

PEI Fight for Affordable Housing
81 Prince St, Charlottetown, PE C1A 4R3

July 2, 2024

Susie Dillon, Chair
Standing Committee on Health and Social Development
Box 2000, Charlottetown, PE C1A 7N8

Dear Ms Dillon,

We are writing in response to your letter, dated June 4th, asking for feedback about the PEI Fight for Affordable Housing's top areas of concern relative to a review of the *Residential Tenancy Act*. We are happy to provide these initial thoughts, which are based on our interactions with tenants over the past year and a half. We have supported several groups of tenants through rental hearings, and have corresponded with many others, including by telephone, email and in meetings. Here are several of our concerns:

1. Rent Increases

According to Statistics Canada, from 2019 to 2023, in PEI, rental costs increased by 23.6%, well above the national average. At the same time Island vacancy rates continue to hover around 1%. Landlords are clearly the winners in this market, while low and moderate-income tenants struggle to find affordable housing, and to stay in their homes when they are faced with unmanageable rent increases. Since the implementation of the RTA, we have heard from many tenants who, out of necessity, have decided to oppose their landlord's applications for rent increases above the guideline. There are three issues that stand out:

a) *The expectation of the landlord to have a reasonable return on their capital investment;*

We would like to see Section 50 (3) (c) "the expectation of a landlord to have a reasonable return on the landlord's investment" removed as a factor in deciding whether or not to approve an application for an increase above the guideline. We are unaware of other investments that guarantee the investor a profit in the way this clause does. It is unfair to make a profit to the investor (landlord) a cost to the tenant.

We have also been finding that the costs used to calculate the landlord's current rate of return are unreliably calculated with a very unclear evidentiary base. See # 3.

b) *Information and statistics on PEI tenants' incomes as a factor in determining an increase above the guideline*

In the submissions we made as the Act was being developed, we suggested that data and other information concerning wages and tenants' ability to pay higher rents be taken into account when deciding on applications to increase rents above the guideline. We are concerned that this has not yet been included as a factor to consider, and would like to see it included in the calculation of the annual guideline as well as the determination of an application for a rent increase above the guideline

By considering a landlord's "expectation to have a reasonable return on their investment" (which in our experience supporting tenants in hearings seems to be given much weight) and not

considering factors that influence tenants' ability to afford higher rents, the Act will always be interpreted in ways that favour the landlord, i.e. it will fail to "balance" the respective rights of landlords and tenants.

- c) *Amortization of financing costs that are considered in deciding on a rent above the guideline application*
RTA regulations allow for financing costs (interest on the landlord's mortgage) to be figured into the tenants' rent. When a building has been recently bought, interest payments are really high - almost the whole payment on the mortgage. If the costs of these early interest payments are passed on to tenants (through above the guideline rent increases), tenants will end up - in future years - paying more for interest payments than the landlord is actually paying. This seems like a built-in profit-making mechanism which gets more and more effective as time passes.

A group of tenants suggested in their hearing last year, that financing payments payable on the mortgage as a whole should be amortized so that an increase is built into the rent which will cover the landlord's costs over time, but without extracting rent from tenants which isn't in fact needed to cover those costs. Their arguments seemed not to be understood, and in the end were not accepted. Tenants wondered if the issue was around interpretation of "financing costs of interest on mortgages registered against the property" in section 5 (b) of the regulations. Does "financing costs" mean the overall financing costs or does it mean the particular payment for the year under review? If it means the latter, it is really unfair.

2. Vacancy Control & the Need for a Rent Registry

We are concerned about statements by the Landlords' Association that they would like the Act to provide a legal way of increasing rents when new tenants move in. Affordability is already a serious issue for tenants and will become disastrous, should vacancy be allowed to be a factor in determining rent increases.

We have heard from tenants who, upon moving into a new apartment, have been charged higher rents than allowable. We continue to advocate for a public rent registry.

3. Rental Hearings

Members of the Fight for Affordable Housing have accompanied tenants as they prepare for and participate in rent increases above the guideline hearings. Tenants have identified issues such as the need for regulation or government directed guidelines which set standards for evidence required to consider a claimed cost. Tenants have experienced inconsistency and sometimes a complete lack of evidence backing up a claim by the landlord.

Other issues arising from recent IRAC hearings include not scheduling a reasonable amount of time for hearings, rushing tenants, disregarding tenants' arguments with no explanation given in decision, decisions not presenting evidentiary basis for amounts allowed, evidence packages being sent in Titan files which are not accessible to many tenants on their cell phones.

Tenants have expressed concern about the possibility of "paper" hearings, and we fear a move in that direction would disadvantage tenants, creating even more of a power imbalance than currently exists.

4. Maintenance standards regulation

The PEI Fight for Affordable Housing consistently hears from tenants who are frustrated about the lack of attention by their landlord to basic maintenance issues. We have long asked for

maintenance standards regulation. We understood that they would not be implemented through the Residential Tenancy Act, but we believe they would play an important complementary role in ensuring that rental accommodation is maintained in a good state of repair pursuant to section 29 of the new Act.

5. Conversions of Apartments to Condominiums

Landlords converting apartments in PEI to condominiums has emerged as an issue in the past year or so. This trend means for many tenants that they will lose their homes. While the Act is limited in its regulation of this kind of conversion, one thing that could be changed is to remove the exemption for condo conversions when it comes to notice to tenants. Currently the requirement when a landlord is converting the unit to a condominium is only 2 months. We would like to see this increased, given the requirement is 4 months in other situations when the eviction is for a landlord's own use.

6. Evictions for renovations.

We do not believe renovations or repairs should be grounds for eviction of tenants from their homes.

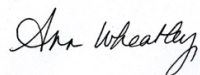
Currently there is no limit on the amount rent can increase after renovations. Although the increase cannot be more than 3% above the guideline each year, there is no limit on the number of years. Other provinces such as Ontario and British Columbia have a limit of 3 years which works out to just under 10%.

This, together with the fact that there's no requirement that the renovations be deemed necessary, results in the Act promoting loss of affordable units through gentrification and upscaling projects.

We also wonder if there should be a requirement that renovations are necessary to maintain the structural integrity of the building or to increase energy efficiency before tenants are forced to pay for the renovation with increased rents.

We would like to see greater compensation for tenants who are experience temporary relocation due to repairs or renovation including compensation for the inconvenience and the disruption of their lives.

Sincerely,



Ann Wheatley, on behalf of the PEI Fight for Affordable Housing