

Housing at Risk

An Investigation into the Toronto Community Housing Corporation's Eviction of Seniors on the Basis of Rent Arrears

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1.0 Executive Summary

1. The Toronto Community Housing Corporation (TCHC) is a non-profit housing corporation owned by the City of Toronto. It is governed by a Board of Directors comprised of thirteen members, including members of City Council, citizens and two TCHC tenants.
2. TCHC manages 58,500 housing units, providing housing to almost 6% of Toronto's residents.
3. Ninety-three percent of TCHC tenants receive a rental subsidy and live in rent-geared-to-income (RGI) units. Of 26,809 seniors (59 or older), over 25,000 live in RGI units.
4. More than 6,500 TCHC seniors are over 80 years of age.
5. In October, 2009, Al Gosling died one month short of his 82nd birthday, five months after being evicted for arrears from his TCHC apartment, where he had lived for 21 years. The Honourable Justice Patrick LeSage was appointed by the Board of Directors to conduct an independent review of the eviction.
6. In his findings, Justice LeSage emphasized the importance of eviction prevention and personal contact with vulnerable tenants.
7. He noted that TCHC's application of its eviction prevention policies was either inconsistent or inappropriately used.
8. The Ombudsman made similar conclusions in two prior investigations in 2009 and 2012. After each, TCHC made policy revisions and developed guidelines to ensure fairness in eviction processes.
9. In October 2012, as a result of complaints, the Ombudsman initiated an investigation into the eviction of seniors for non-payment of arrears. The investigation centred on whether eviction prevention policies were applied consistently, and in keeping with Justice LeSage's recommendations.
10. Seventy-nine TCHC tenant files were examined, representing seniors evicted in 2011 and 2012.

11. The investigation findings are more unsettling in this case than previous investigations and inquiries, because the TCHC's prior undertakings and promises remain unfulfilled.

Freeze on Arrears

14. After the death of Mr. Gosling the number of annual evictions plunged dramatically, from about 1,850 applications to 800. By failing to enforce payment, more tenants fell into arrears, accumulating over time. In 2006, 7.7% of tenants were in arrears. In 2012, the number had grown to 18.8%.
15. When the pendulum swung back, and TCHC began to vigorously enforce payment of rent arrears, many tenants were faced with insurmountable bills that had accumulated, sometimes over years.
16. For example, in Mr. A's case, he received monthly arrears notices for three years before TCHC took action. In 2009, he owed \$2,000. By 2011, his debt was over \$13,000, an impossible amount for a 70 year old on social assistance to repay.

Policy Framework

17. TCHC has a number of policies, protocols and strategies dealing with eviction prevention, seniors, mental health and vulnerability.
18. The Eviction Prevention Policy and Guidelines establish that "*evictions are a last resort*" and that three points of "*personal contact*" are required during the eviction process.
19. The Policy notes the need for early intervention, and says staff should identify vulnerable tenants with a higher risk of eviction, and respond to the discovery of their arrears promptly.
20. The investigation found that early intervention is often not occurring and in fact, eviction proceedings are not always used as a last resort.
21. The Vulnerable Tenants Protocol was drafted in 2009, for use "when a tenancy is at risk" or when a "potential crisis" is identified. Justice LeSage lauded this Protocol. It was never implemented, although TCHC officials say its principles have been incorporated into their practices.

22. The Board has adopted other documents that deal with vulnerable tenants, including frameworks on mental health challenges and sustaining age-friendly communities.
23. However, it is unclear whether the strategies set out in these documents are being used. In cases where tenants were identified as vulnerable, there was no indication of a specific process to follow after this determination was made.
24. In the case of Mr. D, he was identified as vulnerable only after an eviction order was issued, despite documentation in his file of a serious mental health diagnosis and substance abuse.
25. If early identification and crisis prevention are occurring, they are certainly not happening consistently. If TCHC is providing tenants with access to supports, it is likely doing so too late.

Annual Income Review

26. Each year rent-geared-to-income tenants in social housing verify their eligibility by providing proof of income. The process is onerous and occurs at a frequency inappropriate for many seniors who have relatively stable incomes.
27. Since 2008, TCHC has been permitted by City guidelines to review rent every two years for tenants who meet the criteria. Provincial legislation also allows this. While other social housing providers, including the City of Ottawa, have made the change, TCHC has not.

Too Little Too Late

28. Mr. B, who faced language barriers, moved into his apartment in 2006. Although he regularly had difficulties meeting his monthly rent, he owed rent arrears of only \$45.
29. In January 2009, TCHC informed him that his rent had been increased retroactively because he was late in reporting an income change. As a result, he owed approximately \$3,000 to TCHC.
30. Further arrears accumulated through 2009 and 2010. TCHC neither obtained a repayment agreement in writing, nor provided one to him to sign. In spite of his consistent failure to pay, TCHC did not make an application to the Landlord and Tenant Board (LTB) until June 2011. By the time Mr. B was evicted in March 2012, he had accumulated nearly \$10,000 in arrears.

31. TCHC staff convened a meeting with social supports only after the LTB had issued an eviction order.
32. He spent the first two weeks at his ex-spouse's house where he slept at night while she was at work, and vacated the home during the day. The situation became untenable and he checked into a hospital where he died of a heart attack three weeks after he had been evicted.
33. Although TCHC staff knew about Mr. B's death by March 29, collection letters continued to be mailed until late October 2012.
34. Mr. C, an 88 year old, lived in a senior's building for over a decade. In April 2011, his subsidy was cancelled and his rent increased after he failed to submit an annual income review package. Staff entered his unit in June 2011 and determined that he had abandoned the premises. In August, they tried to reach Mr. C and his emergency contact, but neither number was in use.
35. TCHC continued to withdraw pre-authorized rent from Mr. C's account until the October payment bounced. TCHC moved to evict.
36. Staff continued to send letters about his arrears to his abandoned apartment until January 2012. There were no further enquiries on file as to Mr. C's whereabouts or status.
37. Mr. D had run into problems with TCHC regarding his behaviour. Eviction for cause (bad behaviour) is more difficult to prove at the LTB. Instead, once he had missed a month's rent payment in 2012, they moved to evict him. TCHC made an application to the LTB citing that he owed arrears of \$404 (including the \$170 filing fee).
38. Before the hearing in September, Mr. D had made payments of \$488 towards his ongoing rent. The LTB issued the eviction order. After this, TCHC staff made a note that he was a vulnerable tenant and would require assistance. It noted one staff was to make "all the effort to contact him & [advise] him what is coming to him & connect him with shelters & other agencies for support."
39. Staff met with him on the day of his eviction to discuss going to a shelter. Staff gave him printed directions to a shelter and offered him a bus ticket.

Eviction is not a Last Resort

40. For thirty years, Ms. F, who has developmental disabilities, lived in a TCHC seniors building. In 2011, she found a boyfriend. Some neighbours made noise complaints.
41. TCHC filed an eviction application as a result. The manager said that she had hoped an eviction order would “help her manage her behaviour.” This is an improper use of the eviction process.
42. The action taken to coerce a tenant into compliant behavior is contrary to TCHC policy and unacceptable conduct on the part of the public service.
43. The LTB turned down TCHC’s first application, with the decision noting that it had failed to accommodate and work with the tenant. Three weeks after this order, upon receiving another noise complaint, TCHC filed to evict on those complaints, saying she had failed to change her behaviour. The LTB ordered her eviction.
44. Six weeks later, TCHC made a wholly separate application to evict on the basis of rent arrears. The arrears had been incurred after staff had decided that because Ms. F’s boyfriend had stayed in the apartment more than 30 days in the last 12 months, without permission, he was considered a resident. They said that she had failed to report this.
45. However, Ms. F, her legal representative and a caseworker each said they had been told by staff that Ms. F could have her boyfriend stay overnight four nights a week (208 days per year).
46. As a result of TCHC’s decision, Ms. F lost her RGI subsidy, and her rent increased to the market rate. She could not pay this and went into arrears. She was evicted in 2012.
47. TCHC admitted it should not have removed her subsidy or evicted her for arrears because it had not sufficiently investigated the complaints about Ms. F’s tenancy.
48. The consequence of this omission was to place a developmentally challenged tenant in even greater vulnerability. There was no consideration of some 30 years of her successful tenancy.
49. Ms. G was evicted for arrears, although she never missed a rent payment, taken from her account automatically each month. The arrears were caused by her adult son, who was supposed to

pay his portion to TCHC directly. Ms. G was evicted after her son's arrears reached \$10,273.

50. TCHC has no ability in law or policy to deal with such situations.

Inconsistent Rules for Repayment

51. Standards for repayment of arrears have not been implemented despite Justice LeSage's recommendation to do so three years ago.
52. There was a near freeze on evicting for arrears following the death of Al Gosling and during Justice LeSage's review. Once TCHC began enforcing payment of rent and collecting arrears, some repayment plans were reasonable, others were unrealistic and inevitably resulted in default leading to eviction.
53. TCHC insisted Ms. J, who paid full market rent, enter a repayment agreement to pay off her arrears in six months by adding an additional \$751.45 to her rent payment. Of course she defaulted.
54. The file showed that after she was evicted, she attempted to pay back her arrears at a rate of \$50 a month while she was living in a shelter.
55. Mr. A's repayment plan required him to pay \$300 on top of his \$449 rent. Of course he defaulted.
56. Mr. H, on the other hand, was allowed a repayment plan adding only an extra \$100 a month to his rent until his arrears were paid off.
57. Mr. I was asked at one point to pay over 65% of his income to cover RGI rent and his arrears.
58. Clearly, inconsistent practice prevails.

Turning 65 a Cause for Arrears

59. Mr. K was hit with a retroactive rent increase after becoming eligible for Old Age Security and the Guaranteed Income Supplement.
60. Many tenants face this problem when they move from provincial social assistance income to federal pension. There is often confusion on the part of the tenant on how and when to apply, and institutional delay in initiating these payments.

61. Mr. K was told that even though he had not received any of the money from the increased federal benefits, he owed arrears of \$1,700. In response, Mr. K made regular payments in addition to his rent, but his rent increased after he failed to submit his annual review package, and in spite of making regular payments, he could not pay off the debt and was nonetheless evicted.
62. At one point, he appealed a decision canceling his subsidy. The appeals process was not followed. The same staff who had issued the decision responded to his appeal letter.

Failures to Communicate

63. Mr. L was told he would lose his RGI subsidy because his annual review was missing his 2010 tax assessment. His legal representative noted the TCHC letter was unclear as it did not tell his client he could re-submit the package with this information and regain his subsidy. It also gave two different appeal deadlines.
64. Ms. N lived in an apartment building managed for TCHC by a private property management company. She received two letters on the same day: one telling her she had two days to appear at the management office or the lock on her door would be changed; the second letter said her balance was \$1,325 and that if she did not pay her arrears, TCHC may begin proceedings that could ultimately result in eviction.

Excessive Correspondence

65. Justice LeSage recommended that TCHC address the excessive volume of correspondence sent to tenants. This investigation found that the practice remains a problem three years later.
66. Tenants receive arrears letters for months and years on end with no consequences, sometimes several a week, mostly computer-generated and often poorly written and confusing.
67. Tenants receive dozens of letters and even though eviction letters may state that they are urgent or important, these are vulnerable tenants who may have diminished capacity, limited reading skills or language challenges.
68. Mr. B was given three different figures for his arrears within two days: \$2,142, \$2,856 and \$3,091. The first two figures were provided in the same document. The previous month, TCHC had

informed him that he owed only \$45 in arrears. Far more explanation was required to make the accounting of this complicated situation comprehensible.

Ombudsman Conclusions

70. During this investigation, it became obvious that TCHC has been challenged beyond measure, both in resources and intense external scrutiny that included media, political and oversight reviews.
71. The Ombudsman recognized that the two years following the May 2010 Justice LeSage report have been a time of turmoil and change. In that time there have been three CEOs, a new City Council elected, a new TCHC Board, a critical Auditor General report, and a fire at the largest TCHC building, resulting in tenant displacement and a class-action lawsuit.
72. This cannot, however, excuse the impact of TCHC's actions on vulnerable seniors.
73. Poor practices have been well documented in Justice LeSage's inquiry and three years later, TCHC seems to be at the same crossroads.
74. The general approach to seniors who fall into arrears is too often harsh and unthinking. The impact of inconsistent policy and the ignoring of the stated mission and goals carry detrimental consequences for vulnerable tenants and are contrary to the City's stated values and goals.
75. The disconnect between documented policy and actual practice is a significant failure and is especially worrying given the vulnerability of seniors living in public housing.
76. While TCHC's position is that there has been much improvement since Justice LeSage's report, this investigation demonstrates there has been little change in the practices relating to vulnerable seniors.
77. The failure to enforce the arrears policy after the death of Al Gosling, followed by an abrupt shift to immediate enforcement, was unreasonable and unfair. The effect was one of substantial harm.

78. The requirement that staff have “*personal contact*” is often inexcusably interpreted to mean written correspondence. Although some staff make attempts to contact tenants in person, and are unable to do so, written correspondence is frequently the default method of communication.
79. Despite the requirements in the Eviction Prevention Policy, the current practice does not include sufficient prevention and early intervention.
80. The Guidelines that form part of the Eviction Prevention Policy state that evictions for arrears are a last resort. A number of cases however show that eviction is being used as something closer to a first option.

Ombudsman Recommendations

81. The Ombudsman made 30 recommendations¹ ranging from staff training and performance management to properly implementing its policies and bringing its practices into line to ensure equitable, consistent, lawful and humane conduct toward its senior population.
82. The Ombudsman provided timelines for all her recommendations and asked that her office review all draft documents before being finalized.
83. TCHC agreed with all of the Ombudsman's recommendations.

2.0 The Complaint

84. On October 15, 2012, I began an investigation on my own initiative as a result of my office receiving complaints alleging that the

¹ Recommendations can be found at page 101 of this report

eviction strategies outlined in TCHC's Eviction Prevention Policy were not being followed.

85. The investigation examined whether TCHC's eviction prevention practices and policies to address evictions for non-payment of rent are applied consistently, and in keeping with the recommendations of the Honourable Mr. Justice LeSage.²
86. My investigation centred on the experience of seniors.³
87. The investigation also reviewed the process followed by TCHC to complete annual income and asset reviews for rent-geared-to-income (RGI) tenants.

3.0 The Context

88. In October 2009, Mr. Al Gosling died. He was a former tenant of TCHC who was evicted for non-payment of arrears. From October 2009 to May 2010, at the request of TCHC, Justice LeSage conducted a review and reported out on the issues surrounding Mr. Gosling's eviction and the broader circumstances that can put vulnerable tenants at risk.
89. On September 24, 2010, a significant fire broke out at 200 Wellesley Street East requiring redeployment of many TCHC staff to help tenants in the aftermath of the emergency. A class-action law suit was launched by tenants against TCHC on November 5, 2010.
90. There was a municipal election on October 25, 2010 and on December 1, 2010, a new political administration was installed.
91. In February 2011, the City's Auditor General released a report regarding procurement problems and a lack of control over employee expenses at TCHC.
92. On March 31, 2011, the former Chief Executive Officer (CEO) of TCHC was terminated and the Chief Financial Officer was put in as acting CEO.

² The LeSage Review was conducted by the Honourable Patrick J. LeSage, CM, O. Ont., Q.C., former Chief Justice of Ontario, from October 2009 to May 2010. The review is referred to as the Justice LeSage report.

³ TCHC defines a senior tenant as being a person 59 years of age or older.

93. That same month, the TCHC Board of Directors (Board) resigned and a Managing Director was appointed by City Council.
94. A new Board was appointed in July 2011. The current CEO assumed the position in June 2012. Re-alignment of TCHC is currently underway.
95. The City of Toronto's Seniors Strategy for Toronto (draft February 2013) states that the Ontario Ministry of Infrastructure projects individuals 55 years and above will make up over a third of Toronto's population by 2031, with the fastest growing cohort being seniors over the age of 80. TCHC predicts that within ten years, seniors will represent 34% of its tenant group.
96. TCHC manages 58,500 housing units in 350 communities, providing housing to almost 6% of Toronto's residents⁴.
97. TCHC has 26,809⁵ tenants who are seniors,⁶ of which more than 6,500 are over 80 years of age⁷. Nearly 75% (18,641) of them live alone.⁸
98. Ninety three percent of seniors (25,079⁹) live in RGI units,¹⁰ paying rent equivalent to 30% of their gross income.
99. Over half of the seniors (13,496) live in one of 66 seniors-designated buildings, which are dispersed amongst TCHC's 13 operating units.¹¹

4.0 The Investigation

100. My investigators interviewed current and former employees of TCHC, City of Toronto Shelter, Support and Housing Administration (SSHA) staff, current and former members of the Board, the provincial government manager of social housing policy, representatives of the social housing sector, staff from community

⁴ 2011 and 2012 TCHC Annual Reports

⁵ As of December, 2012; statistics provided by TCHC staff January 29, 2013.

⁶ City of Toronto. City Guideline 2003-2, introduced February 1, 2003, established the minimum age for eligibility for seniors housing was 59, for all social housing providers with RGI units. At least one member of the household must be 59 years of age or older to be eligible for seniors housing.

⁷ 2011 and 2012 TCHC Annual Reports

⁸ As of December, 2012; statistics provided by TCHC staff January 29, 2013.

⁹ As of December, 2012; statistics provided by TCHC staff January 29, 2013.

¹⁰ The other 7% are made up of "affordable rent" units, priced below-market-rent, for lower income individuals and families and "market rent" units, where there is no reduction in the market rent price.

¹¹ As of December, 2012; statistics provided by TCHC staff January 29, 2013.

support groups and representatives of community legal clinics engaged in housing issues.

101. We also examined legislation, City and TCHC policies, procedures, guidelines and governing frameworks. Seventy five TCHC tenant files were reviewed, representing all the examples of seniors in 2011 and 2012 who had been evicted, or abandoned their housing after eviction proceedings were started. Four additional files were reviewed based on specific complaints.

5.0 The Background

5.1 Social Housing in Toronto

102. In general, the term social housing refers to housing that is owned and operated by government or non-profit organizations where a portion or full amounts of the rents are subsidized. In the City of Toronto, there are five types of social housing: co-operative housing; housing allowance programs; private non-profit housing; private rent supplement programs; and public non-profit housing, such as TCHC¹².
103. In 2011, there were over 93,000 social housing units administered by the City of Toronto, 58,500 (63%) of which are managed by TCHC.¹³

5.2 TCHC Mandate and Structure

104. TCHC is a municipal non-profit housing corporation that is owned by the City of Toronto.¹⁴ It is governed by a Board comprised of three City Councillors, the Mayor or his designate and nine citizen members, of which two are tenants of TCHC. The Board is appointed by City Council.
105. At times, the term social housing is used interchangeably with supportive housing. Supportive housing refers to individual, independent living arrangements where services are available such

¹² City of Toronto. Social Housing. April 17, 2013: http://www.toronto.ca/housing/social_housing/index.htm

¹³ City of Toronto. Toronto Social Housing By The Numbers. April 17, 2013: http://www.toronto.ca/housing/social_housing/pdf/shbynumbers.pdf

¹⁴ Ibid.

as 24-hour on-site support, housekeeping and laundry, meal preparation, medication reminders and personal care.¹⁵

106. TCHC's mandate is not to provide supportive housing, although it does have a number of supportive housing units in its portfolio.¹⁶

107. The Community Management Plan 2010-2012¹⁷ and 2012 annual report reference TCHC's mission statement:

We provide affordable housing, connect tenants to services and opportunities, and work together to build healthy communities.

108. The mission statement is a summary and interpretation of TCHC's mandate as articulated in the Shareholder Direction document between the City of Toronto and TCHC.¹⁸ Section 3.3 "Principles" states *how* TCHC should do their work and section 4 "Business of TCHC," states *what* TCHC should do in terms of its mandate.

109. The Shareholder Direction document lists 11 principles in section 3.3 and the business of TCHC is listed in section 4 of the document (Appendix A).

5.3 Ombudsman Report 2009 – Housing Matters

110. In June 2009, a tenant complained to my office about a notice TCHC sent him. It said he was going to be evicted because he had committed an illegal act. The tenant said they had not investigated and had no proof to support their action. Initial inquiries suggested procedural fairness issues were at issue. The tenant was a long-time, market-rent tenant. The investigation revealed that the process leading up to the issuance of the notices did not meet the requirements of administrative fairness.

