

7-1-2010

Eviction Notice – Arrears Due: A Report on Ontario Social Housing Providers’ Discretion to Evict

Valentina Trglavcnik
Western University

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**Masters of Public Administration
Local Government Studies**

University of Western Ontario

A Report on Ontario Social Housing Providers' Discretion to Evict:

Social housing administrators at the local level face many difficulties as they act as a landlord to many low income tenants. They face their tenants on a daily basis and are the workers who must make decisions based on their values and other influencing factors; using their judgement to do what they believe is socially acceptable within the confines of policy. The discretionary power of housing administrators to evict tenants is an issue that critics of the public housing system constantly report on. It is especially important to question discretion because of negative public perception, which has been creating controversy surrounding the social housing corporations' tendency to evict. To address this issue, many corporations abide by the RTA and the SHRA when it comes to eviction, and many have eviction prevention policies in place. This report will ultimately explore the housing system in terms of local authority, autonomy and discretion over eviction.

Eviction Notice – Arrears Due:
A Report on Ontario Social Housing Providers' Discretion to Evict

MPA Research Report

Submitted to

The Local Government Program
Department of Political Science
The University of Western Ontario

Valentina Trglavcnik
Summer 2010

ABSTRACT

Eviction Notice – Arrears Due

A Report on Ontario Social Housing Providers' Discretion to Evict

Social housing administrators at the local level face many difficulties as they act as a landlord to many low income tenants. They face their tenants on a daily basis and are the workers who must make decisions based on their values and other influencing factors; using their judgement to do what they believe is socially acceptable within the confines of policy. The discretionary power of housing administrators to evict tenants is an issue that critics of the public housing system constantly report on. It is especially important to question discretion because of negative public perception, which has been creating controversy surrounding the social housing corporations' tendency to evict. To address this issue, many corporations abide by the RTA and the SHRA when it comes to eviction, and many have eviction prevention policies in place. This report will ultimately explore the housing system in terms of local authority, autonomy and discretion over eviction.

ACKNOWLEDGEMENT

To Participants in Study:

This note is in appreciation for the participants of this study that put the time into gathering the data this report is based upon. The completed surveys, questionnaires and interviews assisted greatly in comprehending the social housing industry and truly inspired more interest in the field. An extended thank you is in order for those participants who have gone above and beyond what was originally sought out by taking the time to send additional documentation and information on behalf of their corporations. Your confidentiality in this report will be respected as the END NOTES: CONFIDENTIAL section of this report will not be included in the final copy that is to be submitted for final review. All names and contact information have been used only for personal reference to, and proper citation use for the report in its entirety.

Thank you for the learning opportunity and all the best,

Valentina Trglavcnik
MPA Candidate 2010
vtrglavc@uwo.ca

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Section ONE:

Introduction:

Social housing administrators at the local level face many difficulties as they act as a landlord to many low income tenants. These administrators must use some form of discretion to implement programs and make decisions that affect all parties involved. They face their tenants on a daily basis and are the workers who must make decisions based on their values and other influencing factors; using their judgement to do what they believe is socially acceptable within the confines of policy. Author Michael Lipsky wrote a book about street-level bureaucracy and argues that public administrators' jobs are "...inherently discretionary."¹ The discretionary power of housing administrators to evict tenants is an issue that critics of the public housing system constantly report on. Newspaper reporters write about the aggressiveness of eviction discretion of public housing corporations, and this sparks heated debate.

There have been numerous cases examined in several newspapers regarding eviction in social housing. Take, for example, tenant Steve Lloyd, previously housed by Ottawa Community Housing (OCH). In the fall of 2008, he felt that he was wrongly evicted and actively pursued appeals through the court system. The news reports that covered this story in *The Ottawa Citizen* reported that OCH was purposefully out to evict Mr. Lloyd because he was not living in his unit, and was merely using it for storage. Mr. Lloyd was collecting things in his unit for the purpose of weekly yard sales in front of his apartment building. He was violating fire codes with the amount of things in his unit, as well as blocking the sidewalk and walkway at the bus station. Several of these reasons

¹ Marissa Kelly. "Theories of Justice and Street-Level Discretion" *Journal of Public Administration Research and Theory* Vol. 4, No. 2 (Apr., 1994): p. 120 < <http://www.jstor.org/stable/1181774> >

point to a justifiable eviction on the part of OCH. It was reported also that the average wait time for a unit in Ottawa at that time was five years, and the waiting list consisted of over 9,500 applicants.² Perhaps this was another reason for getting Mr. Lloyd out of housing, and bringing a new tenant in.

