

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant/Cross Respondent)

and

THE ATTORNEY GENERAL FOR ONTARIO

Appellant (Intervener)

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE,
JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS,
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HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND
PERSONS UNKNOWN

Respondents
(Respondents/Cross-Applicants)

**MOTION RECORD OF THE PROPOSED INTERVENER THE
ADVOCACY CENTRE FOR TENANTS ONTARIO**

**ADVOCACY CENTRE FOR
TENANTS ONTARIO**

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The Mental Health Legal Committee**

Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

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Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

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**NOTICE OF MOTION FOR LEAVE TO INTERVENE OF THE
ADVOCACY CENTRE FOR TENANTS ONTARIO**

October 20, 2026

**ADVOCACY CENTRE FOR
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NOTICE OF MOTION
(Motion for Leave to Intervene)

THE MOVING PARTY, THE ADVOCACY CENTRE FOR TENANTS ONTARIO

(“ACTO”), will make a motion to a judge on October 21, 2026, at 10:00 am, or as soon after that time as the motion can be heard, at Osgoode Hall, 130 Queen Street West, Toronto Ontario, M5H 2N5.

PROPOSED METHOD OF HEARING:

1. The motion is to be heard in one of the following manners, subject to the direction of this

Honourable Court and the response of the other parties.

- In person
- By video conference; or
- In writing under subrule 37.12.1(1)

THE MOTION IS FOR:

2. An Order:

- a. granting ACTO leave to intervene in this appeal;
- b. permitting ACTO to file a single factum not exceeding 10 pages;
- c. Permitting ACTO to present oral argument at the hearing of the appeal 15 minutes or as this Honourable Court deems appropriate;
- d. Such further and other relief as this Honourable Court deems appropriate.

THE GROUNDS FOR THE MOTION ARE:

3. Rules 13.01 (1) and (2), 13.02 and 13.03(2) of the *Rules of Civil Procedure*.

4. The proposed intervener is a recognized provincial legal organization with specialized expertise and experience relevant to this appeal. ACTO is a specialty legal clinic founded in 2001. It is non-partisan, non-governmental and funded by Legal Aid Ontario. ACTO is the only legal clinic in Canada wholly devoted to systemic advocacy on housing issues

5. The proposed intervener has a real, substantial and identifiable interest in the issues raised in this appeal. Whereas housing market conditions are a driver of homelessness in the province,

ACTO considers homelessness to be a housing issue. ACTO's expertise in provincial residential tenancies legislation and systemic policy factors provides essential context enrich the Court's assessment of the constitutionality of the proposed Bylaw at issue in this appeal. ACTO is poised to help the Court understand the ramifications of the decision for low-income tenants, persons who are precariously housed, and the homeless population across Ontario. Through all aspects of its legal and advocacy work, ACTO has developed a high degree of competency in the laws governing residential tenancies and other forms of housing and shelter across the province.

6. ACTO's expertise and argument will render assistance to this Court's determination of issues under appeal, specifically whether the Application Judge erred in his section 1 Charter analysis.

7. ACTO has been in contact with the Respondent and the other proposed interveners to avoid duplication of submissions. If granted leave to intervene by this Court, ACTO will maintain communication with the parties and other interveners to ensure a contribution that is useful, distinct and economical.

8. Granting the proposed intervenor's motion will not cause prejudice to the parties to this appeal. ACTO will avoid unnecessary duplication of arguments made by the other parties and will not seek to expand the record. ACTO seeks no costs and requests that none be awarded against it. ACTO will abide by the terms of the current timetable if granted leave to intervene and will not delay the hearing of the appeal.

9. ACTO's proposed intervention satisfies the requirements of Rules 13.01(1) and (2) or in the alternative, Rule 13.02 of the Rules of Civil Procedure as well as the test in *Peel (Regional Municipality) v. Great Atlantic & Pacific Co. of Canada Ltd. (C.A.)*, [1990 CanLII 6886 \(ON CA\)](#).

10. Such other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the

Motion:

- i. The Affidavit of Douglas Kwan, affirmed October 20, 2026;
- ii. The existing record of the parties, as referenced in the Factum of the Proposed Intervener; and
- iii. Such further material as counsel may advise and this Honourable Court may permit.

October 20, 2026

**ADVOCACY CENTRE FOR
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**Lawyer for the Proposed Intervener,
Advocacy Centre for Tenants Ontario**

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant (Appellant)

- and -

JOSEPHINA DUGAS et al

Respondents (Respondents in Appeal)

Court File No.: COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO
Proceedings commenced at Toronto

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**Lawyer for the Proposed Intervener,
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TAB 2

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**AFFIDAVIT OF DOUGLAS KWAN
IN SUPPORT OF THE MOTION FOR LEAVE TO INTERVENE OF THE
ADVOCACY CENTRE FOR TENANTS ONTARIO**

October 20, 2026

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**Amicus Curiae for Persons Unknown,
The Mental Health Legal Committee**

I, Douglas Kwan, of the City of Toronto, in the Province of Ontario, do hereby **AFFIRM**:

1. I am the Director of Advocacy and Legal Services with the Advocacy Centre for Tenants Ontario ("ACTO"). I was called to the Ontario bar in 2002 and I have held my current position since January 2021. Previously, I was Co-Executive Director of Mississauga Community Legal Services for four years and Associate Executive Director for three years prior to that. I have practiced law as a legal clinic lawyer since 2004.

2. I have personal knowledge of the matters to which I depose in this affidavit. Where I lack such personal knowledge, I indicate the source of my information and I verily believe this information to be true. When referring to ACTO's activities in which I have not personally participated, I have familiarized myself with the relevant facts and have based my account on those facts.

3. ACTO is requesting to intervene in this appeal. ACTO seeks to make submissions regarding the Court's constitutional analytical framework, specifically the proportionality analysis under section 1 and the effects of the decision on Ontario's low-income tenants and homeless individuals.

A. Advocacy Centre for Tenants Ontario: Mandate and Organization

4. ACTO is a provincially incorporated specialty legal clinic that is funded by Legal Aid Ontario to advance the rights, interests and systemic concerns of low-income tenants, cooperative members and precariously housed and homeless Ontarians.

5. As one of seventeen specialty legal clinics in Ontario, ACTO sits within the larger community legal clinic system of the province totaling over seventy legal clinics and student legal aid services societies. Ontario's legal clinic system is unique. It operates separately from the private-bar funding of legal services through individual certificates that address the criminal law, immigration, and family law needs of low-income Ontarians. The legal clinic system is structured as a network of non-profit community-based legal clinics with individual community governance. It has an administrative law focus in areas of importance to low-income and disadvantaged communities, including housing, workers' rights, income security, and human rights.

6. ACTO is a non-partisan, non-governmental housing advocacy organization. It is the only legal clinic in Canada wholly devoted to systemic advocacy on housing issues. It carries out its mandate through law reform, test case litigation, policy advocacy, training, community development and public legal education. Our legal work includes representing individuals and community groups in a variety of legal forums such as boards, tribunals, inquests, and courts of appeal.

7. ACTO was founded in 2001. ACTO is governed by a community Board of Directors elected by its General Voting Membership as provided for in its by-laws. ACTO's by-laws provide for a Board composition of fourteen persons. Twelve of these members represent the four regions of Ontario (North, East, Southwest and the Greater Toronto Area) as recognized by Legal Aid Ontario. These members are nominated by representatives of community legal clinics in the four regions. One of the three members nominated by each region is to be a staff person from a clinic in that region and the other two are to be representative of the low-income

communities served by clinics in that region. Two of the General Voting Members are to be nominated by the Board, representative of the province as a whole. All nominations are approved by the Board and approved nominees can be elected to the Board by a majority vote of the General Voting Members at the Annual General Meeting.

8. ACTO's staff include a Director of Advocacy and Legal Services, a Director of Administration, 2.5 staff lawyers, a Communications and Public Issues Specialist, a Program Assistant, Community Engagement Coordinator, and a Senior Housing Policy Analyst.

9. ACTO also staffs and coordinates the Tenant Duty Counsel Program for the Greater Toronto Area - a program modelled on criminal and family duty counsel programs that provides summary legal advice for self-represented tenants on the day of their Landlord and Tenant Board hearing. These services are now provided remotely through the digital platform of the Landlord and Tenant Board where almost all areas of the province are provided with service. From 2002 to 2026, Tenant Duty Counsel served an average of 16,261 tenants each year.