111. I noted that eviction, and its threat, is a distressing experience and can have severe and negative impacts on individuals.

¹⁵ Toronto Long-Term Care Homes and Services. Quality Care & Services. Supportive Housing. April 18, 2013: http://www.toronto.ca/ltc/services_suphousing.htm

¹⁶ Long-Term Care Homes & Services Division operates 9 supportive housing locations, 8 of which are in TCHC buildings. LTCHS and TCHC have an agreement to provide services in TCHC building and have office space there. TCHC are the landlords, while LTCHS runs the supportive care program, pursuant to its agreement with Ministry of Health and Long-Term Care.

¹⁷ Toronto Community Housing. Community Management Plan 2010-2012. Strengths people, places and our foundation. April 18, 2013: http://www.torontohousing.ca/webfm_send/6455

¹⁸ Shareholder Direction. City of Toronto to Toronto Community Housing Corporation. As adopted by City Council at its meeting of October 2-4, 2001: Joint Policy and Finance/Community Services Report 1(1) as amended.

112. My review found that TCHC had failed to properly investigate the incident that preceded the issue of the eviction notices. My investigator found that TCHC staff gave conflicting information about their intention to evict. I found that TCHC was precipitous in threatening eviction. The corporation accepted allegations about the tenant without providing the complainant with notice of the allegations and an opportunity to respond. TCHC failed to warn him that his conduct could lead to eviction and did not tell him clearly the reason for the notice or answer his questions.
113. I issued twelve recommendations, which addressed, among others, complaint handling deficiencies, poor record keeping, and the creation of an Eviction Prevention Policy for non-arrears.

5.4 Justice LeSage Report 2010

114. In October 2009, the Board appointed Justice LeSage to conduct an independent review of the circumstances surrounding the eviction of Mr. Al Gosling.
115. The key mandate of the review was "to make recommendations to prevent evictions of vulnerable tenants for non-payment of rent."¹⁹
116. Since 1988, Al Gosling had lived in a TCHC building. In May 2009, he was evicted for rent arrears. In October 2009, Al Gosling died when his health failed due to an infection.
117. Mr. Gosling was one month away from turning 82 years old when he died, only five months after he had been evicted from his TCHC home of 21 years. In the five months between Al Gosling's May 2009 eviction and his October 2009 death, he was homeless.
118. The Board specified four key elements in the Terms of Reference for the review.²⁰
 - In light of the eviction of the late Mr. Al Gosling, identify any gaps in how the Eviction Prevention Policy and procedures under it were applied and suggest remedial measures to prevent further occurrences.

¹⁹ LeSage, P.J. (2010). Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation. April 10, 2013: http://www.torontohousing.ca/webfm_send/6521/1?#

²⁰ Ibid.

- Review the interim actions taken by Toronto Community Housing to strengthen the Policy and advise on whether additional procedures are needed to implement the purpose of the Policy.
 - Advise on the implementation of amendments to the Policy proposed by Toronto Community Housing to avoid the eviction of vulnerable tenants for the non-payment of rent.
 - Advise on any other changes to the Policy or additional procedures to address other eviction prevention issues that arise out of the independent review.
119. The report on the eviction of Al Gosling and the Eviction Prevention Policy was released in May 2010.²¹ The prevailing themes throughout the Justice LeSage report included the critical importance of eviction prevention for vulnerable tenants. The report emphasized the preventative impact of direct personal contact between TCHC staff and vulnerable tenants in the earliest stages of identifying potential eviction. It also highlighted the need for the principles of natural justice and procedural fairness to be included in the Eviction Prevention Policy.
120. Justice LeSage made recommendations for improving the Eviction Prevention Policy, some of which included:
- Making direct contact between TCHC staff and tenants more consistent.
 - Reviewing and revising the current practice of sending tenants notices via letters, which can be perceived as threatening in language and excessive in volume.
 - Reviewing and revising the responsibilities of the Tenant Services Coordinator to increase responsibilities for managing tenant files.
 - Creating a new independent office called the Commissioner of Housing Equity whose primary role would be to oversee and ensure TCHC staff have engaged in all prerequisite eviction prevention procedures prior to proceeding to the Landlord and Tenant Board. The mandate of the Commissioner of Housing Equity would be "to promote resolution of rent arrears situations, short of eviction, and in

²¹ LeSage, P.J. (2010). Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation. April 10, 2013: http://www.torontohousing.ca/webfm_send/6521/1?#

the process link tenants, if necessary, with community supports to assist them."²²

121. Justice LeSage explained the overall intention in the report in this way:

It is my hope that this Report will encourage all parties, including frontline staff and management at TCHC, community agencies, legal aid clinics and various government ministries – federal, provincial, municipal – to work collectively toward the common goal of improving the social housing system, especially for vulnerable tenants. Without change we risk a recurrence of the circumstances that gave rise to the eviction and subsequent death of Al Gosling.²³

5.5 Ombudsman Report 2012

122. As the 2010 Ombudsman investigation report noted, evicting a tenant should always be the last resort. In that case and again in the 2012 investigation, it was the first resort.
123. In August 2011, a superintendent of a TCHC building approached a tenant about playing his trumpet in the building's recreation room. The discussion became heated, and in anger, the tenant uttered a death threat. The superintendent immediately reported the threat to his manager. The superintendent did not lay charges against the tenant as he did not believe the person intended to carry out his threat.
124. Staff asked to meet the tenant to discuss the threat but refused his request to bring a legal representative. In refusing, I found that TCHC failed to follow its own policy directives. Two months after the incident, TCHC served the tenant two poorly drafted eviction notices, citing the threat and a petition of complaint from tenants as the reasons for the eviction.
125. The tenant complained to my office and I issued a notice of investigation in March 2012.

²² LeSage, P.J. (2010). Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation. April 10, 2013: http://www.torontohousing.ca/webfm_send/6521/1?#

²³ Ibid.

126. The investigation found that TCHC's decision to evict the tenant was unfair and unjust. TCHC staff failed to give him an adequate opportunity to respond to the allegations before serving the eviction notices and failed to adhere to its policy of conducting a fair investigation into the complaints. The investigation revealed that TCHC staff use the threat of eviction to get tenants to cooperate.
127. TCHC agreed with my recommendations, including adhering to its Eviction Prevention Policy, developing Guidelines for conducting fair and thorough investigations, holding staff accountable to performance standards, ensuring staff receive appropriate training and that they properly document all relevant information in tenant files.

6.0 Legislative and Policy Framework

6.1 *Housing Services Act, 2011*

128. The *Social Housing Reform Act 2001*, was replaced by the *Housing Services Act (HSA)*, 2011 on January 1, 2012.²⁴
129. The *Social Housing Reform Act* provided the legislative framework for transferring responsibility of owning and administering social housing from the Province to municipalities.²⁵ In the past, some critics said the legislation treated social housing tenants and applicants harshly.²⁶
130. The *HSA* was the result of a long-term affordable housing strategy that took years to develop.²⁷ A notable new feature of the *HSA* is the municipalities' greater responsibility and flexibility in providing social housing and implementing housing and homelessness plans.
131. While the *HSA* includes regulations for RGI, some critics have said the new legislation does not include changes that directly affect tenants.²⁸ For example, housing advocacy groups were hopeful the new law would simplify annual household income reporting

²⁴ Government of Ontario. *Housing Services Act 2011*. April 17, 2013: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_11h06_e.htm

²⁵ City of Toronto. *The Social Housing Reform Act (SHRA)*. April 17, 2013: http://www.toronto.ca/housing/social_housing/shra.htm

²⁶ Advocacy Centre for Tenants of Ontario (ACTO). *Improving the Social Housing Reform Act*. April 17, 2013: <http://www.acto.ca/en/law-reform-advocacy/archives/improving-the-social-housing-reform-act.html>

²⁷ Ibid.

²⁸ Advocacy Centre for Tenants of Ontario (ACTO). *Housing Services Act, 2011*. April 17, 2013: <http://www.acto.ca/en/law-reform-advocacy/social-housing-tenant-issues/housing-services-act.html>

requirements but it does not. It also makes no changes to rent-geared-to-income calculations.²⁹

6.2 Residential Tenancies Act, 2006

132. The *Residential Tenancies Act* applies to all rental housing in Ontario whether private or public.³⁰ It governs the rules for landlord and tenant obligations, tenancy agreements, rent increases, evictions, maintenance and repairs and many other issues that affect landlords and tenants.

133. Landlords and tenants can apply to the LTB to settle disputes related to rules in the *Residential Tenancies Act* not being followed or enforced.

6.3 Eviction Prevention Policy and Guidelines

134. The goal of TCHC's "Eviction Prevention Policy for Non-Payment of Rent" is to keep tenants housed while ensuring that rent is collected. The Policy was adopted in September 2002 and the current version was approved by the Board in August 2011.

135. Flowing from that document, TCHC produced the "Eviction Prevention Operating Guidelines (2008)," generally describing the procedures necessary to implement the Eviction Prevention Policy. The specific execution of the policy and guidelines is detailed in a document called "The Arrears Collection Process: Helping Tenants Keep Their Housing,"³¹ which outlines staff responsibilities at each stage of the process.

136. The scope of these three documents is limited to potential evictions resulting from rent arrears, and does not apply to potential evictions for other reasons, such as problematic tenant behavior, often referred to as eviction "for cause".

²⁹ City of Hamilton. Communiqué, Issue 2012-1. Housing Services Division. April 17, 2013:

http://www.hamilton.ca/NR/rdonlyres/FC0AF7E3-E0D6-4690-9E21-4F115A5F1A4A/0/Communique_20121.pdf

³⁰ Government of Ontario. Residential Tenancies Act 2006. April 17, 2013: http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_06r17_e.htm#

³¹ This report uses the 2008 version, although a 2012 draft with some proposed amendments was provided to my office as well.

137. The Eviction Prevention Policy sets standards for staff communications with tenants who are at risk of eviction. A minimum of three points of "personal contact" are required during the eviction process:
- when TCHC notes that rent has not been paid;
 - prior to applying to the Landlord and Tenant Board; and
 - after the LTB has issued an eviction order.
138. "Personal contact" is not defined in the Policy.
139. The Guidelines reiterate the three points of contact requirement, but specify that this should be at the operating unit level, and use the term "direct contact," rather than "personal contact." The Guidelines state that "a letter, phone call, visit or any other contact that gives the *specific* tenant household the chance to respond to the problem and discuss possible solutions." Any of the above could fulfil the "direct contact" requirement.
140. The Policy does not require in-person contact with the tenant, but it does require that TCHC provide "at least one reasonable and accessible opportunity for a face-to-face meeting...during the eviction process."
141. The Guidelines further specify that staff must telephone or visit the tenant at the two final designated points of direct contact, before filing an Application to Evict, and after the LTB grants an order to evict.
142. The Policy notes the need for early intervention. Staff are to identify vulnerable tenants with a higher risk of eviction, and respond promptly to discovery of their arrears. The Guidelines further specify that at-risk tenants are:
- such as people with a mental illness, cognitive or developmental disability, a complex rent or income profile, or a history of arrears.
143. Staff are to "make every effort" to provide information to tenants about community resources and agencies that could assist them.
144. The Policy and Guidelines require that all communication efforts be documented. The Guidelines also state more broadly that all "action taken" is to be documented.

145. The Policy requires that tenants are to have access to the Policy and Guidelines, and that they should be "educated" about the Policy "at lease signing, at regular intervals, and when they are having trouble paying their rent."
146. The Policy compels staff to provide information on:
 - How rent is calculated and the tenant's account status;
 - Upon an eviction notice being issued, supportive agencies available, such as legal clinics;
 - The services offered at the LTB, including mediation; and
 - Upon eviction by the sheriff, organizations available to assist, support and find alternate accommodation.
147. The Policy states that tenants are entitled to have a "fair and transparent" review of TCHC's decisions and calculations of RGI by a person other than the original decision maker.
148. The Policy allows staff the "flexibility and discretion to choose appropriate strategies for different situations" and to "negotiate reasonable repayment agreements that best fit the tenant's circumstances."
149. The Guidelines state that "evictions are a last resort." Before TCHC staff file an application to evict with the LTB, they will confirm the operating unit staff has "directly contacted the tenant, or tried to contact the tenant."
150. Even after an eviction order from the LTB, the Guidelines require staff to advise the tenant that eviction is still preventable if the tenant can pay their arrears before the order is filed with the sheriff.
151. The arrears collection process document sets out a step-by-step guide to TCHC's rent collection, from the day before the monthly rent is due, to three days post-eviction. The primary steps involving contact with the tenant are set out in the following chart.

Timeframe	Action
3-5 business days after rent due	OU staff send tenant "3-5 Day Rent Overdue Letter"
6-9 business days after rent due	<p>"Contact #1 (...proactive local contact)" OU staff may optionally attempt to telephone the tenant. The building Superintendent is informed of arrears for the building so they can knock on tenants' doors</p> <p>IT Unit sends "Rent Overdue Letter" if balance is more than \$20</p>
10-15 business days after rent due	"Contact #2 (Legal Notice)" by OU staff as they mail the tenant an N4 (Notice to Terminate) letter to the tenant. They are to attach information on the local legal clinic.
Day 25-30 of the month	IT mails out an "Notice to terminate tenancy reminder letter"
20 th calendar day after N4 served (termination date on N4)	OU staff mails the "Final Letter Before Legal" advising tenant of their last chance to pay before TCHC takes legal action
5 business days after termination date on N4 and onwards	<p>OU staff forwards file to the <i>Residential Tenancies Act</i> (RTA) unit, with a completed "N4 checklist"</p> <p>RTA Unit files Application to Terminate (L1) with the LTB</p> <p>OU staff mail "LTB Hearing Date and Legal Fee Letter" to Tenant</p>
After the LTB issues an eviction order	<p>LTB mails a letter with the eviction order to the tenant</p> <p>OU staff are to "Make every effort to contact the tenant...to find out if there is any way to prevent the eviction"</p> <p>RTA Unit files eviction order with the sheriff</p>
After the eviction, within 72 hours of sheriff's eviction	<p>Staff prepare unit for next tenancy.</p> <p>Tenant can re-gain possession if they pay all monies owing.</p>

152. Although the arrears collection process document does not mention it, TCHC's legal unit is to attempt a mediated settlement at the LTB and only pursue a hearing if the settlement cannot be reached. This is set out in the Guidelines.
153. Throughout the process, staff are to try and make contact with the tenant and enter into a repayment agreement. If this is before the filing of the LTB application, it is a "Local Repayment Agreement" but if the notice has been filed, TCHC and the tenant are only able to enter into an LTB mediated agreement.
154. The 2012 draft to revise the currently used document mentions standards to be established for local repayment plans. This draft document was the only one that mentioned any specific repayment plan rules:

Local repayment agreements are intended to be used for arrears equal to or less than two months rent. It is important to take into account the tenant's ability to pay when negotiating local repayment agreements; however, it is strongly suggested that the total balance be paid within three months of signing the agreement. Local repayment agreements beyond these terms require operating unit manager approval.

155. Comments are invited from other readers on two highlighted portions of the draft dealing with quantum and terms of the repayment.

6.4 Promoting Successful Tenancies: Best Practices for When Our Tenants Are Vulnerable

156. Promoting Successful Tenancies, written in 2009 and still in draft, is part of the mental health framework. It is commonly referred to as the "Vulnerable Tenants Protocol" (Protocol). The document provides a definition of a vulnerable tenant:

One who is having difficulties coping with the activities of daily living or meeting their obligations as tenant:

because of a physical disability, mental illness, cognitive impairment, frailty, or substance abuse ... and does not have the support they need to maintain their health or housing.

This support can take many forms: a supportive neighbour, a caring friend, a supportive housing worker, case manager, etc.

157. It states that TCHC not only has a role in providing affordable housing, but also in “creating safe and healthy communities where every tenant has the opportunity to reach their full potential.”
158. The Protocol sets out principles, such as tenants’ rights to autonomy, TCHC’s duty to accommodate and staff to be respectful and problem-solve with tenants.
159. The Protocol notes that seniors are not automatically vulnerable as a result of their age, but that they are at greater risk of becoming vulnerable.
160. The Protocol is designed to provide direction to front-line staff. It sets out individual roles for each level of staff in identifying vulnerabilities, accommodating disabilities, and making connections with agencies and others that can assist.
161. It also establishes four step-by-step protocols to be applied “when a tenancy is at risk,” when a “potential crisis” is identified, during an identified crisis and after, so as to prevent further crises.
162. Some tools are provided to assist staff in obtaining key information, such as emergency contact information, or encouraging a tenant to seek outside help. Sample case stories and scripts are included.
163. Justice LeSage said he was "heartened" to see the strategies and priorities identified in the Protocol, and explained that it had been developed to "guide staff when dealing with tenants facing mental health and other challenges – the “vulnerable” tenants."
164. Staff at TCHC told my investigator that the Protocol was never implemented, but that the "principle of the policy have been implemented in our practices."
165. When asked specifically how this was done, Senior Manager X provided a list of ten ways, some of which included:
 - Two specialized staff positions to address pest control and mental health concerns

- A four stage process for the organization to respond to excessive clutter and other unit and tenant health and safety concerns
 - Templates and tools for staff, to support them in doing their work with tenants whose health or safety is at risk
166. Five of the ten practices are about unit conditions, such as hoarding (excessive belongings) and pest control issues.
167. The Protocol remains in draft on the TCHC website.

6.5 Mental Health Framework

168. TCHC has recognized that a significant number of its tenants experience some form of mental illness or mental health challenge.
169. In February 2010, the Board adopted “Toronto Community Housing’s Mental Health Framework” (Framework), as part of its Community Management Plan’s Social Inclusion Strategy (2008-2010).
170. The Framework estimated that 7% of TCHC tenants, or approximately 8,900 adults in 2010 had a mental illness “serious enough to make them eligible for supportive housing.” This does not include tenants with mental health issues that are unreported, tenants under 18, or those with a range of other mental health challenges.
171. During its consultations, TCHC heard about tenants who were isolated, without support, who had committed suicide, were living in unhygienic conditions, or whose mental health prevented them from seeking help for illness or injury.
172. The Framework sets out a plan to strengthen TCHC’s partnerships with community agencies, train staff on greater understanding of mental health and improve operational practices. It notes that “the Mental Health Commission of Canada has named stable housing as one of the social determinants of mental health.”
173. The Framework states that TCHC has a threefold role to play in the mental health of its tenants, noting each are functions that no other agency can provide on TCHC’s behalf.
- To accommodate people with mental illness – a legal obligation under the *Ontario Human Rights Code*;

- To support successful tenancies, as defined by the *Residential Tenancies Act*;
 - To foster an environment that promotes recovery and health.
174. The Framework clarifies that TCHC is classified as a social housing, not a supportive housing provider, a designation made by the Ontario Ministry of Health and Long-Term Care.
175. It notes that supportive housing is funded so that there is a staff person for every 20-30 tenants, but that at TCHC, those individual supports cannot be available, noting limited staff numbers, including only one Health Promotion Officer (HPO)³² for every 2,166 units.
176. Ten strategies are provided to support recovery:
1. Early identification and crisis prevention
 2. Providing tenants with access to supports
 3. Ensuring tenants know who to call when in crisis
 4. Inspiring hope that recovery is possible
 5. Creating opportunities for self-determination
 6. Increasing opportunities for tenants to support and connect with one another
 7. Investing in new and existing resources to implement the Framework
 8. “Rally” the mental health sector to advocate for increased resources and services to TCHC tenants
 9. Training and education for staff and tenants
 10. Monitoring of the implementation of the Framework
177. In November 2011, the Board received a report entitled “Mental Health Strategy Update,” on the Framework’s implementation, and noted that it was a “2011 Community Management Plan priority” and that the 2011 work plan would coordinate the strategy implementation with Justice LeSage’s recommendations and eviction prevention policies.
178. The mental health strategy is identified as one of TCHC’s “Successful Tenancies Initiatives” that aims to identify at-risk

³² The HPO position is being replaced by a new position, that of Community Services Coordinator.

tenants and provide them with support and interventions, when necessary to protect tenants and prevent loss of their housing.

179. The 2011 work plan focuses on increasing staff capacity to work with the mental health needs of tenants, establishing tools and processes to support vulnerable tenants, developing a hoarding strategy, and partnerships in high needs buildings along with advocacy / data collection about providing health-care resources to vulnerable tenants.

