

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

Adele Imrie
Board Chair
E: Adele.Imrie@torontohousing.ca



Item DM 11.1

October 5, 2023

Mayor Olivia Chow and Toronto City Council
City Hall
100 Queen Street West
Toronto, ON M5H 2N2

Sent as an email attachment

Dear Mayor Chow and Council:

Re: Item DM 11.1: Ombudsman Report – An Investigation into Toronto Community Housing Corporation’s Tenant Human Rights Complaint Process

Thank you for deferring this matter to allow the Board of Directors time to consider the Ombudsman Toronto Report: An Investigation into Toronto Community Housing Corporation’s Tenant Human Rights Complaint Process (the “Report”). The deferral provided the Board with the time to thoroughly review and reflect on the content of the Report. We are grateful for Council’s indulgence in this regard.

This letter provides you, City Council, with the Board’s review for consideration in conjunction with the Ombudsman Report at Council’s October 11-13, 2023 meetings.

OVERVIEW

The results of the Board’s review can be summarized as follows:

1. The Board is committed to overseeing TCHC’s implementation of the recommendations contained in the Ombudsman Report, and TCHC has already made significant progress in doing so.
2. The Board is concerned that it was not afforded the opportunity to receive the Ombudsman’s draft report and recommendations before the report was released publicly and is working with the City on the best approach to rectify this on a go-forward basis.
3. The Board notes that TCHC operates amid multiple regulatory and other frameworks which adds a layer of complexity to resolving and/or addressing effectively the human rights complaints identified through the process. The Board is committed to working with the City and other stakeholders to address these challenges.

BACKGROUND

The Ombudsman’s Report was the product of an investigation commenced by the Ombudsman in July 2022. As the report notes, the following questions were the focus of the Investigation:

- Does TCHC have current, clear, and easily accessible policies and procedures for addressing tenants’ human rights complaints?

- Does TCHC apply these policies and procedures fairly and consistently?
- Do TCHC staff responsible for addressing human rights complaints from tenants have the necessary tools, training, and expertise to do so effectively and fairly?

The Ombudsman's Report concludes that:

TCHC does not have current, clear, and easily accessible policies and procedures for addressing human rights complaints from its tenants. Until very recently, on May 11, 2023, its Human Rights Policy and Human Rights Complaint Procedure were wildly out of date. While it has been planning for many years to update its process for addressing tenant human rights complaints, to have such outdated policies and processes for such a long time sends a message that tenants' human rights concerns are not a priority.

The Ombudsman's Report includes a series of fourteen recommendations related to the processes and procedures that TCHC has in place to respond to tenant complaints which engage protected grounds under the Ontario *Human Rights Code*.

The Ombudsman's recommendations largely align with the scope of work already underway as part of TCHC's internal review of its tenant human rights complaint process which began in early 2022. TCHC has advised the Ombudsman that it accepts all the recommendations contained in the report, and it has revised the scope of work for its ongoing internal review as appropriate to address those recommendations.

COMMENTS

1. TCHC's Board of Directors is committed to implementing the recommendations contained in the Ombudsman Report.

In January of 2022, prompted by TCHC's identification of deficiencies in its management of tenant human rights complaints, it initiated a review of the process by which it addresses those complaints. Following the release of the Ombudsman Report, TCHC amended the Project Charter for its internal human rights review to ensure that the work it is doing will address all of the recommendations contained in the Ombudsman Report.

One of the Ombudsman's recommendations was that TCHC establish interim measures for addressing tenant human rights complaints and that it clearly communicate those interim measures to staff and tenants. On July 13, 2023, TCHC provided the Ombudsman with its proposed Interim Tenant Human Rights Complaints Procedure. The interim procedure is intended to govern the manner in which TCHC responds to tenant human rights complaints pending TCHC's completion of its internal review and the implementation of a permanent, and new, Tenant Human Rights Complaints Procedure.

On August 29, the Ombudsman provided TCHC with its comments on the Interim Procedure. TCHC has since amended the Interim Procedure to incorporate the Ombudsman's comments and is currently engaged in the process of training TCHC staff on its implementation. Following staff training, TCHC intends to implement the Interim Procedure while it continues to work on the balance of the internal human rights review. The Project Charter has forecasted a deadline of Q4 of 2024 to complete the internal review.