10. In collaboration with eight other Ontario legal clinics, ACTO, with funds from the Law Foundation of Ontario and Canada's Department of Justice, is providing holistic legal services that support Ontario tenants with lived experience of Gender Based Violence. The program, known as Your Way Forward, creates wrap-around legal and social work services to improve access to justice and increase housing stability for survivors.

11. With the Canadian Environmental Law Association, ACTO manages and coordinates the provincial Low-Income Energy Network (LIEN). LIEN's advocacy has been significant,

as it has become clear that energy costs represent an increasing proportion of a person's housing budget.

B. Advocacy Centre for Tenants Ontario's Work and Expertise

12. ACTO has unrivaled expertise in municipal, provincial and national housing matters.

Its work is informed by the experiences of low-income tenants and co-op members from all over Ontario. In addition to input from those on its Board of Directors who have lived experience with these issues, ACTO works with the local community legal clinics across Ontario who in turn work directly with Ontario's poorest and most vulnerable residents on a daily basis. In this way, ACTO's work is directly informed by the experiences of people living in inadequate, unsafe, overcrowded and unaffordable housing all across Ontario, as well as those who have lost their housing.

13. ACTO also works closely with other groups and agencies that advance the rights of low-income tenants around the province. A summary of some recent ACTO policy and consultation work includes:

- a) Providing our legal and policy expertise to municipalities such as Hamilton, Kitchen, Chatham-Ken, Sarnia, Ottawa, Toronto, London, and Mississauga as they consider adopting renoviction bylaws aimed at preserving their affordable housing stock;
- b) Commenting on key provincial housing legislation such as Bill 6 (encampment evictions), Bill 184 (mobile home park tenancies), and Bill 60 (eroding tenants' procedural rights under the *Residential Tenancies Act*).

- c) Coordinating with tenant associations, advocacy groups, the private bar and community legal clinics to develop a collective litigation strategy against a landlord who owns properties in Guelph, Waterloo, Lindsay, Toronto, Hamilton, London and Cambridge, described as “the worst renovictor in Ontario;”
- d) Drawing awareness among federally elected officials, media, and the private bar to the use of a rental algorithm utilized by financialized landlords to collectively extract and maximize profits, driving up rents across the province;
- e) Offering advice to the City of Toronto’s Mayor’s office to support stronger enforcement against landlords who willfully ignore property standards orders.
- f) Advocating to decision-makers within the housing sector for substantive changes to the Landlord and Tenant Board to remove inequities created by the “Digital First” policy and to address other access to justice challenges at the Board since 2020; and
- g) Providing input to the Federal Government on issues that relate to the Office of the Housing Advocate and the National Housing Strategy.

14. As a specialty legal clinic, ACTO trains legal clinic staff from around the province. ACTO staff often speak at community events and academic conferences around the province and the country. We publish "fact sheets" and reports for the public that explain housing law, significant legislation, the housing crisis and important policy issues at stake.

15. ACTO has published multiple influential reports on housing issues in the province. *Where Will We Live*, published in May 2018, was widely reported on in the mainstream media. Some of our recommendations from *We Can't Wait* published in November 2019 were adopted by the provincial government in *Protecting Tenants and Strengthening*

Community Housing Act, 2020. Digital Evictions was ACTO's 2021 report on the Landlord and Tenant Board's digital "pivot" and the consequences that flowed to low-income and marginalized communities. In 2022, ACTO published a report titled *Housing Hardship: How Ontario's Renters Struggle to Keep a Roof Overhead*. This was launched with the "Fair Rent Ontario" cross-sectoral coalition that seeks to advocate for full rent control for all renters.

16. ACTO staff participate in wider professional development activities including teaching and CPD programs, and staff have taught in the George Brown College Community Worker Program, as Adjunct Faculty at Osgoode Hall Law School, York University, and at Osgoode Hall Law School's Residential Landlord-Tenant Disputes conference. ACTO staff have appeared on local Toronto television "Know Your Rights" segments to promote greater awareness of residential tenancies law and access to justice.

17. Informing ACTO's work is the evidence of a direct relationship between growing poverty and increasing inadequacy, insecurity, and unaffordability of Ontario's rental housing. The median household income of Ontario renters is a little over half that of homeowners;¹ 26.4% of Ontario tenant households (vs. 7.9% of owners) are in "core housing need", defined as living in a residence that isn't adequate, suitable or affordable;² and 38.4% of Ontario renters spend 30% or more of their household income on shelter costs, making them vulnerable to homelessness.³

¹ CMHC, "[Real median Before-tax household income by tenure, 2006-2024](#)", June 30, 2026.

² Statistics Canada, "[To buy or to rent: The housing market continues to be reshaped by several factors as Canadians search an affordable place to call home, Table 4, Percent of households spending 30% or more of income on shelter cost by tenure, 2016 and 2021.](#)" released December 21, 2022

³ *Ibid.*

18. The paucity of adequate and affordable housing, along with income insecurity, means it is harder for people to secure a new place to live when they lose their housing. Security of tenure, then, becomes a key concern in an Ontario rental market that has seen a 75% increase in rent against an 8% increase in income over the last twenty years.⁴ Furthermore, the link between eviction and homelessness is well-documented: the experience of having been evicted is 28% among Canadians experiencing homelessness compared to 7% in the general population.⁵

19. The inequality of bargaining power between landlords and tenants, or those seeking housing, is stark in a housing market with a very low vacancy rate.⁶ The operation of the *Residential Tenancies Act* is not just about rules and regulations that govern the landlord and tenant relationship. It also reflects public policy objectives in the larger context of housing adequacy and security, given how critically important housing is to the health and wellbeing of our society.

C. Test Case Litigation: Improving the Adequacy and Affordability of Housing for Low-Income Ontarians by Improving the Quality of Administrative Justice

20. Since legal clinics, including ACTO, lack funding to represent every low-income client who requires it, priorities are developed to ensure maximum impact. ACTO's mandate

⁴ CMHC Housing Market Information Portal, Ontario – Historical Average Rents by Bedroom Type; Ben Eisen and Joel Emes, “[Ontario’s Two Lost Economic Decades: 2002-2022](#)” Fraser Institute, May 2024.

⁵ Kathleen Worton, Shahar Rotburg, Elizabeth Feltaous, Mary-Kay Bachour, Michelle Verbeek, “[Evictions in Canada: Links Between Eviction and Homelessness](#),” CMHC, 2025.

⁶ [CMHC Housing Market Information Portal, Ontario](#) – Vacancy Rates by Bedroom Type by Metropolitan Areas, Census Agglomerations and Cities; CMHC, “[Rental Market Survey Data Tables](#)”, December 17 2024.

includes ensuring that litigation resources are expended to advance issues of importance to large numbers of Ontario's tenants.

21. ACTO has a mandate to undertake public interest and test case litigation. ACTO's cases are generally referred by local legal clinics that do not have the resources to undertake legal challenges and appeals from decisions of administrative tribunals. Self-represented litigants and private bar lawyers are also a source of referrals. Sometimes a private bar lawyer will represent a tenant *pro bono* or at a nominal fee; these cases may be referred to ACTO for representation when they become more complex and when the issues at stake will impact large numbers of Ontario tenants. Sometimes we work in coalition with other groups to advance the rights of tenants and promote better housing policies. Accordingly, ACTO is well placed to provide a unique lens to the matter before this Court.

22. Disputes between tenants and landlords in Ontario are resolved through an administrative tribunal called the Landlord and Tenant Board. Appeals of Landlord and Tenant Board decisions can only proceed on questions of law as set out in the *Residential Tenancies Act, 2006*, S.O. 2006. Judicial Review is available where questions of fact or mixed fact and law arise. In my experience, cases are undertaken when legal propositions advanced impact more generally on the rights of the larger tenant community.

Recent Cases Include:

- a. *Arguelles v. The Estate of Ann Miller*, [2026 ONCA 518](#): ACTO represented the tenant at Divisional Court ([2025 ONSC 112](#)) and on appeal to the Ontario Court of Appeal, arguing that the death of the landlord rendered the eviction application for landlord's own use invalid

because there was no living landlord at the time of the Landlord and Tenant Board hearing and that the Board lacked the jurisdiction to hear the matter due to the landlord's non-compliance with a mandatory statutory requirement. The Court granted the appeal, emphasizing the tenant-protective purpose of the *RTA*.