There are a number of political factors which may have led to more eviction related issues. Eviction issues were exacerbated in 1995 when Ontario Premier Mike Harris cut back on welfare programs, leading to more lenient eviction rules and the cancellation of housing programs.³ Also, in the beginning of 2001, the responsibility of social housing was downloaded to municipalities. Since then, the social housing system has been accused of acting more like a corporate business and less like an organization providing a basic need to the community in the lower income bracket.⁴

Political events in the 1990s support the current discretionary capacity of housing managers at the local level and will be discussed further. When the responsibility of housing was at the federal level, the government was faced with having to manage what was left over from previous decades of a weak housing market and management that had lacked direction. After years of continual changes to management of the housing stock,

² Gary Dimmock, "Man who uses *public housing* apartment only for storage fights *eviction* in court; Move means he can't be kicked out of unit while thousands in Ottawa wait for a spot." *The Ottawa Citizen*, (Ottawa, Ont.: Nov 15, 2008), p. A.1

<<http://proquest.umi.com.ezproxy.uwindsor.ca/pqdweb?index=8&did=1596854121&SrchMode=2&sid=4&Fmt=3&VInst=PROD&VType=PQD&RQT=309&VName=PQD&TS=1261582370&clientId=2241> >

³ Rick Salutin, "Mike Harris on a Spit, Slowly," *The Globe and Mail*, (Toronto, Ont.: Jun 29, 2007), p.A.17
<<http://proquest.umi.com.ezproxy.uwindsor.ca/pqdweb?index=0&did=1296639421&SrchMode=1&sid=3&Fmt=3&VInst=PROD&VType=PQD&RQT=309&VName=PQD&TS=1261582289&clientId=2241> >

⁴ Margaret Philp, "Public-Housing Landlord Gets Tough," *The Globe and Mail*, (Toronto, Ont.: Apr 30, 2001), p.A.16 <<http://proquest.umi.com.ezproxy.uwindsor.ca/pqdlink?Ver=1&Exp=12-22-2014&FMT=7&DID=1051948751&RQT=309> >

and a system that became more decentralized, in 1993, “deficit-obsessed” Finance Minister Paul Martin downloaded housing to the province.⁵

Ontario Premier Mike Harris’ *Common Sense Revolution*⁶ aimed for the province to also get out of the housing business. This meant that subsidies for over 17,000 new affordable housing units were cut. Under the Harris-era, changes were made to manage the existing housing stock, including gearing towards a more privately run market. In 2000, the Harris government created the Social Housing Reform Act (SHRA) which downloaded housing responsibilities to 47 local service managers. It was then that “on-the-ground housing providers (municipal and nonprofits) were explicitly and implicitly encouraged to become more entrepreneurial, to ally more closely with the private building market, and to get used to working with their local service managers rather than a centralized authority.”⁷ The SHRA was not well received by service and housing managers. Even though the regulations within the Act were purely technical, the political message of the policy left an unclear and confusing undertone upon the sector in the decade following its creation. Along with this download of housing responsibilities and the SHRA, came more lenient eviction policies.

The political background here provokes a plethora of questions and problems within the system. Consider, for example, a comparison of public housing landlords to

⁵Jason Hackworth. “The Durability of Roll-Out Neoliberalism Under Centre-Left Governance: The Case of Ontario’s Social Housing Sector” *Studies in Political Economy* Vol. 81 (2008): p.8
<<http://jps.library.utoronto.ca/index.php/spe/article/view/4950>>

⁶ **NOTE:** Common Sense Revolution is a commonly used to describe Mike Harris’ economic reform projects during his term in the 1990s. His objective was to cut the provincial deficit from the previous Bob Rae government. Reforms occurred in education and urban infrastructure. The point relevant here is that Harris’ government cut social assistance rates by 22%, introduced Ontario Works, and began downloading services to the municipalities, including housing. (CBC Archives: “Who is Mike Harris?” Broadcast Date June 8, 1995)

⁷ Jason Hackworth. “The Durability of Roll-Out Neoliberalism Under Centre-Left Governance: The Case of Ontario’s Social Housing Sector” *Studies in Political Economy* Vol. 81 (2008): p.9
<<http://jps.library.utoronto.ca/index.php/spe/article/view/4950>>

commercial and private landlords. Both must abide by the Residential Tenancy Act (RTA)⁸, even if public housing landlords are intended to provide the necessity of housing to lower income tenants, acting in their role as moral public servants.

Canada's largest public housing authority, Toronto Community Housing Corporation (TCHC) has been accused of evicting its tenants carelessly and rigorously. Its eviction rates have climbed to almost double those of other housing corporations. This may make the corporation appear to the public as one of Canada's "toughest landlords".⁹

News coverage in *The Toronto Star* in 2009 told the story of Al Gosling, an 82 year old man who was evicted from TCHC for administrative violations (which included the avoidance of filing the proper income forms). Subsequent to his eviction, Mr. Gosling spent weeks living in a stairwell of his apartment building before being transferred to a nearby hospital where a sickness he had acquired after his eviction led to his death. The argument against social housing here is that there was no compassion for an elderly tenant who had been living within the system for quite some time.¹⁰ Both stories (Steve Lloyd and Al Gosling) are reflected through a media lens portraying housing corporations as "eviction bullies"; thus allowing for controversial debate and conversation among the public. A further analysis of the Al Gosling case, including a more recent update can be found in SECTION SIX: "*Analysis #2 – Eviction Prevention*".

