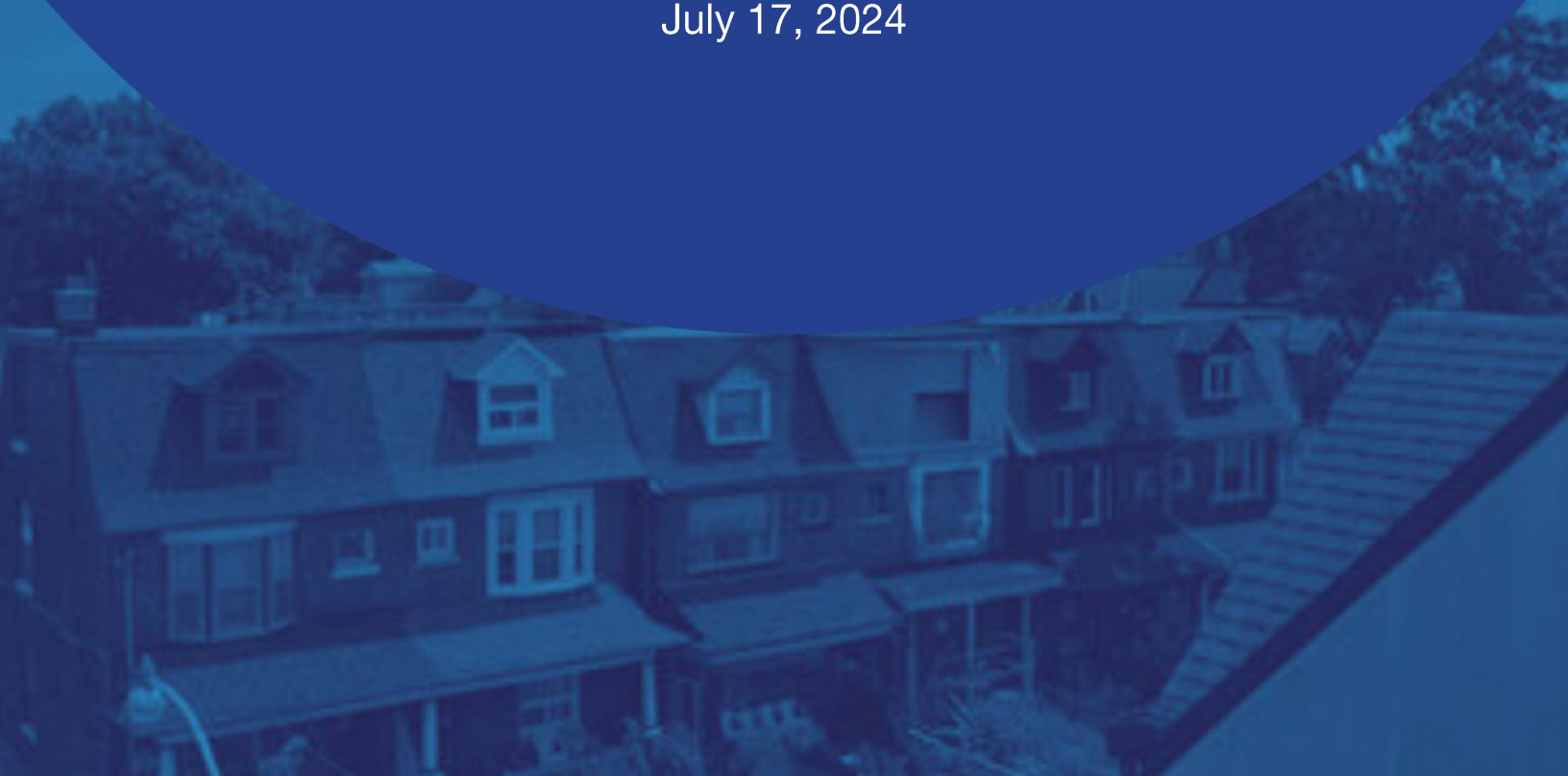




# Ombudsman Toronto's Housing Rights Framework

July 17, 2024





This document explains how Ombudsman Toronto understands “the right to adequate housing” and how our Housing Unit applies this concept to our systemic investigations and system reviews of the City’s housing programs and services.