- b. ***Browne v Henley Crescent***, [2026 ONSC 455](#): ACTO represented a tenant facing eviction from her longstanding matrimonial home after her husband was removed by police for domestic violence. Her husband gave the landlord notice to absolve himself of obligations associated with the tenancy, which emboldened the landlord to obtain an eviction order, leaving the tenant with the choice of being evicted or paying more than double her rent to remain housed, due to vacancy decontrol. ACTO was successful in persuading the Court to restore the tenancy. The Court ruled that in some circumstances, a remaining spouse can stay in the home and continue to pay ongoing rent instead of having to commence a new tenancy with new, higher rent. This outcome is particularly significant for survivors of Gender Based Violence.
- c. ***Yatar v. TD Insurance Meloche Monnex***, [2024 SCC 8](#): Upholds the principle from *Vavilov* that a statutory right of appeal does not preclude an individual from seeking judicial review. ACTO was granted leave to intervene at both the Court of Appeal and Supreme Court of Canada, contributing a unique perspective on access to justice.
- d. ***Elkins v. Van Wissen***, [2023 ONCA 789](#): Representing the former tenant, ACTO was granted leave to appeal and achieved a positive impact for tenants across Ontario in seeking justice if they are the victims of bad faith, own-use evictions by their landlord.

- e. *British Columbia (Attorney General) v. Council of Canadians with Disabilities*, [2022 SCC 27](#): ACTO intervened as part of a coalition to address the scope of public interest standing and the circumstances in which organizations may pursue public interest litigation without an individual plaintiff.
- f. *White v. Upper Thames Conservation Authority*, [2022 ONCA 146](#): By past agreement, the landlord restricted the right of the tenants to unqualified use, enjoyment and occupation of their land leased homes. ACTO intervened to assist the Court in its understanding of the legislation, its operation and its remedial purpose.
- g. *Martin v. MacMillan*, [2022 ONSC 357](#): notwithstanding a stay of eviction pursuant to the tenant's appeal, the landlord engaged in "self-help" and illegally evicted the tenant. The Landlord and Tenant Board participated in the appeal to argue that the Court did not have the jurisdiction to restore the tenant to his home. ACTO intervened to argue that the Court did have the jurisdiction to restore a tenancy when the landlord illegally rented the unit to an innocent party.
- h. *Minas v. Adler*, [2022 ONSC 6706](#): This was a Landlord's appeal to Divisional Court from an LTB order finding that the RTA applied and ordering that the tenants be given possession of the rental unit as a remedy for a wrongful eviction. ACTO intervened, with leave of the Divisional Court, to argue for the LTB's presumptive jurisdiction to restore wrongfully evicted tenants into possession.

- i. *Attorney General for Ontario v. Persons Unknown*, [2020 ONSC 4676](#): litigation commenced to set aside the order of the Chief Justice lifting the provincial moratorium order for residential evictions of March 19, 2020. The lifting of the moratorium would expose hundreds of tenants to the possibility of being evicted during a worldwide pandemic.
- j. *Canada (Minister of Citizenship and Immigration) v. Vavilov*, [2019 SCC 65](#) and *Bell Canada v. Canada (Attorney General)*, [2019 SCC 66](#): ACTO intervened at the Supreme Court of Canada. The Court accepted ACTO's argument that for statutory appeals, the standard of review was correctness.

D. Advocacy Centre for Tenants Ontario's Interest and Unique Perspective

23. ACTO has a significant interest in this appeal because of the impact that the decision will have on homeless people as well as low income and precariously housed tenant households in the province. ACTO's resources are strategically deployed to address systemic housing issues as they affect Ontario's low-income tenants, and those who are precariously housed or homeless. ACTO's constituency and clients stand to be deeply affected by the Court's approach to the Charter rights of individuals residing in encampments.

E. ACTO's Proposed Submissions

24. ACTO seeks leave to intervene to provide the submissions as set out in the Draft Factum included as Appendix A to this Affidavit. In brief, ACTO's proposed arguments are:

1. Since 2018, amendments to the *Residential Tenancies Act* have cumulatively eroded security of tenure and the availability of affordable housing options;
2. These changes have legally and practically constrained individuals' choice of housing.
3. In assessing the constitutionality of the proposed bylaw, understanding the legislative context enriches the Court's section 1 Charter analysis in the following ways:
 - a. In assessing whether the proposed bylaw is minimally impairing, ACTO's submissions demonstrate the extent to which residential tenancy law can prevent housing loss and eviction into homelessness; and
 - b. In assessing whether the benefits of the proposed bylaw outweigh its deleterious effects, ACTO's submissions provide a tool to measure the harm to people whose housing options are already so severely constrained.

25. ACTO recognizes that an intervener's role is to provide submissions that are useful and not duplicative of those of the other parties. If granted leave to intervene, ACTO will work to ensure that its submissions are useful and distinct. The proposed interveners will also not seek to expand the existing record.

26. I affirm this affidavit in support of ACTO's motion for leave to intervene and for no other or improper purpose.

AFFIRMED BEFORE ME)
 at the City of Toronto in the Province of Ontario)
 this 20th of October, 2026)



Rosalea Thompson



Douglas Kwan

LSO#77844G

Affirmation administered remotely
 in accordance with O. Reg. 431/20
 in Toronto, Ontario

APPENDIX "A"

APPENDIX "A"

Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant/Cross Respondent)

and

THE ATTORNEY GENERAL FOR ONTARIO

Appellant (Intervener)

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE,
 JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS,
 JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH
 SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE
 MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER
 HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND
 PERSONS UNKNOWN

Respondents
 (Respondents/Cross-Applicants)

**APPENDIX A TO THE AFFIDAVIT OF DOUGLAS KWAN,
 AFFIRMED OCTOBER 20TH, 2026
 DRAFT FACTUM OF THE PROPOSED INTERVENER
 ADVOCACY CENTRE FOR TENANTS ONTARIO**

October 20th, 2026**ADVOCACY CENTRE FOR
TENANTS ONTARIO**

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The Mental Health Legal Committee**

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PART I – IDENTIFYING STATEMENT

1. The Advocacy Centre for Tenants Ontario (“ACTO”) intervenes in this appeal pursuant to Rules 13.01 and/or Rule 13.02 of the Ontario *Rules of Civil Procedure*.

PART II – OVERVIEW

2. This appeal engages the constitutional boundary between state action and human rights, specifically concerning how governments navigate the compounding pressures of homelessness and encampments on public lands. Sections 7 and 15 of the *Canadian Charter of Rights and Freedoms* (“the Charter”) are vital protections for vulnerable populations against unjustified state interference. ACTO’s submissions provide essential context to give effect to those protections.

3. Homelessness is a housing issue. It occurs when people cannot access or maintain housing that is safe, adequate, and affordable. Although individual choice may contribute to a person’s vulnerability to homelessness, those choices are inescapably shaped and constrained by the availability of housing.

4. The record underscores the causal link between eviction from rental housing and homelessness. The Region’s Point in Time Count Infographics include “landlord and tenant conflict” as a leading cause of homelessness. Multiple named respondents recount having experienced eviction from rental housing in their affidavits sworn for this case. The relationship is also evidenced in the Region’s *Plan to End Chronic Homelessness* where eviction prevention is cited as a key strategic measure and strengthening tenant rights is identified as a “call to action.” As articulated in the Association of Municipalities of Ontario’s 2025 report, “[w]hen chronic homelessness grows as a share of total homelessness, it reveals two fundamental systemic issues: too many people are entering homelessness, and too few people are exiting homelessness because of the lack of affordable, appropriate options” [emphasis added].

Exhibit Book of the Appellant, (“EXHBA”) Vol. 1, Tab 1D, “2021 PIT Count Infographic,” Exhibit D to Affidavit of Peter Sweeney, June 6, 2025, p 178;

***Ibid*, Tab 1E, “2024 PIT Count Infographic,” Exhibit E to Affidavit of Peter Sweeney, June 6, 2025, p180;**

***Ibid*, Tab 1A, “Final PECH Report, 2024,” Exhibit A to Affidavit of Peter Sweeney, June 6, 2025, pp 106, 115;**

EXHBA Vol. 2, Tab 24, “Affidavit of Julie Young, sworn May 7, 2025,” p879, para 12 and 13;

***Ibid*, Tab 28, “Affidavit of Noah Helsby, sworn May 15, 2025, p 901, para 9;**

EXHBA, Vol. 8, Tab 58, “Affidavit of Jordan Camm, sworn October 15, 2025,” p 3462, para 13;

EXHBA Vol. 3, Tab 35C, “Lived Expertise Prototyping Report,” Appendix C to Affidavit of David Alton, sworn June 23, 2025, p 1089;

EXHBA, Vol. 1, Tab 1F, “AMO, Municipalities under Pressure,” *supra*, June 6, 2025, p 194.