⁸ Ontario. *Residential Tenancies Act* (2006)

⁹ Margaret Philp, "Public-Housing Landlord Gets Tough," *The Globe and Mail*, (Toronto, Ont.: Apr 30, 2001), p.A.16 < <http://proquest.umi.com.ezproxy.uwindsor.ca/pqdlink?Ver=1&Exp=12-22-2014&FMT=7&DID=1051948751&RQT=309> >

¹⁰ Joe Fiorito, "Al Gosling's Sad Fate Gives Tenants A Voice," *The Toronto Star*, (Toronto, Ont.: Dec 17, 2009) <<http://www.thestar.com/news/gta/article/739994--al-gosling-s-sad-fate-gives-tenants-a-voice>>

David Hulchanski, director of the Centre for Urban and Community Studies at the University of Toronto, reported to the *Globe and Mail* in 2001 that he disapproved of the reasons for evictions. He claimed that the eviction numbers should not have been so high and claimed that tenants were being evicted, "...simply because they're poor."¹¹ The perception that public housing authorities at the local level are strict when it comes to eviction has surely continued to present debates.

The original topic of interest here is the factors that may influence eviction rates based on the landlords' level of discretion and all other explanations within their role to evict their tenants. Discretion may be considered a factor that can influence a corporation's eviction rate; however, within this report, it is considered to be a pillar concept under review. As the original research design was meant to reflect the factors influencing eviction rates, which will be discussed further within this report, it will be shown that there is much more importance with other concepts in the housing industry, specifically what is involved with the discretion that is exercised on the front line.

It is especially important to question discretion because of negative public perception, which has been creating controversy surrounding the social housing corporations' tendency to evict. To address this issue, many corporations abide by the RTA and the SHRA¹² when it comes to eviction, and many have eviction prevention policies in place. The following few sections will divulge further the initial research intentions and the direction to which the research led. This report will ultimately explore the housing system in terms of local authority, autonomy and discretion over eviction.

¹¹ Joe Fiorito, "Al Gosling's Sad Fate Gives Tenants A Voice," *The Toronto Star*, (Toronto, Ont.: Dec 17, 2009) <<http://www.thestar.com/news/gta/article/739994--al-gosling-s-sad-fate-gives-tenants-a-voice>>

¹² Ontario. *Residential Tenancies Act* (2006)

Section TWO:

Purpose of Study:

Administrators' decision making in social housing concerning eviction is influenced by many factors. As drawn from the numerous studies and case examples that continually appear in the newspapers, it is clear that eviction discretion is a complex issue in the social housing industry. The several factors that could influence social housing providers' decisions to evict or not to evict may be explained by their total number of evictions along with supplementary information related to their evictions. This study was originally intended to show that there are influencing factors, other than following provincial regulations which contribute to an administrators' decision to evict social housing tenants; the data gathered for this research report exposes other explanations regarding eviction processes. This study will further show that other factors may contribute to, or limit local housing managers' autonomy, thus exploring discretion in a different light.

Housing providers across Ontario are different in structure and programs offered; therefore this study explores eviction processes with different housing groups, noting how some evict more aggressively, while avoiding a definitive comparison as this would not be appropriate given the nature of this study. This study was intended to show that total number of evictions annually in public housing records is dependent upon such factors which will be discussed further in this project. Through this study, other related factors have arisen that did not seem apparent at the start of the project. This project will expose various appropriate explanations to the process of evictions within the system, which will include local authorities' relationship with the LTB and their municipality

simply explained by the politics of the past two decades. Overall, a look at the housing system in terms of local authority, autonomy and discretion over eviction will prove to be worth exploring.

Section THREE:

Literature Review/Background:

As discussed previously, street-level bureaucracy expert Michael Lipsky wrote a book in 1980 on the subject of discretion. He argued that public servants have the most influence in the implementation of policies and programs.¹³ It was made clear that street-level bureaucrats take advantage of broad policy goals in order to translate those goals into practice. They do so by exercising their own judgment, which may often be seen as resisting pressures from authority. It is common for managers in the housing industry to act in a similar fashion, as they also exercise their own judgment, responding to the needs of a client base where the majority of tenants are vulnerable.

In some cases, public administrators have no choice but to act on their values because some policy goals are too ambiguous. From the public administrator's perspective, they act in a way that they believe is socially acceptable and as Lipsky would also agree, they partake in "...coping behaviour" to do their jobs.¹⁴ This may mean that administrators do the best they can within the confines of their job, exercising a level of compassion where there is room to do so. This is true in the social housing sphere. Housing managers are frantically busy in their work as many do not have the time to record the statistics and data on annual evictions. Lipsky says that most conflict of policy is filtered down to front line workers to resolve.¹⁵ Housing managers must follow

¹³ Marissa Kelly. "Theories of Justice and Street-Level Discretion" *Journal of Public Administration Research and Theory* Vol. 4, No. 2 (Apr., 1994): p. 120 < <http://www.jstor.org/stable/1181774> >

¹⁴ Ibid., 120

¹⁵ Paul Hoggett. "Conflict, Ambivalence, and the Contested Purpose of Public Organizations" *Human Relations* Vol. 59, No. 2 (Feb 2006): p. 179 < <http://hum.sagepub.com/cgi/reprint/59/2/175> >

legislation through the RTA and the SHRA, some of which are even tedious and complex.¹⁶

In fact, it was the SHRA that pushed social housing managers to perform their tasks with more of a business mindset. The act provided managers the direction to become market-oriented in order to avoid financial risk. Although a more business conscious workplace may be more efficient, in the public sector, it opens the doors to a race to the bottom line. This however can be a social risk and lead to implications for the tenants they serve. It was reported, through an intensive study looking at housing managers' outlook toward the SHRA, that "...whatever its original intention, the current SHRA-mandated system is confusing, legally contradictory, and rarely conducive to an actual increase in autonomy."¹⁷ It is common for local housing managers to be constricted or bound by such legislation that can be more or less difficult to work with.

