessness.
- We have heard about some of the unique issues faced by those most impacted by housing precarity and homelessness, including Indigenous peoples, Black people, newcomers, people with disabilities, women and gender diverse people, individuals and families with lower incomes, people who use drugs, and people experiencing homelessness. We know we have more listening and learning to do, and will continue to engage with those most impacted by housing precarity and homelessness.

Some of the concerns we've heard about include:

- Homelessness/shelter services (e.g., shelter conditions)
- Social housing administration (e.g., difficulty with the new rent-geared-to-income⁹ housing offer process through the City's new online portal called MyAccessToHousingTO¹⁰)
- Property standards (e.g., the enforcement of property standards and the RentSafeTO¹¹ program)
- Planning and development (e.g., the process for demolitions and renovations of rental units)
- Affordable housing (e.g., zoning and planning issues impeding the development of affordable housing)

⁹ Rent-Geared-to-Income, or subsidized housing, is when rent is based directly on the tenant's income to help make it more affordable

¹⁰ We acknowledge the City is actively working to address this issue.

¹¹ "RentSafeTO: Apartment Building Standards is a bylaw enforcement program that ensures apartment building owners and operators comply with building maintenance standards. The program applies to apartment buildings with three or more storeys and 10 or more units. Condo buildings, townhomes, or units in a private home (basement or main floor apartment) are not part of the RentSafeTO program." <https://www.toronto.ca/community-people/housing-shelter/rental-housing-tenant-information/rental-housing-standards/apartment-building-standards/rentsafeto-for-tenants/>



What's to Come

Our priorities over the next six months include:

- Finalizing our comprehensive engagement plan, allowing us to continue building and sustaining our connections with community organizations and those experiencing housing precarity and/or discrimination
- Strengthening our relationship with the City's Housing Rights Advisory Committee, to whom we presented at their May 2024 meeting
- Continuing to prioritize issues by considering: the people most impacted and the power imbalances they face; the impact on equity-deserving groups and Indigenous peoples; and how many people are impacted
- Identifying and scoping further systemic investigations and reviews



Appendix: Housing Rights Framework

This document explains how Ombudsman Toronto understands “the right to adequate housing” and how our Housing Unit applies this concept to our systemic investigations and system reviews of the City’s housing programs and services.

The Human Right to Adequate Housing

International law recognizes adequate housing as a fundamental human right that is central to people’s dignity and well-being. This is established in the International Covenant on Economic, Social and Cultural Rights and the Toronto Housing Charter is based on these principles.

Other international legal agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on the Rights of Persons with Disabilities, and the 1951 Convention Relating to the Status of Refugees, address the specific housing-related rights of certain groups. Ombudsman Toronto will use these international legal agreements to help assess whether the City is living up to its obligation to progressively realize the right to adequate housing.

“Progressive realization” means that, while the City can’t solve the housing crisis right away, it must use all available resources and tools to constantly move forward and help people realize their right to adequate housing.¹² As part of this work, the City must measure its progress and do so in a transparent way. We will help to hold the City to account on this work.

Canadian laws, including the *Canadian Charter of Rights and Freedoms*, Ontario’s *Human Rights Code*, the *Residential Tenancies Act*, the *Building Code Act*, and the City’s HousingTO 2020-2030 Action Plan also inform the Housing Unit’s work. The 2020-2023 Action Plan sets out the blueprint for the City to fulfill its obligations under the Toronto Housing Charter.

¹² “Progressive realization” refers to Article 2(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR), which requires a government “to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”



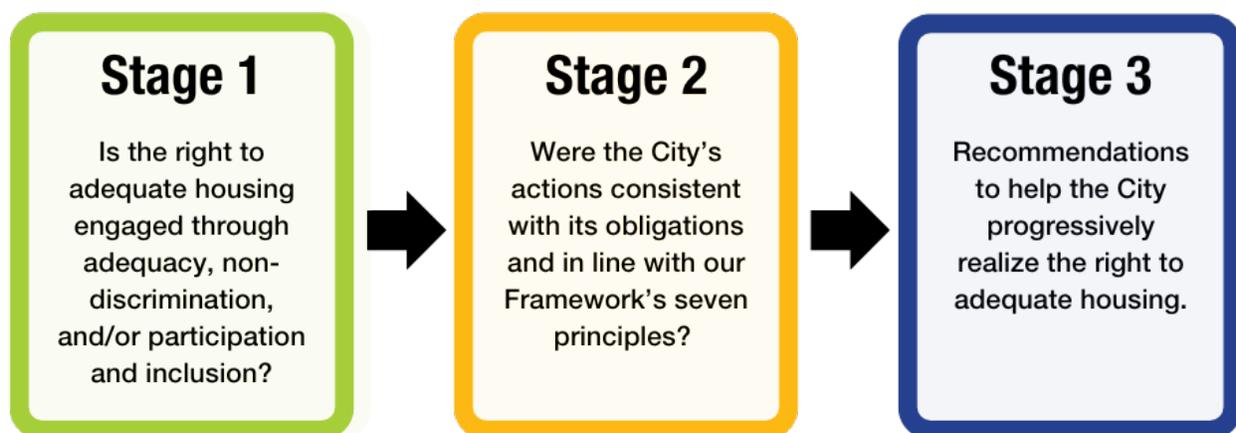
A Human Rights-Based Approach to Housing Investigations and Reviews