TCHC has also consulted with the City's Service Manager¹ in relation to the development and implementation of the interim complaint procedure, and to initiate discussions on the impact that

¹ Service Managers are responsible for funding and administration of all social housing.

changes to TCHC's human rights complaint process might have on TCHC's Tenant Transfer Program. In particular, TCHC is alive to the fact that the current Tenant Transfer policy and procedure was informed by recommendations from the Ombudsman in its 2018 Report regarding TCHC's Medical and Safety At Risk Priority Transfer Process for Tenants. To that end, City Staff and staff from the Housing Secretariat agreed to form a working group to review the recommendations in the Ombudsman report and reconcile those with recommendations made by the Ombudsman in its 2018-2019 Report on Tenant Transfers. The work of the working group is ongoing.

TCHC has committed to consulting with the Tenant Advisory Committee² in conjunction with the ongoing work of the internal human rights review. Once the Tenant Advisory Committee has established its Terms of Reference and a schedule of meetings, management will seek to have the review of the tenant human rights complaint process added to one its meeting agendas.

The Board held a Special Board Meeting on September 20, 2023 to consider the Ombudsman's Report. Following that meeting, TCHC provided the Ombudsman with a status report outlining the measures it has taken, to date, to implement the Ombudsman's recommendations, including its progress with respect to the interim complaint procedure as described above. A copy of TCHC's status report to the Ombudsman is attached to this letter.

2. TCHC's Board of Directors is concerned that it was not afforded the opportunity to receive the Ombudsman's draft report and recommendations before the report was released publicly.

TCHC is a corporation established by the City of Toronto pursuant to the provisions of Ontario's *Business Corporations Act* for the purpose of managing the provision of social housing in the City. The management of the business and affairs of TCHC is supervised by a Board of Directors acting in accordance with the City's Shareholder Direction (as the sole shareholder of TCHC), and with their fiduciary duty. This is distinct from the governance framework of other City entities.

The City's Shareholder Direction provides:

§5.1 Board Responsibilities

Subject to any matters requiring approval of the Shareholder pursuant to this Shareholder Direction, the Board will supervise the management of the business and affairs of TCHC, including the following specific matters:

...

- (j) Ensuring that the Board has appropriate processes in place to ensure that information is reported to the Board in a timely manner to enable the Board to monitor implementation of its decisions and the performance of TCHC staff.

The Ombudsman's direction to TCHC management restricting it from the sharing of information about the investigation with the Board (including the notice, draft report, and recommendations) undermined the Board's ability to fulfill its responsibility to supervise the management of TCHC's business and affairs. In a confidential letter dated June 1, 2023, the Ombudsman advised TCHC that management could provide a high-level status update about the investigation to the Board, which would identify some of the recommendations contained in his Report. However, it explicitly restricted TCHC management from sharing the Report, all of the recommendations, and the letter. These restrictions and limits to the information that the Ombudsman was prepared to permit TCHC management to share

² The Tenant Advisory Committee was created at the direction of the City to promote tenant engagement at TCHC.

with the Board runs contrary to TCHC's governance framework and the role, responsibilities and fiduciary duties of the Board.

TCHC is currently working with the City in an effort to address this regrettable set of circumstances on a go-forward basis.

3. TCHC operates amid multiple regulatory and other frameworks which adds a layer of complexity to resolving or addressing effectively the human rights complaints identified through the process.

The recommendations in the Ombudsman Report are focused on the processes and procedures adopted by TCHC to address tenant complaints related to their human rights. TCHC is committed to implementing those recommendations and improving the tenant human rights complaint process.

TCHC is also committed to increased training for staff in order to address the gap in training identified by the Ombudsman's Report. Training will improve staff's capacity to identify human rights issues earlier, and access to expertise will support staff in administering a more transparent and consistent process to address human rights concerns raised by tenants.

Regulatory frameworks related to the transfer of tenants between units, and/or the eviction of tenants from units create unique challenges for TCHC in the administration of a human rights complaint process. Transfer requests far outnumber the number of units available, and evicting tenants, including those whose behaviours may infringe on the human rights of other TCHC tenants, engages a process mandated by legislation. In addition, as noted in the Ombudsman's Report, human rights issues are often nuanced and complex.³ They may involve the intersectionality of a number of protected grounds in one individual, and/or the competing rights of multiple people.⁴ Tenant's human rights may need to be balanced as against each other, in the context of *MFIPPA*⁵ which prohibits TCHC from sharing information about tenancy as between those tenants.

The requirement for TCHC to balance all of these competing interests may be frustrating for a tenant who has a complaint and wants TCHC to fix it. However, a fair, transparent, and efficient process for raising human rights complaints will be valuable in mitigating some of that frustration. TCHC looks forward to working with the City and other stakeholders to address any challenges which arise from the multiplicity of regulatory and other frameworks. However, given the factors described above in relation to the shortage of housing units available for transfers, the legal limitations on the use of eviction, and the requirement that TCHC must often balance competing human rights between tenants it is not clear to what degree the improved process will effectively resolve human rights issues raised by tenants.