6.6 Annual Review Process

180. The Province of Ontario, through the *HSA*, establishes eligibility criteria for RGI assistance. The City of Toronto has created guidelines, in conjunction with the *HSA*.
181. The initial application to live in a unit at an RGI rate occurs by making an application to Housing Connections, TCHC's subsidiary, which manages applications and the wait list for affordable housing.
182. Once an individual or family becomes an RGI tenant, they are subject to annual income reviews. SSHA establishes RGI guidelines that TCHC must follow.
183. An "Annual Income and Asset Review" (Annual Review) is conducted to confirm the tenant's eligibility for RGI assistance, and for the unit they occupy. It also reviews the amount of rent charged to ensure the tenant is receiving the correct amount of assistance.
184. The process begins with an annual review package being sent to the tenant. This includes a letter, and income and asset review forms.
185. Income from employment, self-employment, social assistance and assets such as real estate and Guaranteed Income Certificates must be documented, as well as support or pension payments. Tenants must attach proof of the amounts reported. All members of the household who are over 16 years of age must sign the review form.
186. The City Guidelines require that RGI rent reviews be performed:
 - a. At the beginning of a tenant's tenancy, before they are offered an RGI unit;

- b. Annually;
 - c. When there is a change in income, assets or household composition before the annual review (mid-year); and
 - d. Upon the request of TCHC, if required.
187. However, since April 4, 2008,³³ the City has granted permission for rent reviews to be performed every 24 months, rather than every 12 months if:
- All members of the household are unemployed, and
 - The income is received in fixed amounts, and
 - The household has no dependants.
188. TCHC has continued to require annual rent reviews for all tenants. SSHA staff advised my investigator that some social housing providers in Toronto have adopted the 24 month review model.
189. Former Senior Manager Z believed that when TCHC examined the idea of moving to a biennial review, they found that there was no benefit, and that TCHC would still need to be made aware of any changes in tenant income.
190. In addition, when TCHC calculated the financial impact on the corporation, former Senior Manager Z advised that TCHC estimated it would lose approximately \$1 million each year if it were to implement a biennial review for seniors.
191. One Operating Unit Manager provided the following example of cost to TCHC associated with retroactive arrears³⁴:
- One of my TSCs [Tenant Service Coordinators], who does one of our more challenging buildings, [...], kept a spreadsheet on it [retroactive arrears] and I think that she charged back \$32,000 in one year, just for retro, just for seniors not declaring their income changes from either work, or OW [Ontario Works] or...pension income
192. Another senior TCHC manager clarified that households with fixed incomes were unlikely to accumulate serious arrears.

³³ City of Toronto: City Guideline 2008-5

³⁴ Retroactive arrears is an RGI tenant's debt to a landlord resulting from the late delivery of change of income information that would have earlier required an increase in rent. Upon delivery of this information, the landlord will calculate the new RGI rent rate and apply it on a retroactive basis.

193. He explained that the TSCs working in the two senior-specific operating units have larger portfolios than those who work in the family units: 600-700 units instead of 500. One Operating Unit Manager stated that TSCs in operating units A and B had been told, following reorganization in 2008, that in recognition of their heavier workload, the annual reviews for their tenants would be completed every two years. To date, that change has not been implemented.
194. RGI assistance can be altered by changes in income, assets or the number of people living in the unit.
195. The Guidelines state that staff are to follow up with a reminder letter if they have not submitted their annual review package. If any documentation is missing from the tenant's annual review package, they are to send a letter outlining the requirement for the outstanding documents.
196. The Guidelines provide a template of letters to send in the situation:

Today was the deadline for sending in your income and asset review form.

To keep your subsidy, you must fill in this form and return it with the required proof of income by *[fill in the time, day, month, and year]*

If you do not send in this form with the required documents, you may lose your rent geared-to-income subsidy. If this happens, you will have to pay market rent for your unit. To get subsidy again, you will have to apply to Housing Connections. This means that you will have to wait until your name reaches the top of the list. This could take several years.

197. If a tenant does not respond to the annual review package by the designated date, staff can issue a Notice of Decision stating that the household has lost its RGI eligibility. The RGI Guidelines state that before taking that step, staff should "try to contact the household in person to see if they can provide the documents."
198. Tenants are entitled to have this decision reviewed, if they do not agree with it. This right to review is mentioned in the letter.

199. If a tenant's rent is to increase as a result of income augmentation or assets on the Annual Review, the increase is effective the first day of the second month after the tenant received notice of the increase.
200. If the tenant becomes ineligible for RGI for another reason, such as household composition, the notice is effective 90 days after it is issued.
201. The *HSA* requires TCHC to have a review system for RGI decisions.³⁵
202. The review must be performed by someone who was not the original decision maker, nor anyone who discussed the decision with the decision maker. The individuals doing the review must be knowledgeable about the *HSA*, and the process must follow rules of procedural fairness. Decisions are final.

6.7 Toronto Community Housing Seniors Implementation Framework “Sustaining Age-Friendly Communities”

203. In 2008, TCHC released “Toronto Community Housing Seniors Implementation Framework 2008 – 2010: Sustaining Age-Friendly Communities for Senior Tenants” (Sustaining Age-Friendly Communities). This document was designed as a framework "to ensure that the mandate is consistent with the Community Management Plan and links to other service delivery plans across Toronto Community Housing's entire portfolio."³⁶
204. This document arose from a decision in 2006 of the Board to create a comprehensive seniors strategy through the Seniors Strategy Steering Committee.
205. That committee identified that the strategy should focus on: accessibility, inclusiveness, using a “seniors lens,” organizational preparedness through training and resources for staff, health and well-being improvements for tenants, and a review of the housing mandate for both mixed age buildings and senior designated buildings.

³⁵ Government of Ontario. *Housing Services Act*, 2011. ss. 155-156.

³⁶ A Status Report on the Implementation of the Seniors Framework was provided to my office in April 2013.

206. Sustaining Age-Friendly Communities was to guide service delivery, both in senior-designated buildings and in mixed age buildings, engage stakeholders to work to build healthy communities, promote learning, to “shape the way progress is measured” and influence decision-making.
207. Sustaining Age-Friendly Communities sets out four pillars, establishing TCHC's framework and organizational direction to create policies and programs to improve service to senior tenants.
208. The four pillars identified in the strategy are:
- Buildings - ensuring access to adequate housing.
 - e.g. ensuring buildings and outdoor spaces are barrier free
 - Health and Well-Being – promoting physical and mental health, participation and engagement.
 - e.g. promotion of social, recreational, educational and faith activities
 - Community Engagement – enabling connection, engagement and partnerships with the community.
 - e.g. providing opportunities for economic and volunteer work
 - Culture of Change and Continuous Learning – making aging an organizational priority
 - e.g. capacity building of staff
209. While none of them speak to protecting seniors' tenancies and preventing eviction, the second one (health and well-being) does establish that "policy review and outreach are carried out in the interests of safeguarding vulnerable and isolated seniors."
210. The fourth pillar also states that one key initiative is to "review how seniors are served in each type of Toronto Community Housing building, assess challenges, establish and confirm criteria for senior-designated portfolios."

6.8 Senior Specific Operating Units

211. Currently, there are two units that are designated for seniors:
- the seniors and single-family homes (east) (operating unit A), with an operating unit manager responsible, and
 - the seniors and single-family homes (west) (operating unit B), with an operating unit manager responsible.

212. One Operating Unit Manager explained that the portfolio staff try to provide services through a "senior's lens." The operating unit has developed an integrated team approach for every building. The team is made of a building superintendent, TSC, health promotions officer (HPO), a community safety staff person, and one manager. The other Operating Unit Manager employs a similar approach.
213. In the first Operating Unit Manager's view, TCHC has a large number of tenants that may be vulnerable in some way. The main role of the team is to try and identify those tenants that might need additional supports. Tenants might be at risk, or their tenancy in jeopardy. The integrated teams meet quarterly or more frequently.
214. There is also one Mental Health Liaison (MHL) for the entire corporation. One Operating Unit Manager was not clear on his role.
215. One Operating Unit Manager said there were two HPOs responsible for 6,500 units. The manager explained there is no formal process for their participation. HPOs are brought in on an ad hoc basis.³⁷
216. The Operating Unit Manager explained that the TSCs from operating units A and B attend each building a minimum of once a month, although it would be more frequent for larger buildings. The manager said they might attend more often to help tenants, for example, with their annual income reviews or to perform welfare checks.³⁸ This manager stated that the TSC's visit dates are posted in each building.
217. When asked to comment on some of the service gaps faced by the housing units, the Operating Unit Manager responded:

...I would love to get a supportive housing partner, a good supportive housing partner in place, in all of the seniors buildings, that can provide that 24/7 onsite support, from visiting, welfare checks, meds, personal support...

What I'm finding is that some organizations that call themselves supportive housing, but they don't deal with for example if the unit has pests, they won't go.

³⁷ Senior managers at TCHC recently advised my office that the roles of the MHL and the HPOs have changed. The MHL will now focus on policy, rather than casework, and the HPO will be replaced by community services coordinators.

³⁸ A welfare check is a visit to a tenant's apartment, to ensure that they are healthy.

If somebody has an identified mental health issue, or a substance abuse issue, they don't go beyond sweeping the floor and dispensing meds. So they're not doing a comprehensive wrap around.

I've had some really good experience with some supportive housing partners, where they just go in and it's like having your own little social service agency there. They would case manage, they would also do some education pieces and some general support for the whole senior tenant population. I think that's a partnership that we really need to develop and expand.

218. The Operating Unit Manager also explained that TCHC has experienced difficulty getting the Ontario Public Guardian and Trustee (OPGT) to assist with tenants who may have capacity issues and suggested that a protocol between the agencies might be in order.

6.9 Senior's Lens Advisory Committee

219. The TCHC website³⁹ references a tenant group (age 59+), called the Seniors Lens Advisory Committee, formed in 2010. The website states that the Committee works “to identify barriers that senior tenants face and discuss possible solutions.”
220. The advisory committee worked on creating the senior's lens checklist, a document that was promised in the TCHC Seniors Implementation Framework, under the fourth pillar, "culture of change and continuous learning."
221. The website states that the checklist:

is a tool to guide the development and review of policies, procedures programs and services from the perspectives of a diverse senior tenant population.

It is a checklist that allows us to stop, think, and have critical conversations about the service we provide to seniors in five focus areas, including: Safety, Outreach, Communication, Customer Service and Barriers.

³⁹ Available online at: <http://www.torontohousing.ca/Seniors>

... Using this lens to review current and future policies, programs and services, means we may uncover gaps and discover innovative ways to provide relevant support to older adults and vulnerable tenants, with the support of our community partners.

6.10 Pathways Project

222. Acting on the recommendations of Justice LeSage's review, TCHC approached LOFT Community Services (LOFT) to pilot a project aimed at developing an effective model for supporting vulnerable tenants living in seniors-designated buildings to maintain successful tenancies.
223. Effective April 1, 2011, the Pathways Project provided outreach and support services to 20 individuals from TCHC's Seniors Vulnerable Tenants List. The caseload was divided evenly between operating units A and B.
224. The participants were tenants designated as vulnerable or at-risk due to a number of factors including mental health, physical health, aging and unsafe environment. The most common reason for referral to Pathways was clutter, representing 30% of clients. Mental health (13%) and rent arrears (13%) also ranked high.
225. The final report, dated April 2013, recommended that:
 - There is a need for more investment in supportive housing and case management services in TCHC seniors-designated buildings.
 - An effort must be made to reduce stigma and educate existing service providers around seniors with mental health and addictions issues to ensure that these clients are not excluded from valuable and necessary resources.
 - More resources are required for bed bug treatment and preparation in seniors-designated buildings.
 - Age should not be an excluding factor for supportive housing or homecare services.
226. The project ended in March 2013, although LOFT continues to work with TCHC on referrals and consultation.

6.11 Toronto Seniors Strategy

227. The Toronto Seniors Strategy (2013) is a City-wide strategy developed as a result of a unanimously accepted City Council motion in 2012.
228. It uses four principles to guide planning and decisions: equity, respect, inclusion, and quality of life. It specifically notes that "older adults should have equitable access to services and programs."
229. The strategy notes that while demographic trends towards an older population are common across the country, Toronto's experience will be unique as a result of its high levels of diversity.

The City must recognize the increased vulnerability that exists when such factors as immigration, linguistic diversity, disability, and sexual orientation intersect with the challenges of aging.

230. One of the strategy's themes is housing. Several recommendations deal with housing for seniors and advocate that the City:
 - Take steps to increase older Torontonians' access to affordable housing.
 - Enable older Torontonians to live independently in their own homes by helping them to make necessary repairs, alterations, and barrier-free modifications and access to in-home care and support services.
 - Provide a continuum of high quality long-term care services to eligible older Torontonians in both long-term care homes and the community and will advocate for necessary funding from the Province of Ontario.

7.0 The Facts

7.1 Implementation of Justice LeSage's Recommendations

7.1.1 TCHC Board Work Plan for Implementation

231. In a June 18, 2010, letter to the public, the former Board Chair, released the Justice LeSage report ahead of its meeting on June 29, 2010. The Chair wrote,

[the] report provides clear direction on where we [TCHC] need to improve,”... “act quickly on those recommendations that we [TCHC] feel will have the biggest impact. Others will require consultations with stakeholders before we can take action.

232. Subsequently, a document entitled, “Response to the LeSage Review,” prepared by the former CEO, provided her initial response to the report. She acknowledged that improvements were needed to TCHC’s operations and processes. The response also outlined the changes that were already in place or underway as a result of the Justice LeSage review (e.g., eviction prevention training, development of a vulnerable person's protocol, review of annual review forms).

233. In response to the CEO’s report and depositions from the public at the Board’s June 29, 2010 meeting, the Board directed TCHC to bring forward a detailed implementation plan to the August 6, 2010 meeting and asked that the plan include:

- An action plan for implementation;
- An action plan for establishing strategic liaisons with community agencies;
- Establishment of key performance indicators so that actions can be measured and reviewed by the Board;
- An advocacy plan to spearhead action for legislative change to improve the social housing system;
- Consideration of a sole purpose individual for tenants to access to raise unresolved issues; and
- A commemoration in the name of Al Gosling, such as a memorial garden at his building and a scholarship fund.⁴⁰

⁴⁰ Minutes from TCHC Board of Directors’ meeting, June 29, 2010, pages 3-4.

234. In response to direction, the CEO presented her July 26, 2010 report to the Board on August 6, 2010. In describing the plan, the former Chair explained, “that the report was prepared by the CEO, under the Board’s direction, to be a strategic, high-level plan to respond to the LeSage Review.”

235. This view is shared by Senior Manager Y who told my investigator that,

The Board, wanted to use the LeSage Review as a way to advocate for change in the organization...they didn’t want to dive in, from my perspective, to the nitty, gritty details.

236. The plan, re-named the “Directional Plan” by the Board also outlined the five desired outcomes of the implementation process which included:

- The organization is equipped to support successful tenancies
- Tenants are knowledgeable about their rent responsibilities and eviction prevention processes
- Tenants receive necessary services from third parties to support housing success
- Tenants have access to transparent, fair and equitable rent review processes and;
- Fewer tenants are evicted.⁴¹

237. A number of the Justice LeSage recommendations focused on managing the relationship with community agencies and the implementation plan speaks to this as well. The former CEO wrote:

The Plan will improve access to information for staff and tenants; result in improved protocols for referrals and working with agencies, and strategically align social service partnerships to target gaps in services for vulnerable tenants and in underserved buildings and neighbourhoods.⁴²

⁴¹ Public Minutes from TCHC Board of Directors’ meeting, August 6, 2010, page 3.

⁴² TCHC LeSage Review Implementation Plan. Report: TCHC: 2010-83.

238. The July 26, 2010 report identified key performance indicators that would be used to “measure both performance and progress,” with respect to implementation of Justice LeSage recommendations and fell into four areas:
- Action plan indicators (% completion of overall plan, progress report)
 - Tenant indicators (number of evictions, % of tenants linked to community agencies, and no. of repayment agreements)
 - Business indicators (number of applications to evict (L1) issued, number of partnership formed to support vulnerable tenants, % of tenants with indicators of vulnerability)
 - Organizational learning indicators (% of cases following the Eviction Prevention Policy)
239. Both Justice LeSage and the Board, through their respective recommendations and directions, encouraged TCHC to advocate for legislative change to “improve” the social housing system.
240. Justice LeSage suggested approaching the appropriate levels of government to talk about amendments to the *Residential Tenancies Act*, in order to allow the LTB to hear RGI appeals.
241. Justice LeSage also recommended that TCHC “contact the appropriate government authorities with a view to recommending changes to the *Municipal Freedom of Information and Privacy Act*, and other privacy legislation,” so that TCHC would be able to disclose information when a tenant is facing serious issues, whether physical or financial, which could have an adverse impact on their tenancy. Both of these recommendations were incorporated into the work plan.
242. Each of the 81 recommendations from Justice LeSage were mapped against five “implementation outcomes” described in the plan.
243. The report was adopted by the Board. It directed the CEO to report back with a detailed action plan. That plan, dated October 21, 2010, and presented at the November 3, 2010 meeting, was TCHC’s response to that request.⁴³
244. The document also referenced the LeSage action team, made up of senior staff from all areas of the organization, namely, Public

⁴³ Note: the Board meeting scheduled for October 5, 2010 was cancelled due to the 200 Wellesley Street fire.

Affairs, Community Health, Human Resources, Operations, Legal, Information and Technology, and Organizational Development. This team was given the task of overseeing “the strategies in the work plans and ensuring they align with the Board's and CEO’s direction.” The Chief Administrative Officer was accountable for the implementation of the work plan.

245. At the time, TCHC noted that many of the new processes and systems in response to Justice LeSage would be introduced in 2011, with “some of the larger scale initiatives being implemented” in 2012, when an evaluation would also take place.

7.1.2 Update on the Eviction Prevention Work Plan and LeSage Review

246. TCHC took the 81 recommendations, and grouped them thematically. The reasons for this were provided in the January 10, 2012 update provided by the interim CEO, in which he writes,

The [Directional] Plan recognized that some [Justice LeSage] recommendations were a significant culture shift and required long-term system-wide changes. It also recognized the importance of adapting the recommendations to the changing environment so as to effect sustainable change. The Board approved the strategy and approach, which responded to the spirit and intent of the LeSage report instead of being mapped against specific recommendations⁴⁴.

247. Starting with its July 26, 2010 Directional Plan, TCHC generated a series of updates on progress. Progress was broken down along the five outcomes referenced in the Directional Plan. The task or direction described in the summary, would relate to a change in a system, structure, process, or behaviour (e.g., review operational staffing model). The summary set out the corresponding action taken by TCHC, the status, and comments to explain why tasks had not been completed or why timelines had changed.

248. Updates were provided to

- The Board on November 3, 2010;
- The Board on August 17, 2011 (revised Eviction Prevention Policy presented);

⁴⁴ Update on the Eviction Prevention Work Plan and LeSage Review, Report CAAC: 2012-03/TCSC: 2012-04, page 2.

- The Corporate Affairs and Audit and the Tenant and Community Services Committees on January 27, 2012;
- The Tenant and Community Services Committee on March 12, 2012.

March 12, 2012 was the last public update.

249. Some TCHC staff have viewed Justice LeSage as a “catalyst for change,” with the Directional Plan and the Eviction Prevention work plan as the blueprint. While TCHC has said on many occasions that it was committed to implementing Justice LeSage, “some parts of the work plan have been put on hold, delayed or changed given recent changes in the organization and the external environment.”⁴⁵
250. Several weeks after the Board’s August 6, 2010 meeting, a fire broke out in a TCHC building at 200 Wellesley Street East on September 24, 2010. The six alarm fire took eight hours to extinguish. Many staff were re-deployed, to provide support to the large numbers of residents displaced by the emergency.
251. One senior staff person advised,
- It [the fire] had a huge impact [on the implementation of LeSage]. Months. Months. Everyone who was not essential was at Wellesley for something or [the] other for at least for the first two weeks. Anyone who was doing special projects or policy stuff or whatever. I was at Wellesley full-time from September to February 4. And they were a bunch of other people who were [utilized in] the same way.
252. As a result of the fire, some tasks scheduled for completion in 2010 were pushed into 2011. For example, TCHC hoped to review, clarify and communicate staff roles and accountabilities in support of successful tenancies by the fourth quarter of 2010. In the November update to the Board following the fire, that timeline was moved to the second quarter of 2011.