The starting point for evaluating the City's decisions, actions, and inactions regarding housing is the lived experience of different social groups and communities.

The first question we ask is whether the City's actions have negatively affected people in any of the three components of the right to adequate housing. These three components are: adequacy, non-discrimination, and participatory rights. We call this "Stage 1" of our analysis.

If we find the City has negatively affected people in one or more of these three components, we will then consider whether the City's actions are consistent with its obligation to progressively realize the right to adequate housing (the City is obligated to work towards the realization of the right to adequate housing for all residents). We call this "Stage 2" of our analysis. In some cases, we may find that while people have been negatively affected, the City has still met its obligations. In other cases, we may find that the City has more work to do.

If we find that the City has more work to do, we will make recommendations to help the City meet its obligations under the right to adequate housing. This is "Stage 3" of our analysis.





Stage 1: Components of the Human Right to Adequate Housing

1) Adequacy

To be considered “adequate,” housing must meet specific criteria including security of tenure, habitability, affordability, availability of services, appropriate location, cultural adequacy, and accessibility. Housing must support residents’ dignity and well-being, considering their specific needs.

2) Non-Discrimination

The Housing Charter ensures equal treatment and protection from discrimination based on grounds protected under Ontario’s *Human Rights Code* (e.g., race, sex, disability). The Housing Charter also protects residents from discrimination based on homelessness or housing status. Ombudsman Toronto will identify systemic inequalities that create barriers to the right to adequate housing by groups who are marginalized.

3) Participation and Inclusion

Residents must be involved in decisions affecting their housing rights. This includes informed participation, meaningful engagement, and understanding the decisions made. Effective participation is necessary for the City to identify the diverse needs of vulnerable and/or marginalized groups and to develop solutions, in a way that respects residents’ dignity and autonomy.

Stage 2: Guiding Principles for City Decisions and Actions

Seven principles guide the City as it moves towards the realization of the human right to adequate housing. We will assess the City’s actions against these principles to determine whether the City has taken every reasonable step to satisfy its obligations under the Housing Charter and the law.

Human rights impacts are the primary consideration: Any action the City takes which has housing implications must be centred around the human right to adequate housing for people affected by the City’s action.

Using all appropriate means: The City must use all of the tools and powers available to improve housing outcomes, including policy changes, service provision changes, and improved enforcement practices.

Using maximum available resources: The City must dedicate and prioritize resources, including money, infrastructure, and personnel, towards realizing the right to adequate housing over other demands that do not concern fundamental human rights.



Prioritizing those in greatest need: The City must apply an intersectional¹³ equity lens to address systemic housing disadvantages and prioritize the interests of groups and communities furthest away from exercising the right to adequate housing.

Meaningful engagement: The City has an obligation to ensure that residents, especially marginalized groups, are adequately involved in housing decisions.

Collaboration with other governments: The City must work with provincial and federal authorities to advance housing rights through securing greater resources, collaborating in program and service development, and identifying the need for changes to laws to realize the right to adequate housing.

Environmental sustainability and resilience: The City must work to improve the sustainability of both new and old housing and ensure that housing is resilient to climate-related risks, such as increasing severe heatwaves and extreme climate-related events.

Stage 3: Recommendations

The recommendations from our investigations will help the City better meet its obligations to progressively realize the right to adequate housing. We make recommendations that are both ambitious and achievable, put people first, and are in line with this framework and the Housing Charter. After we make recommendations, we follow up with the City until they have successfully implemented them.

¹³ The concept of ‘intersectionality’ has been defined as “intersectional oppression [that] arises out of the combination of various oppressions which, together, produce something unique and distinct from any one form of discrimination standing alone....” From the Ontario Human Rights Commission, quoting from M. Eaton, “Patently Confused, Complex Inequality and *Canada v. Mossop*” (1994) 1 Rev. Cons. Stud. 203 at 229, <https://www.ohrc.on.ca/en/intersectional-approach-discrimination-addressing-multiple-grounds-human-rights-claims/introduction-intersectional-approach#fn6>