5. In the following pages, the proposed intervener will describe the statutory scheme governing eviction from rental housing, including legislative and policy changes that have progressively and cumulatively eroded security of tenure and narrowed options for low-income people to secure and retain housing. ACTO asks this Honourable Court to take judicial notice of these legislative facts. By providing a framework to contextualize the change in condition from being housed to homelessness, ACTO augments the Court’s constitutional lens through which it will evaluate the harms of the impugned By-law (“the By-law”).

***Danson v Ontario (Attorney General)*, [\[1990\] 2 SCR 1086](#)**

***R v Spence*, [2005 SCC 71](#) at paras [59-61](#)**

PART III – SUMMARY OF FACTS

6. ACTO accepts the facts as set out by the Respondents at paragraphs 10-53 of their factum.

PART IV – ISSUES AND LAW

7. This factum addresses the issue of whether the Application Judge erred in his analysis applying section 1 of the Charter to the case before him; specifically, whether the By-law was minimally impairing and whether the deleterious effects of the By-law outweigh its benefits.

i) Residential Tenancies Law in Ontario

8. In Ontario, decisions regarding evictions and tenants' rights are governed by the *Residential Tenancies Act, 2006* ("the RTA/The Act"). The purposes of the RTA include providing "protection for residential tenants from unlawful rent increases and unlawful evictions." This Court has recognized that the RTA is remedial legislation.

Residential Tenancies Act, 2006, [S.O. 2006, c. 17](#) ("RTA") at s [1](#);

Matthews v. Algoma Timberlakes Corporation, [2010 ONCA 468](#) at paras. [28-29](#)

White v. Upper Thames River Conservation Authority, [2022 ONCA 146](#) at para. [10](#);

Miller Estate v Arguelles, [2026 ONCA 518](#) at paras [23-25](#)

9. The RTA provides the Landlord and Tenant Board ("the LTB") with "exclusive jurisdiction to determine all applications under [the] Act and with respect to all matters in which jurisdiction is conferred on it by [the] Act." Parties may request internal review of LTB decisions and they may appeal LTB decisions to the Divisional Court, but only "on a question of law."

RTA ss [168\(2\)](#), [210\(1\)](#), [209\(2\)](#); [184](#);

Statutory Powers Procedure Act, R.S.O. 1990, c. S.22, s. [21.2](#);

Landlord and Tenant Board Rules of Procedure, r. [26](#).

10. In furtherance of its tenant-protection objective, the RTA strictly limits the circumstances in

which landlords can terminate a tenancy. Upon receiving a landlord's application to evict a tenant, the LTB schedules a hearing. Evictions may only be carried out by the Sherrif and only in accordance with an eviction order from the LTB.

RTA ss [1](#), [37\(1\)](#), [39](#)

11. The RTA also governs rent increases, imposing a percentage cap on rent-controlled units, established by the Ministry of Municipal Affairs each year. A landlord may only increase the rent once in every 12-month period and only with 90 days' notice.

RTA ss [116](#), [119](#), [120](#)

ii) *Widening Gaps in Rent Control*

12. In 2018, the provincial government enacted the *Restoring Trust, Transparency and Accountability Act*, adding section 6.1 to the RTA. The new provision removed rent control from units first inhabited for residential purposes after November 15, 2018. Prior to this amendment, renters in Ontario were protected from significant rent increases regardless of the age of the building in which they reside. For this new class of units, there is no percentage cap on the rent increase that a landlord can impose.

Restoring Trust, Transparency and Accountability Act, 2018, S.O. 2018, c. 17

RTA s [6.1](#)

13. The effects of the new exemption are apparent: as new rental housing stock replaces rent-controlled units, the proportion of tenancies protected by the guideline diminishes. Unconstrained by rent control, occupied and re-rented exempted units raise average rents across the rental market. Furthermore, landlords may circumvent the Act by effecting “economic evictions” (raising the rent above what tenants can afford to pay).

iii) ***Digital First***¹

14. The LTB and its parent organization, Tribunals Ontario, first entrenched the practice of holding hearings digitally by default, in 2021. This was a marked departure from almost 23 years of practice where applications could be filed in-person, hearing notices were mailed and most hearings were conducted in-person by regional adjudicators. The LTB has closed public-facing offices and applications from across the province are now heard together in the same virtual hearing blocks. The “Digital First” initiative makes in-person hearings available only where the requestor can prove they require an accommodation or that a remote hearing would be unfair.

Tribunals Ontario, “[2021-22 Annual Report](#),” Queen’s Printer for Ontario, 2022

Tribunals Ontario, “[Updated Practice Direction on Hearing Formats](#)”

15. The harms of removing in-person services are apparent and severe for low-income tenants. The LTB is a crucial access point for justice among low-income, vulnerable, often self-represented parties. Remote hearings make possession of a working digital device, technological expertise, and access to a private location and sufficient wireless bandwidth, pre-requisites for participation. They also affect parties’ ability to preserve their tenancies through mediation.

iv) ***Bill 184: Protecting Tenants and Strengthening Community Housing Act, 2020***

16. In July of 2020, amendments to the RTA coincided with the lifting of the moratorium on eviction that was in place during the COVID-19 pandemic. Among these amendments are changes that have reduced rent affordability and made it easier and faster to evict tenants.

17. Bill 184 changed the RTA provisions governing repayment agreements made outside of

¹ It is submitted that the policy choices that structure residential tenancies law, as well as legislation, are “legislative facts” of which this Honourable Court may take notice (*Re Anti-Inflation Act*, [1976 CanLII 16 \(SCC\)](#), [1976] 2 S.C.R. 373, *per* Laskin C.J., at p. 391; *Re Residential Tenancies Act*, 1979, [1981 CanLII 24 \(SCC\)](#); *Danson v Ontario*, [1990] 2 SCR 1086).

the LTB, now permitting the inclusion of a “section 78 clause.” This clause allows landlords to swiftly evict tenants who they allege have breached the agreement with an *ex parte* order.

Bill 184, Protecting Tenants and Strengthening Community Housing Act, 2020, S.O. 2020, c. 16, Schedule 4, s 15

18. Bill 184 also introduced rules requiring tenants to provide advance notice in writing to the landlord of any issues they intend to raise at the hearing of an application to evict them based on arrears of rent. Under the RTA, tenants are entitled to raise any issues they face in the residential complex, such as discrimination, maintenance concerns, or interference with their rights, at a hearing for arrears. After hearing all the issues globally, if any amount is determined to be owed to the landlord, that sum will be set off against the amount of any abatement or award justified in relation to the tenants’ issues. Limiting this right curtails an essential eviction prevention tool; where reasons for arrears are tied to the landlord violating tenants’ right, being able to raise these issues constitutes a vital defense to the eviction application.

Bill 184, Protecting Tenants and Strengthening Community Housing Act, supra, s 16;

RTA s 82

19. Affordability of rent was also affected by Bill 184, which added a provision that deems illegal rent increases to be legal where the tenant does not mount a challenge within 12 months.

Bill 184, Protecting Tenants and Strengthening Community Housing Act, supra, s 24

RTA s 135.1(1)

v) Bill 60: Fighting Delays, Building Faster Act, 2025

20. In July and September of 2026, several new amendments came into effect that drastically deepened the erosion of tenant protections under the RTA. Bill 60, introduced on October 23, 2025, initially proposed to end the Act’s only remaining rent control provision by forcing tenants

to renegotiate their rent at the end of every fixed term lease. This proposal was removed at the Bill's second reading, but many other harmful amendments remained and have taken effect.

21. Among the most troubling of the changes implemented by Bill 60 is a requirement that in eviction hearings for rent arrears, tenants must pay half of the arrears the landlord alleges in the application in order to raise their own issues. Whereas previously adjudicators retained discretion to hear tenants' issues despite technical noncompliance with evidentiary and notice requirements, Bill 60 has removed this discretion. As a result, tenants who could have previously prevented their eviction through a streamlined hearing of all the issues associated with their tenancy must now pay unproven arrears before they can raise their own issues to defend themselves against eviction.

Bill 60, *Fighting Delays, Building Faster Act, 2025*, S.O. 2025, c. 14, Schedule 12, ss 4 and 6

RTA, s 82(2)

22. Bill 60 has also amended the RTA to restrict the circumstances in which the Board can postpone eviction, adding a requirement that where the landlord does not consent to the postponement, the Board must either be satisfied that delaying eviction would not be unfair to the landlord or other tenants, or that there are "compelling grounds" (an enhanced threshold) to grant the delay. For low-income tenants particularly, a delay in eviction can mean the difference between securing a new place to live or being evicted into homelessness.