Another important academic who has worked on the concept of street-level bureaucracy and discretion is Patrick G. Scott. He discusses factors that influence the administrators' level of discretion. These factors are:

- The characteristics of the clients
- The attributes of the service provider
- Organizational characteristics¹⁸

This three pronged approach to discretion at the local level is the main framework which will guide this study. Scott's factors are indicative of those working at the street-level in

¹⁶ Jason Hackworth. "The Durability of Roll-Out Neoliberalism Under Centre-Left Governance: The Case of Ontario's Social Housing Sector" *Studies in Political Economy* Vol. 81 (2008): p.7
<<http://jps.library.utoronto.ca/index.php/spe/article/view/4950>>

¹⁷ Ibid., 19

¹⁸ Patrick G. Scott. "Assessing Determinants of Bureaucratic Discretion: An Experiment in Street-Level Decision Making" *Journal of Public Administration Research and Theory* Vol. 7, No. 1 (Jan., 1997): p. 39
<<http://jstor.org/stable/1181544>>

a public capacity. Therefore, they can, and will be applied to the social housing industry in this project. The first factor (characteristics of the clients) can be explained in regards to the behaviours of administrators based on the specific circumstances of their clients. If a public administrator in a social housing corporation has a certain level of sympathy for their client, they may be prone to adapting their services, be more accommodating, or less prone to evict a tenant that may have convicted a violation under the RTA. Sympathy or compassion for their tenants could be a result of the tenant's status or external factors that led the tenant to enter into the system in the first place. This factor points to an avoidance of eviction. The second factor that may explain levels of discretion and reasons behind decision making is the attributes of the service provider. These attributes may be altruism, norms and professionalism that public administrators may possess. What also will apply here are a corporation's values, principles and goals, which ultimately guide the discretion in regards to eviction. Finally, the third factor (organizational characteristics) refers to the level of control management have over their subordinates. The final decision to evict a tenant may be the result of pressure faced by management at a higher level of the housing governance structure, or pressures that may come from municipal council. When applying these factors to the housing industry, in regards to eviction discretion, it is the third prong of Scott's framework that may be more applicable than the others. This is because it is important to understand the social housing system as a whole, in order to see the core implications of discretion in the social housing industry.

This following scenario takes into account all three of Scott's factors that may account for a corporation's eviction rate. Consider, for example, a tenant who damages

their unit due to a grease fire. Perhaps this tenant does not have renter's insurance. Coverage of the damage is therefore provided by the corporation's insurance resulting in a hefty deductible dependent upon the level of damage. Most landlords in the private housing market would likely evict this tenant immediately; however, it is assumed that a tenant in the social housing system may technically not have any other housing alternative, and thus is less likely to be evicted. Social housing corporations face the difficult decision of whether or not to evict based on the tenant's circumstance. When deciding how to handle the situation, managers will see if their tenant is considered vulnerable. Vulnerable tenants are those that are in compromising situations, such as in abusive relationships, dealing with a mental illness or living with a disability.¹⁹ Managers are also concerned if there are children in the home and what kind of impact an eviction could have on them. In a situation of willful damage, however, it would likely result in an eviction had the tenant not realize the consequences of their action. In many cases, tenants who are evicted ultimately are faced with searching for housing in shelters or the private market.

For those who are evicted and left to find alternative housing outside of the subsidized stock, there are many difficulties that they will face. Most tenants within the system are eligible for social assistance, namely Ontario Works (OW) or Ontario Disability Support Program (ODSP). Both forms of assistance are structured to provide basic needs funding such as for shelter, food, and employment supports. The finances provided are dependent upon family size, income, assets and housing costs. Currently, the maximum OW allowance which is given for shelter, for a single person, amounts to

¹⁹ Interview – See END NOTES: CONFIDENTIAL section

\$356 a month, and for basic needs it is \$216 a month.²⁰ Many tenants who are living in social housing are also eligible for Rent-Geared-To-Income (RGI), which stipulates that the rent applied cannot exceed 30 percent of the tenant's income.²¹ However, most private market rental landlords do not apply RGI, and when tenants leave subsidized housing and are looking for shelter in the private market, they are left to rely on the \$356 they are given from OW. Take for example, market rental in the City of London. For a single room, bachelor apartment or a one bedroom apartment at various ends of town, prices can range from \$400-\$700 dollars.²² In the County of Wellington, in fact, one in five households cannot afford the average market rents, with a one bedroom at \$744 a month.²³ With these numbers in consideration, most low income individuals who rely on OW must dip into their other allowances to make up the difference, which may mean limiting the amount on receiving basic needs in order to contribute to their rent. Other housing alternatives that are cheaper include renting rooms (a sharing situation).

