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**Advisory Council on the  
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## **Input on Proposed Changes to the Residential Tenancy Act**

### **PEI Advisory Council on the Status of Women**

**January 14, 2022**

The Prince Edward Island Advisory Council on the Status of Women (PEIACSW) is a nine-member, government-appointed arms-length government agency with a legislated mandate to advise the Prince Edward Island government and educate the public on matters that affect to the status of Prince Edward Island women.

### **Council's Input on the Revised Draft of the Residential Tenancy Act**

On March 31, 2020, the PEI Advisory Council on the Status of Women submitted input on an earlier draft of the Residential Tenancy Act. The Council's advice at that time is publicly available here:

<https://peistatusofwomen.ca/2020/03/31/input-on-the-residential-tenancy-act/>.

The Council maintains the same principles it held at the time of that submission, including the following:

- That housing is a human right.
- That housing should be affordable, accessible, appropriate, and safe.
- That the human right to access to affordable, accessible, appropriate, and safe housing is a gender and diversity issue that requires gender and diversity analysis.
- That there is an inherent power imbalance between landlords and tenants and that there is need to privilege renters' human rights over landlords' economic interests.
- That good relationships between tenants and landlords are in the best interests of all.
- That the goal of the Residential Tenancy Act should be to foster positive reciprocal relationships that help to support availability of affordable, accessible, appropriate, and safe housing for all.

The Council's comments in March 31, 2020, characterized the housing situation as a crisis. We acknowledge that this crisis has only deepened in the almost two years since our initial submission. We note as well that then as well as now, COVID-19 continues to be an active factor affecting housing.

The notes that follow comment on recommendations from our March 31, 2020, submission that have or have not been carried into the current revised draft of the Act. In addition, we offer perspectives on housing collected in focus group consultations. These bring to light lived experiences of the housing crisis from a variety of points of view.

**Director of Residential Tenancy:** As noted, good conflict resolution is fundamentally important to Council members with relation to the Residential Tenancy Act.

We are pleased to see the revised draft appears to retain the previous draft's new powers for the Director of Residential Tenancy to mediate settlements in certain circumstances, and the Council continues to support appropriate tools for conflict resolution, including mediation. When regulations are developed for the Residential Tenancy Act, we call on government to consider including guidance to determine when mediation is safe and appropriate and requirements to screen for power imbalance, violence, and discrimination before proceeding with mediation.

The updated Act accords numerous new powers and responsibilities to the Director, and all will require a commitment to conflict resolution based in good solutions and good relationships. We continue to be concerned that when the Act is implemented, the Director's office have the resources needed to fulfill the Act's goals.

**Rent Increases:** The community-based experts in the advocacy group PEI Fight for Affordable Housing assess that "the latest draft of the Residential Tenancy Act deepens the imbalance of power between landlords and tenants." This is concerning.

It continues to be important to our Council that there be reasonable rent controls and that annual increases be constrained in some manner.

It is concerning that the proposed cap on increases of 2.5% per year has been removed from the current draft. Council supported this cap in the previous draft. It seems to be a measure that would relieve anxiety and uncertainty for tenants and allow for economic planning for landlords.

Cap or no cap, it will ultimately be important for annual maximum rent increases consider a variety of factors, including not only costs of utilities and maintenance and repairs – or the Consumer Price Index which cuts both ways for landlords and tenants. Other factors to consider include vacancy rates, minimum wage and median wages, general employment numbers, core housing needs, Market Basket Measure poverty rates and food bank usage, homelessness and shelter use and occupancy in the community, demographic factors such as household composition (especially the number of lone-parent, social assistance rates, access to public transportation routes, access to crucial communications and information infrastructure, and availability of basic income guarantee programs.

It is concerning that "return on investment" is listed as a consideration for a greater than allowable rent increase but that tenants' ability to pay higher rents is not an equal consideration. As noted in our principles, because there is a power imbalance, and because housing is a human right, the Act should privilege renters' human rights over landlords' economic interests. Some of the factors we listed in the previous paragraph could be used as indicators of tenant's ability to pay and should be allowed for in the Act and then outlined in regulations.