Bill 60, *Fighting Delays, Building Faster Act, 2025*, *supra*, s 7

RTA, s 83(1)(b)

23. Bill 60 has shortened the timeline within which tenants can pay their arrears and avoid an eviction hearing from 14 to seven days. For tenants who have experienced sudden financial hardship such as employment layoff, an accident, or having to take time off to care for a loved

one, seven days is a prohibitively short period in which to access a rent bank, apply for social assistance or any other income support to stave off the eviction.

Bill 60, *Fighting Delays, Building Faster Act*, 2025, Schedule 12, Part 4

RTA, s 59(1)

24. Bill 60 also reduces access to internal reconsideration of LTB orders. Previously, all parties to an application had 30 days from the date on which an LTB order is issued to request an internal review of that decision. The new limitation period is 15 days. This added barrier is especially difficult to overcome for tenants who require legal assistance to request review. Restrictions on the grounds on which the Board can grant a request to review are also an impediment to many reviews which would have been meritorious under the former rules.

Bill 60, *Fighting Delays, Building Faster Act*, 2025, Schedule 12, s 11

**Ontario Regulation 178/26, Residential Tenancies Act, 2006, S.O. 2006, c. 17
“Limits on Board’s Review Powers,” s 1**

RTA, s 209(3)

25. Cumulatively, the Bill 184 and Bill 60 amendments strike a brutal blow to security of tenure. The effects are most devastating for low-income tenants. While both pieces of legislation include amendments that may be considered “tenant friendly,” these are almost wholly aimed at increasing compensation for wronged parties and increasing penalties for violating the Act. *Post factum* imposition of compensation and fines does little to *prevent* eviction.

vi) The Backdrop: Vacancy Decontrol

26. The effects of recent legislative and policy choices can only be clearly viewed against the backdrop of vacancy decontrol, which allows landlords to raise rental prices without restriction when a tenant moves out and a new tenancy begins. Whereas non-exempted rental units are rent

controlled in Ontario, rent control attaches to the tenancy and not the unit itself. When the tenancy ends, the landlord can increase the rent as high as tenants are willing to pay.

27. First codified in the *Tenant Protection Act* in 1997 and purported to encourage investment in the rental housing sector, vacancy decontrol undermines affordability and incentivizes eviction because landlords can generate more revenue through regularly turning over units to new tenants than they stand to collect from sitting long-term tenants.

Tenant Protection Act, 1997, S.O. 1997, c. 24 (repealed 2006, c. 17, ss. 259, 262 (1))

28. The interaction between vacancy decontrol and legislative changes reducing procedural safeguards against eviction have made it harder for low-income tenants to stay housed. Because wait lists for subsidized housing are too long and access to emergency shelter too limited to meet demand, the lawful ability to shelter outdoors becomes vitally important.

Exhibit Book of the Appellant, Vol. 1, Tab 1F, “AMO, Municipalities under Pressure,” *supra*, pp 192, 194, 196, 218, 22

vii) *The Constitutional Analysis Framework: Section 1 Proportionality*

29. At the final stage of the section 1 analysis, the proportionality inquiry is inherently normative and contextual, requiring courts to examine the broad picture by “balanc[ing] the interests of society with those of individuals and groups.” As Abella J wrote in *Hutterian Brethren*, “...most of the heavy conceptual lifting and balancing ought to be done at the final step – proportionality. Proportionality is, after all, what s 1 is all about.”

***R v Oakes*, [1986] 1 SCR 103, 26 DLR (4th) 200 at p 139;**

***Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, at para 149**

30. The laws and policies that structure Ontario’s rental housing landscape are relevant because, bluntly, today’s evicted low-income tenants are tomorrow’s homeless. At the proportionality stage, constitutional analysis necessarily entails broad consideration of the

reasonably foreseeable impacts of the By-law, beyond its effect on the immediate residents of the encampment. To do otherwise would, in the words of the Supreme Court, “dramatically curtail the reach of the Charter and the ability of the courts to discharge their duty to scrutinize the constitutionality of legislation and maintain the integrity of the constitutional order.” Legislative changes in residential tenancy law enrich the factual context and are an essential part of evaluating deleterious effects which may translate into broader societal harms.

R v Nur, [2015 SCC 15](#) at [para 63](#);

RJR-MacDonald Inc. v. Canada (Attorney General), [1995 CanLII 64 \(SCC\)](#), [1995] [3 SCR 199](#), *supra* at [para 132](#).

PART IV – CONCLUSION

31. ACTO’s proposed contribution is to provide the Court with information about the legislation and policies that structure housing choices of low-income people, as well as providing a tool to understand the foreseeable effects of encampment eviction on low-income and precariously-house Ontarians, broadly. In evaluating whether removal of shelter of last resort is a justifiable limit on the Charter rights of those who seek relative safety in encampments, the Court’s analysis is enriched by consideration of the rental housing landscape. The absence of meaningful alternatives to be housed both magnifies the Bylaw’s deleterious effects and bears directly on the question of whether the objective could be achieved through less rights-infringing means.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 20th day of October, 2026.



Rosalea Thompson

Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant/Cross Respondent)

and

THE ATTORNEY GENERAL FOR ONTARIO

Appellant (Intervener)

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE,
JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS,
JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH
SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE
MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER
HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND
PERSONS UNKNOWN

Respondents
(Respondents/Cross-Applicants)

CERTIFICATE OF ESTIMATE OF TIME REQUIRED

I, Rasalea Thompson hereby certify the following:

1. that I am satisfied as to the authenticity of every authority listed in Schedule “A”;
2. the estimate of time that will be required for the Proposed Intervener’s oral arguments, not including reply, is fifteen (15);
3. that there are 2,824 words contained in Parts I to IV.

DATED AT Toronto, Ontario 20th day of October, 2026.



Rosalea Thompson

Schedule “A” – List of Authorities

CASELAW

1. *Danson v Ontario (Attorney General)*, [1990] 2 SCR 1086
2. *R v Spence*, 2005 SCC 71
3. *Matthews v. Algoma Timberlakes Corporation*, 2010 ONCA 468
4. *White v. Upper Thames River Conservation Authority*, [2022 ONCA 146](#)
5. *Miller Estate v Arguelles*, [2026 ONCA 518](#)
6. *Re Anti-Inflation Act*, [1976 CanLII 16 \(SCC\)](#), [1976] 2 S.C.R. 373
7. *Re Residential Tenancies Act*, 1979, [1981 CanLII 24 \(SCC\)](#)
8. *Danson v. Ontario (Attorney General)*, [1990 CanLII 93 \(SCC\)](#), [1990] 2 SCR 1086
9. *R v Oakes*, [\[1986\] 1 SCR 103](#), 26 DLR (4th) 200
10. *Alberta v. Hutterian Brethren of Wilson Colony*, [2009 SCC 37](#)
11. ***R v Nur*, [2015 SCC 15](#)**
12. *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995 CanLII 64 \(SCC\)](#), [1995] 3 SCR 199

SECONDARY SOURCES

13. Tribunals Ontario, “[2021-22 Annual Report](#),” Queen’s Printer for Ontario, 2022
14. Tribunals Ontario, “[Updated Practice Direction on Hearing Formats](#)”

Schedule “B” - Texts of Statutes, Regulations & By-Laws

1. Rules of Civil Procedure

Leave to Intervene as Friend of the Court

13.02 Any person may, with leave of a judge or at the invitation of the presiding judge or associate judge, and without becoming a party to the proceeding, intervene as a friend of the court for the purpose of rendering assistance to the court by way of argument. R.R.O. 1990, Reg. 194, r. 13.02; O. Reg. 186/10, s. 1; O. Reg. 711/20, s. 7; O. Reg. 383/21, s. 15.

Leave to Intervene in Divisional Court or Court of Appeal

13.03 (1) Leave to intervene in the Divisional Court as an added party or as a friend of the court may be granted by a panel of the court, the Chief Justice or Associate Chief Justice of the Superior Court of Justice or a judge designated by either of them. R.R.O. 1990, Reg. 194, r. 13.03 (1); O. Reg. 292/99, s. 4; O. Reg. 186/10, s. 2; O. Reg. 82/17, s. 16.