In these types of situations outside of subsidized housing, tenants can access other forms of assistance in order to pay for their housing costs. The Housing Allowance Program in Ontario is a limited fixed housing allowance provided temporarily to individuals and is dependant upon the type and size of the unit. For example, for a bachelor and one-bedroom apartment in the City of Toronto, an individual can receive \$350 to help make housing more affordable.²⁴ Many municipalities also provide housing

²⁰ Adam Brightling, Case Worker, Ontario Works London. June 2010

²¹ London & Middlesex Housing Corporation, Annual Report 2008 (2008) <www.london-housing.ca> Accessed June 2010

²² Shelley Milos, Executive Director, London Housing Registry. June 2010

²³ Wellington & Guelph Housing Services Fact Sheet #3, Revised March 2008 <https://ce.uwo.ca/uwc/webmail/attach/Fact%20sheet%203%20housing%20services.pdf?sid=&mbox=INBOX&charset=escaped_unicode&uid=1197&number=4&filename=Fact%20sheet%203%20housing%20services.pdf> Accessed July 2010

²⁴ Housing Connections, Toronto Ontario <<http://www.housingconnections.ca/>> Accessed July 2010

assistance such as Rent Bank, or Housing Emergency Loan Program (HELP – short term interest free loans for those in housing crises). Both programs are provincially funded coupled with the help of municipal funding partnerships. For example, in the City of Hamilton, the Hamilton Community Partnership Program assists in providing these housing allowances.²⁵

While there is a relatively long waiting time to get into subsidized housing (in some corporations up to seven years), many municipalities offer services to those who are in need of being housed. In the City of London, for example, the London Housing Registry offers market rental listings and shelter resources to low-income clients who are actively looking for affordable housing within the city.²⁶ It is common for most other Ontario municipalities to offer similar services to seek and support affordable housing for low-income residents. There is a huge divide between managers who provide market rental services to managers who provide similar services under subsidized housing. As landlords from both sectors must abide by the RTA, it is those providing social housing that must juggle their obligation to this legislation, but also to accommodate and service their tenants in their role as public servants.

The problem for housing managers to decide on eviction arises when tenants violate regulations under the RTA.²⁷ Sometimes, depending on the case, administrators in the social housing corporations may decide not to evict due to extenuating conditions. It is assumed, by the public and the media, social housing providers have the power to decide, case by case, whether or not they are going to evict their tenant despite legal

²⁵ Provincial Rent Bank Program, Revised March 15, 2010 <<http://www.mah.gov.on.ca/Page136.aspx>> Accessed July 2010

²⁶ London Housing Registry, < <http://www.londonhousingregistry.com/frame.html>> Accessed July 2010

²⁷ Sharon, Rob, COO, Windsor-Essex Community Housing Corporation. March 2008

obligations. Clear conditions for the right to evict are stated in the RTA.²⁸ The most significant justification for eviction within the act is late payment or non-payment of rent, in which the landlord has a right to evict. The discretion in this case, however, is completely with the landlord.

Many corporations implement programs to avoid evicting their tenants. In addition to having various strategies in place, housing staff at Windsor-Essex Community Housing Corporation (WECHC) are currently encouraging their tenants to acquire renter's insurance, promoting the insurance at a lower rate. They have initiated an agreement for their tenants to request that their income provider (mainly OW and ODSP) provide an allowance for this insurance. OW and ODSP have currently committed to covering the cost of this renter's insurance to those tenants that receive either form of social assistance.²⁹ It is common for housing corporations to offer programs such as this that may alleviate the burden of eviction. In fact, many others do offer low rate insurance through SoHo insurance, affordable tenant insurance for those in social housing households.³⁰ Currently, all tenants living in a new 55 unit affordable housing apartment building in the Town of Fergus are required to purchase renter's insurance as part of Wellington and Guelph Housing Services' initiative to assist in protecting tenants.³¹ Other prevention policies also address the issue and help tenants stay within the system. For example, TCHC has a *Policy on Eviction Prevention* which outlines recommendations for public managers who are faced with the pressures to evict.³²

²⁸ Ontario. *Residential Tenancies Act* (2006)

²⁹ Trglavcnik, Valentina. Intern "Memo: Windsor-Essex Community Housing Corporation on Renter's Insurance" (March 2008): p.1

³⁰ Interview – See END NOTES: CONFIDENTIAL section

³¹ Interview – See END NOTES: CONFIDENTIAL section

³² Toronto Community Housing Corporation, [Policy on Eviction Prevention](#). (September 30, 2002): pp. 1-5 < http://www.torontohousing.ca/webfm_send/10/1?#> Accessed March 2010