⁴⁵ Update on the Eviction Prevention Work Plan and LeSage Review, Report: CAAC: 2012-03/TCSC: 2012-03, January 10, 2012, page 3.

253. First referenced in its July 2010 update, in the October 2010 update to the Board, TCHC advised that it,
- ...will ensure active monitoring and regular evaluation of progress on implementing the Eviction Prevention Workplan by providing monthly data collection and quarterly analysis and reporting of Key Performance Indicators (KPIs). The KPIs measure progress and impact in:
- 1) preventing evictions, and
 - 2) supporting successful tenancies, with a focus on the most vulnerable
254. Former Senior Manager Z noted arrears accumulate retroactively, as when a tenant is late in advising of an increase in income. Amounts that should have been paid are charged to the tenant's account, are not counted in the key performance indicator statistics.
255. TCHC also had to deal with a report from the City's Auditor General (AG), and the consequent fallout in February 2011. The report, which was critical of TCHC's procurement policies and procedures, as well as its lack of control over employee expenses, required TCHC to move quickly and address the identified deficiencies.
256. The AG's report appeared on the agenda of the Board and/or that of the Corporate Affairs and Audit Committee for the meetings of March, April, May, August, September, and November 2011, as well as January, March, May, July and October 2012.
257. Over the same period, updates about Justice LeSage and the Eviction Prevention Policy, were on the Board or the Tenant and Community Services agendae, in August 2011, and January and March 2012.
258. In Senior Manager Y's view, the Board's focus had shifted,
- It was all Auditor General. That's what the Board said to you. I want you [TCHC] to fix this.
259. In the Eviction Prevention work plan, TCHC "committed to exploring different options to implement" the Justice LeSage recommendation for a Commissioner of Housing Equity or "a similar independent office, and report back to the board with a recommendation in Q1 2011."

260. The report was prepared for the Board in March 2011, but it was delayed due to the resignation of the Board's citizen members. The report was subsequently presented to the Tenant and Community Services Committee in March 2012.
261. A senior manager remarked:
- ...the change in the leadership in the organization has had a significant impact on where this [Justice LeSage/Eviction Prevention] goes. That is huge. [The former CEO] and the old board were really driving the way this [work plan] was actioned on. [The former CEO] and [the former CAO] at the time, it was very much what they thought this should be.
262. In explaining the parameters of his review, Justice LeSage wrote:
- The mandate of this review is to make recommendations to prevent evictions of vulnerable tenants for non-payment of rent.... Seniors and those with physical disabilities and mental health problems would most certainly be included as vulnerable or "at risk" persons.⁴⁶
263. Before his review was completed, TCHC had proceeded with a number of procedural changes "in several areas identified by Justice LeSage," and it has continued to make adjustments to its eviction processes since that report's release.
264. Improvements have been incorporated into the eviction prevention measures now in use, which are applied to all tenants, including those deemed more vulnerable such as seniors.
265. A revised Eviction Prevention Policy was approved by the Board in August 2011. TSCs are now to make regular site visits to seniors buildings.
266. Justice LeSage noted that progress has been made in other areas as well. TCHC developed annual inspection tools requiring staff to document unit conditions that indicate signs of tenant vulnerability and arrange for appropriate follow up.

⁴⁶ LeSage, P.J. (2010). Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation. April 10, 2013: http://www.torontohousing.ca/webfm_send/6521/1?#

267. Justice LeSage's reason for recommending the Commissioner of Housing Equity position was to resolve "rent arrears situations, through mediation, and reduce those matters which proceed to the Landlord and Tenant Board."
268. In response to that recommendation, in its Eviction Prevention work plan, TCHC committed to, "review practices in other agencies and jurisdictions regarding an independent office or function to resolve rent arrears situations," and report back to the Board with a recommendation in the first quarter of 2011. The report was delayed "due to Board succession and transition."
269. TCHC recommended against the creation of a Housing Commissioner in its March 13, 2012 report to the Board for a number of reasons.
270. Stakeholders, including tenants, legal clinics, and staff consulted on the matter, were not in favour of the model that Justice LeSage proposed. The legal community and staff rejected the idea because they feared that it would duplicate what was already happening "on the front line,"⁴⁷ and thought that establishing a Housing Commissioner would create another "unnecessary layer of bureaucracy." The tenants were supportive of an independent office, but the preferred structure was different from Justice LeSage's recommendation.
271. TCHC's view was that there were other complaint resolution alternatives already in place such as the Ombudsman's Office, the LTB, and its own human rights office.
272. Cost and the additional resources required to properly fund an office of the Housing Commissioner was cited by TCHC as further rationale against its creation. The Tenant and Community Service Committee of the Board agreed with this position.
273. TCHC created a check list (RTA N4) which must be completed by the TSC, and signed off by the operating unit manager confirming that they have complied with the Eviction Prevention Policy. This is done before filing an application with the LTB to evict. After an order to evict has been received, a second, more detailed form

⁴⁷ TCHC. LeSage Update and Recommendation. Tenant and Community Services Committee 2012-20. March 13, 2012.

must be signed by the TSC, operating unit manager, and Director before calling the sheriff to enforce the order.

274. Former Senior Manager Z believed that the N4 checklist and 'Eviction Approval Form – Manager Review' were "another level of bureaucracy" and duplicated documentation that should already be on the computer system.
275. The March 13, 2012 update spoke about the establishment of an audit function to monitor compliance with “rent-related policies and practices,” along with plans to create a new process for hearing RGI appeals.
276. Notwithstanding, former Senior Manager Z noted that prior to her departure, TCHC had not conducted administrative audits of the Eviction Prevention Policy and process. Her unit did respond to specific audit requests, such as the one conducted in 2008/09 which reviewed the processes of the contracted management providers to ensure they were complying with the TCHC contract.

7.1.3 Outstanding Actions Relevant to this Investigation

277. TCHC continues to work on addressing outstanding recommendations from Justice LeSage. Currently, there are no approved Guidelines to direct staff that are negotiating local repayment plans for arrears regarding the repayment amount or term.
278. The Eviction Prevention work plan is about simplifying the Eviction Prevention Guidelines and processes and provide for the exercise of discretion. Management’s response to this direction is to,
 - Revise the arrears collection and business processes for eviction prevention to reflect LeSage’s recommendations and encourage discretion and compassion throughout the eviction prevention process.
279. Senior Manager Y was asked if she was aware of any guidelines or other direction given on repayment agreements. She explained:
 - I’ve never seen one [arrears Guidelines]. Everyone keeps saying there is. I don’t know what that is, I’ve never seen one.

This goes back to thing I said about the Eviction Prevention Guidelines and the updates of the Rent Collection Process. That was one of the things that I had embedded into the draft, was some guideline, but not [whether this] amount is enough. You can't do it So, the criteria we would look at is [whether] there is a history of frequent non-payment. What is the capacity to pay? Are there indications of vulnerability? How prompt has your [TCHC's] collection been? How high are the arrears? Based on those, you do X, Y, Z.

280. Some TCHC staff reported having a "rule of thumb" about arrears repayment plans. Former Senior Manager Z confirmed that there was a "rule of thumb" that "used to be out there" and advised that the maximum repayment term for settling arrears through a local agreement was three months. She added that the "rule" kept changing with every change in leadership. Former Senior Manager Z said that staff would take into consideration the tenant's ability to pay.
281. She noted that with the new leadership, TCHC's attitude about addressing arrears has changed. She believes that there was a more rigid expectation of pursuing arrears.
- the warm and fuzzy, NDP type of organization we used to do, has long gone...I've seen a paradigm shift.
282. One Operating Unit Manager stated that staff take direction from TCHC head office in terms of what kind of repayment arrangements are acceptable. The last direction that staff received was approximately 18 months ago. A new Vice-President was hired recently, and staff are waiting for him to prepare guidelines. The Operating Unit Manager explained that the previous Vice-President had also been working on an arrears strategy, but said that the status was unknown.
283. The manager stated that for retroactive arrears, they try to have the outstanding amounts paid back within 18 months. The manager explained that there is a little more flexibility in collection efforts with retroactive arrears as opposed to straight arrears. According to this manager, "arrears show as arrears in our statistics and the retros do not show as arrears, they show as retro charges." The

Operating Unit Manager explained that one of the performance indicators for managers is arrears.

284. This Operating Unit Manager said former Senior Manager W had been aggressive with arrears collection and noted that former Senior Manager W, "did not want us to mediate all the time... He certainly ensured that the Eviction Prevention Policy was followed, but he was not interested in a five -year, \$20 a month pay back. That's very clear when he came in."
285. The manager believed that arrears could be decreased by adding more tenants on pre-authorized payment plans with automatic bank withdrawal of rent monies.
286. The November 8, 2012 minutes from the Tenant and Community Services Committee, indicate that management advised an arrears collection strategy was being developed and that one of the issues it would address was consistent repayment standards for arrears. No deadline was noted for completion, and at the time of this investigation report, the arrears strategy remains outstanding.
287. TCHC also cited changes to the social housing legislation as having had an impact on implementation. The *HSA* came into effect on January 1, 2012, replacing the *Social Housing Reform Act*, which until then, had been the governing legislation for social housing providers in Ontario.
288. Several recommendations by Justice LeSage had an impact on the administration of social housing and one of those dealt specifically with TCHC's internal review process.
289. In its work plan, TCHC agreed to,

Implement a fair and transparent panel review structure, where the internal review is independent from the original decision-maker.⁴⁸
290. Under the new legislation, the Service Manager "is required to establish a body or a system to conduct reviews of decisions relating to rent-geared-to-income assistance."

⁴⁸ TCHC. Eviction Prevention Work Plan – December 2011 update, page 16.

291. What that structure would look like was placed on hold pending a decision from the Service Manager. TCHC was hopeful that the City would take responsibility for the review body, moving the decision-making out of its hands. This approach is similar to the one followed by the City of Ottawa.
292. Senior Manager Y summarized the situation as follows:
- We were very hopeful that the Service Manager who was given that responsibility under the *HSA* to establish a review body at the City of Toronto... then they issue Guidelines saying every housing manager is responsible for it...We waited a period of time because we're not going to start a system if the city of Toronto is going to do their own system...They've [now] delegated that responsibility back to the housing providers and so now we're back to where we were....
293. Ottawa Community Housing also made changes to its rent review process for those meeting the *HSA* criteria and decreasing the interval of the annual RGI review to two years.
294. The framework for a review of RGI decisions was presented to the Tenant and Community Services Committee at its January 13, 2013 meeting, after the City issued its Guidelines. The document has been given to TCHC Legal for review.
295. Justice LeSage noted tenants complained that TCHC lost or misplaced their supporting documentation with which to complete the annual review. He recommended that TCHC provide tenants with "an acknowledgement of receipt when a tenant submits their Annual Review Form."
296. To date, TCHC has not instituted this practice. Staff explained that providing a receipt for documents in all cases is difficult, particularly because many documents are delivered to the operating unit offices by mail. Currently, if a tenant attends in person, a receipt is provided upon request.

7.2 Compliance with Eviction Prevention Policy

7.2.1 Early Intervention with at-risk Tenants

297. The Eviction Prevention Policy states that staff should identify households that appear to be vulnerable, that they monitor those households who are at a higher risk of eviction, and that they intervene early if rent payment is late, "to help prevent tenant from falling further into arrears."
298. The Guidelines suggest staff will "make every effort to" identify tenants that need extra support, and connect these tenants with community resources; and receive tenant consent, if making a direct referral to an organization.
299. An October 11, 2012 briefing note by staff stated that the percentage of tenants in arrears "went drastically up" between 2006 and 2012.
300. In 2006, the average for the year was 7.7%. By 2012, the average was 18.1%.
301. The briefing note offered several explanations for the increase in arrears. One of these was the eviction of Mr. Gosling and his subsequent death. The briefing note states:
- While waiting for LeSage report [sic], the eviction process was stopped and only occurred in a small number of cases. This had created a backlog of accounts in arrears for an extended period of time.
302. It also offered other examples, such as operating units "not serving N4s each month on a regular basis," staff turnover among TSCs, computer incompatibility for matching certain reports, and communication problems between the legal unit and operating unit staff.
303. Former Senior Manager Z noted that the slowdown was related to the death of Mr. Gosling and the Justice LeSage report. She said that people "froze" and were afraid to evict.
304. Former Senior Manager Z said that they were doing approximately 60 evictions a month and after Mr. Gosling's death, that figure fell to about 14 a month. She explained that normally, the corporate goal

would be to keep arrears at 8%, so the figure nearing 20% in 2012 was high.

305. She also noted that in the years just before the Justice LeSage report, there were approximately 1,850 applications to evict brought to the LTB.
306. Former Senior Manager Z said,

When we hit LeSage all of a sudden we went down to 800 cases. The next year, a thousand cases. We were so below, people weren't collecting money. They were just frozen in time, because if it was a senior or if it was anything, everybody froze. Then it got worse to me for the customer, because the customer grew a larger debt or into a bigger hole that they couldn't get out of.
307. Former Senior Manager Z said that most of her staff were redeployed to 200 Wellesley Street to assist efforts there, which meant that fewer evictions were carried out. The unit's workload had fallen to the point where she had to lay off a clerk and a litigator because of a lack of LTB work.
308. She stated that in the fall of 2011, the pendulum began to swing in the other direction, and there was a renewed focus on collection of arrears.
309. A written update to the Tenant and Community Services Committee on March 26, 2012, noted that TCHC had "reinstated rent collection activities" in 2011.⁴⁹
310. Former Senior Manager Z stated that early intervention meant addressing arrears quickly, in the first month that they occur, rather than waiting many months to start the collection process.
311. Mr. A started his tenancy with TCHC in June 2006. He incurred arrears incrementally for non-payment of rent, accumulating them consistently from October 2008 to 2012. For example:
 - October 2008: \$268 arrears
 - October 2009: \$2,136 arrears

⁴⁹ 2012 Successful Tenancy Strategy, update provided to the TCHC Tenant and Community Services Committee, March 26, 2012.

- October 2010: \$5,990 arrears
 - October 2011: \$13,277 arrears
312. In September, 2008, Mr. A wrote that he would pay \$50 a month to pay off his arrears. His arrears continued to accumulate. Each month, for the next year and a half, a “mediated settlement letter” was automatically issued. In March 2010, Mr. A called TCHC and suggested he could pay \$100 each month. Staff attempted to return the call but did not reach him. In September 2010, he agreed to pay \$200 each month, towards his arrears, which were at \$5,518.
313. The tenant was unable to meet that commitment. He paid \$200 extra for one month but he failed to abide by the agreement.
314. Two N4⁵⁰ checklists were completed on April 4, 2011 and June 23, 2011. Both were signed by the TSC and operating unit manager, although a number of the items had not been completed on the checklist.
315. The N4 was served on May 17. An undated and unsigned cover letter was included. It explained how to avoid eviction and said that there was information about legal clinics attached. The information about the legal clinics was not included in the file reviewed by my investigator.
316. The L1⁵¹ was completed on July 22, 2011. A hearing was scheduled for September, rescheduled to November and then to March 2012.
317. Due to a failure to provide proof of his income, Mr. A lost his subsidy and from February 1, 2011 until September 1, 2011, he was charged market rent at a monthly rate of \$714. After his legal clinic assisted him in March 2012, his income was verified, and his rent returned to \$449; it was adjusted retroactively.
318. Former Senior Manager Z called arrears accumulated in cases such as Mr. A's "false arrears." These can be cases in which the tenant is temporarily charged market rent prices until they submit

⁵⁰ An N4 is a legal form provided to a tenant advising them that the landlord is giving them “Notice to Terminate” their tenancy. The N4 checklist is the internal document used by TCHC to verify staff have taken necessary steps before sending the file to Legal.

⁵¹ An Application to Terminate (L1) is filed by the landlord with the LTB in order to initiate eviction proceedings and have a hearing scheduled at the LTB.

proof of income and return to RGI rates. She stated that TCHC will not take "false arrears" cases to the LTB.

319. The Operating Unit Manager e-mailed Mr. A's counsel on March 6, 2012, while they were negotiating a mediated settlement agreement:

[Mr. A] made no attempt to pay his rent for a long period and ignored our attempts to speak with him about it. He then tried to intimidate us with his phony lawyer friend and, failing that, finally went to the legal clinic. Furthermore, it is a well known fact among site staff and fellow residents that he takes taxi-cabs almost every day and spends most of his time in the neighbouring bar. Clearly, paying his rent is not important to him and this simply isn't fair to the other tenants.

320. The Operating Unit Manager explained to my investigator that this was a very challenging case, and remarked that it was frustrating for staff when, "we chase these people all the time."

321. On March 14, 2012 at the LTB, Mr. A entered into a mediated settlement agreement promising to pay an additional \$300 each month on top of his \$449 rent. He owed \$10,802 at the time.

322. In the first month after Mr. A signed the mediated settlement, he defaulted.

323. The LTB issued an eviction order on April 23, 2012.

324. The "Eviction Approval Form – Manager Review" filled out by the TSC on May 14, 2012, had two of the six task boxes completed.

325. The section "Summary of all Attempts at Direct Contact before sending an N4" did not mention direct contact but stated:

Tenant failure to pay the rent of \$300 – on first date set for April 2012 and May arrears. Mediation agreement filed at the landlord and tenant Board. May rent was returned NSF.

326. The second box for "Summary of All Attempts at Direct Contact made before sending an application L1" provided information about knocking on the tenant's door on March 1, 2012 and a phone call on May 11, 2012. Both of these attempts were after the eviction order was issued, but not before the application was filed in July 2011. In the May 11 call, Mr. A advised he would be moving out.

327. Approval to proceed was provided by the Operating Unit Manager and former Senior Manager W.
328. Mr. A was evicted by the sheriff on June 13, 2012. His unit was vacant at the time the sheriff issued his order.
329. Mr. B moved into his apartment in February 2006. His file notes that English was not his first language, and that a language barrier existed.
330. Although he regularly had difficulties making his rent payments on time, he maintained only a small arrears balance to the end of 2008. On December 10, 2008, TCHC issued an arrears letter for \$45.
331. On January 12, 2009, the TSC sent a letter stating that "as a result of your reporting your income change late, you are being back charged rent to 06/01/2008..." The paragraph ended by stating that... "the total rent balance owing [was] \$2,142." Below this, a table showed the rent charged and what should have been charged over the past eight months. The chart stated that the balance owing was \$2,856.
332. The following day, on January 13, 2009, TCHC issued an arrears letter for \$3,091.
333. A legal clinic worked with Mr. B in January 2009. He was going to sign an agreement to pay \$200 a month in addition to his usual rent. Mr. B did not attend an appointment with the TSC on February 3, 2009, to sign the agreement. TCHC took no action as a result of failing to sign the agreement.
334. One Operating Unit Manager mentioned to my investigator that the regulations provide that, if a tenant owes retroactive arrears, the amount can be collected in addition to the rent otherwise payable at a rate of not more than 10% of the monthly rent.
335. That regulation was withdrawn when the new legislation came into force.

336. Senior Manager Y stated that it was difficult to craft a way to acknowledge the corporation's role, as well as the tenant's own responsibility for large arrears:
- [We are] trying to finally create a solution so that we're taking on some of that responsibility as a landlord for have not collected the rent and the tenant is taking on some responsibility because realistically they should have been paying the rent.
337. Mr. B's arrears remained at about \$3,000 throughout 2009 but reached \$4,000 by January 25, 2010.
338. Arrears letters were sent monthly. On October 18, 2010, a different letter was sent asking the tenant to call the superintendent for an appointment on an urgent matter pertaining to his tenancy.
339. On December 29 and 30, 2010, Mr. B made complaints about cockroaches and threats from another tenant. The TSC attended January 2, 2011 and closed both complaints. There is no note that arrears were discussed.
340. On January 21, the TSC noted that Mr. B would be paying \$425 a month, once his pension cheques had begun.
341. On February 25, 2011, Mr. B was issued an outstanding balance/notice of termination letter which said he owed \$5,755.
342. On March 3, 2011, Mr. B told the TSC that he would pay \$520 a month, but failed to do so.
343. On April 1, 2011, an 'eviction approval form-manager review' was completed by the TSC. It was signed by the Operating Unit Manager, but not by the Director.
344. An N4 was issued on April 13, 2011. The N4 checklist was completed on May 2, 2011 by the TSC and signed by the Operating Unit Manager.
345. The L1 was filed on June 24, 2011.
346. Mr. B attended the LTB hearing on August 9, 2011 with a community worker and a representative from the legal clinic. The hearing was adjourned, so that Mr. B could participate in a capacity assessment. He did not consent to the assessment.