CONCLUSION

The Board remains concerned that it was not afforded the opportunity receive the Ombudsman's draft report and recommendations before the report was released publicly.

³ Ombudsman Toronto Report: An Investigation into Toronto Community Housing Corporation's Tenant Human Rights Complaints Process (the "Ombudsman's Report") at p. 7, ¶21

⁴ Ombudsman's Report at p. 6, ¶12

⁵ Municipal Freedom of Information and Protection of Privacy Act, RSO 1990, c M56

TCHC has confirmed to the Ombudsman that it agrees with and accepts the recommendations contained in its Report on TCHC's Tenant Human Rights Complaint Process. TCHC is committed to implementing the recommendations and has made significant progress to date in doing so. Once implemented, TCHC's new human rights complaint process will improve the manner by which TCHC processes and responds to tenant human rights complaints and TCHC will continue to work with the City and the Ombudsman on these issues.

Respectfully,

A handwritten signature in black ink, appearing to read "Adele Imrie". The signature is written in a cursive, flowing style.

Adele Imrie
Board Chair

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



Toronto
Community
Housing

September 29, 2023

Kwame Addo
Ombudsman
Office of the Ombudsman Toronto
375 University Ave
Suite 203
Toronto, ON M5G 2J5
E: kwame.addo@toronto.ca

VIA ELECTRONIC MAIL

Dear Mr. Addo:

Re: Status of Implementation of Recommendations - An Investigation into Toronto Community Housing Corporation's Tenant Human Rights Complaints Process

In accordance with Recommendation 14 in the above noted report, I am writing to provide Ombudsman Toronto with an update on the status of Toronto Community Housing Corporation's ("TCHC") steps towards implementing the recommendations contained in the report.

The attached schedule provides a summary of the steps taken by TCHC, at this time, towards the implementation of those recommendations. It was reviewed, by TCHC management, with its Board of Directors at a Special Board meeting on September 20, 2023 and has been updated to reflect events subsequent to that meeting. We will provide your Office, and our Board, with regular quarterly updates in relation to the implementation of the report recommendations, going forward. Please do not hesitate to contact me should you have any questions in this regard.

Yours truly,

Tom Hunter (he/him)
Interim President & Chief Executive Officer
Toronto Community Housing Corporation

Encl. Implementation Summary as of September 20, 2023

c. Adele Imrie, Chair, TCHC Board of Directors

	Recommendation	Status as of September 2023	Notes
1	TCHC should ensure that all information on its website related to its human rights complaints process is up to date and accurate, and that it continues to update its website as this process evolves.	Ongoing	<ul style="list-style-type: none"> The current human rights policy and procedure are now up to date on the website. Communications staff have updated the data as the project has progressed and will continue to do so. https://www.torontohousing.ca/contact-us/tenant-complaint-process/improving-tenant-human-rights-process
2	TCHC should immediately post online information about the project to update its Human Rights Policy and Human Rights Complaint Procedure. This should include information about the scope of the project, its impact on tenants, and where tenants can find out more information. It should also clearly communicate how tenants can participate in the re-design of the human rights complaints process	Completed	<ul style="list-style-type: none"> The project description, scope, goals and impacts on tenants and how tenants could participate in the recent tenant consultations are posted in the news and updates section of the website. Information on how tenants could participate in the recently completed tenant consultations on the project are on the website along with a feedback form
3	TCHC should establish, and clearly communicate to staff and tenants, interim measures for addressing tenant human rights complaints, while it updates its human rights complaints process.	Ongoing	<ul style="list-style-type: none"> TCHC drafted and, on July 13, 2023, shared its Tenant Human Rights Interim Complaint Procedure (“Complaint Procedure”) with the Ombudsman. On September 25, 2023, the Ombudsman confirmed, to TCHC, that he was satisfied with the Interim Tenant Human Rights Complaint Procedure created by TCHC. Staff training will take place on October 6, 2023. TCHC will communicate the procedure to staff and, once it has completed its staff training, to tenants.