(2) Leave to intervene as an added party or as a friend of the court in the Court of Appeal may be granted by a panel of the court, the Chief Justice or Associate Chief Justice of Ontario or a judge designated by either of them. R.R.O. 1990, Reg. 194, r. 13.03 (2); O. Reg. 186/10, s. 2; O. Reg. 55/12, s. 1; O. Reg. 82/17, s. 16.

...

2. The Constitution Act, 1982, Schedule B to the Canada Act 1982 (UK), 1982, c 11

Rights and freedoms in Canada

1 The **Canadian Charter of Rights and Freedoms** guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

...

Legal Rights

Life, liberty and security of person

7 Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

...

Equality Rights

Equality before and under law and equal protection and benefit of law

15 (1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability

...

3. Residential Tenancies Act, 2006, S.O. 2006, c. 17

Purposes of Act

1 The purposes of this Act are to provide protection for residential tenants from unlawful rent increases and unlawful evictions, to establish a framework for the regulation of residential rents, to balance the rights and responsibilities of residential landlords and tenants and to provide for the adjudication of disputes and for other processes to informally resolve disputes. 2006, c. 17, s. 1.

Exception, Part V.1

(2) Subsection (1) does not apply to Part V.1. The purpose of Part V.1 is to provide protection to members of non-profit housing co-operatives from unlawful evictions under this Act and to allow non-profit housing co-operatives and their members access to the framework established under this Act for the adjudication of disputes related to the termination of occupancy in a member unit of a non-profit housing co-operative. 2013, c. 3, s. 20.

...

Exemptions from rules relating to rent

6.1 (1) In this section,

“addition” means, with respect to a mobile home park or land lease community, an expansion beyond the boundaries of the mobile home park or land lease community; (“rajout”)

“commencement date” means the day section 1 of Schedule 36 to the Restoring Trust, Transparency and Accountability Act, 2018 comes into force. (“date d’entrée en vigueur”) 2018, c. 17, Sched. 36, s. 1.

...

Termination only in accordance with Act

37 (1) A tenancy may be terminated only in accordance with this Act. 2006, c. 17, s. 37 (1).

Restriction on recovery of possession

39 A landlord shall not recover possession of a rental unit subject to a tenancy unless,

- (a) the tenant has vacated or abandoned the unit; or
- (b) an order of the Board evicting the tenant has authorized the possession. 2006, c. 17, s. 39.

...

Non-payment of rent

59 (1) If a tenant fails to pay rent lawfully owing under a tenancy agreement, the landlord may give the tenant notice of termination of the tenancy effective not earlier than the 7th day after the notice is given. 2025, c. 14, Sched. 12, s. 4.

...

Tenant issues

82 (1) At a hearing of an application by a landlord under [section 69](#) for an order terminating a [tenancy](#) and evicting a tenant based on a notice of termination under [section 59](#), the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this [Act](#) if the tenant complies with the requirements set out in subsection (2). 2025, c. 14, Sched. 12, s. 6 (1).

Requirements to be met by tenant

(2) The requirements referred to in subsection (1) are the following:

1. The tenant shall give advance notice to the landlord of the tenant's intent to raise the issue at the hearing.
2. The notice shall be given within the time set out in the Rules.
3. The notice shall be given in writing and shall comply with the Rules.
4. Unless the regulations provide otherwise, the tenant shall pay the following amounts to the landlord or, if the regulations so provide, into the Board:
 - i. Half of any rent arrears that were claimed in the application when it was filed.
 - ii. Such other amounts as may be prescribed.
5. The amounts specified in paragraph 4 shall be paid before the hearing and in accordance with any prescribed timelines. 2020, c. 16, Sched. 4, s. 16; 2025, c. 14, Sched. 12, s. 6 (2).

Orders

(3) If a tenant raises an issue under subsection (1), the Board may make any order in respect of the issue that it could have made had the tenant made an application under this [Act](#). 2020, c. 16, Sched. 4, s. 16.

Transition

(4) Subsection (1), as it read immediately before the day subsection 6 (1) of Schedule 12 to the [Fighting Delays, Building Faster Act](#), 2025 came into force, continues to apply to any application described in subsection (1) that was made before that day and has not been finally determined before that day, even if the hearing of the application is on or after that day. 2025, c. 14, Sched. 12, s. 6 (3).

Same

(5) Subsection (2), as it read the day before day subsection 6 (2) of Schedule 12 to the [Fighting Delays, Building Faster Act](#), 2025 came into force, continues to apply to any application described in subsection (1) that was made before that day and has not been finally determined before that day, even if the hearing of the application is on or after that day. 2025, c. 14, Sched. 12, s. 6 (4).

Power of Board, eviction

83 (1) Upon an application for an order evicting a tenant, the Board may, despite any other provision of this Act or the tenancy agreement,

- (a) refuse to grant the application unless satisfied, having regard to all the circumstances, that it would be unfair to refuse; or
- (b) subject to any prescribed limitations or conditions, order that the enforcement of the eviction order be postponed for a period of time. 2006, c. 17, s. 83 (1); 2025, c. 14, Sched. 12, s. 7.

...

Notice of rent increase required

116 (1) A landlord shall not increase the rent charged to a tenant for a rental unit without first giving the tenant at least 90 days written notice of the landlord's intention to do so. 2006, c. 17, s. 116 (1).

Same

(2) Subsection (1) applies even if the rent charged is increased in accordance with an order under [section 126](#). 2006, c. 17, s. 116 (2).

Contents of notice

(3) The notice shall be in a form approved by the Board and shall set out the landlord's intention to increase the rent and the amount of the new rent. 2006, c. 17, s. 116 (3).

Increase void without notice

(4) An increase in rent is void if the landlord has not given the notice required by this section, and the landlord must give a new notice before the landlord can take the increase. 2006, c. 17, s. 116 (4).

...

12-month rule

119 (1) A landlord who is lawfully entitled to increase the rent charged to a tenant for a rental unit may do so only if at least 12 months have elapsed,

- (a) since the day of the last rent increase for that tenant in that rental unit, if there has been a previous increase; or
- (b) since the day the rental unit was first rented to that tenant, if clause (a) does not apply. 2006, c. 17, s. 119 (1).

Exception

(2) An increase in rent under [section 123](#) shall be deemed not to be an increase in rent for the purposes of this section. 2006, c. 17, s. 119 (2).

Guideline increase

120 (1) No landlord may increase the rent charged to a tenant, or to an assignee under [section 95](#), during the term of their tenancy by more than the guideline, except in accordance with [section 126](#) or [127](#) or an agreement under [section 121](#) or [123](#). 2006, c. 17, s. 120 (1).

Guideline

(2) The Minister shall determine the guideline in effect for each calendar year as follows:

1. Subject to the limitation set out in paragraph 2, the guideline for a calendar year is the percentage change from year to year in the Consumer Price Index for Ontario for prices of goods and services as reported monthly by Statistics Canada, averaged over the 12-month period that ends at the end of May of the previous calendar year, rounded to the first decimal point.
2. The guideline for a calendar year shall be not more than 2.5 per cent. [2012, c. 6, s. 1](#).

Publication of guideline

(3) The Minister shall have the guideline for each calendar year published in The Ontario Gazette not later than August 31 of the preceding year. [2012, c. 6, s. 1.](#)

Guideline for 2021

(3.1) The guideline for the calendar year 2021 is zero per cent, despite subsection (2) and despite the guideline published under subsection (3) in The Ontario Gazette for 2021. [2020, c. 23, Sched. 7, s. 1.](#)

Same

(3.2) The Minister is not required to have the guideline for the calendar year 2021, as set out in subsection (3.1), published in The Ontario Gazette. [2020, c. 23, Sched. 7, s. 1.](#)

Transition

(4) The guideline for the calendar year in which the commencement date occurs is the guideline established for that year under this section as it read immediately before the commencement date. [2012, c. 6, s. 1.](#)

Same

(5) If the commencement date occurs on or after September 1 in a calendar year, the guideline for the following calendar year is the guideline established for that year under this section as it read immediately before the commencement date. [2012, c. 6, s. 1.](#)

Review by Minister

(6) The Minister shall initiate a review of the operation of this section within four years after the commencement date and thereafter within four years after the end of the previous review. [2012, c. 6, s. 1.](#)

Definition

(7) In subsections (4), (5) and (6),

“commencement date” means the day [section 1](#) of the [Residential Tenancies Amendment Act \(Rent Increase Guideline\)](#), [2012](#) comes into force. [2012, c. 6, s. 1.](#)

...