347. The Operating Unit Manager wrote to the litigation clerk, on October 3, 2011, suggesting Mr. B's mental health worker ask the OPGT for an assessment.
348. One Operating Unit Manager also reported the trouble TCHC experiences with trying to have the OPGT assist tenants who may have capacity issues.
349. She explained that the OPGT has been called to intervene in a number of difficult situations, when the person has "obvious issues," but it refuses to become involved. She suggested that a protocol between the two agencies might be helpful.
350. On November 9, 2011, the LTB issued an order to evict Mr. B for his arrears, enforceable January 2, 2012.
351. On December 2, 2011, the TSC met with Mr. B, along with a social worker and the HPO. Mr. B told them that he planned to live in his van in a storage unit he had rented and that he would shower at the local gymnasium where he had purchased a membership. He said he did not want to enter the shelter system because he felt it was unsafe. He was ultimately persuaded not to live in his van.
352. On January 9, 2012, the eviction approval form was completed. It stated that the arrears had accumulated to \$9,195 and was signed by the Operating Unit Manager and former Senior Manager W.
353. A notice to vacate was issued effective March 5, 2012. The sheriff attended on March 8.
354. Instead of sleeping in his van, his adult children arranged for him to spend nights at the family home, while his ex-spouse was at work. He spent his time in a local mall during the day. After two weeks, this became untenable. He checked himself into the hospital and died of a heart attack, three weeks after his eviction.
355. On March 29, 2012, the Operating Unit Manager wrote to former Senior Manager W stating that Mr. B had moved in with his family and died on March 24, 2012.
356. She noted that he lived in the same apartment building as Al Gosling, but that there was no "buzz" with tenants about his death since he was not well known to them.

357. TCHC staff first entered Mr. B's apartment when it was inspected on May 5, 2012. It was vacant. Some of his belongings were still present.
358. Although TCHC staff knew about Mr. B's death by March 29, collection letters continued to be mailed, addressed to his vacated unit, until late October 2012.
359. Mr. C lived in a seniors' building from 2001 to 2012.
360. In 2011, Mr. C received approximately \$1,200 a month from old age security and the Canada Pension Plan. He paid \$401 rent each month.
361. On April 1, 2011, Mr. C's rent increased to a market rate of \$944 a month, when he lost his subsidy, after failing to submit the annual income review. The higher amount was withdrawn automatically from his pre-authorized payment account.
362. The TSC drafted a letter to Mr. C on June 22, 2011, stating that it had come to her attention that he had vacated his unit on or before May 30, 2011. It noted he was in arrears by \$842. The letter stated that staff had entered the unit on June 21, 2011, and determined that he had abandoned the premises. The letter stated the lock would be changed on July 15. TCHC staff report the letter was not sent at that time.
363. TCHC staff attempted to reach Mr. C twice in August, and his emergency contact by telephone once in September 2011. Mr. C's number had been reassigned to a new client, and the contact's number was no longer in service.
364. There were sufficient funds in his account to pay the new higher market rent for six months, until October 2011. At that point, the pre-authorized payment failed.
365. TCHC staff explained that they could not treat the unit as abandoned, if the tenant was not in rent arrears, as set out in Section 2(3) of the *Residential Tenancies Act*.
366. An N4 was served on October 25, 2011, stating that he owed a total of \$1,786. Mr. C had carried a balance of \$842 since February 2010, a period of 20 months. When he missed the October 2011 payment, TCHC moved to evict.

367. Staff made a note that they knocked on his door on November 17 to follow-up on the N4 letter but there was no response.
368. Records show that the June 22, 2011 letter was mailed to the tenant on November 21, 2011.
369. The N4 checklist was completed on November 28, 2011.
370. Staff attended Mr. C's apartment on December 16, and noted that there was mail under the door and it appeared from water levels in the washroom and kitchen, that the apartment had not been used for "a very long time."
371. The TSC sent a letter to Mr. C on December 19, 2011, stating that it had come to TCHC's attention that he had vacated his unit on or before April 1, 2011. This was the second time TCHC notified him that his absence had come to its attention. The same TSC wrote both letters.
372. The letter stated that TCHC staff entered his unit on December 16, 2011 and determined that he had abandoned the premises without providing 60 days notice.
373. The letter notified Mr. C that they would be changing the lock on his door on December 30, 2011. It stated that he would be responsible for payment of rent and other charges until January 31, 2012, the date he would have moved out if he had provided 60 days notice.
374. On January 3, 2012, another letter was sent stating that Mr. C had not contacted them, and that he had 30 days to pick up his possessions or they would be disposed of. A second notice saying the same thing was sent on January 17.
375. All notices to Mr. C were sent to his TCHC address which he had abandoned.
376. There were no further enquiries on file about Mr. C's whereabouts or status.
377. A letter was found in his file, dated June 27, 2010 that said the TSC believed his unit had been abandoned the year before but there were no other documents extant.
378. The TCHC tenant file for Mr. D showed that it had issues with his behaviour. TCHC had issued an N5 form in April 2009 for being a

threat to the safety and enjoyment of other tenants, for illegal activity and for damaging property. TCHC staff noted that he was a "known resident crack cocaine user." There is no mention of how this information was obtained. Correspondence from his support worker indicated he had schizophrenia and experienced trouble handling his finances. Mr. D had no emergency contact noted on file.

379. On January 21, 2009, the superintendent and social workers from two community organizations attended his unit to discuss illegal activity in his unit. He was invited to participate in social programs and agreed to take ping-pong lessons. He was also offered some home-making services, in which he was interested. The note said that they would be checking in to see if he attended ping-pong lessons.
380. Mr. D had a history of carrying arrears on his account. For example, on January 1, 2009, he had a balance of \$1,965 although this did not increase until September 2009, when it went up to \$2,135. Once he had accumulated arrears, they were never paid down. Occasionally, the amount would increase.
381. He was taken to the LTB for his balance of \$2,135. An eviction order was issued on October 5, 2009, but he was not evicted at that point. The file did not indicate a reason.
382. An N4 checklist was filled out on May 25, 2012 and noted that the tenant was "seen on the streets panhandling every day." A second N4 checklist was completed on June 6, 2012.
383. The L1 application to the LTB stated that Mr. D owed \$404 (\$234 in rent and \$170 in filing fees), although the TCHC rent roll indicated he owed \$2,414 at the time.
384. Senior Manager X stated that TCHC could only pursue the \$404 because the other arrears had been previously litigated in 2009.
385. Senior Manager Y explained that TCHC was wary of evictions following Mr. Gosling's death.

We had this massive paralysis in the organization after the LeSage review, where people just stopped escalating the rent collection. So they would call, they would send letters,

they would knock on doors, but then they would never actually take it before the Landlord Tenant Board.
... I think people were just very very nervous about it. At this stage in the process, new board, new CEO, new COO, different mindset. We got to get caught up on the arrears...There was a bit of internal tension around the pendulum swinging too far in the other direction.

386. One Operating Unit Manager stated that there was a move to halt evictions after Mr. Gosling's death.

If you just looked at the corporate arrears [following Gosling] they were extremely high. There was this huge reluctance to evict somebody because it may hit the papers. It's not a good feeling and it's not good for our tenants. I'm not at all suggesting there was an official moratorium. There seemed to be a cooling on that activity [eviction]...
So the pendulum really swung to we're not doing any evictions [following Gosling] I think that the pendulum is swinging back and my position is that people have to pay their rent. If people are struggling we need to understand why and we have to do everything in our power to help them to be able to maintain their tenancy. But at the end of the day people need to pay their rent.

387. The Operating Unit Manager explained that following Mr. Gosling's death, staff were even more careful with evictions, but that failing to address tenants' arrears was a problem, "because if you're not starting the process, people are living in their units which is great, but they are not paying their rent and they are getting more and more and more into debt."
388. Mr. D's hearing at the LTB was on September 6, 2012. The decision noted that Mr. D had paid \$488 after the application was filed, which constituted two months rent. The total owing to TCHC at the time of his eviction order was \$404. Mr. D did not attend the hearing. The LTB issued the order.
389. On September 28, 2012, three weeks after the eviction order was issued, staff made a "vulnerable tenant alert" note in Mr. D's file. The entry said that the tenant was engaged in anti-social behaviour, that there "were two N5s against him," that he refused

support, and that his apartment was used by "street people for other business."

390. The note stated that he was a vulnerable tenant and would require assistance. It noted the HPO was to make "all the effort to contact him & [advise] him what is coming to him & connect him with shelters & other agencies for support."
391. Mr. D was evicted on November 21, 2012, by the sheriff. Staff met with him that morning to discuss going to a shelter. They found there was only one available that day. Staff printed out directions and offered Mr. D a bus ticket which he declined.
392. Mr. D's eviction for arrears of \$404 came after two attempted evictions for antisocial behaviour.
393. In another tenant file, Mr. E contacted his TSC to complain about prostitution and drug use in the building. The TSC made a note in EasyTrac⁵² on November 17, 2011, that he advised the tenant that:

Unfortunately, it is easier to evict someone for nonpayment of rent because the facts are they are rent charge and rent not paid.

Antisocial behaviour must have proof and cannot present hearsay evidence at the board.

TSC to make request to have special attention back on the building to build facts.

7.2.2 Eviction as the Last Option

394. The Eviction Prevention Policy states that TCHC "is committed to keeping evictions for not paying rent to a minimum" and that the purpose of the Policy "is to ensure the rent is collected as required and to evict as few tenants as possible for not paying their rent."
395. The Guidelines state that "at Toronto Community Housing, evictions are a last resort."

⁵² EasyTrac is the TCHC computer system for recording tenant contacts and maintenance issues. There is a second computer system called the Housing Management System (HMS) which processes tenant accounts and related transactions and generates demographic reports about the tenant population. It also records notes related to tenancy, dates of birth and household composition.

396. Ms. F is a 58 year-old woman with developmental disabilities. The unit in which she lived was designated as one of 49 for developmentally challenged adults receiving the support of a non-profit social service agency working with people who have developmental disabilities (the developmental disability agency).
397. She lived in a TCHC seniors' RGI unit from 1985 until 2011 without incident. That year, Ms. F met a boyfriend, who also has disabilities.
398. A few of Ms. F's neighbours began to complain about noise occurring in the early morning. The complaints to TCHC from her downstairs neighbour, said that although she wanted the problem stopped, she did not want Ms. F evicted, and suggested an empty unit available above the lobby, which might solve the problem.
399. On November 20, 2011, TCHC issued an N5 notice to the LTB, to evict Ms. F for cause.
400. The Operating Unit Manager said that a noise complaint and persistent bedbugs had been a problem for some time and told my investigator the hope was that the order "would help her manage her behaviour."
401. On February 9, 2012, the LTB decision was issued. The application was denied. The LTB decision noted that TCHC had not done enough to accommodate Ms. F and that they should work with her on the noise issue:
- The accommodation efforts of the Landlord have been limited to asking the Tenant's support workers from [the developmental disability agency]...to talk to the Tenant with respect to housekeeping and noise complaints. The Landlord has not tried other measures, such as enforcing the occupancy rules that govern social housing or issuing trespass notices against guests who misbehave on the premises. Given that the housing options of the Tenant are extremely limited, these measures are an alternative to eviction.
402. The order stated "that for the next 12 months, commencing February 15, 2012 and ending on February 14, 2013, the Tenant shall not substantially interfere with the reasonable enjoyment of other tenants" and that " if the tenant fails to comply with the order,

the Landlord may, without notice to the Tenant, apply to Board for an order terminating the tenancy and evicting the Tenant.”

403. Three weeks after the order, on March 7, the Operating Unit Manager sent an e-mail to a TCHC paralegal, saying they wanted to proceed with evicting Ms. F on the basis of a noise complaint from another tenant on March 2, 2012.
404. Six weeks later, on April 26, 2012, TCHC initiated a second eviction application, but this time, the application was for eviction because of arrears.
405. The arrears had been incurred after TCHC determined that a "30 day rule," in the "Addition to Household Composition" directive had been violated, because Ms. F's boyfriend had stayed in the apartment more than 30 days in the last 12 months, without permission, and was thus considered a resident.
406. As a result, Ms. F lost her RGI subsidy and her rent increased to the market rate. She could not pay this and had gone into arrears.
407. Ms. F reported that she was told by the Operating Unit Manager numerous times that her boyfriend could stay Thursday, Friday, Saturday and Sunday but not more often, or TCHC would consider him living with her.
408. A supervisor at the community developmental disability agency, also stated that the Operating Unit Manager had told him that Ms. F had been told:

that her boyfriend could stay there four days a week, but had to go back to his own home for three days.
409. The legal clinic representative for Ms. F reported that the Operating Unit Manager had told her the same thing.
410. The Operating Unit Manager denies making these statements.
411. The manager made a note that a community agency social worker had informed her that the boyfriend was living in Ms. F's unit.
412. That social worker, interviewed by my investigator, said that he had not provided this information, and in fact, the Operating Unit Manager had told him this was the case. He reported that he had

looked into the matter, and found that the boyfriend lived with his brother in the family home.

413. The TSC made a note on the case management system that Ms. F had admitted her boyfriend lived with her. The TSC told my investigator that he did not investigate the matter, and that TCHC had kept no log of the dates the boyfriend was present.
414. TCHC's attempt to evict Ms. F on the basis of arrears was filed on April 26, 2012. The arrears had accumulated to \$3,403. The LTB made an order to evict on July 31, 2012.
415. On April 30, 2012, TCHC filed a section 78 application⁵³ for an order based on a violation of the previous order on the 'for cause' eviction. It indicated that Ms. F was still disturbing her neighbours and had violated the order. The LTB issued an order to evict effective August 31, 2012.
416. The Operating Unit Manager wrote to Ms. F's legal representative on July 4, 2012, and stated that

TCHC staff have invested a great deal of time and energy trying to help [Ms. F] maintain her tenancy... [The developmental disability agency] management have clearly stated that [Ms. F] is not well placed at [this TCHC building], as they believe she requires more intense housing supports such as a group home.
417. The community agency social worker told my investigator that their staff did not make this statement, and that it is not the organization's position. He said that, to the contrary, the developmental disability agency believes that Ms. F had lived independently and with minimal support for nearly thirty years in that apartment, and believed her able to continue doing so.
418. Ms. F attempted to move in with her boyfriend immediately after eviction. His family did not agree with this arrangement. She was sent away after four days. She then spent some time in women's shelters, and sleeping on her 87 year-old mother's couch.

⁵³ *Residential Tenancies Act, 2006* S.O. (2006), ch.17.

419. The developmental disability agency subsequently found her a shared apartment. Ms. F was placed on a wait-list to get back into TCHC, after her arrears were paid off by her mother.
420. The Operating Unit Manager stated that after the tenant was evicted, they spoke to the legal clinic representative out of concern for what would happen to Ms. F as there was a fear that the developmental disability agency would not look after her.
421. The legal clinic representative states that no such conversation took place.
422. Much of the correspondence sent by the legal clinic representative was not provided by TCHC. A senior manager reported that there is some confusion and resulting inconsistent practices about what documents are to be included in a tenant file. At least five e-mails from the legal clinic representative sent between July and December 2012, to former Senior Manager W, Senior Manager Y and the Operating Unit Manager, received no response.
423. Ultimately, the eviction decision was reconsidered, although Ms. F had already been evicted. Senior Manager X stated that:
- TCHC determined that after a review of the file, the arrears which had been charged incorrectly would be reimbursed to Ms. F and that the organization would re-house Ms. F in another building, subject to reaching an agreement with [the developmental disability agency] and them demonstrating that [they] can provide the appropriate support to the resident.
424. Ms. F was also reimbursed for the market rent charges, because, as Senior Manager X stated "... our staff could have done more to determine if the boyfriend lived in the unit before causing her to lose her subsidy."
425. Ms. G was evicted for arrears, although she never missed her portion of rent payment.
426. She lived with her adult son, who was employed.
427. Ms. G had her rent deducted automatically from her ODSP benefits each month and the son was to pay TCHC directly by cheque.

428. Ms. G was responsible for paying \$109 each month, and she also paid for all of the utility charges, amounting to \$43. She paid a total of \$152 each month. Her son was responsible for paying \$552.
429. In August 2010, TCHC staff spoke to Ms. G about arrears. She explained that the unpaid portion was her son's responsibility.
430. Ms. G asked for a repayment agreement. She promised there would be an additional \$100 paid each month. Her son did not make the promised payments or pay the ongoing rent.
431. On October 13, 2010, Ms. G called TCHC and asked that one more warning letter be sent to them before the file was sent to the legal department, and asked that the letter explicitly note that the rent owing is her son's share. TCHC agreed to this request, as his name was also on the lease.
432. On November 10, 2010, Ms. G delivered a handwritten note that she would pay \$100 every month. On November 15, 2010, a second letter noted that her son would pay \$50 every two weeks.
433. Staff told Ms. G that having the matter heard at the LTB might be helpful to her, as the Board could provide some direction on how to handle the situation with her son as he had not paid "any rent."
434. The LTB hearing occurred on October 16, 2011. It resulted in an order to terminate her lease, effective November 30.
435. On February 6, 2012, email correspondence between two TCHC staff stated that another adult child of Ms. G's was going to try and pay off the tenant's arrears and remove the non-paying son from the unit. TCHC was prepared to transfer her to a one bedroom unit if the arrears were paid but no payment was received.
436. Ms. G moved out of the unit before the sheriff came to evict her. The final arrears letter issued was for \$10,273 sent on February 10, 2012.
437. There is no TCHC policy on how to deal with situations where one family member is not complying with their required payments. It is not possible to split the tenancy.
438. Senior staff explained that if one family member was to ask for a smaller apartment it could be ten years before the person was able

to obtain an apartment on their own. He said that even in cases of domestic abuse, the wait can be up to two years.

7.2.3 Record Keeping and Documentation

439. The Eviction Prevention Policy states that records are to be kept of all efforts to communicate with tenants during the eviction process.

440. To assist TCHC staff, two forms must be filled out during the eviction process. The first is the N4 checklist, to be completed before filing an application to terminate (L1) with the LTB. It is completed by the TSC and must be signed off on by the operating unit manager.

441. The second is an "Eviction Approval Form – Manager Review," completed after the LTB issues an eviction order. This is done by the TSC, and both the Operating Unit Manager and the Director must approve it. They must sign a statement that says:

I _____, [operating unit manager/operating unit director] (Area __), confirm that I have reviewed the tenant file and staff interventions to date in detail with my staff. I confirm that the casse [sic] has been handled in accordance with the Eviction Prevention Policy and have determined that the eviction order should be enforced.

442. Although the N4 checklist is mentioned in the arrears collection process document, the eviction approval form is not. Neither form is mentioned in the Policy or the Guidelines.

443. In Mr. A's case, the TSC partially completed the eviction approval form for her manager's review. Two of the six boxes were checked. Of the two that were completed, the content was not what was required for each section. In the section for a "summary of all attempts at direct contact made before sending an N4," it said:

Tenant failure to pay the arrears of \$300 on first date set for April 2012 and May arrears. Mediation agreement filed at the landlord and tenant Board. May rent was returned NSF.

444. In the section for a “summary of all attempts at direct contact made before sending an application L1” the TSC included contact attempts that had occurred after the L1 was issued, not before:
- March 1, 2012 – [the superintendent], [Operating Unit Manager] – [staff] and [the TSC] went knocking at tenant door on morning Tuesday, March 1/12. No response.
March 11 2012 telephone [the superintendent] advised spoke to tenants and will move out.
445. The incomplete form was signed by the TSC, the Operating Unit Manager and the Director.
446. In Mr. D's case, the eviction approval form was completed but, rather than summarizing all attempts at direct contact, these sections included statements such as, “when letters are sent out, tenant never takes the time to read and respond properly” and "tenant never comes to the office when an appointment is set up for him to discuss his arrears or his antisocial problem."
447. The form was signed by the Operating Unit Manager and the Director.
448. Numerous annual reviews were accepted without witness signatures and some had no tenant signature. Some files had no emergency contact listed, or showed tenants listing themselves as their own emergency contact.
449. Mr. B's emergency contact form which was filled out annually, showed that in some years, he listed his daughter, sometimes himself and in April 2011, he listed his own telephone number with no name attached.
450. Senior Manager X told my investigator that he believed TCHC does not have the resources to follow up on improperly completed annual review packages, and that confirming income is the focus, an activity that takes a large amount of time.