With tenants' human rights in mind, it is important to us that tenants also retain the right to challenge any rent increase, including a rent increase which is at or below the provincial guideline.

While it is positive that the Director will take into consideration written submissions from landlords and tenants as part of the process to set the annual maximum, not all individuals and groups have equal capacity to provide annual written feedback. Landlords who organize are more likely to have more

resources than tenants who organize. Further, some tenants may fear that making a submission would put them in conflict with their landlord and place their housing at risk. Before this legislation goes to the Legislature, we suggest discussing the proposed annual review process of the Act with the Labour Division who manage the annual minimum wage review. They will have insights into the effectiveness of an annual review.

**Renovictions:** Council was in favour of proposed changes in the prior draft that are removed from the current draft, including stipulations that renovations must be significant enough to require a building permit and an empty unit; that there be longer timelines for notice to tenants regarding renovations; and that current tenants have right of first refusal on freshly renovated units.

We are concerned to see strong provisions against renoviction removed from the current draft.

Council supported the temporary moratorium on renovictions that passed in the Legislature in 2021. The legislation stipulated only renovations that are necessary to keep the building structure well maintained and keep tenants safe could be grounds for ending a tenancy. We recommend a gender and diversity analysis to inform a decision on making the stipulations in the temporary moratorium permanent.

**School-Year Exemption:** Council was in favour of the previously proposed prohibition on evicting families with school-aged children during the school year.

We are disappointed to see this provision removed from the current draft. We continue to see a school-year exemption as beneficial to children, families, schools, and school communities. We are not persuaded by the argument that this would lead to too many people seeking new housing at the same time of year (at the beginning of July).

**Family Violence:** The provisions for a tenant to end a rental agreement in situations of family violence in the home are good. Article (5)(c) appears to make space for something we advocated for: to allow for designated persons, defined in regulations, to be eligible to provide a statement to confirm that family violence has occurred. Thank you for incorporating our feedback on this matter.

We continue to advocate that the regulations outline a list such as the one included in Employment Standards Act Regulation S.6 for the purpose of taking paid or unpaid leave due to domestic violence, intimate partner violence, and sexual violence. The Employment Standards Act list is excellent. It is particularly important to us that Indigenous elders be designated as persons who can confirm that family violence has occurred in the Act or Regulations.

**Maintenance and Repair:** It continues to be important to the Council that PEI have defined standards for the livability and suitability of people's habitations. We share the concern expressed by the PEI Fight for Affordable Housing that the revised Act could water down landlords' responsibility to keep their properties in good repair. Clearer definitions and standards for livability and habitability are needed. It is important to us that maintenance standards for habitability be high, and be enforced, and include features that support tenants' safety from violence (including lighting and secure entries and exits, for example).

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It is more important than ever to update the Residential Tenancy Act. The Advisory Council on the Status of Women is pleased to see the current draft of the Residential Tenancy Act retains some important proposed updates, for example regarding landlords entering a rental unit.

Our input (from March 2020 and from today) on things to consider in regulations remains important. We advocate for an inclusive and consultative process to build the regulations for the amended Residential Tenancy Act, and for a gender and diversity analysis of proposed regulations.

We repeat from our March 2020 input that following updates to the Residential Tenancy Act, “it will be important to ensure there is clear language and multilingual information provided to landlords about their responsibilities and tenants about their rights.”

As an appendix to these comments, we are pleased to provide comments on housing from focus group consultations we conducted in 2021. If you have any questions about this submission or would like more information about the input of the PEI Advisory Council on the Status of Women, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Cathy Rose'.

Cathy Rose, Chairperson

cc: Hon. Natalie Jameson, Minister Responsible for the Status of Women  
Michelle Harris-Genge, Director, Interministerial Women’s Secretariat  
Members and staff of the PEI Advisory Council on the Status of Women

# PEI ADVISORY COUNCIL ON THE STATUS OF WOMEN FOCUS GROUP REFLECTIONS ON HOUSING

For Public Consultations on the Residential Tenancy Act  
January 2022

Between June and November 2021, the PEI Advisory Council on the Status of Women held four focus groups and a roundtable of Council members to inform the Equality Report Card, set to be released in March 2022. Housing was a prominent point of discussion in all but one of the consultations. This summary includes comments from all five consultations.