TCHC's eviction policy is outlined on their website, as it is a central guide for managers and housing staff to follow when interacting with tenants who are facing eviction. In 2002, the policy was created because it was important to relay the message to all staff and client tenants that evictions are a last resort. The objectives behind the policy that are in the document state that all tenants need to be treated fairly and that they should always be given a chance to stay in their homes if the problems can be resolved. The policy's main strategies are: education, rent-payment, communication and intervention. It is clear that these facets are deemed as crucial standards in order to avoid evictions. In fact, in the policy's guideline report, it is printed in bold as such: "...during the eviction process, there must be **at least three points** of *direct contact* with tenants"³³ before an eviction notice is issued. This means that housing managers must be in constant communication with the tenant as to make him or her aware of their situation so that it can be addressed appropriately. (Contact with tenants is suggested through letter, phone calls and visits to their units.) Further analysis of this policy can be found in SECTION SIX: "*Analysis #2 - Eviction Prevention*".

Administrators evict their tenants for reasons such as non-payment of rent, fraud, violence, drug use, criminal activity, tenancy agreement violations, and as previously explained damage to units. Some administrators are perceived in the newspapers as erratic for evicting tenants; however, many administrators are also dedicated to their tenants and committed to treating situations that arise seriously without quickly resorting to eviction. All housing providers put in place policies and assistance programs to help their tenants instead of resorting to eviction. It is noted in Dee NaQuin's piece, "To Evict

³³ Toronto Community Housing Corporation, [Eviction Prevention Policy Guidelines](http://www.torontohousing.ca/webfm_send/5206/1?#). (2008): p.2
<http://www.torontohousing.ca/webfm_send/5206/1?#> Accessed March 2010

or Not to Evict”³⁴ that a major reason why managers turn to eviction is to remove a tenant from the neighbourhood who had brought crime and instigated trouble for other tenants in the community. The community is then safer without that tenant, and in the long run, makes a difference for those tenants who are being housed. It is stated in this article that eviction is considered as the very last resort because it affects every party involved. Children who have been living in the homes are affected, as well as the staff members of the corporation who decided to carry out the eviction. It is also costly to evict a tenant because the unit may need to be repaired and renovated for incoming tenants, and administration costs especially in an eviction for which the tenant did not pay their rent.³⁵ This may be a concern for those who are members of the Board of Directors (if the corporation operates at arms-length from the municipality, common in a single-tier), or municipal councilors (for corporations operating as a department under a regional municipality). Municipal council representatives, who sit on the board of a housing corporation, or in the council room, may not necessarily be familiar with the tenants and front line workers of the corporation, yet they may have considerable decision making powers, especially regarding evictions.

The most accepted alternative to eviction, along with the programs in place to assist tenants, is the mediation process. Both the corporations and the Landlord and Tenant Board (LTB) provide mediation services to resolve conflicts that arise, especially those that may result in evictions. Most reported decisions (called redacted orders) that are posted on the LTB’s website involve tenants who are fighting evictions that they

³⁴ Dee NaQuin Shafer, “To Evict or Not to Evict” *Journal of Housing and Community Development* Vol. 59, No. 4 (Jul/Aug 2002)

³⁵ Dee NaQuin Shafer, “To Evict or Not to Evict” *Journal of Housing and Community Development* Vol. 59, No. 4 (Jul/Aug 2002): p. 16

believe were wrongly applied to them. Housing corporations turn to the LTB often when they are in conflict with a tenant who has appealed their eviction notices.

Currently, the LTB's role is to provide information and support to their clients regarding the RTA, as it possesses quasi-judicial functions.³⁶ In the mediation stage, both parties meet with a Board Mediator to come to an agreement. The process of mediation is most favourable to the LTB. To avoid adjudication, the Mediation Project was implemented in 2007 to encourage mediation.³⁷ Mediation benefits the tenants because it is a non-adversarial approach and it can strengthen the relationship between both parties, especially if eviction is to be avoided. Overall, in the 2007-2008 year, 45 percent of all applications (which include those outside the social housing system) were successful in the mediation process.³⁸ Ultimately it is at the corporations' discretion to turn to the LTB when it is needed.

There are few studies that have been conducted in Ontario to measure the factors that influence eviction rates in public housing. Some examples used here are drawn from the United States. It must be recognized, however, that although there is limited research on this issue in Ontario, and the studies in the United States rely heavily on American legislation, they can still be used to generalize conclusions about issues that arise in the system of Ontario.

Some American studies conducted that have focused on eviction in social housing have discovered that administrators in housing take problem-solving approaches to

³⁶ Landlord and Tenant Board: *Annual Report 2007-2008*
< <http://www.ltb.gov.on.ca/graphics/272448.pdf> > Accessed October 2009

³⁷ Ibid.,

³⁸ Ibid.,

address problematic tenants, rather than disciplinary actions such as eviction.³⁹ Evictions due to crime related activity such as drug possession are uncommon. Numbers in a New Jersey study in 1995 suggest that more evictions were due to other situations like non-payment of rent or damage to the units.⁴⁰ The reason suggested in this study as to why drug related evictions are rare is because it is very difficult for the housing managers to find concrete evidence which would lead to grounds for eviction. In fact, it was realized in the same New Jersey study, that some housing managers used other reasons, such as non-payment of rent, to evict a tenant for what was really a drug-related scenario.⁴¹ It is clear, that with tenants who are involved in drugs and criminal activity, eviction is more likely to occur, even if administrators must find a means to do it.

