CANADIAN FEDERATION OF APARTMENT ASSOCIATIONS

RESPONDING BRIEF TO THE HUMA COMMITTEE, June 28, 2023

The Financialization of Purpose-built Rental Housing

As noted in our joint brief with the Federation of Rental-housing Providers of Ontario (FRPO) of May 24, the Canadian Federation of Apartment Associations (CFAA) represents more than 15,000 rental housing providers of all sizes, which include "Mom and Pop" landlords, investors with dozens of rental units, large corporate owners, and the publicly traded apartment Real Estate Investment Trusts (REITs). CFAA members' properties are located in all provinces from coast to coast, as well as in the territories.

In their briefs and oral statements, the Federal Housing Advocate, her researchers and ACORN blamed financialized landlords for raising rents, and for forcing renters out of their homes through evictions, renovations and harassment. Arguments were made that evictions are widespread and conducted disproportionately by financialized landlords and large corporations. At one point, the Advocate even took aim at any corporation ownership.

Those allegations were answered by various witnesses. Christian Szpilfogel pointed out that many small-scale rental providers own and operate their properties through corporations, which has been a common business structure for more than a hundred years. He also spoke briefly about the high cost of developing new housing, which makes high market rents necessary for the private market to be able to develop rental housing.

John Dickie addressed the size of the rental housing sector, and what a typical dollar of rent is used for, ending with 8 cents out of each dollar as the net income, before taxes. He also referred to data from Statistics Canada about the proportion of evictions done for landlord own use, possession by purchasers, non-payment or renovations. (That data will be presented below.)

Tony Irwin described the need for, and the expense of, major building repairs, and the way in which above guideline increase applications (AGIs) to pay for major repairs are limited in Ontario.

Krish Vadivale laid out why rents are rising, which is largely because the demand for rental housing is outpacing its supply. He argued that the solution to the housing crisis is increasing housing supply, and that the ways to do that are to incentivize new housing supply, or to remove or reduce current disincentives (including the risk of negative outcomes, like vacancy control, which would surely dry up supply).

Steve Pomeroy also appeared, speaking for himself. He is a well-known housing researcher, who tends to suggest government policy moves with no regard to property rights, and has no affiliation with CFAA. However, entirely independently, he explained the current rise in rents in practically the same way as CFAA did. He also said that financialization is not a key issue, or much of an issue at all.

At 09:50:55 on June 9, in response to MP Kwan's suggestion to charge higher mortgage costs to discourage small investors from buying up properties to rent Mr. Pomeroy said, "In some jurisdictions like Australia and the UK, they actually use tax measures to encourage investment by allowing investors to depreciate their [rental] assets, and deduct the depreciation against their other income. The challenge here is that if we want to have a rental sector, we need rental investors."

The remainder of this brief sets out the eviction statistics, addresses the impact of tighter rent control, and sets out a positive solution to the lack of housing affordability. It concludes with a note on a solution to the issue of AGIs.

EVICTIONS

Statistics Canada surveyed tenants in 2021 about whether they had ever been evicted. Seven per cent of tenants had been evicted at some point in their lifetime. Assuming the average tenancy experience is 10 years, that means 7 tenths of 1% of tenants are evicted each year. In other words, 7 out of 1,000 tenants.

StatsCan went on to ask the reason for the eviction. Only 10% of all evictions were for demolition, conversion or major renovations. That means that in any year less than 1 out of 1,000 tenants is evicted for those reasons. Deducting demolitions --- needed for intensification or new transit lines, we can estimate that only 1 out of 2,000 tenants is evicted for renovations.

Evictions by the ground for the eviction

Ground	% of all evictions	Number out of 2,000 tenants per year
Sale of the property	37%	5
Owner's own use	26%	3.6
Conflict with landlord (or other tenants)	13%	2
Demolition/conversion/renovations	10%	1.4
Arrears of rent	8%	1
Total	100%	14

Source: https://www150.statcan.gc.ca/n1/pub/11-627-m/11-627-m2022046-eng.htm

The two main grounds for eviction are not open to REITs or to corporations, and thus are almost entirely used in the secondary rental market. Those grounds are the basis for 63% of evictions, even though the secondary rental market makes up only 40% of the rental supply. With very rare exceptions, a property can only be taken back for the own use of a human being, or for a purchaser (who must be a human being) to occupy it. REITs and corporations are not responsible for a disproportionately high share of evictions; rather they are responsible for a relatively low share of evictions.