The discussion with the strongest focus on housing was among international students and recent graduates, who noted the Residential Tenancy Act as a crucial piece of the housing puzzle. Participants at that July consultation were concerned that updates to the Residential Tenancy Act had been pushed into the fall or winter. One participant said, “I just feel like right now where government is at with housing is not great or even the amount of work they are willing to put in is not too good.”

Participants in the consultation with international students and recent graduates were quick to define the housing situation as a “crisis.” One participant said, “we hear international students find it very difficult to find housing, especially when not on the Island to look at housing and having to look for housing through online ads. They are exposed to rental scams when they have to look online...”

They continued, “Students are coming in who want to study in Canada, but there isn’t a place for them to go. There are not that many rooms at UPEI, so they are in precarious positions.” Precarity was a theme in several focus groups.

An international student/recent graduate commented, “It’s just hard to see sometimes: people living 5 people in one room, so many people sharing one tiny room. It’s not how you want to have your experience as a student. People should have their own rooms and be able to afford that.”

## About the Focus Groups

Consultations for the Equality Report Card took place in person between June and November 2021.

Focus groups were arranged by invitation but open to all genders. They included 38 people in total. Most but not all participants identified as women. More demographic information will be available when the Equality Report Card is released.

The Advisory Council on the Status of Women roundtable took place in Bedeque in September. The four other focus groups included

- past Chairpersons of the Advisory Council (Charlottetown, June);
- international students and recent graduates (Charlottetown, July);
- rural women entrepreneurs (Montague, October); and
- Francophone women of varied backgrounds (Summerside, November).

All quotations included in this summary are anonymized. Some quotations are translated from French.

Agreed another, “We are going through our own struggles. Finding a home, \$1,700 for a one-bedroom with no utilities included, and it’s ridiculous. Everything is located within Charlottetown the way the Island is structured, so we can’t look elsewhere for housing.”

The housing crisis is on the minds of many who are not experiencing its effects. A Council member said, “I am very concerned about lack of housing. There are people living in porches, and people having to move an hour or hour-and-a-half outside where they work, living in sub-standard housing, and the number of people who can’t find places to live now.”

Participants in a number of focus groups expressed a desire for government to protect the rights of tenants, to ensure that tenants (especially new arrivals to PEI and Canada) know their rights, and to provide supports to navigate housing challenges or conflicts. The Residential Tenancy Act is relevant to all of these actions.

A focus group participant said, “There are landlords who think they can do anything. Rent increase by \$30 [a month]?! You are not allowed to do that! That’s not the 1% allowable increase. They see there is room to take advantage – they know international students will hesitate to go get help, and they might silently accept that.” Another comment noted, “We were asked for 2 months rent up front, and we were going to be taken advantage of because of being a vulnerable group if I hadn’t said it was illegal.”

One student/graduate participant talked about getting calls from incoming students, asking for help with housing: “I get calls, and I don’t know how to help them with housing, I’m struggling with housing myself.”

A key conclusion of the focus group of international students and recent graduates was this: “It would be good if government realized housing and youth retention are very closely related.”

Several of the other focus groups linked housing and tenancy issues with ensuring Prince Edward Island is a welcoming place for newcomers of all kinds. As one participant said, “One of the things I worry about is housing. People are looking at PEI as a little haven now. That can make it harder and harder for people who need affordable housing.” A participant who works in the not-for-profit sector said, “There are a lot of mothers here who are experiencing housing evictions because there are many more people arriving,” driving increased demand and prices for housing.

Far from expressing xenophobia, this participant wanted current residents to have secure housing *and also* for new arrivals to be welcome and to stay, “I think a lot about the number of newcomers,” they said. “What will make them stay here? Because as soon as they have permanent residency, they leave because there are other provinces that offer much better, much cheaper lives.” She expressed concern about “all the basic questions: housing, food...” and concluded, “I hope that there will be more and more services for women in poverty.”

