

TOWARD REAL RENT CONTROL

“I want to be clear about our plan for Rent Control. We will repeal the Harris-Eves government’s Tenant Protection Act and we will bring back ‘real Rent Control’ that protects tenants from excessive rent increases. We will get rid of vacancy decontrol which allows unlimited rent increases on a unit when a tenant leaves.”

Dalton McGuinty, August 2003.

Reform The Tenant Protection Act: An Un-kept Promise **Toronto’s Tenants Can No Longer Live With**

Two years after the Liberals took power in Ontario, Toronto’s tenants are still being adversely affected by the Tenant Protection Act. Where is the new Rent Control Act promised? Where are the “real” protections for tenants?

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Councillor Michael Walker
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TOWARD REAL RENT CONTROL:
REQUIREMENTS FOR REFORM
OF
ONTARIO RENTAL HOUSING LEGISLATION

EXECUTIVE SUMMARY:

New provincial rental housing legislation remains an important consideration for half the residents of the City of Toronto who are tenants. Return of real Rent Control has been promised as means to restore real protections for tenants. The key observations and conclusions of this report are as follows:

1. Removal of Rent Control has failed to stimulate construction of new purpose built rental units. Rent Control must be reestablished to give equal protection to all tenants.
2. A predetermined vacancy rate threshold should not be a criteria for the maintenance of, or exemption from Rent Control and other tenant protections. The City of Toronto's ability to protect its stock of affordable and mid-range rental housing or to protect rental stock from demolition or conversion to condominium will be impaired if exemptions are allowed based on vacancy rates. The provincial government has cited a vacancy rate threshold of three percent as an acceptable level for the removal of Rent Control and protection from demolition and conversion.
3. Removing Rent Control and other tenant protections when vacancy rates rise above a predetermined level is predicated on the belief that higher vacancy rates ensure market forces favourable to tenants.
4. Higher vacancy rates do not correspond to a greater level of affordability based on income, offer protection from large rent increases or reflect an increase in the supply of affordable rental stock.

Municipal Work Orders (see Recommendations 1(g) and 1(h))

5. The *Tenant Protection Act* grants landlords broad allowances for above guideline rent increases (AGI) based on capital expenditures and increases in utility costs. The *Tenant Protection Act* allows above guideline rent increases irrespective of a landlord's performance of routine upkeep and maintenance or compliance with outstanding municipal work orders.

6. New rental housing legislation should not permit any rent increases (statutory or guideline) if there are outstanding municipal work orders on a property.

Costs No Longer Borne (see Recommendation 1(m))

7. The *Tenant Protection Act* contains no provisions for *Costs No Longer Borne* for above guideline rent increases based on increases in utility costs or capital expenditures. Tenants cannot apply to have an above guideline rent increase modified when there is a decrease in the utility cost for which a previous AGI was granted. In 2002, the Ombudsman of Ontario termed this “unreasonable and improperly discriminatory”. New rental housing legislation must contain provision for *Costs No Longer Borne*.

Eviction Procedures (see Recommendations 1(b) and 1(i).i)

8. Eviction procedures under the *Tenant Protection Act* are confusing to tenants and, compared to previous legislation in the Rent Control Act, greatly accelerate the eviction process. More than half of all eviction applications in Toronto since 1998 have resulted in Default Orders – approval for eviction before a tenant has had a chance to respond or attend a hearing.
9. Reform of eviction procedures is a priority for the new Rent Control Act. Tenants must be allowed a reasonable opportunity such as 20 working days to respond to an eviction application. There should be no default evictions without a reasonable opportunity for a hearing.

Vacancy Decontrol (see Recommendation 1(a))

10. The *Tenant Protection Act* established *Vacancy Decontrol*, removing rent controls from vacant units. Vacancy Decontrol has been the most significant factor in the dramatic increase in rents in Toronto between 1998 and 2004. A new Rent Control Act must eliminate *Vacancy Decontrol*. Rent control should remain in force when a unit becomes vacant and subsequently leased by a new tenant.

Demolition and Conversion (see Recommendations 1(c) – 1(f))

11. New tenant law must not set criteria allowing for demolition or conversion of rental units to condominium which will supercede a municipality’s ability to protect its existing stock of rental housing.

Legal Maximum Rent (see Recommendation 1(j))

12. The *Tenant Protection Act* abolished the “Rent Registry” which established the Legal Maximum Rent for every rental unit in the Province. The Legal Maximum Rent for each rental unit must be included in a new Rent Control Act.

Statutory Rent Increase (see Recommendations 1(k) and 1(l))

13. New tenant law should preclude any “as of right” statutory rent increase on the part of landlords. Any increase in rent by a landlord should be fully documented and open to challenge by affected tenants through the Ontario Rental Housing Tribunal (ORHT). Tenants should also have the right to appeal for a “rent reduction” to the Ontario Rental Housing Tribunal where tenants have lost services previously provided by the landlord.