7.2.4 Arrears and Repayment Process

451. The Eviction Prevention Policy states that TCHC will "negotiate reasonable repayment agreements that best fits the tenant's circumstances."

452. The Guidelines state that before sending an N4, staff should advise tenants of the option of "an OU repayment agreement that the tenant can live up to, given the amount owed, their ability to pay, and any other circumstance."
453. In the files my investigators reviewed, there was significant variation in the repayment agreements that TCHC entered into with tenants.
454. In Mr. A's case, the mediated settlement agreement required an additional \$300 each month on top of his \$449 rent. He owed \$10,802 at the time.
455. Former Senior Manager W told Mr. A's lawyer on March 8, 2012, that TCHC does not generally agree to three-year repayment plans but in this case would do so for the additional \$300 a month.
456. In another example, Mr. H's legal representative obtained a mediated settlement on October 4, 2011 for an additional \$100 each month until the arrears were paid off.
457. In July 2010, Mr. I was identified as a "vulnerable tenant" in the records system when he told TCHC staff that he had no money to buy food and that he could not afford to pay his rent that month. TCHC connected him with a support agency.
458. His tenant file shows that in 2010, he did not complete his Annual Review. Some months his payments were returned NSF. According to his legal clinic representative, Mr. I had difficulty comprehending this as he was certain the money was in the bank and that he had paid his rent. He fell into arrears.
459. An N4 was completed on August 25, 2011 and delivered to Mr. I. The N4 checklist was completed on September 9, 2011. TCHC staff advised him to call his local community legal clinic.
460. In ongoing negotiations with the legal clinic representative, the Operating Unit Manager wrote on November 2, 2011, stating that the "rule of thumb for repaying arrears is maximum six months," but that in this case, there was agreement to nine months. The manager also noted that TCHC is more flexible when dealing with tenants who are making "every effort" to work with TCHC to resolve

their arrears. The manager suggested that Mr. I was not one of those tenants. Although Mr. I's caseworker had proposed monthly payments of \$70 on top of his rent, the Operating Unit Manager said that he should be able to pay an additional \$200 each month.

461. The legal clinic representative arranged for Mr. I to provide post-dated checks for the next nine months, and asked on November 3, 2011, if they could draft a mediated agreement before the hearing.
462. On November 8, at the LTB, Mr. I signed an agreement to pay his rent in addition to \$213.83 per month. At that time he owed \$2,566.
463. Mr. I's January 2012 rent payment was NSF. The TSC contacted Mr. I's legal representative on January 12 to see if she had heard from him.
464. On March 22, 2012, the TSC wrote to Mr. I's legal representative to say that Mr. I could not keep up with the repayment agreement. He noted the balance owing was \$2,323 and that this was almost the same amount of arrears he had when he had gone to the LTB and signed the repayment agreement. He noted that Mr. I's additional payments were being returned due to insufficient funds.
465. On May 1, 2012, Mr. I's rent payment did not clear his account. TCHC took the matter to the LTB on May 30, 2012 and it issued an eviction order effective June 20, 2012.
466. The Operating Unit Manager wrote on June 12, 2012 that they were still hoping to reach an agreement and asked the litigation clerk to hold off on filing for eviction with the sheriff. On June 25, staff completed the eviction approval form for the manager's review.
467. Staff had a meeting with Mr. I and his representative. The Operating Unit Manager e-mailed staff stating that they would not call the sheriff if he could pay his arrears by December 2012. He was given five months to pay them off.
468. On July 23, 2012, the TSC sent a letter to Mr. I with a repayment schedule.

469. The MHL was made aware of this case by Mr. I's legal representative. He sent an e-mail on August 23, 2012, to the legal representative and copied the Operating Unit Manager and a manager in the seniors portfolio of the Community Health Unit:

This is a story of a 78 year old man who presents in my opinion may have a brain disease which impacts his ability to follow through with agreements he's made. It would be very sad if he is evicted because he owes about \$2100 and some change without the required support needed to help him maintain his tenancy.

470. In the same e-mail he says:

What we are now asking for is some grace. Compassionate and benevolent grace. In my opinion due to the income he receives, he would be unable to pay the amount that [the Operating Unit Manager] requested because its way over 65% of his income.

471. The MHL, in an e-mail on August 24, 2012, to former Senior Manager W, noted that operating unit B did not inform the community health team, or the HPO about this case, in accordance with the integrated team approach.

472. He repeats that the Operating Unit Manager agreed to a repayment agreement that required Mr. I to pay \$940 each month until December 2012. The MHL stated that this was about 65% of the tenant's income.

As I stated to the OU manager in my last e-mail that we are working on a repayment plan but I craved her indulgence of a senior who may be suffering from Dementia to get the supports he needs to maintain his housing. There needs to be a diversity of approach other than staff telling me that some residents are not the right FIT in the building. I questioned this rampant prejudice on the spot in the presence of the OU manager.

473. On November 13, 2012, the Operating Unit Manager wrote to staff that they were trying to save Mr. I's tenancy through some "last-minute long shot" activity. The manager asked staff not to call the sheriff until further notice.

474. On February 13, 2013, a mediated agreement was drafted at the LTB, replacing the previous one. This required a single payment of \$1,466 before March 1 and after that, the usual rent in addition to the remaining \$506 of arrears by April.
475. With the assistance of the legal clinic, an agreement was finalized on February 26, 2013 and a cheque covering the arrears was issued. The original order for eviction from the LTB was stayed on March 26, 2013.
476. Mr. O paid \$532 rent each month. He fell into arrears in 2010.
477. On October 25, a notice of termination reminder letter was sent saying he owed \$1,596. On the same day, a repayment agreement was entered into with the tenant. Mr. O agreed to pay \$400 on top of his usual rent for the ensuing four months.
478. He did not meet the terms of the agreement and his arrears continued to grow.
479. In April 2011, the arrears had accumulated to \$2,924. On April 21, 2011, TCHC filed an L1 with the LTB. On May 5, 2011, TCHC confirmed that Mr. O had abandoned his unit and the lock had been changed.
480. Ms. J lived in a market rent two-bedroom apartment from April 2009 to December 2012.
481. On April 12, 2012, Ms. J called TCHC to see if she could move to a one-bedroom at market rent and get on the waitlist for an RGI unit. She stated that she was now eligible for RGI and had applied, as her income had decreased and she could no longer afford market rate.
482. Ms. J owed \$4,508.75 when she signed a repayment agreement on September 12, 2012. She agreed to make an additional payment of \$751.45, as well as her regular rent every month for the ensuing six months.
483. On September 22, 2012, a litigation clerk, made a note that an order had been issued for Ms. J to vacate by September 30 but that there was a repayment agreement over the next six months.

- 484. On November 12, 2012, she was sent an arrears letter for \$5,189. Her apartment was vacated on December 3, 2012.
- 485. On April 15, 2013, Ms. J attended TCHC head office and informed them that she was living at a women's shelter. She signed a repayment agreement to pay off \$25 each month in order to try and get re-housed with TCHC.
- 486. She told TCHC that if she could get an RGI unit, she would pay \$50 a month until her arrears were repaid.

7.2.4.1 Arrears in the Context of Fixed-Income Transitions

- 487. When seniors on government assistance reach a certain age, their income changes to a different form of assistance. For example, at 65, seniors who had been receiving provincial benefits such as ODSP will instead receive a federal government pension.
- 488. TCHC requires seniors to report any change of income immediately, as this will affect the calculation of their RGI.
- 489. An Operating Unit Manager explained that a lot of tenants are caught up with retroactive payments when they move from ODSP to federal pensions and there is often a delay for a variety of reasons in receiving their money. They may get a large lump sum that is applied retroactively for rent calculation purposes. The retroactivity goes back to the effective date of the pension.
- 490. The Operating Unit Manager reported that their unit contacts tenants before they turn 65 and talks to them about how their income and RGI could be affected. The manager did not know if this was an organizational practice.
- 491. Another Operating Unit Manager said their unit does not contact seniors in advance of income change.
- 492. Mr. K lived in TCHC from July 2005 until he was evicted in July 2012.
- 493. On September 22, 2009, Mr. K received confirmation of his OAS and GIS. He provided the information to TCHC on September 25, 2009.

494. Mr. K did not have any arrears until October 2009, when he received a letter from the TSC, advising him of the retroactive rent charge and increase. It stated that as a result of reporting his income change late, he was being retroactively charged at a rate of \$287 from January 1 to October 1, 2008 and then \$355 to October 2009, from which point on he would be charged \$375.
495. The letter included a chart demonstrating what Mr. K had been charged and what he should have been billed, resulting in arrears of \$1,700.
496. Mr. K's file was the only one of the files reviewed by my investigators that included correspondence from a tenant complaining about their treatment around arrears charges. Below is an excerpt of a letter he sent November 8, 2009.

... I became 65 on Sept 25, 2007. I did not receive any pension until over one year later.

I then received 2 letters asking me how much pension I received beginning in October 07.

I answered. "None." My pension kicked in in Oct. 08 with the potential back payment. I was asked to bring a letter from OAS. I had no letter, but requested one – which took nearly 6 months – despite pleas – to arrive with "Sorry for the delay!"

In the meantime, the (???) office, asked me to pay full market rent, which I did for six months.

I then received notice that I owed nearly \$1700 back rent, which floored me.

I came to the Yonge Street office the last month, however there was a meeting. I returned had an interview with [the TSC]. Among other things, she asked me if I had \$50 in my wallet. I had five dollars. She threatened me with court action, which again floored me, because I have sent every item requested to the office, to a tee!

She then made out a repayment schedule to which I agreed and signed. The next day, I left a money order for \$425 - with the male receptionist for the November rent – 375 – plus the first repayment of \$50.

Shortly after, on Nov 2, another 375 – was withdrawn from my account. A total of \$800 –!!

I kept my promise to deliver the rent +50 – on the next day.

I'm asking for the return of the 375 – withdrawal from my account. I am also asking for different worker.

497. Another undated letter to the Operating Unit Manager said:

I am able to repay the arrears. This way – I can add \$30 per month to the current regular 375 per month until the back payment is cleared. Thus, \$405 per month.

It is impossible to reach anyone by phone or any other way.

The situation of arrears was not caused by me. Go over my file. It is total confusion. Thank you, [Mr. K]

498. Mr. K made regular payments in addition to his rent so that he had paid down his arrears slowly over time until he owed only \$185 in September 2010.

499. Mr. K paid \$192 in monthly rent from July 2010 to February 2011.

500. On March 30, 2011, he was charged \$585 for one month only, because he had not provided "pursuit of income" documentation showing he had applied for GIS, by the deadline of Dec 13, 2010.

501. On April 15, 2011, the TSC sent two letters to Mr. K. One stated that based on Mr. K's recent report of increased benefits, there would be a rent increase to \$383, and that it would be retroactive to October 1, 2010.

502. The second letter explained that he now owed \$1,674.50 in arrears. He had owed \$730.50 prior to the retroactive rent change.

503. On June 24, 2011, TCHC sent a notice to Mr. K that his rent would increase to \$585 a month effective October of that year, as he had not submitted his annual review package. This rate was charged at that time, and was effective until the end of his tenancy.

504. His arrears continued to accumulate, although he would make payments of between \$400 and \$600 each month.

505. On April 2, 2012, a mediated settlement was reached at the LTB. Mr. K agreed to pay \$600 immediately, and to continue to pay \$239 a month towards his rent arrears for the next 11 months.

506. On May 23, 2012, TCHC received an order to terminate the tenancy and evict Mr. K because he failed to make his payment on May 1.

507. The eviction approval form was completed three weeks later on June 15, 2012 by the TSC, the Manager and the Director.
508. It stated there were two efforts at direct contact after the LTB gave its order to evict, with contact attempted on March 30, 2012 and April 2, 2012. Both dates were before TCHC received the order to evict on May 23.
509. The sheriff attended on July 18, 2012 and found the apartment vacant.

7.2.5 Communication with Tenants

510. Mr. L had lived in the same TCHC unit since 2002. On February 17, 2012, he received a notice stating that he would no longer be eligible for RGI and that his rent would increase from \$484 to \$723 because his annual income assessment package was missing his Canada Revenue Agency notice of assessment for 2010.
511. It is TCHC's practice to return the entire annual review package, including documents, if a tenant is missing some documentation. When the tenant obtains this, they can re-submit the entire package again.
512. In March 2012, the legal clinic discovered Mr. L had been trying to cut his costs by canceling his cable and other living expenses in order to pay the higher rent.
513. His legal representative wrote to the Operating Unit Manager stating that Mr. L had not understood he could provide the additional information and stay on RGI. The legal representative said that Mr. L had not understood he needed to submit the information again for 2010, because he had submitted it the year before and nothing had changed in his income.
514. His legal representative also complained that there was unclear language in the correspondence. The letter to Mr. L stated that an appeal of the decision would have to be *sent* by March 9. It also stated that if it was not *received* by March 9, the decision would be final.
515. This is standard language in RGI letters. They state the same day for when the appeal should be sent and when it should be received.

516. Mr. L had received the correspondence two weeks before those dates, and his legal representative noted that according to both provincial legislation and City policy, Mr. L had 30 days in which to request a review.
517. With the assistance of his legal representative, his tenancy continued and the RGI subsidy was reinstated.
518. Former Senior Manager Z advised that if TCHC could establish an agreement with Revenue Canada, so that they could receive tenants' Notice of Assessment information directly, this would help with the paperwork.
519. The files that my investigators reviewed included records of correspondence. Correspondence about arrears was sent frequently. For example, in Mr. B's case, the arrears-specific correspondence noted on file had 22 letters in 2009, including four letters sent in July and three each month for March, August and September.
520. In 2010, TCHC sent Mr. B twenty arrears letters, including four in January and three in March. No eviction proceedings were initiated in either year.
521. Some TCHC buildings are managed by private property management companies. Documents used by these companies frequently differ from those of TCHC.
522. Former Senior Manager Z reported that there had been issues with the documentation of the property management companies, in that their records were sometimes lacking in detail.
523. Ms. N lived in an apartment building that was managed by a property management company.
524. Her file contained correspondence with different content than that used in TCHC-managed buildings. Sometimes the form letters were not completed with information specific to the tenant and they often contained errors.

525. On August 26, 2009, the property administrator wrote to Ms. N:
- Dear [Ms. N]:
This letter is to inform you that if you do not show up at the management office by Friday, August 28, 2009 before 12 noon the lock on the apt door will be change. [sic]
526. On the same day, the property manager wrote to Ms. N stating that her balance was \$1,325 and noted that she had recently been served with a notice of termination. The letter stated that: "it is important that you understand that by not paying your rent, you risk losing your housing."
527. This second letter explained that if she did not pay her arrears, TCHC would apply to the LTB for a hearing to determine whether she would lose her housing.
528. These two letters sent the same day to the tenant, provided different information. One informed her that she had two days to speak to the property administrator or she would be locked out of her home, and the other stated that she needed to pay off her debt or a legal process might be started that could ultimately end in her eviction.
529. Another example of correspondence from the property management company was a letter sent to Ms. N on October 26, 2010. The notice stated in part:
- "your monthly rent Stay Same" [sic] and
reason(s) for decision: [Ms. N] @Odsp for 1
\$109 plus \$30(Utility)= \$139
total rent @\$139 per month
530. Internal notes were left in the signed correspondence with terms such as "the deadline date for comments was [opportunity to comment date]."
531. My investigator asked Senior Manager X if the property management companies should have the same forms as TCHC. He stated that TCHC had to be cautious not to be overly prescriptive in its instructions to the property management companies.

532. Senior Manager X noted that standard correspondence templates were now available to the property management companies, since they now have access to the TCHC database.
533. Ms. N did not return her annual review forms in November 2011 and as a result, she lost her subsidy. She began being charged a market rent of \$828 which TCHC attempted to obtain from her account through pre-authorized payment for November, December, January and February. None of the payments went through.
534. The LTB heard the application for eviction on May 16, 2012. Ms. N did not attend.
535. On the interim eviction approval form which was completed on June 15, 2012, the cited attempts at direct contact were to have occurred between February 6 and June 14, 2012.
536. Ms. N lost her subsidy in November 2011. No in-person contact occurred, although there were attempts at door-knocking documented in her file.
537. On October 5, 2011, TCHC sent a letter advising of her eviction.
538. On November 16, 2012, the sheriff evicted Ms. N and the locks were changed.
539. Evidently, Ms. N was out of the country during this period of time. On returning and finding herself evicted and her belongings disposed of, she wrote to the CEO on November 30, 2012. The letter is stamped as having been received by the CEO's office on November 1, 2012.
540. In her letter, Ms. N made allegations that she was improperly evicted in her absence, after she had advised the building superintendent and provided post-dated cheques for the period of her absence.
541. Although the file indicated that the CEO said this would be looked into, Senior Manager X confirmed that there had been no response to Ms. N's letter.

7.2.4 Review of Decisions

542. On each piece of correspondence sent to a tenant about an RGI decision, there is the statement that

if you are not satisfied with the above decision, under the *Social Housing Reform Act, 2000*⁵⁴ you have the right to ask for an internal review of this decision. In internal review is a review of the decision by the operating unit manager to ensure the rules were followed correctly.

Your request for review must be in writing, and set to your operating unit by X date. We will complete the internal review within 10 business days of receiving this request and send you the result. If we do not receive a request for review by X date, the above decision is final.

543. The Eviction Prevention Policy requires "a fair and transparent process... available to tenants for review of RGI decisions and calculations, by a person or panel independent from the original decision-maker."
544. Of the files my investigators reviewed, only one included a request for an RGI appeal. Usually if a tenant loses the RGI subsidy, it is due to a failure to submit the annual review package by the due date, or to submit the required documents proving income. Instead of requesting an appeal of the decision, tenants would provide the missing documents or review package.
545. Mr. K was the only file noted in which an appeal was requested, in an undated letter that appears to have been written in early 2009. He wrote:

In view of my increase, I wish to appeal, if possible. I did not have the papers required and I still don't.... I do not have the bank book, nor direct deposit. The OAS of 1109 is sent to my address. I am enclosing the papers I do have at present I am waiting for OAS to send me a copy of the form you require. Ever since the OAS began for me, I have had increases and benefit losses.

546. The same Tenant Services Coordinator who had sent the loss of RGI letter responded to him with a "dear resident" letter on March 10, 2009 acknowledging the verification of information provided, but

⁵⁴ My investigation focused on 2011 and 2012 arrears. Letters after Jan 1, 2012 refer to the *HSA, 2011*.

noting that “the decision for n2 letter will not be changed until you submit the information.”

547. There was no separate correspondence from the operating unit manager, nor did the letter refer to Mr. K's letter as an appeal.

7.2.5 Provision of Information on Eviction Process and Support Available to Tenants

548. The files reviewed in this investigation indicate that the standard correspondence used by TCHC about potential and actual eviction proceedings does include information about community legal clinics.
549. Other types of support are not mentioned in the form letters, however, the case management notes indicate that staff frequently provided tenants with information about community groups that they could access for assistance.
550. Sometimes this information was provided after an eviction order had been given, as was the case with Mr. D.
551. There were no notations on file that information on the eviction process was provided to tenants in the form of the Eviction Prevention Policy or Guidelines.
552. The standard correspondence provides information about the next step in the eviction process. For example, in the final letter before the tenant file is sent to the legal unit, it states in part:

Not long ago, we sent you a Notice to End a Tenancy Early for Non-payment of Rent (Form N4). This was a legal notice. It means if you do not pay your rent, our lawyers will go to the Landlord and Tenant Board. They will ask the board to allow us to evict you for not paying rent.

553. Senior Manager X confirmed that TCHC paralegals, clerks or agents attend the LTB, not lawyers.

7.2.6 Access to the Eviction Prevention Policy and Guidelines

554. Mr. M completed a leasing interview checklist on March 27, 2008, before he moved into his apartment. It included an agenda item, “Eviction Prevention Policy” and this was check-marked as

completed. This was the only time my investigators saw any indication of the Eviction Prevention Policy being discussed.