The effects of poverty and the lack of affordable housing raised concerns for several participants about the mental-health effects of precarity and uncertainty and, especially, the

danger to those experiencing gender-based violence in their homes. As one participant said, “I don’t know how people who are living in home situations of violence and walking on eggshells are doing, but I am pretty sure the shoe has yet to drop on that situation and its effects.” Escaping a home where there is violence is complicated by lockdowns and self-isolation as a result of COVID-19 in the shorter term and by lack of affordable housing in the longer term.

As noted, the idea of precariousness came up in several focus groups. In one, a participant said, “Precarious is the word: we don’t understand *everything is a domino*.” By that, she meant that if a person’s housing situation tips over, it often knocks flat their ability to meet basic food needs, their employability, their caregiving capacity, their personal safety, and their health. And, from a systems perspective, a housing crisis has cascading effects for social services, the workforce, caregiving, violence, and health systems.

Participants in several focus groups were concerned about definitions of “affordability.” These definitions are perhaps less pertinent to the Residential Tenancy Act but very relevant to the context of PEI’s housing crisis. Participants at more than one focus group table expressed concern that definitions of “affordability” for housing are shifting to look at rents as a proportion of the *market rate* instead of as a proportion of *tenant income*. “My issue with affordable housing here in PEI, is that rents in these ‘affordable’ housing units being built are not affordable. Rents are in the \$1,250 range and more.” This participant said, “rent should be based on a person’s income.” Numerous focus group participants spoke to the need for a basic income guarantee to set a minimum income floor.

At one of the discussion tables, there was a conversation about a situation in which people were unhoused from their temporary housing to make way for summer tourists. One participant commented, “There is money to be made for rich people in [maintaining] poverty, running slums. I’ve been looking at the corporate side of interests in poverty and housing, looking through a feminist lens to how you address those poverty cycles.” Asked to say more, the speaker said, “We look to slums from the outside as horrible situations, and we forget to look at the inside, and who is making money from those situations.”

The private-sector role in poverty elimination came up in numerous discussions. At one table, a participant said, “Usually poverty elimination is just talked about as increased minimum wage, but if you look at it in a holistic approach, you need to look at costs. Housing is a really, really big one. If you are maintaining a household.” At another table, a business owner participant stated that her employees make a living wage, and everyone has health benefits. “As owners and entrepreneurs we have to make decisions that are good for our community, for the wellbeing of the community. We can never over-rely on government. Our business will grow if we are conscious, aware, compassionate and fair.” She advocated for other employers to pay livable wages.

There were also landlord participants in focus groups. “I am a landlord,” one participant said. “Just a little one, but you don’t want to tell people you’re a landlord anymore.” This participant

was concerned about conflict and tension made worse in the context of the housing crisis. Their preferred solution was investment in public housing. However, the participant's comments point to the need for strong conflict resolution guidelines and clear delineation of roles and responsibilities in the Residential Tenancy Act as another part of the solution, important for both tenants *and* landlords – as long as the Act accounts for the imbalance of power between tenants and landlords.

Imbalance of power in *consultations* was on the mind of another participant, who asked, “Do the poorest women even have a chance to speak?” They continued, “They work one, two, three jobs... Can they go to a focus group, can they go to meetings, can they even participate in activities that interest them? They are burned out, they are tired, and they have to pay their rent again! This is very discouraging for me.”

This participant said, “To bring people to the table seems simple, but it's not necessarily simple.” It will be very important for government to consider whose voices are heard and whose are not – and what barriers underrepresented groups face – in the present consultation on the Residential Tenancy Act. This is especially important to consider given the short notice for the current consultation, at the end of the holiday season and during a COVID-19 surge and widespread public health restrictions.

A participant at another table was not hopeful. “From the conversations that I have had,” they said, “it just seems like the government wants to do the bare minimum that they possibly can get away with to say they did something – the least they possibly can do. I have been in situations around government officials who were making a joke of the housing crisis.”

In conclusion, focus group discussions of housing were rich and varied and unfolded in the context of discussion of poverty and wealth, youth and newcomer retention, affordability, and gender-based violence and mental health in the face of precarious situations.

The participant comment that seems most appropriate to end on is this: “Just like you can't just expect community to step in to deal with poverty, you can't just expect the private sector to do something about housing. Government has to pull its weight.”