Rent increase deemed not void

135.1 (1) An increase in rent that would otherwise be void under [subsection 116 \(4\)](#) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months. [2020, c. 16, Sched. 4, s. 24.](#)

Board's jurisdiction

168 (2) The Board has exclusive jurisdiction to determine all applications under this Act and with respect to all matters in which jurisdiction is conferred on it by this Act. 2006, c. 17, s. 168 (2).

...

SPPA applies

184 (1) The Statutory Powers Procedure Act applies with respect to all proceedings before the Board. 2006, c. 17, s. 184 (1).

Power to review

209 (2) The power of the Board to review all or part of its decision or order under section 21.2 of the Statutory Powers Procedure Act is subject to any prescribed limitations or conditions. 2025, c. 14, Sched. 12, s. 11.

Timing of review

(3) A request to review all or part of a decision or order of the Board shall be submitted within 15 days of the issuance of the decision or order, unless the Board considers it just and appropriate in the circumstances to extend the time to request the review. 2025, c. 14, Sched. 12, s. 11.

Appeal rights

210 (1) Any person affected by an order of the Board may appeal the order to the Divisional Court within 30 days after being given the order, but only on a question of law. 2006, c. 17, s. 210 (1)

...

4. Statutory Powers Procedure Act, R.S.O. 1990, c. S.22 s. 21.2;

Power to review

21.2 (1) A tribunal may, if it considers it advisable and if its rules made under section 25.1 deal with the matter, review all or part of its own decision or order, and may confirm, vary, suspend or cancel the decision or order. 1997, c. 23, s. 13 (20).

Time for review

(2) The review shall take place within a reasonable time after the decision or order is made.

Conflict

(3) In the event of a conflict between this section and any other Act, the other Act prevails. 1994, c. 27, s. 56 (36).

...

5. Landlord and Tenant Rules of Civil Procedure

Effective: September 1, 2021; Updated September 21, 2026

Rule 26 - Review of Orders

Requests to Review an Order

26.1

Any party may request review of any order which makes a final determination of the party's rights. For these purposes an interim order may contain a final determination of rights. A person who is directly affected by a final order may also request a review of an order.

26.2

The parties to the request to review are the parties to the order, the person requesting the review, and any other person added to the proceedings by the LTB.

26.3

The LTB may review an order on its own initiative where it considers appropriate and will issue directions to the parties with respect to the conduct of the review. A party or a directly affected person cannot request an LTB initiated review of an order.

Time for Making a Request

26.4

A request to review an order or an amended order issued by the LTB before July 1, 2026, must be made within 30 days of the order being issued.

26.5

A request to review an order or an amended order issued by the LTB on or after July 1, 2026, must be made within 15 days of the order being issued in accordance with section 209(3) of the RTA.

26.6

If the request to review an order is made after the deadline contained in Rule 26.4-26.5 the requestor must also file a request for an extension of time and give reasons explaining the delay.

Form and Contents

26.7

A request to review an order must:

- a. be in writing;
- b. use characters of at least 12-point font, contain a margin of approximately 40 millimetres on the left-hand side and not exceed 10 double-spaced pages in length. The 10 pages does not include the LTBAproved form and any evidence and cases being relied upon;
- c. be signed by the requestor or the requestor's representative; and
- d. be accompanied by the required fee.

26.8

A request to review an order must:

- a. provide the order number;
- b. provide the address of the rental unit or member unit;
- c. provide the requestor's name, address and telephone number;
- d. if the requestor is not a party to the order, explain the requestor's interest in the order;
- e. identify one of the following circumstances for review contained in O. Reg 178/26:
 - i. not reasonably able to participate in the proceeding;
 - ii. the order is the consequence of a serious error; or

- iii. new evidence that could not have been obtained before the decision was made and would likely have affected the result.
- f. provide sufficient information to support a preliminary finding that one or more of the circumstances in paragraph (e) applies;
- g. provide an explanation of how the order should be changed;
- h. if seeking to stay the order, explain why a stay is necessary and any prejudice or harm that may result if a stay is not ordered;
- i. provide information about any appeal of the order; and
- j. where there is an appeal of the order, the requestor's position on whether the LTB should lift any stay resulting from the appeal.

26.8.1

The LTB may refuse to accept a request to review an order that does not comply with all the requirements in Rule 26.

Preliminary Review of Request

26.9

The LTB will conduct a preliminary review of the request and may exercise its discretion to:

- a. dismiss the request because it was not filed in time;
- b. extend the time for making the request;
- c. dismiss the request, including where not satisfied that one of the circumstances for review contained in O.Reg 178/26 may exist; or
- d. direct a review hearing of some or all of the issues raised in the request and, where appropriate, make any interim orders.

Stays and Lifting Stays

26.10

A party may request a stay of the order as part of the request to review or at any point in the review process. A request for a stay must be in writing and describe any prejudice resulting from a refusal to grant the stay.

26.11

The LTB may stay or lift a stay of the order at any point in the review process on the request of a party or on its own initiative, without seeking submissions or holding a hearing. The LTB may include conditions in its order staying or lifting a stay.

Review Hearing

26.12

The review hearing may be conducted by videoconference or other electronic means, in writing, or in person, as the LTB considers appropriate.

26.13

Any Member, including the Member whose order is the subject of the request to review, may be assigned to conduct the review hearing.

26.14

If the request to review is dismissed the LTB will lift any stay and confirm the order under review.

26.15

If the request to review is granted the reviewing Member will identify the issues to be re-heard. The Member may include issues not identified in the request but which the Member finds may amount to a serious error in the order.

Re-Hearing

26.16

Unless otherwise directed, the re-hearing will begin immediately after the request to review is granted. Parties must be prepared to proceed with re-hearing.

26.17

Following the re-hearing the LTB may confirm, vary, suspend or cancel the order, and lift any stay if necessary.

Limits on Further Requests for Review

26.18

The LTB will not consider a further request to review the same order or to review the review order from the same requesting party.

26.19

A party or directly affected person may request a review of the same order on different grounds provided the requestor's interests in the proceeding are different from those of the first requestor.

Withdrawing a Request to Review

26.20

If the LTB has made an interim order following the preliminary review or has begun hearing the request to review, the requestor must obtain the LTB's consent to withdraw the review request.

...

6. Restoring Trust, Transparency and Accountability Act, 2018, S.O. 2018, c. 17 - Bill 5

...

7. Protecting Tenants and Strengthening Community Housing Act, 2020, SO 2020, c 16 – BILL 184

15 (1) Paragraph 2 of subsection 78 (1) of the Act is amended by striking out “A settlement mediated under section 194” at the beginning and substituting “A settlement agreed to under section 194”.

(2) Paragraph 2 of subsection 78 (3) of the Act is amended by striking out “A settlement mediated under section 194” at the beginning and substituting “A settlement agreed to under section 194”.

(3) Paragraph 4 of subsection 78 (4) of the Act is amended by striking out “If a settlement was mediated under section 194” at the beginning and substituting “If a settlement was agreed to under section 194”.

(4) Paragraph 5 of subsection 78 (7) of the Act is amended by striking out “If a settlement was mediated under section 194” at the beginning and substituting “If a settlement was agreed to under section 194”.

(5) Subsection 78 (12) of the Act is amended by striking out “a settlement mediated under section 194” and substituting “a settlement agreed to under section 194”.

16 Section 82 of the Act is repealed and the following substituted:

Tenant issues

82 (1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant,

- (a) complies with the requirements set out in subsection (2); or
- (b) provides an explanation satisfactory to the Board explaining why the tenant could not comply with the requirements set out in subsection (2).

Requirements to be met by tenant

(2) The requirements referred to in subsection (1) are the following:

- 1. The tenant shall give advance notice to the landlord of the tenant’s intent to raise the issue at the hearing.
- 2. The notice shall be given within the time set out in the Rules.
- 3. The notice shall be given in writing and shall comply with the Rules.

Orders

(3) If a tenant raises an issue under subsection (1), the Board may make any order in respect of the issue that it could have made had the tenant made an application under this Act.

Transition

(4) This section, as it reads on the day section 16 of Schedule 4 to the *Protecting Tenants and Strengthening Community Housing Act, 2020* comes into force, applies to any hearing held after that day that relates to an application that was filed before that day.

...

24 The Act is amended by adding the following section:

Rent increase deemed not void

135.1 (1) An increase in rent that would otherwise be void under subsection 116 (4) is deemed not to be void if the tenant has paid the increased rent in respect of each rental period for at least 12 consecutive months.