555. The Policy and Guidelines were not provided or mentioned in any of the other eviction-related correspondence to tenants.

7.2.7 Partnerships with Community Agencies

556. The Eviction Prevention Policy states that “TCHC will work with tenants and external support or service agencies where possible, to keep tenants housed and to ensure that rent is paid and eviction is the very last resort.”
557. A community legal clinic representative reported that historically the legal clinics would meet with TCHC on a regular basis to talk about systemic issues facing their clients.
558. She reported that this practice ceased some time ago, although she stated that there had been an initial meeting with the new CEO, but nothing since.
559. She suggested it would be helpful to revive the regular meetings.
560. In Ms. F's case, the relationship between the developmental disability agency and TCHC was reportedly strained, as TCHC staff told my investigator that the agency was not providing enough support. The developmental disability agency staff in turn told my investigator that TCHC was not responding to their calls.
561. A community agency social worker reports that the Operating Unit Manager has told him on more than one occasion that “they don’t belong here,” in reference to the developmentally disabled clients housed in TCHC units.
562. On August 14, 2012, former Senior Manager W wrote to the developmental disability agency staff, “I am very disappointed with the lack of support provided by the developmental disability agency...” This was with respect to Ms. F and one other tenant who was a client of the developmental disability agency.
563. The re-housing of Ms. F depends on TCHC reaching an agreement with the developmental disability agency. The latter must

demonstrate its commitment to providing the appropriate support for Ms. F.⁵⁵

8.0 Ombudsman Findings

564. The ability of seniors to age in place and enjoy the highest quality of life depends on the interrelationship of housing, community supports and economic security. Seniors need housing that is both affordable and appropriate to their health and physical limitations.⁵⁶
565. Such a statement is a highly desirable public policy objective. When social housing is added into the equation, factors such as poverty, ethnicity, sexual orientation, disability, mental health and language all go to increase vulnerability and the challenges of aging.
566. There is a positive duty for the City of Toronto and TCHC to ensure that vulnerable tenants in general, and vulnerable seniors in particular are served equitably, with respect, using inclusive approaches and supportive measures.
567. There are sometimes harsh and unthinking approaches to seniors who fall into arrears. The impact of inconsistent policy application, or worse, the ignoring of stated mission and goals, carry a consequence for vulnerable tenants that is detrimental to their wellbeing and contrary to the City's espoused public policy values.
568. Poor practices have been well documented in Justice LeSage's inquiry and three years later, we appear to be at the same cross roads.
569. There is a disconnect between documented policy and actual practice. Such failure remains significant, particularly worrying given the vulnerability of the population.
570. There are documented requirements for staff to have personal contact, often interpreted to mean written correspondence, an inexcusable interpretation. If employees have made concerted efforts to contact the tenant by telephone and in person, then perhaps a letter is the only option left but it cannot be the first and repeated course of action.

⁵⁵ Ms. F has now signed a lease to be re-housed by TCHC. At the time of this report's publication, TCHC reports that Ms. F's mother is to be repaid shortly.

⁵⁶ City of Toronto Mayor's Roundtable on Seniors. (2006). Housing Toronto Seniors – Planning for the Future: Issues, Challenges and Directions. Toronto.

571. The name of the eviction policy is the Eviction Prevention Policy; that means early intervention and preventative approaches to avoid evicting tenants, not the apparent practice that is in place.

Context

572. There is an historical context for some of TCHC's conduct, actions and/or inactions. The failures to implement promised commitments and policies occurred at a time of turmoil and change at TCHC.
573. The death of Al Gosling followed by Justice LeSage's review put a pall over any moves to evict tenants.
574. In September 2010, the Wellesley Street fire was immediately followed by a class action lawsuit from residents regarding the circumstances and aftermath of the fire.
575. The results of the last municipal election brought a new political administration in December 2010 with a fresh perspective and its own priorities, goals and approaches.
576. In February 2011, the Auditor General issued a damning report on procurement practices and lack of controls over employee expenses. Less than a month later, the CEO was dismissed and on the heels of that event, the Board of Directors was dissolved.
577. In a period of less than 15 months, the corporation was headed by three different individuals. The Managing Director became the sole Council-appointed authority for several months between the dissolving of one Board of Directors and appointment of the next.
578. TCHC was challenged beyond measure, both in resources and intense external scrutiny that included media, political and oversight reviews.

The City's Senior-Specific Strategies

579. The Seniors Strategy Steering Committee has set as its priority the imperative of viewing policy and practice through a senior's lens.
580. While work has been underway on a variety of fronts focused on seniors, that cannot be said with respect to approaches and processes regarding eviction for arrears.
581. The lens is simply not present.

582. If in fact any work has been done from this perspective on the annual review process, arrears collection and eviction prevention, it is not apparent in the evidence garnered through this investigation.
583. My investigators examined the files of all senior TCHC residents evicted in 2011 and in 2012, across all 13 operating units. From the files reviewed, the problems providing equitable service are not restricted to one or two operating units.
584. Similarly, the seniors' strategy spoke to the importance of accessibility. A narrow definition of accessibility has been adopted in which issues such as wheelchair ramps, tools to assist physical accessibility, and improvements to the physical buildings are being addressed. While important issues, addressing them is insufficient.
585. Accessibility must be seen in terms of the ability of vulnerable seniors and others with diminished capacity to be able to fulfil their obligations as tenants in RGI units. This means that TCHC staff have a duty to assist tenants where needed to comprehend their obligations in completing annual review packages and apply for new sources of income as they reach landmark birthdays.
586. The strategy suggests that there should be "policy review and outreach ... carried out in the interests of safeguarding vulnerable and isolated seniors."
587. If this is occurring, we saw no evidence of it.
588. I concur that such actions are required. In fact, there is a duty to protect and provide assistance to vulnerable seniors, especially when their rent-geared-to-income subsidy is in jeopardy for any reason whatsoever. Losing it could lead to arrears and eviction.
589. The challenge is that TCHC is not supportive housing, yet the strategy emphasizes the importance of equity in planning and making decisions that affect older adults. It states that seniors should have equitable access to services and programs.
590. If one accepts that this is appropriate public policy, then it must be recognized and acted on by the corporation.
591. Substantive equality means treating people differently in some circumstances, in order to achieve a fair outcome.

592. Justice LeSage's report speaks eloquently to the imperative of treating vulnerable tenants equitably and with compassion.
593. I note that while many of his recommendations have been implemented by TCHC, a number have yet to be acted on. Some of them are simple and straightforward with no obvious excuse for three years of delay.

The Vulnerable Tenants Protocol

594. TCHC staff informed my investigators that the principles of this Protocol had been incorporated into their practices although the policy itself had not been implemented.
595. Those practices focus on ensuring building safety issues such as assisting tenants with hoarding or pest issues, although TCHC has created some tools to identify and follow up with tenants who they identify as having health or safety issues. While important and necessary, these activities do not address the types of vulnerability that Justice LeSage wrote about, namely, in the case of this investigation, seniors who are vulnerable to losing their housing, especially when they fall into rental arrears.
596. While the definition of vulnerability is broad, TCHC's definition in practice is very narrow and not in keeping with the City's strategy on seniors, Justice LeSage's recommendation or indeed the corporation's own policies.

Three Points of Personal Contact / Direct Contact

597. Justice LeSage recommended more consistent, direct contact with tenants. To construe the delivery of written correspondence as "direct contact" is to discredit and alter the meaning in Justice LeSage's report.
598. The Eviction Prevention Policy requires three points of personal contact: on discovering a tenant has not paid rent; prior to applying to the LTB; and after the LTB issues an eviction order.
599. My investigation showed that the requirement for personal contact is inconsistent across the portfolio, with some staff treating an attempt as a mechanical exercise, to fulfil an obligation on a checklist, while others made repeated attempts to reach tenants in person, without success.

600. Written correspondence frequently appears to be the default form of contact, rather than one used as a last resort.
601. It is a problem that TCHC allows the direct personal contact requirement to be fulfilled by correspondence, often computer generated and inaccessible in both language and meaning. Tenants receive dozens of letters and even though eviction letters may state that they are urgent or important, these are tenants who may have diminished capacity, limited reading skills, language challenges and any number of other challenges, not the least the reality of aging.
602. There is a positive duty on TCHC officials to ensure that its tenants understand their obligations and the consequences of not acting.
603. The purpose of making personal contact is to bring special attention to the urgency of a tenancy at risk. The policy speaks to the requirement that TCHC provide "at least one reasonable and accessible opportunity for a face-to-face meeting... during the eviction process."
604. It is problematic that the arrears collection process states that personal contact is optional for staff, six to nine business days after rent is due. This should be addressed, given the Eviction Prevention Policy's emphasis on early intervention.
605. The process directs staff to "try to contact tenants" from the 15th day after arrears and after the N4 is issued.
606. However, the strongest direction for contact is after the LTB has issued an eviction order. At this point, employees are to "make every effort to contact the tenant... to find out if there is any way to prevent the eviction."
607. It seems to me that TCHC staff should "make every effort to contact the tenant" to prevent eviction before the legal proceeding has been completed, resulting in an eviction order.
608. The inadequacy of insisting on contact following an eviction order is further exacerbated when matched against the reality that once tenants receive the order from the LTB, they may vacate their unit before TCHC reaches them or the sheriff takes eviction action. This occurred in the cases of Mr. K, Mr. A, Mr. B and Ms. J.

Early Intervention

609. Early intervention did not typically occur in the files my investigators examined. Mr. A was one such example. He received monthly notices of arrears for three years before any action was taken to collect those arrears through the eviction process. By that time, his arrears had grown to over \$13,000.
610. TCHC knew about his arrears in 2008 and allowed them to accumulate for three years. He might have been in a position to pay back arrears of \$2,000 in 2009, but by 2011, the debt for a senior on social assistance was impossible to repay.
611. In Mr. B's case, after facing a \$3,000 retroactive arrears charge, due to late income reporting, additional arrears accumulated for 30 months before TCHC filed an L1 application with the LTB. By the time of his eviction in 2011, Mr. B owed nearly \$10,000.
612. Following his eviction, Mr. B spent a brief time at his ex-spouse's residence before going to hospital and dying of a heart attack some three weeks after he was evicted.

Providing Resources and Information to Tenants

613. The Eviction Prevention Policy says to "make every effort" in providing information to tenants about community resources and agencies that can assist them. We found that information on local community legal clinics was provided in correspondence but no references were made to other agencies where vulnerability had either been identified or in cases where community supports might have been of assistance.
614. Evidence showed that some staff connected tenants to community supports, but often the action was too late in the eviction process. Mr. D was referred to community supports on the day he was evicted, far too late to be of any help in preventing the eviction. The only previous documented intervention was a January 2009 meeting with staff and support workers about the illegal activity in his unit.
615. He was flagged as a vulnerable tenant in the TCHC case management system only after he had received an eviction order.

616. The Eviction Prevention Policy and Guidelines are to be available to tenants. It is unclear whether they are. We found no examples in our file review of the Policy or Guidelines being given to seniors facing eviction in 2011 or 2012.
617. In only one file, there was a checklist from the beginning of the individual's tenancy, showing one box had been ticked off regarding the Eviction Prevention Policy having been discussed with the tenant.
618. A senior manager explained that there is a new practice, initiated after Justice LeSage's report, to provide a copy of the Eviction Prevention Policy on signing a lease, but most of the seniors whose cases were reviewed in this investigation had signed their leases prior to the initiation of this practice.

Repayment Agreements with Tenants

619. Justice LeSage recommended the establishment of standards for arrears repayment. These standards have been the subject of discussion within TCHC but have neither been finalized nor implemented, three years later.
620. The Eviction Prevention Policy allows staff to "negotiate reasonable repayment agreements that best fits the tenant's circumstances."
621. In practice, there is a wide variety of repayment agreements with no consistent standard applied.
622. Some tenants have modest repayment agreements that would span many months or years, while others in similar circumstances, are told that there is a "rule of thumb" that arrears must be paid off in three months, six months, or that \$100 a month is too low a repayment plan.
623. Mr. A had to pay \$300 on top of his \$449 rent. Of course he defaulted.
624. Ms. J was paying market rent and fell into arrears when her income decreased. TCHC insisted she enter a repayment agreement to pay off her arrears in six months by adding an additional \$751.45 on top of her rent payment. Of course she defaulted.

625. Heartbreakingly, the file shows her attempts to pay back her arrears after being evicted, at a rate of \$50 a month while she was living in a shelter.⁵⁷
626. While I recognize that after Mr. Al Gosling's death, TCHC essentially halted evictions as they waited for Justice LeSage's report, and that this was done, most likely with good intention to prevent further harm, ultimately the effect on vulnerable seniors has caused substantial harm.
627. By failing to carry out its responsibility to collect arrears for a period of well over two years, TCHC allowed them to accumulate, in some instances, to incredibly large amounts for low income social housing tenants who would be highly unlikely to ever pay them off.
628. Once TCHC began enforcing payment of rent and collecting arrears, some repayment plans were reasonable, others were unrealistic and inevitably resulted in default, leading to eviction.

Eviction as a Last Resort

629. The Guidelines state that evictions for arrears are a last resort. Despite this, a number of the cases reviewed showed that eviction was being used as something closer to a first option.
630. One case exemplifies this where TCHC took issue with the behaviour of a tenant, and pursued evictions for arrears in addition to pursuing eviction for cause. Mr. D was evicted at the LTB for rental arrears of only \$404, in spite of the fact that he had paid \$488 since the application had been filed, paying off much of the arrears in question.
631. TCHC clearly could have done more to resolve the arrears issue and prevent eviction on that basis.
632. Mr. D had maintained about \$2,000 of arrears since 2009, but as complaints of his antisocial behaviour continued, TCHC moved to evict him as soon as he added an additional \$400 to his arrears.
633. Two eviction orders were pursued simultaneously against Ms. F resulting in both of them coming into effect within thirty days of each other.

⁵⁷ In order to qualify for social housing, the tenant cannot have arrears owing to any social housing provider.

634. The manager said that she had hoped an eviction order would “help her manage her behaviour.” This is an improper use of the eviction process.
635. The action taken to coerce a tenant into compliant behaviour is contrary to TCHC’s policy and unacceptable conduct on the part of a public servant.
636. This matter has been addressed in two of my previous investigations and I expect the CEO to take immediate and decisive action.
637. A TCHC official attested to the fact that more should have been done to investigate whether Ms. F’s boyfriend actually lived in the unit with her.
638. The consequence of this omission was to place a developmentally challenged woman in even greater vulnerability. No consideration of some 30 years of her successful tenancy was taken into consideration. She lost her RGI subsidy, and quickly accumulated arrears.
639. TCHC's conduct in this case was disgraceful.
640. It was revealing to note in one tenant file that staff acknowledged the practice of evicting a tenant for arrears was much easier than doing so on the grounds of antisocial behaviour.
641. The file review by my investigators found few records to indicate that after an eviction order, staff advise the tenant that the eviction is still avoidable if they can pay off their arrears.
642. The exception to this was found in the file of Mr. I, where staff appeared to have worked hard to keep him housed, after the involvement of the Mental Health Liaison and the tenant’s legal representative.

Correspondence

643. Justice LeSage recommended that TCHC address the excessive volume of correspondence sent to tenants. My investigation found that this practice remains a problem three years later.

644. A tenant can receive arrears letters for months and years on end with no consequences. It is likely that recipients become inured to the ongoing volume of correspondence without any actions being taken. In addition to the arrears letters, tenants receive information about their annual review, their RGI calculation, and late notices about their annual review, or the income documents they were to submit with the review.
645. While new form letters have been drafted to address Justice LeSage's recommendation that the tone of correspondence be less threatening, there are further improvements to be made.
646. Some of the letters continue to have inaccurate and unnerving information. For instance, the tenant is told that if they do not pay their rent "our lawyers will go to the Landlord and Tenant Board."
647. That is untrue. Paralegals attend these hearings, not lawyers. What is more disconcerting is the implied threat in the statement.
648. This investigation also raised questions about the different correspondence used by property management companies, including different and sometimes problematic language within that correspondence. These must be standardized and in keeping with those sent out by TCHC.
649. Written communication was sometimes very poor and inaccessible considering the vulnerability and diversity of the recipients.
650. Mr. B was given three different figures for his arrears within two days: \$2,142, \$2,856 and \$3,091. The first two figures were provided in the same document. The previous month, TCHC had written that Mr. B only had \$45 in arrears. Far more explanation was required to make this complicated situation and accounting of it comprehensible.
651. Justice LeSage's recommendation to deal with lost documents by providing receipt upon delivery has never been implemented, for which there is no excuse or explanation.

Use of N4 Checklists and Eviction Approval Forms

652. Staff reported that the N4 checklists are unnecessary duplication. They are completed to ensure the file is complete, and that the

Eviction Prevention Policy has been followed, before the file is handed to the legal unit.

653. These forms are not, as they may suggest by their name, a tool designed to be completed before an N4 notice of termination is issued. They might be more appropriately titled "L1" forms, as their completion is required only before filing an L1 application. The desired purpose and usefulness of these forms requires review.
654. The "Eviction Approval Form – Manager Review" is not mentioned at all in the arrears collection process document.
655. Although this form seems to be consistently used, there is evidence that it is often improperly filled out or incomplete. The form is for staff to summarize all of their attempts to make direct contact at various stages. Yet, it can include content that is unrelated with comments such as noting that the tenant never reads his correspondence or never shows up for meetings.
656. In spite of this, management would sometimes sign off anyway. Creating an eviction approval form that must be signed off on by a manager and a director is a good thing, but it is a failure on management's part to not properly manage staff performance and append their own names to something that on its face has not been completed.
657. The process dictates that contact is to be made by staff between the sixth and ninth business day. Given that they become aware by the second day of the month, why would staff not be in contact sooner?
658. My investigation showed that a prompt response is not a regular practice. The files indicate that staff do not try to contact tenants by telephone or knock at tenants' doors during that timeframe.
659. In fact, shockingly, staff had to twice over discover that Mr. C, an 88 year old man, had disappeared and apparently abandoned his unit with his belongings still in it. After the first discovery of this and warning letters sent to his abandoned apartment, nothing happened, although he was clearly missing, a fact known to staff.

- 660. His apartment remained empty and when his bank account was depleted by TCHC and his pre-authorized payments failed, a second unit inspection was then conducted.
- 661. Again, staff “discovered” that he had abandoned the unit and this time he was evicted for the arrears.
- 662. The attitude towards this vulnerable senior shows a callous disregard and a total absence of compassion.
- 663. No one cared enough to enquire into his unexplained absence.

Absence of Policy for Seniors Living with Adult Children

- 664. TCHC told my investigators that there is currently no way to protect a senior who lives with an adult child, in a situation where the adult child stops paying their portion of rent.
- 665. This led to the unthinkable circumstance of Ms. G being evicted although she had never missed a rent payment. There is no legal or management tool available with which to address this difficult issue.
- 666. TCHC staff actually advised the tenant that facing eviction at the LTB could be "helpful to her" as the Board might provide advice on how to handle the situation with her son.
- 667. A senior manager at TCHC advised this issue had arisen before. Ms. G moved out of the unit before she was evicted.
- 668. This problem is seemingly intractable. I am sympathetic to the quandary TCHC finds itself in.
- 669. Yet, it raises troubling questions about the need to protect vulnerable seniors who are doing their best to make payments while a family member fails to do so.

A Failing of the Mental Health Framework

- 670. It is unclear whether the ten strategies set out in the mental health framework are being used by TCHC. In cases where tenants were identified in the case management system as being vulnerable, there did not appear to be a specific process to follow after this determination was made.

671. In the case of Mr. D, he was identified as vulnerable only after an eviction order was issued. This is in spite of a lengthy history with the tenant and documents from a healthcare worker who identified him as having a serious mental health diagnosis. Other case notes from staff acknowledge apparent addiction to street drugs.
672. If early identification and crisis prevention are occurring, they are certainly not happening consistently. If TCHC is providing tenants with access to supports, it is likely doing so too late.
673. If TCHC is letting tenants know who to call in a crisis, legal clinics appear to be the only information included.
674. It is unclear to me how TCHC inspires hope that recovery is possible and how they are creating opportunities for self-determination, as the mental health framework suggests.
675. Opportunities for tenants to support and connect with one another need to be increased in keeping with TCHC's Seniors Framework.
676. Staff training and education on mental health cannot be over-emphasized, particularly given some of the examples revealed through this investigation and the increasing pressure of an aging population along with greater numbers of people experiencing mental health challenges.
677. The 2011 update on the mental health strategy promised the establishment of tools and processes to support vulnerable tenants. This is clearly needed.
678. The position of Mental Health Liaison, in its modified, policy-based role, and the newly created position of Community Services Coordinator obviously have a pivotal role to play. TCHC should look at the most valuable positioning of their skills in support of tenants with mental health challenges.