RENT CONTROL

The issue of rent control arose because it is a remedy for the supposed problem of financialization raising rents. The Advocate, her researchers and ACORN all demanded tight rent control. This section discusses the impacts of rent control, and particularly the impact one could expect from tighter rent control than exists now in the various provinces, with reference to the evidence given by Steven Pomeroy and Tony Irwin for FRPO.

Background

First, residential rent control is clearly within the jurisdiction of the provinces under their power to legislate concerning property and civil rights within the province. The current rent control regime varies greatly across provinces.

Other than rules about the frequency of rent increases and the notice period for rent increases, there is no rent control in Alberta, Saskatchewan and Newfoundland and Labrador. New Brunswick adopted a rent cap for one year and then repealed it, replacing it with an ability for a tenant to request a review of a rent increase (which is very little used).

Ontario, BC and Nova Scotia each have a rent control system which allows for rents to be re-set at market levels when a tenant vacates and a new tenant agrees to a new rent with the rental housing provider. (In Ontario that rule is called “vacancy decontrol”.) Manitoba allows vacancy decontrol in specified circumstances, as well as above-guideline increase applications (AGIs) for major building repairs. Ontario and Manitoba exempt new rental construction.

Quebec and PEI have various different rent control rules, which are generally stricter than the rules in the other four provinces with rent control.

The purposes and effects of rent control

Wherever it is used, rent control is used to protect tenants (or at least renewing tenants) from what are seen as excessive rent increases. That limits the rental income received by rental housing providers, and as a result, has unintended consequences. The two main unintended consequences are:

- Less building modernization, resulting in a rental stock which decreases in quality over time, and
- Less new rental construction, resulting in a smaller rental supply over time (than the supply would be without rent control).

Vacancy decontrol and AGIs are intended to reduce the first effect, but they do not fully eliminate that effect.

Vacancy decontrol, AGIs and the exemptions for new rental construction are intended to reduce the second effect, but they do not fully eliminate that effect. Investors sensibly fear that if rent control applies, governments can easily extend it to apply to them (as happened in Ontario in 2017 by a government desperately seeking to win or place second in the next election). The use of rent control makes investors anticipate a higher likelihood of rent control applying to them. To compensate for the risk, higher rents are needed before investors will build.

Trade offs

From a public policy point of view, there are important trade-offs between the protection of current, renewing tenants, and the size and quality of the rental supply in the medium and long terms.

It is important to note that the Advocate and her researchers and supporters do not address the trade-offs involved in making rent control tighter. They go directly from saying rents are rising too much, to saying governments should stop those rent increases by strict rent regulation. They ignore the trade-offs and the negative consequences of tighter rent control. The approach of ignoring well-documented, unintended consequences dramatically raises the risk of a bad public policy decision.

On the other hand, from a public policy perspective, Steve Pomeroy said that the goal needs to be to find the sweet spot[1] which balances the protection of existing tenants with continued support for a healthy rental supply. A healthy rental supply needs to be large enough and growing enough to meet rental demand, and the existing rental supply needs to be modernized to maintain and increase its quality over time, as standards and expectation rise.

[1] He actually said the “soft spot”, but he clearly meant the “sweet spot”.

As noted above, Pomeroy said that the REITs and financialization are not the main problem. In response to a question from MP Kwan, he also declined to say that the solution was tighter rent control. Instead, he said rent control needs to calibrated to balance the protection of tenants with a healthy rental supply.

Finding the sweet spot

Moreover, CFAA submits that there is not just one “sweet spot” across Canada. Besides differences in the attitudes of investors and the public, between say, Alberta and Ontario, or Ontario and Quebec, there are also huge differences in the economies of various communities. At a minimum, communities tend to fall into one of three groups:

- communities experiencing rapid job and population growth,
- communities experiencing moderate job and population growth, and
- communities experiencing little job and population growth (or even contraction).