## The Human Right to Adequate Housing

International law recognizes adequate housing as a fundamental human right that is central to people’s dignity and well-being. This is established in the International Covenant on Economic, Social and Cultural Rights and the Toronto Housing Charter is based on these principles.

Other international legal agreements, such as the United Nations Declaration on the Rights of Indigenous Peoples, the Convention on the Rights of Persons with Disabilities, and the 1951 Convention Relating to the Status of Refugees, address the specific housing-related rights of certain groups. Ombudsman Toronto will use these international legal agreements to help assess whether the City is living up to its obligation to progressively realize the right to adequate housing.

“Progressive realization” means that, while the City can’t solve the housing crisis right away, it must use all available resources and tools to constantly move forward and help people realize their right to adequate housing.<sup>1</sup> As part of this work, the City must measure its progress and do so in a transparent way. We will help to hold the City to account on this work.

Canadian laws, including the *Canadian Charter of Rights and Freedoms*, Ontario’s *Human Rights Code*, the *Residential Tenancies Act*, the *Building Code Act*, and the City’s HousingTO 2020-2030 Action Plan also inform the Housing Unit’s work. The 2020-2030 Action Plan sets out the blueprint for the City to fulfill its obligations under the Toronto Housing Charter.

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<sup>1</sup> “Progressive realization” refers to Article 2(1) of the International Covenant on Economic Social and Cultural Rights (ICESCR), which requires a government “to take steps...to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”



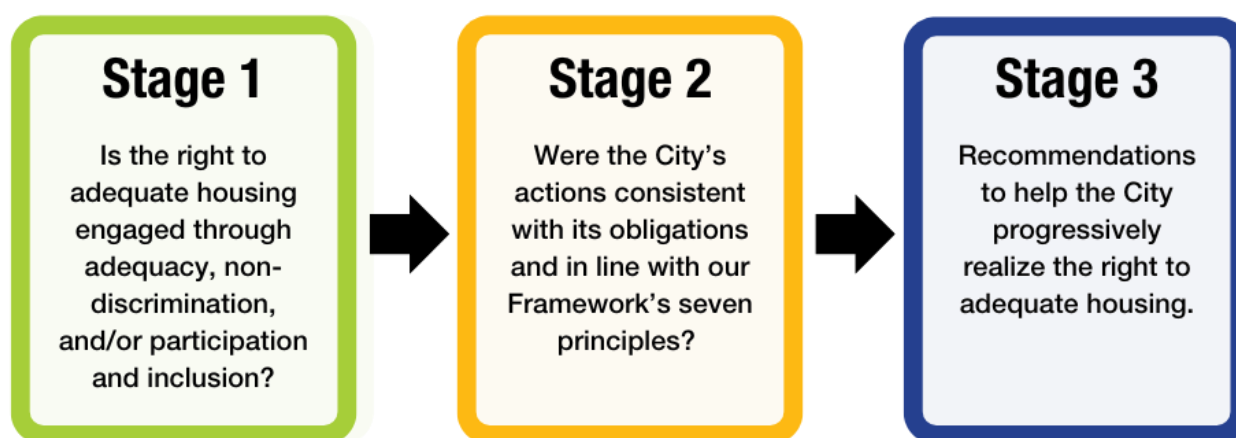
# A Human Rights-Based Approach to Housing Investigations and Reviews

The starting point for evaluating the City's decisions, actions, and inactions regarding housing is the lived experience of different social groups and communities.

The first question we ask is whether the City's actions have negatively affected people in any of the three components of the right to adequate housing. These three components are: adequacy, non-discrimination, and participatory rights. We call this "Stage 1" of our analysis.