The results of the New Jersey study illustrated that non-payment of rent was not a common influence on the housing managers' decision to evict.⁴² In most cases of non-payment of rent, it is clear that administrators in social housing would do what they could to assist their tenants so that the situation could be remedied. In Ontario, in the majority of cases where tenants are not paying their rent, and in a case where the situation cannot be worked out through alternatives offered by the housing managers, the cases may be sent to the LTB for an objective third party decision. The most common outcome at either stage would be for the tenant to agree to a payment plan, through mediation, to

³⁹ Justin Ready, Lorraine Green Mazerolle and Elyse Revere. "Getting Evicted From Public Housing: An Analysis of the Factors Influencing Eviction Decisions In Six Public Housing Sites" *Crime Prevention Studies* Vol. 9 (1998): p. 308

⁴⁰ Justin Ready, Lorraine Green Mazerolle and Elyse Revere. "Getting Evicted From Public Housing: An Analysis of the Factors Influencing Eviction Decisions In Six Public Housing Sites" *Crime Prevention Studies* Vol. 9 (1998): p. 310

⁴¹ *Ibid.*, 314

⁴² *Ibid.*, 321

repay the costs owed to their housing landlord.⁴³ If this did not correct the issue, an eviction would likely follow.

The results of the New Jersey study also showed that the most common influence for whether or not tenants were evicted were “administrative complaints”.⁴⁴ An example of these complaints would include documents that were withheld from the landlord, such as required income forms that are incorrectly filed or not filed at all (as was the case with Al Gosling in TCHC). In cases of administrative errors, housing managers were found to have the most discretion in filing for an eviction. The results of the study conducted here instigate questions on how these situations occur in the Ontario system.

A study conducted in New York in 1993 found that lower income levels lead to non-payment of rent, and ultimately eviction. This study found that almost half of tenants in the City of New York who faced eviction had incomes below that of \$10,000. Also, 86 per cent were African American or Latino. It is commonly generalized that “...those who are evicted are typically poor, women, and minorities.”⁴⁵ A similar study in the same city in 2001 discovered that a large portion of the evictions that took place in the previous year occurred in the Bronx, the city’s poorest borough. These demographic statistics that are found are similar to several American municipalities as well as those in Ontario. Approximately two-thirds of tenants housed with TCHC are women, many of

⁴³ Landlord and Tenant Board, Revised 30 March 2009 <<http://www.ltb.gov.on.ca/en/index.html> > Accessed March 2010

⁴⁴ Justin Ready, Lorraine Green Mazerolle and Elyse Revere. “Getting Evicted From Public Housing: An Analysis of the Factors Influencing Eviction Decisions In Six Public Housing Sites” *Crime Prevention Studies* Vol. 9 (1998): p. 321

⁴⁵ Chester Hartman and David Robinson. “Evictions: The Hidden Housing Problem” *Housing Policy Debate* Vol. 14, No. 4 (2003): p. 476 <<http://www.saje.net/atf/cf/%7B493B2790-DD4E-4ED0-8F4E-C78E8F3A7561%7D/Evictions.pdf>>

whom are single mothers.⁴⁶ The challenge here is to find how the politics of the Ontario housing system shape eviction cases.

In 2003, a study in Toronto on homelessness found similar conclusions on the eviction rates and the stability of homes for tenants in social housing. Before conducting in-depth interviews with tenants who have had experiences being homeless, the study recognized the existing problems in the social housing system. The major problem that is discussed first is the reason why many tenants go in and out of homelessness due to evictions. They refer to the lack of social programs that integrate their tenants into the communities. Researchers in this study coin this as “institutional disaffiliation”,⁴⁷ which may lead to problematic situations where tenants could ultimately be evicted. Since 2003, many corporations have been increasing their efforts towards programs and initiatives to engage their tenants within their communities to decrease their eviction numbers. One of the major recommendations that resulted from this study included programs for job opportunities.⁴⁸ OCH, for example, offers forums for tenant participation such as involvement in their Tenant Advisory Group, many of their Tenant Associations, and even more of their District-Based Committees.⁴⁹ Many housing corporations provide similar tenant based groups and like OCH, promote such groups and events on tenant calendars and newsletters to keep their tenant populations informed.