It is hard enough for the ten provinces (and three territories) to address the different needs within their boundaries. It is utterly impossible for anyone in Ottawa to determine the best rent control policy mix across Canada. There is no such standard mix! To come close to a good mix in each area, the provinces need to be allowed to make the choices, addressing the housing needs and investor attitudes within each province.

In response to another question from MP Kwan, Pomeroy said, “[Rent control is not the best measure.] The issue with rent control is that if it suppresses rents too much, it is very good for [current] tenants, but … [the industry] simply won’t build. … [Rent control] is rather a blunt instrument. It’s desirable to protect tenants, which is why protecting sitting tenants [tenants who renew] is very important, but over-regulating can have unintended consequences as well.” CFAA submits that it is very clear in the economic literature that over-regulating rents DOES have SERIOUS unintended consequences.

RENT SUPPORT FOR LOW-INCOME HOUSEHOLDS

There is one remedy for the current housing crisis that is supported by the Federal Housing Advocate, ACORN and CFAA. That is the expansion of the Canada Housing Benefit, which has been proposed by the Canadian Alliance to End Homelessness. Portable housing benefits are also supported strongly by advocates for a human rights approach to housing, such as Leilani Farha, and Kaitlin Schwan, National Director of the Women's National Housing and Homelessness Network. Quebec, Manitoba and BC have used portable housing benefits for decades, but they are limited by the group of people who qualify, and by the amount of assistance that they provide.

To CFAA, CMHC and many others, it is crystal clear that Canada needs more housing supply (and especially more rental housing supply); and in addition, that Canada needs better financial support for low-income households to afford the housing they need. For practical reasons, most low-income households rent their housing, and each year, most low-income households rent their housing in the private rental market.

Due to the costs of building and operating housing, low-income households cannot afford the housing they need at 30% of their low incomes. They need either higher incomes, or specific financial support to pay for part of their housing costs. That financial support can be through rents-geared-to-income (usually provided though government subsidies to community housing providers or to private housing providers --- called rents supplements in Ontario), or through payments made to the low-income people, which are usually called portable housing benefits or housing allowances.

The way the federal government could act on the housing crisis the most quickly, and with the most control, would be through a 100% federally funded expansion of the Canada Housing Benefit, as proposed by the Canadian Alliance to End Homelessness. CAEH's President & CEO Tim Richter spoke at the HUMA Committee hearing on June 6.

Portable housing benefits (like the Canada Housing Benefit) are a great way to help people with their housing needs, because they:

- support renters' autonomy,
- allow them to move, without forcing them to move, and
- can be provided quickly to any chosen groups of vulnerable people, or to low-income people generally.

Using portable housing benefits to address the issue with AGIs

Among other issues, the tenant advocates are particularly concerned about rent increases due to AGIs. Yet, as explained in the joint CFAA-FRPO brief at pages 4 and 5, AGIs are essential to pay for the modernization of the current housing stock.

For tenants whose incomes have recently risen at the rate of inflation, AGIs should not be a particular concern. Since the various provinces' rent control guidelines have lagged so far behind inflation, those tenants are ahead. They have the income capacity to pay AGIs for several years at the maximum amounts which are allowed in Ontario and BC.

A brilliant use of a partial expansion of housing benefits would be to support the low-income tenants whose incomes have not kept up with inflation, but who are now having difficulty paying their rents because of AGIs. Such a use of expanded housing benefits would achieve three important goals:

- Ensuring no renters are pushed out of their housing due to AGIs;
- Targeting the assistance accurately so that renters who can pay for the building improvements do pay for them, but those who cannot, do not have to; and
- Ensuring rental providers can afford to do the major repairs and modernization which many rental buildings need.

CONCLUSION

CFAA submits that the Committee should find that:

- the financialization of housing is not a serious problem,
- the case for tighter rent control has not been made,
- there should be no new or special taxes on building or suite renovations,
- the government should encourage increased rental supply by all types of rental housing providers, including steps to reduce rental development costs through
    - the removal of the GST/HST from rental housing development, and
    - increasing the rate of CCA, and allowing it to creates losses which can be offset against other income
- the Canada Housing Benefit should be expanded substantially, and
- before any new policies are adopted, they should be carefully reviewed based on solid, unbiased evidence.

Canadian Federation of Apartment Associations
Submitted by Tony Irwin, Interim-President