Non-application

(2) Subsection (1) does not apply with respect to an increase in rent if the tenant has, within one year after the date the increase was first charged, made an application in which the validity of the rent increase is in issue.

Deemed compliance with s. 116

(3) For greater certainty, if subsection (1) applies with respect to an increase in rent, section 116 is deemed to have been complied with.

Application of s. 136

(4) For greater certainty, nothing in this section limits the application of section 136.

Transition

(5) This section applies with respect to an increase in rent even if it was first charged before the day the Protecting Tenants and Strengthening Community Housing Act, 2020 receives Royal Assent, provided the validity of the rent increase was not finally determined by the Board before that day.

...

8. Bill 60, Fighting Delays, Building Faster Act, 2025, S.O. 2025, c. 14

SCHEDULE 12

RESIDENTIAL TENANCIES ACT, 2006

4 Subsection 59 (1) of the Act is repealed and the following substituted:

Non-payment of rent

(1) If a tenant fails to pay rent lawfully owing under a tenancy agreement, the landlord may give the tenant notice of termination of the tenancy effective not earlier than the 7th day after the notice is given.

6 (1) Subsection 82 (1) of the Act is repealed and the following substituted:

Tenant issues

(1) At a hearing of an application by a landlord under section 69 for an order terminating a tenancy and evicting a tenant based on a notice of termination under section 59, the Board shall

permit the tenant to raise any issue that could be the subject of an application made by the tenant under this Act if the tenant complies with the requirements set out in subsection (2).

(2) Subsection 82 (2) of the Act is amended by adding the following paragraphs:

4. Unless the regulations provide otherwise, the tenant shall pay the following amounts to the landlord or, if the regulations so provide, into the Board:

- i. Half of any rent arrears that were claimed in the application when it was filed.
- ii. Such other amounts as may be prescribed.

5. The amounts specified in paragraph 4 shall be paid before the hearing and in accordance with any prescribed timelines.

(3) Subsection 82 (4) of the Act is repealed and the following substituted:

Transition

(4) Subsection (1), as it read immediately before the day subsection 6 (1) of Schedule 12 to the Fighting Delays, Building Faster Act, 2025 came into force, continues to apply to any application described in subsection (1) that was made before that day and has not been finally determined before that day, even if the hearing of the application is on or after that day.

(4) Section 82 of the Act is amended by adding the following subsection:

Same

(5) Subsection (2), as it read the day before day subsection 6 (2) of Schedule 12 to the Fighting Delays, Building Faster Act, 2025 came into force, continues to apply to any application described in subsection (1) that was made before that day and has not been finally determined before that day, even if the hearing of the application is on or after that day.

7 Clause 83 (1) (b) of the Act is amended by adding “subject to any prescribed limitations or conditions” at the beginning.

11 Subsection 209 (2) of the Act is repealed and the following substituted:

Power to review

(2) The power of the Board to review all or part of its decision or order under section 21.2 of the Statutory Powers Procedure Act is subject to any prescribed limitations or conditions.

Timing of review

(3) A request to review all or part of a decision or order of the Board shall be submitted within 15 days of the issuance of the decision or order, unless the Board considers it just and appropriate in the circumstances to extend the time to request the review.

Transition

(4) Subsection (3) applies only to a decision or order that is made on or after the day section 11 of Schedule 12 to the Fighting Delays, Building Faster Act, 2025 comes into force.

...

9. Ontario Regulation 178/26, Residential Tenancies Act, 2006, S.O. 2006, c. 17 “Limits on Board’s Review Powers,”

When review on request is permissible

1. (1) For the purposes of subsection 209 (2) of the Act, the power of the Board to review all or part of its decision or order on a person’s request applies only if the Board determines that one of the following circumstances applies:

1. The person was a party to the proceeding but was not reasonably able to participate for a reason listed in subsection (2).
2. The decision or order is the consequence of a serious error listed in subsection (3).
3. The person has obtained evidence that,
 - i. was not before the Board during the proceeding,
 - ii. could not have been obtained by the person before the decision or order was made, and
 - iii. would likely have affected the result of the proceeding had it been before the Board.

(2) Paragraph 1 of subsection (1) is limited to the following reasons:

1. The party did not receive adequate notice of the hearing or of the issues to be decided at the hearing.
2. The party’s inability to participate was wholly or partly attributable to the Board.
3. The party was misled by another party to the proceeding.
4. The party was affected by a serious emergency, such as,
 - i. a serious illness, a serious injury or hospitalization, or
 - ii. the serious illness, serious injury, hospitalization or death of an immediate family member.
5. The party was incarcerated or incapable.
6. The occurrence of a natural disaster or other similar circumstance.

(3) Paragraph 2 of subsection (1) is limited to the following serious errors:

1. The Board acted outside of its jurisdiction or committed a material breach of procedural fairness.
2. The Board made an error of law, fact or mixed fact and law.
3. The Board ordered a remedy that is significantly outside of the range of usual and proportionate remedies for the type of proceeding.
4. The terms of the decision or order are unenforceable.

...

10. Tenant Protection Act, 1997, S.O. 1997, c. 24

THE REGIONAL MUNICIPALITY OF WATERLOO
Applicant (Appellant)

- and -

JOSEPHINA DUGAS et al
Respondents (Respondents in Appeal)

Court File No.: COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO
Proceedings commenced at Toronto

**APPENDIX A TO THE AFFIDAVIT OF
DOUGLAS KWAN, AFFIRMED
OCTOBER 20TH, 2026, DRAFT
FACTUM OF THE PROPOSED
INTERVENER ADVOCACY CENTRE
FOR TENANTS ONTARIO**

Advocacy Centre for Tenants Ontario
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Toronto, ON M5J 2H7

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Advocacy Centre for Tenants Ontario**

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant (Appellant)

- and -

JOSEPHINA DUGAS et al

Respondents (Respondents in Appeal)

Court File No.: COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO
Proceedings commenced at Toronto

**AFFIDAVIT OF DOUGLAS KWAN IN
 SUPPORT OF THE MOTION FOR
 LEAVE TO INTERVENE OF THE
 ADVOCACY CENTRE FOR TENANTS
 ONTARIO**

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 Advocacy Centre for Tenants Ontario**

TAB 3

Court File Nos. COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO

THE HONOURABLE JUSTICE GRANT A. HUSCROFT WEDNESDAY, THE 21ST
DAY OF OCTOBER 2026

B E T W E E N:

THE REGIONAL MUNICIPALITY OF WATERLOO

Appellant
(Applicant/Cross Respondent)

And

THE ATTORNEY GENERAL FOR ONTARIO

Appellant (Intervener)

JOSEPHINA DUGAS, TERRA-LYNN WEBER, AVERY AMENT, AARON PRICE,
JEREMY LINTON, JEREMY NICHOL, JAMES HAMMOND, JAKOB STUBBS,
JAMES DAVIS, JASON PAUL, NOAH HELSBY, JOSEPH BRADLEY, JOSEPH
SADLER, JULIE YOUNG, KYLE YORK, MEGAN LOPES, STEPHANIE
MCMILLAN, JEFFREY COUTO, JORDAN CAMM, TERRANCE COLE, XANDER
HARKER, CHARLES KOCHER, ALINE JEFFERY, MICHAEL JEFFERY, AND
PERSONS UNKNOWN

Respondents
(Respondents/Cross-Applicants)

ORDER

ON HEARING the motion for leave to intervene,

THIS COURT ORDERS THAT:

1. The motion for Leave to Intervene as a friend of the Court is granted;
2. The Intervener may file a factum not exceeding 0 pages in length;
3. The Intervener may make oral submissions not exceeding 15 minutes in length;

4. The Intervener shall take the record as it finds it and shall not be entitled to adduce evidence or cross-examine witnesses;
5. The Intervention is limited to the issues raised by the parties in this appeal;
6. The Intervener shall not request costs and no order for costs shall be made against it.

DATE:

THE REGIONAL MUNICIPALITY OF WATERLOO

Applicant (Appellant)

- and -

JOSEPHINA DUGAS et al

Respondents (Respondents in Appeal)

Court File No.: COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO
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ORDER

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THE REGIONAL MUNICIPALITY OF WATERLOO
Applicant (Appellant)

- and -

JOSEPHINA DUGAS et al
Respondents (Respondents in Appeal)

Court File No.: COA-26-CV-0836 and COA-26-CV-0897

COURT OF APPEAL FOR ONTARIO
Proceedings commenced at Toronto

**MOTION RECORD OF THE
ADVOCACY CENTRE FOR TENANTS
ONTARIO**

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