RGI Annual Review Process

679. The RGI income review process is a provincially mandated requirement although the City of Toronto drafts its own interpretative guidelines.
680. My investigation showed that TCHC has not revised the annual review process since the City guidelines were changed to allow for

less frequent reviews of those who meet the criteria set out in the legislation. Other housing providers in the city have taken advantage of this and implemented the change. TCHC ought to look at the possibility of doing the same.

681. The investigation found the Ottawa Community Housing had made changes to its rent review process for those who met the criteria and decreased the interval of the review to every two years.
682. Many seniors would meet the statutory requirements for a biennial review, due to their unchanging circumstances.
683. Nonetheless, the annual review at TCHC continues.
684. The process to collect proof of income every year and complete the annual review is onerous and would be challenging for any ordinary educated person. It is exponentially more challenging for a vulnerable tenant potentially facing a myriad of other difficulties, not the least of which is the aging process itself.
685. Additionally, seniors face the challenge of fixed incomes changing at certain birthdays, the need for fresh applications on complex bureaucratic forms while the threat of income and housing loss hangs over them.
686. There are long waits when seniors first apply to the federal government for old age security, or GIS, and during that period they are not able to provide the income verification that TCHC requires.
687. My investigation found that when income transition takes place from one source to another, an accumulation of arrears frequently occurs. Although TCHC is aware of the issue, it has not taken adequate action to address it.
688. When Mr. B belatedly reported a change in income, he suddenly owed some \$3,000 when he had owed no money prior.
689. More than a letter was needed to explain the situation to him. With such a large debt, and increased rent, this tenant, on a fixed income, faced a bleak future.
690. While TCHC is not in the business of supportive housing, it is a social housing provider. At minimum, it had an obligation to provide reasonable repayment options.

691. The difficulty may be best demonstrated by the surprisingly high percentage of TCHC tenants in arrears – nearly one in five in 2012.
692. TCHC is aware of its tenants' ages and when their income source will expire, change or begin. Staff have said contacting tenants in advance may be too onerous, given resources. That said, surely it has a positive obligation to work with these tenants given its knowledge of income transition landmarks that are tied to age.
693. Ideally, government income sources should be sent directly to TCHC with tenants' consent to avoid the annual battle to collect income documentation. While this may not be possible, TCHC could set up some practical assistance for tenants.
694. While staff stated that some levels of government, for example, the Canada Revenue Agency, will only recognize its own authorization forms which poses difficulties, TCHC should make the need for cross - government information communication a priority.
695. The *Housing Services Act* already contemplates the sharing of information between different levels of government and their agencies, but I understand there is some distance to go before this becomes reality.
696. As Canada's largest social housing provider, TCHC should be making aggressive attempts with the City of Toronto to address this issue.
697. TCHC needs an information system compatible with the systems used by both the federal and provincial governments to allow for electronic confirmation of income for social assistance recipients. It ought to be compatible with the systems used by the Canada Revenue Agency to allow for alignment with an income tax based confirmation system which is currently in the negotiation stage.
698. If time and money are the obstacles, minimally the City, with TCHC should explore access to the systems.
699. Although the City guidelines state that social housing providers should send a follow-up request to households who have not submitted their annual review package, this was not noted in any of the files my investigators reviewed.

700. Similarly, staff are supposed to contact the tenant in person before sending a loss of RGI letter to see if they can prevent forfeiture of the subsidy. Again, based on the files reviewed, this is not happening.
701. In fact, most of the files reviewed in this investigation only contained decision letters notifying the tenant that they had lost their RGI subsidy for failing to submit proof of income or their annual review package on time.
702. Our review indicated that while TCHC is very careful and persistent in obtaining complete records of tenant income in the annual review process, it does not insist on the forms themselves being fully or properly completed.
703. Many of the files did not include a witness signature, and some did not even include the tenant's signature. A significant number of files had no emergency contact listed. Many showed tenants listing themselves as their own emergency contact.
704. Despite Justice LeSage's report noting that Mr. Gosling had marked himself as his own emergency contact, nothing has been done by TCHC to address this obvious problem.

Appeal of RGI Decisions

705. My investigation found very few tenants appealed an RGI decision. While the policy states that tenants are entitled to have a review of these decisions by an independent party, in practice, it appears that RGI is lost due to a failure to report income or to provide the annual income review package on time.
706. Rather than appeal the decision, tenants instead attempt to provide the missing documents.
707. It was troubling to see the case where a tenant requested an appeal because he had not yet received the required documents from the government agency although he had requested them. The response was not a decision from an operating unit manager or director. Instead it was a letter from the same tenant services coordinator who had signed the original decision letter.
708. The original decision-maker cannot be the same person on appeal. This is just a failure of the most basic procedural fairness.

709. TCHC must proceed with dispatch in its implementation of the RGI appeal process.

9.0 Ombudsman Conclusions

710. Toronto Municipal Code Chapter 3, 3-36 provides that the Ombudsman, in undertaking an investigation, shall have regard to whether the decision, recommendation, act or omission in question may have been:

- A. Contrary to law;
- B. Unreasonable, unjust, oppressive or improperly discriminatory;
- C. Based wholly or partly on a mistake of law or fact;
- D. Based on the improper exercise of a discretionary power; or
- E. Wrong.

711. I have considered those definitions in reaching my conclusions.

712. It is unreasonable that the Eviction Prevention Policy, procedures and arrears collection process document are not consistently carried out in practice.

713. It is unacceptable that the requirement for "personal contact" and "direct contact" can be met through issuing a letter where concerted and well documented efforts to reach the tenant have not first been tried.

714. While the Eviction Prevention Policy dictates that minimally, there should be reasonable efforts made to achieve direct contact with a tenant that is facing eviction for non-payment of rent, it is not happening. "Direct contact" is being made via a letter.

715. This is not how the policy was intended to be applied and given that the ultimate consequence is the loss of a person's home, TCHC must look for ways to ensure that the letter does not become the defacto means of communication.

716. This sets up a system of too little, too late.

717. The excessive volume of correspondence is unreasonable in the circumstances.

718. It is unacceptable that a number of Justice LeSage's straightforward recommendations related to the subject of this investigation, have not been implemented.
719. Following the death of Al Gosling, TCHC was reluctant to collect arrears or initiate eviction proceedings. This inaction allowed arrears to accumulate to levels that would be extremely onerous to repay for individuals on fixed incomes.
720. In 2011 and 2012, the percentage of tenants in arrears had greatly increased when the pendulum swung from a passive approach to arrears collection and eviction, to the current practice where the emphasis is on getting tenants to pay up, regardless of the level of arrears. In some cases the amount owing is as much as \$10,000. These are social housing tenants, by definition, low income recipients.
721. The failure to enforce arrears policy, followed by an abrupt shift to immediate enforcement, was unreasonable and contrary to the principles of fairness. The effect was to cause substantial harm.
722. While I note that TCHC is now making the Eviction Prevention Policy and related documents available to tenants, it is unreasonable that it has not done so for tenants who have lived there prior to the institution of its new practice.
723. The failure to establish standards for arrears repayment, as recommended by Justice LeSage is wrong. The absence of standards has resulted in inconsistencies and departures from the policy directive to offer "reasonable" repayment plans, with obligations that tenants could meet.
724. Seniors with relatively stable social benefits income are unlikely to incur much change. Nonetheless, they are still required by TCHC to provide documentation of income every year. This is an onerous and unreasonable expectation of seniors whose incomes invariably remain static or fluctuate very little.
725. The fact that there is no policy or practice requiring early notification about income changes at 65 is a problem. In fact, the practice, even across two senior-specific operating units, is inconsistent and therefore, unreasonable.

726. The single example found of an RGI appeal was improperly handled, in a manner contrary to policy. The original decision-maker was the same person who decided on the appeal, without even acknowledging the tenant's request was an appeal.
727. This is unfair, wrong and contrary to law. It violates principles of natural justice.

10.0 Ombudsman Recommendations

728. Unless otherwise specified and/or can be made generally applicable, the recommendations below are directed at seniors residing in TCHC units.
729. Taking into account all of the evidence gathered during this investigation, I make the following recommendations.
1. That TCHC evaluate its current annual rent review practice, specifically:
 - a) So that rent reviews and income verification for those tenants who meet the requirements of the *Housing Services Act* for rent reviews less often than annually, are not required to do so more frequently than every two years; and that
 - b) If such a recommendation cannot be fulfilled, a clear rationale be provided in writing to the Ombudsman's office with alternative ways to better support seniors in meeting the reporting requirements and that those ways are documented and disseminated broadly to ensure adherence by staff.
 2. That the practice of returning the annual review package to a tenant when there is missing information cease immediately. The tenant should instead be advised what information is missing and asked to furnish it.
 3. That the outstanding Justice LeSage recommendations discussed in this report, and agreed to by TCHC, be implemented without further delay and no later than October 1, 2013 including but not limited to:
 - c) Addressing the excessive volume of correspondence to tenants by reviewing all legal requirements and looking at

viable alternatives that are user friendly, appropriate and non-threatening in their content.

- i. That in this regard, the information be accurate and written in Easy English in a manner that is accessible, easily understood, inviting and equitable in its approach
 - ii. That legally required correspondence be written in language that is matter of fact and non-threatening in tone
 - iii. That correspondence be preceded and followed up with personal contact wherever possible
 - iv. That Justice LeSage's recommendation of more direct contact be construed minimally as telephone contact but preferably as personal visits and that correspondence to the tenant not be understood to mean personal contact
 - d) Providing tenants with a receipt for the documents they submit in the annual review process.
 - e) Posting in each tenant building an up-to-date list of community agencies that are within close proximity of the building. The list should be regularly updated, no less than every six months.
4. That template letters and related correspondence used by private property companies be brought in line with those used by TCHC to ensure consistency and similar treatment of its tenants.
5. That TCHC explicitly incorporate into its Seniors Framework an action plan for dealing with vulnerable seniors including but not limited to:
- a) Express recognition and promotion of equitable service to the increased vulnerability that exists when factors such as immigration, language, disability, diminished capacity, mental health, and sexual orientation intersect with the challenges of aging.
 - b) That consultation take place as appropriate with staff responsible for working with vulnerable tenants, including those who may have mental health challenges
 - c) That the role of the Community Services Coordinators and other staff responsible for mental health concerns be

clearly articulated and used strategically and collaboratively.

- d) That staff with responsibility for addressing mental health concerns be included in team conferencing when concerns of mental health or cognitive impairment are at issue.
 - e) That guidelines be developed and shared with staff surrounding the role and value of the Community Services Coordinators and other staff responsible for mental health.
6. That TCHC address the issue of tenants' income changing when they become 65 through a public education program or some other mechanism, so that affected tenants are aware of the impact this may have on their RGI rent.
 7. That staff visit the tenants and provide them with a copy of the Old Age Security application and information about community agencies that could assist them in completing the form if required.
 8. That TCHC determine whether, in the case of retroactive arrears, it will enforce the practice of collecting a maximum of 10% of the tenant's RGI, each month, and that this be clearly spelled out in the Eviction Prevention Policy.
 9. That amounts of arrears be properly calculated with plain language explanations of the figures and communicated to the tenant.
 10. That when tenant arrears first occur, early interventions are made by staff with personal visits wherever possible.
 11. That staff ensure TCHC policies are in fact implemented in practice.
 12. That TCHC develop an arrears collection process that includes repayment plan guidelines and provide a draft to the Ombudsman's office for review and comment by October 1, 2013.
 13. That eviction be a last resort and not a first resort.
 14. That the eviction processes for arrears are not used improperly for another purpose.

15. That a guideline be developed to instruct staff and set standards for the type of information to be included in tenant files.
16. That all information in tenant files be entered objectively and without personal comment.
17. That training be required in standards and content for documentation and record-keeping by May 30, 2014.
18. That emergency contacts for tenants be kept on file and up to date, wherever possible and to the best of TCHC's ability.
19. That training with respect to vulnerable seniors be implemented by:
 - a) Developing a guideline to identify indicators of distress, diminished capacity or cognitive impairment to assist staff in assessing the need for intervention with vulnerable seniors.
 - b) Training staff by June 30, 2014 to recognize signs of distress and engage in appropriate responses and interventions.
 - c) That a training program be put in place to ensure employees are skilled and able to meet the needs of vulnerable seniors, and that such training be completed by June 30, 2014 for all staff serving vulnerable seniors.
 - d) Requiring TCHC employees to participate in the City of Toronto's e-learning tutorial on "A Guide to Good Practice: Providing Equitable Service to Individuals of all Abilities".
20. That a protocol be explored with the Ontario Public Guardian and Trustee in cases where its intervention may be useful and required.
21. That TCHC pursue initiatives, similar to the LOFT Pathways pilot project, to advocate for funding to provide additional supports to tenants.
22. That a consulting relationship be established with the Centre for Addiction and Mental Health, or a comparable

organization, to enable the sharing of best practices and professional advice for staff of TCHC.

23. That staff responsible for implementing and managing the Eviction Prevention Policy, the Arrears Collection Process and the Eviction Prevention Checklist be held accountable for their actions.
24. That senior management ensures documented expectations articulated through policies, procedures and guidelines are implemented in practice and routinely followed.
25. That meaningful consequence for failure to comply by staff is enforced through responsible management.
26. That any review conducted by staff that may precipitate penalties for the tenant up to and including eviction must be done thoroughly and objectively, without bias.
27. That systems access to federal Notices of Assessment from the Canadian Revenue Agency be explored.
28. That unless otherwise specified, all recommendations be implemented no later than December 31, 2013.
29. That all written undertakings flowing from these recommendations be provided to my office in draft prior to TCHC staff dissemination.
30. That quarterly updates be provided to my office by way of a face-to face meeting on the status of implementation.

9.0 TCHC's Response

730. Pursuant to s. 172(2) of the *City of Toronto Act, 2006*, I provided TCHC with an opportunity to review a draft of my investigation report, so that officials could respond to the tentative findings and recommendations.
731. My office met with TCHC officials twice to receive their feedback and clarification on various points. Following these discussions, the CEO responded by letter, dated May 29, 2013 (Appendix B).
732. The CEO agreed with all of my recommendations and included the following comment:

Your findings valuably reveal the continuing opportunity for our company to strengthen and improve our people, processes and systems toward better supporting the needs of our residents and effectively reserving evictions for non-payment of rent as a last resort. We agree with each of the recommendations and will work diligently to implement them within the timelines set out in your report in order to improve the level of service we provide to residents.

Fiona Crean
Ombudsman
June 3, 2013

Appendix A – TCHC Shareholder Direction Excerpts

The TCHC Shareholder Direction document lists 11 principles in section 3.3.

TCHC will:

- (a) conduct its affairs in accordance with the SHRA;
- (b) provide quality, affordable housing accessible to those in need and eligible for subsidized housing, as defined from time to time by any Program Administrator and within the parameters of program funding and program regulations;
- (c) provide accountable quality service at an affordable cost, on a sustainable basis and use the most appropriate methods and structures for doing so;
- (d) operate with an emphasis on service to tenants and tenant satisfaction, and support access to information and services by its diverse communities;
- (e) have due regard for the role of Councillors in representing the interest of their constituents and having timely access to information concerning the activities of TCHC in their wards;
- (f) conduct its affairs with an aim to support the ability of tenants to retain their housing with TCHC, live independently, and where it is possible, in accessible buildings;
- (g) promote communities in which there is a diversity of incomes and a mix of rent geared-to-income and market rent paying tenants, within housing program limitations;
- (h) ensure that policies and programs are consistent with the goal of reducing homelessness and providing affordable housing;
- (i) consult with tenants, through the tenant participation system that is to be developed on issues and policies that will have an impact on service standards or the level of services, and communicate such policies and changes to policies to all tenants;
- (j) through the Board, be responsible for determining and implementing the appropriate balance among the foregoing principles and for causing TCHC to conduct its affairs in accordance with the same, and will be held accountable by the Shareholder for how this balance is achieved; and
- (k) recognize that social housing primarily serves tenants of low and moderate incomes and accommodates their needs where possible.

The business of TCHC is listed in section 4 of the Shareholder Direction document:

Subject to the ongoing ability of *TCHC* to meet the financial objectives as established through funding arrangements with any *Program Administrator* and the ability of the *Board* to demonstrate the same, and in support of the mandate to provide affordable housing, *TCHC*, directly or through *Subsidiaries* or through partnerships, or through arrangements for the purchase of services, may engage in any of the following *business* activities, consistent with *TCHC's* Articles of Incorporation and the *SHRA*:

- (a) own, operate or have an ownership interest in rental housing and affordable-ownership housing and provide related services;
- (b) develop new affordable housing;
- (c) redevelop existing housing sites;
- (d) develop and operate commercial space and other commercial services in support of meeting *business* objectives;
- (e) provide housing-related services to third parties;
- (f) provide services to *tenants* beyond the basic residential landlord obligations;
- (g) manage an investment program for reserves and other funds, borrow funds to meet long and short term requirements, subject to the conditions outlined in Section 6.3; and
- (h) deliver program-related services on behalf of any *Program Administrator* including, but not restricted to, management of waiting lists and rent supplement programs.

Appendix B – TCHC's Response

Toronto Community
Housing Corporation
931 Yonge Street
Toronto, ON
M4W 2H2



**Toronto
Community
Housing**

May 28, 2013

Fiona Crean
Office of the Ombudsman, City of Toronto
#203-375 University Ave
Toronto, ON M5G 2J5

Dear Ms Crean:

Further to your request, please find below Toronto Community Housing's written response to your investigation into eviction practices for residents who are seniors. We appreciate having had an opportunity to review the draft report and provide comments.

Thank you for this investigation. Your findings valuably reveal the continuing opportunity for our company to strengthen and improve our people, processes and systems toward better supporting the needs of our residents and effectively reserving evictions for non-payment of rent as a last resort. We agree with each of the recommendations and will work diligently to implement them within the timelines set out in your report in order to improve the level of service we provide residents.

Preventing evictions is a complex issue with shared responsibilities between the landlord, the resident, and support agencies. It becomes especially difficult when there are issues of cognitive decline or mental health, or where Toronto Community Housing is left to fill a void when support services are not available. Although we are not a supportive housing provider, we do acknowledge our responsibility to consider the unique needs of vulnerable residents and our related duty to connect residents to support services where they are required.

As you note in your report, Toronto Community Housing has faced significant challenges and organizational changes over the past three years. This has somewhat constrained the company's efforts to address both the letter and spirit of the LeSage Review. We owe it to all residents, and particularly our growing population of seniors, to complete the changes we have committed to make and communicate our decisions to residents.


Since June 2012 and with the support of our board of directors, I have led change and continuous improvement at Toronto Community Housing toward rebuilding the company's credibility with residents and the public. Our goal is to be a landlord of excellence. Achieving this goal will require us to do better in a number of areas, including how we respond to the needs of residents facing potential eviction. We have made a number of improvements already and aspire to go beyond your recommendations to optimize our role as a social housing landlord.

To this end, we are:

- Realigning our organizational structure around core business processes in an effort to allocate the right people, in the right numbers, to concentrated roles that enable focused delivery and management. This includes renewing the senior leadership of our resident services, operations, building management, and community safety functions. These changes will enable us to deliver more responsive services, improve tenancy management, and establish clear roles and accountabilities for staff.
- Setting clear expectations with staff that they need to understand, apply and own the policies, protocols and practices that shape their daily work, and always be responsive, respectful and fair in their dealings with residents. A mandatory company-wide training launched in 2013 will reinforce these expectations.
- Improving relationships with social services and support agencies to improve how to identify vulnerable residents' needs and connect them to the services and supports that will keep them housed.
- Implementing an information technology strategy that will improve record keeping and tenancy management processes.

Thank you again for your insights, which will guide us in better meeting the needs of vulnerable residents and improving services to all residents.

Sincerely,



Eugene E. Jones Jr.
President and Chief Executive Officer
Toronto Community Housing