

**Speaking Notes
Toronto City Council
June 12, 2013**

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

This investigation centres on TCHC's practices with respect to the eviction of seniors for rent arrears. It looked at whether the evictions are done in a consistent way and are in keeping with the recommendations of Justice Patrick LeSage's and two previous investigations that my office conducted.

I want to stress this report is not about some old eccentrics who won't pay their rent. It's actually about seniors who have contributed to the life of this city. It is about any one of us who are a crisis away from being in their position: living on a fixed income in public housing, dealing with the challenges of aging in poverty. It is about seniors who are vulnerable, some with limited literacy, others without the facility of the English language.

It is about seniors with dementia that isolates them and diminishes their capacity as they age. It is about seniors who must contend with mental health problems and physical disabilities, and often are without family or supports.

Over 25,000 or 93% of TCHC seniors receive subsidies. Most of their incomes are static and unchanging. 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.

Seniors tend to get into trouble with their rent in a couple of obvious ways.

1. When they turn 65, their provincial social assistance ends, and their federal pension is supposed to kick in.

It can take many months from the time the federal government reviews a senior's application to the day they actually get their first monthly payment. In the case of Mr. K, it took a year to get his federal pension. Six months into the wait, he got a confirming letter from the Feds, which he gave to TCHC within 3 days of receipt. Nonetheless, Mr. K was charged retroactive arrears, something he couldn't afford but he kept paying what he could on top of his monthly rent. Then his subsidy was taken away and he was charged full market rent because he was late in his reporting to TCHC. When he appealed, the same staffer who made the original decision denied his appeal, contrary to TCHC policy, City policy and against the most basic tenants of natural justice.

2. The second area where seniors get into trouble occurs when they fail to file their annual income review with TCHC on time or they do it incorrectly.

This is an onerous paper driven task that requires, among other things, income verification from agencies such the Canada Revenue Agency. City policy allows these seniors to get a

break from this difficult and tedious annual burden and file the review every two years instead.

In spite of this, TCHC continues to require the review to be done every year. Mr. C, an 88-year-old senior lost his subsidy when his annual review wasn't returned to TCHC. Let me repeat that fact, he was an 88-year-old senior. Staff made one phone call to his emergency contact number. It was disconnected. They made two calls to Mr. C's cell number. It had been cancelled and the number given to someone else.

And then three months later, they entered his apartment and found no one there. But staff continued to withdraw pre-authorized rent for six months until the account was empty. Staff then went back to Mr. C's apartment to "re-discover" it had been abandoned. TCHC moved to evict.

TCHC policies are good.

They have made improvements each time recommendations have been made:

- Three years ago in May 2010 with Justice LeSage's review when he made 81 recommendations.
- In 2010 and in 2012 on two previous investigations my office conducted.

The promises though don't get translated into practice. Staff either do not follow policy or follow them erratically. There is a disconnect between documented policy and actual practice. Such failure remains significant, particularly worrying given the vulnerability of the population.

Early intervention with vulnerable seniors is a requirement of TCHC. Yet it's not happening. We found examples of staff meeting with seniors only on the day they were evicted.

In Mr. D's case, on the day of his eviction, staff told him about the nearest shelter and offered him a bus ticket. They did this despite the fact that his file identified him as a vulnerable senior with a serious mental health diagnosis and substance abuse problem.

Evictions are supposed to be a last resort. But instead they often seem to be a first response. TCHC routinely delivers voluminous bureaucratic correspondence to its tenants, often poorly written and inaccessible, sometimes with errors.

Without a legal clinic's assistance, seniors can get into real trouble. Mr. L lost his subsidy and didn't understand that if he submitted one missing document he would be OK. It wasn't his fault. The letter from TCHC was unclear. Mr. L kept his apartment only because his lawyer became involved and pointed out TCHC had given him a shorter time for appeal than is required by law.

In Ms. N's case, she received two letters on the same day: one told her she had two days to meet with the manager or her locks would be changed. But the second letter said she could eventually be evicted if she didn't pay the arrears she owed.

In his report, Justice LeSage called for more personal face-to-face contact. This is so important for seniors who are vulnerable, frail and often isolated from society. It is not only important, but it is also required by TCHC policy.

I understand it can be very difficult to reach seniors who are not home or don't answer the door. In those cases, perhaps the letter is the only option, but only as a last resort. TCHC staff need to make more effort to be in direct, personal contact with its at risk seniors.

When arrears do occur, collection is done inconsistently, sometimes harshly and without thought to impact. One senior had to pay \$100 a month. Another had to pay over \$700 a month on top of her rent.

Mr. I thought he had the money in his account. Staff said they were more flexible about repayment plans when they saw tenants making "every effort" to resolve their arrears. They didn't think Mr. I was one of those tenants so they asked him to pay off his arrears in 9 months. He didn't keep up with the repayment plan so was taken to the Landlord and Tenant Board for arrears of \$2,000 where an order to evict was issued. TCHC then agreed to a five-month repayment plan if he paid 65% of his income to rent and his arrears. 65% of his income. How is that possible? Fortunately for Mr. I, the legal clinic became involved and an agreement was reached.

Poor practices were well documented in Justice LeSage's review and there is little doubt that TCHC has made improvements. Yet three years later, we appear to be at the same cross roads with many of the same poor practices. Early intervention and addressing arrears while they are small amounts, is in the best financial interest of the corporation.

I also want to note that TCHC has been through a maelstrom over the last three years and that is the context in which this investigation took place.

- Mr. Gosling died, Justice LeSage's inquiry followed.
- A very significant fire took place at 200 Wellesley Street East. Then a class action lawsuit was filed.
- The CEO of TCHC was fired. Two more followed.
- The Board of Directors resigned. A managing director took charge of the corporation until a new Board was struck.

TCHC has been under great scrutiny. Mr. Jones says the organization is undergoing a significant realignment. None of this however can excuse what my investigation found.

The CEO has already agreed to all of my recommendations but I hope that Council will adopt my report and put its will squarely behind the recommendations. Seniors must be treated with dignity and respect. In particular, those of our elders who are impoverished and living with diminished capacity in public housing. It is not just a public policy that we all support. It is the right thing to do.