	Recommendation	Status as of September 2023	Notes
4	TCHC should assess what resources it needs to ensure that it completes, as a priority, the project to update its Human Rights Policy and Human Rights Complaint Procedure. TCHC should establish milestones and timelines to ensure that the update is completed without delay.	Ongoing	<ul style="list-style-type: none"> • TCHC has established a project charter that was approved by the executive leadership team in October 2022 and amended to broaden the project scope and extend certain timelines on August 22, 2023 • TCHC will consider any budgetary resources it needs to complete the project and/or implement project objectives in the 2024 budget process.
5	TCHC should clearly define and communicate how individuals can make human rights complaints, including relevant contact information. TCHC should ensure that tenants are given correct information about its internal escalation process, as well as outside agencies and resources that they may wish to consult, including the Human Rights Tribunal of Ontario, the Human Rights Legal Support Centre, and community legal clinics.	Ongoing	<ul style="list-style-type: none"> • The Interim Complaint Procedure and its supporting documents contain the information about how and to whom tenants can make a complaint, responsible and the required information on how tenants can access external supports for human rights issues.
6	TCHC should ensure there are opportunities for tenants to request reconsideration or appeal of TCHC decisions about their human rights complaints.	Ongoing	<ul style="list-style-type: none"> • The Interim Complaint Procedure contains a reconsideration mechanism.

	Recommendation	Status as of September 2023	Notes
7	TCHC should develop a clear and detailed process for staff to document and respond to human rights complaints, including internal resources that will help staff navigate this process. It must ensure that its process dedicates and identifies qualified staff with subject-matter expertise.	Ongoing	<ul style="list-style-type: none"> • The Interim Complaint Procedure contains a framework for staff to document and respond to human rights complaints as well as access to increased subject matter expertise in legal services and the Centre for the Advancement of the Interests of Black People when faced with a human rights complaint. • Once TCHC has completed its review of all its human rights policies and procedures and budgeted for any new staffing and supports, it will implement further supports so that staff can proactively respond to human rights issues including access to SMEs, info guides and staff training.
8	TCHC should hold informed and meaningful consultations to receive feedback from tenants, staff, outside experts, and people who interact with TCHC to help establish a fair, trustworthy, accessible and effective process for handling human rights complaints.	Ongoing	<ul style="list-style-type: none"> • TCHC conducted several consultations on its broader human rights project, including its complaints procedure, specifically: <ul style="list-style-type: none"> ○ Two staff consultations in May, 2023 ○ Three in-person tenant consultations in June, 2023 ○ A virtual tenant consultation in August, 2023 ○ with tenant legal service providers and advocacy bodies in July, 2023 ○ with its R-PATH accessibility committee in August, 2023 ○ with Housing Stability Services on August 25, 2023 • TCHC will conduct further consultations with these groups as well as its Tenant Advisory Committee (to be formed in September 2023) as the project progresses.

	Recommendation	Status as of September 2023	Notes
9	TCHC should develop a plan for delivering mandatory human rights training, including training on its updated/revised human rights policy and complaint process. This should be completed on a priority basis. The goal of this training must be for TCHC staff to have the tools and expertise to identify and resolve human rights complaints.	Ongoing	<ul style="list-style-type: none"> • TCHC will conduct a training with the staff members directly responsible under the Interim Complaint Procedure on September 15, 2023 • TCHC will conduct an internal staff communications campaign about the Interim Complaint Procedure and new staff responsibilities in September and/or October, 2023 • TCHC will conduct broader staff training once it has completed its review of all its human rights policies and procedures.
10	TCHC should periodically examine its training plan to make sure it is up to date with human rights developments.	Not yet started	<ul style="list-style-type: none"> • To be completed as part of TCHC's review of all its human rights policies and procedures
11	As part of its human rights complaint process update, TCHC should ensure it has an effective and consistent system for documenting and tracking human rights complaints. This should include an annual summary of complaint types, geographic areas, number and ground of Tribunal applications, and complaint trends.	Not yet started	<ul style="list-style-type: none"> • To be completed as part of TCHC's review of all its human rights policies and procedures
12	TCHC should report annually to the public on human rights complaint data and trends.	Not yet started	<ul style="list-style-type: none"> • TCHC will determine a reporting structure and method to share the results of its tracking of human rights complaints as part of its review of all its human rights policies and procedures

	Recommendation	Status as of September 2023	Notes
13	As part of its human rights complaint process update, TCHC should establish key performance indicators that staff can be measured against to ensure tenant human rights complaints are addressed fairly and effectively.	Not yet started	<ul style="list-style-type: none"> To be completed as part of TCHC's review of all its human rights policies and procedures
14	TCHC should provide Ombudsman Toronto with an update on the status of the implementation of these recommendations by September 2023, and quarterly thereafter.	Ongoing	<ul style="list-style-type: none"> TCHC will continue to provide the Ombudsman's office with quarterly updates on its implementation of these recommendations.