If we find the City has negatively affected people in one or more of these three components, we will then consider whether the City's actions are consistent with its obligation to progressively realize the right to adequate housing (the City is obligated to work towards the realization of the right to adequate housing for all residents). We call this "Stage 2" of our analysis. In some cases, we may find that while people have been negatively affected, the City has still met its obligations. In other cases, we may find that the City has more work to do.

If we find that the City has more work to do, we will make recommendations to help the City meet its obligations under the right to adequate housing. This is "Stage 3" of our analysis.





## Stage 1: Components of the Human Right to Adequate Housing

### 1) Adequacy

To be considered “adequate,” housing must meet specific criteria including security of tenure, habitability, affordability, availability of services, appropriate location, cultural adequacy, and accessibility. Housing must support residents’ dignity and well-being, considering their specific needs.

### 2) Non-Discrimination

The Housing Charter ensures equal treatment and protection from discrimination based on grounds protected under Ontario’s *Human Rights Code* (e.g., race, sex, disability). The Housing Charter also protects residents from discrimination based on homelessness or housing status. Ombudsman Toronto will identify systemic inequalities that create barriers to the right to adequate housing by groups who are marginalized.

### 3) Participation and Inclusion

Residents must be involved in decisions affecting their housing rights. This includes informed participation, meaningful engagement, and understanding the decisions made. Effective participation is necessary for the City to identify the diverse needs of vulnerable and/or marginalized groups and to develop solutions, in a way that respects residents’ dignity and autonomy.

## Stage 2: Guiding Principles for City Decisions and Actions

Seven principles guide the City as it moves towards the realization of the human right to adequate housing. We will assess the City’s actions against these principles to determine whether the City has taken every reasonable step to satisfy its obligations under the Housing Charter and the law.

**Human Rights Impacts are the Primary Consideration:** Any action the City takes which has housing implications must be centred around the human right to adequate housing for people affected by the City’s action.

**Using all Appropriate Means:** The City must use all of the tools and powers available to improve housing outcomes, including policy changes, service provision changes, and improved enforcement practices.



**Using Maximum Available Resources:** The City must dedicate and prioritize resources, including money, infrastructure, and personnel, towards realizing the right to adequate housing over other demands that do not concern fundamental human rights.

**Prioritizing those in Greatest Need:** The City must apply an intersectional<sup>2</sup> equity lens to address systemic housing disadvantages and prioritize the interests of groups and communities furthest away from exercising the right to adequate housing.

**Meaningful Engagement:** The City has an obligation to ensure that residents, especially marginalized groups, are adequately involved in housing decisions.

**Collaboration with Other Governments:** The City must work with provincial and federal authorities to advance housing rights through securing greater resources, collaborating in program and service development, and identifying the need for changes to laws to realize the right to adequate housing.

**Environmental Sustainability and Resilience:** The City must work to improve the sustainability of both new and old housing and ensure that housing is resilient to climate-related risks, such as increasing severe heatwaves and extreme climate-related events.

### Stage 3: Recommendations

The recommendations from our investigations will help the City better meet its obligations to progressively realize the right to adequate housing. We make recommendations that are both ambitious and achievable, put people first, and are in line with this framework and the Housing Charter. After we make recommendations, we follow up with the City until they have successfully implemented them.

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<sup>2</sup> The concept of ‘intersectionality’ has been defined as “intersectional oppression [that] arises out of the combination of various oppressions which, together, produce something unique and distinct from any one form of discrimination standing alone....” From the Ontario Human Rights Commission, quoting from M. Eaton, “Patently Confused, Complex Inequality and *Canada v. Mossop*” (1994) 1 Rev. Cons. Stud. 203 at 229, <https://www.ohrc.on.ca/en/intersectional-approach-discrimination-addressing-multiple-grounds-human-rights-claims/introduction-intersectional-approach#fn6>