⁴⁶ Margaret Philp, “Public-Housing Landlord Gets Tough,” *The Globe and Mail*, (Toronto, Ont.: Apr 30, 2001), p.A.16 < <http://proquest.umi.com.ezproxy.uwindsor.ca/pqdlink?Ver=1&Exp=12-22-2014&FMT=7&DID=1051948751&RQT=309> >

⁴⁷ Uzo Anucha with assistance of David J. Hulchanski, “Where Do They Come From? Why Do They Leave? Where Do They Go?: A Study of Tenant Exits From Housing for Homeless People.” Research Report for *Canada Mortgage and Housing Corporation* (Feb 2003): p. 3

⁴⁸ *Ibid.*, 4

⁴⁹ Ottawa Community Housing Corporation: Tenant Living “Be Involved” 2010 <http://och.ca/site/index.php?option=com_content&task=view&id=29&Itemid=44> Accessed June 2010

Scott's three prong framework will help direct the next few sections of this report. All three concepts are rooted in most public administrators' roles in their everyday work. Public administrators, especially those on the front line exercising various levels of discretion, act differently than those in the private sector. Their decisions are influenced by their goals and values. In summary, even though eviction may sometimes be the better solution (for the sake of the other tenants in the same neighbourhood), as housing administrators work within the confines of certain legislation, evictions are considered a last resort.

Section FOUR:

Methodology:

Since there are few studies conducted on this subject regarding social housing providers in Ontario, and there continues to be more public scrutiny of these providers in the face of evictions, an in-depth look at the issue is important.

The Ontario Non-Profit Housing Association (ONPHA)⁵⁰ is composed of 196 member organizations. Several of these organizations serve a specific tenant group in their geographical area. Ideally, a sample of all 196 organizations would produce better findings because it is the largest sample in Ontario; however, most member organizations coalesce with neighbouring organizations or municipalities in order to serve the tenant population in their area because there is more than one organization in each municipality or region. Choosing one corporation in each municipality or region would produce clearer results. Therefore, a sample that includes only the larger corporations or municipal housing providers from several Ontario municipalities would suffice.

The sample in this design will look at twelve public housing providers in Ontario since they are the largest organizations in the majority of the municipalities and regions. The organizations used in the study are conveniently chosen in that they are representative of their geographical location.⁵¹ It is important to note that each participating housing provider in the sample serves different sized tenant populations of low income tenants (which are proportional to their municipality's population). Most provide social programs such as employment programs, community enhancement

⁵⁰ Ontario Non-Profit Housing Association. 2010.
<http://imis.onpha.org/source/members/member_websites.cfm?Section=Member_profiles1> Accessed May 2010

⁵¹ University of Western Ontario, Public Administration 9914 *Research Methods and Statistics*: Lecture by Bob Young, September 29, 2009

programs, and most provide access to community relation workers who are fully engaged in their tenant neighbourhoods. The housing providers in this study are also different in structure. Some serve single-tier municipalities, in which they operate at arms-length from their municipal council, governed by a board of directors. Some of the cases serve regional municipalities, in which they operate as a municipal department, governed by council members.

To ensure that the validity of the sampling will not be compromised, there must also be recognition that the results gathered from the chosen sample are only generalizable to similar cases with similar characteristics. This study is not meant to draw conclusions about evictions in corporations outside of Ontario and therefore cannot prove any concrete theories outside of the sample. The results are intended to gather information and provide assumptions that can further suggest adequate explanations.

The results found can be used to expose general explanations because it is assumed that the cases chosen are representative of all, or most, corporations in Ontario. The following sample is considered small; however, it is representative because each case study is chosen from a specific geographical area. Therefore, the results can and will be analyzed with the assumption that the results will yield generalizations about other, smaller organizations in the province. The following are cases that will be used in this study. They are:

- Windsor-Essex Community Housing Corporation
- London & Middlesex Housing Corporation
- Ottawa Community Housing
- Wellington and Guelph Housing Services

- Region of Waterloo Community Housing
- Kingston Home Base Non-Profit Housing Inc
- Cambridge Non-Profit Housing Corporation
- Housing York Inc
- Thunder Bay District Housing Corporation
- Elgin & St. Thomas Housing Corporation
- Grey County Housing
- Chatham-Kent Social Housing

Remember that this sample is representative also because the study intends to measure eviction discretion in Ontario only.

At the beginning of the research process, thirty housing providers were sent an invitation to participate in this study. (That is a 40 percent response rate.) Almost immediately, one response was sent back indicating the manager's disinterest in providing eviction information. The respondent ultimately questioned the overall purpose of this study. Had there been other similar responses, this manager's attitude toward the project's objective would have been discouraging. The major challenge, however, was receiving information in a timely manner, or receiving information at all. The timeliness of the responses, and of those who did not respond at all, made clear that the nature of the housing industry is very hectic, indicating that there is limited time to respond to surveys. There was also an insistent response from all respondents that a final draft of the study be sent directly to them once completed; preferably, perhaps, because they may want to ensure their information provided remain confidential and that their explanations are clarified accurately.

Section FIVE:

Analysis #1 - Survey and Interview:

All cases listed above have been consulted for information relating to their corporation and evictions within their respective tenant populations. Questions in the initial survey sent out to staff members of these corporations are based on variables determined to measure and compare evictions in these tenant populations. *See Appendix A for survey template.* The main variable measured here is the total number of evictions annually in proportion to the total tenant population. An indicator for this is the percentage of evictions that occurred in the past year for each corporation (aka eviction rate). The following is a list of variables that were sought out to explain their respective eviction rate (all were included in the initial survey):

- Existence of documented eviction prevention policies (Or interest in creating such a policy)
- Structure of the corporation's governance (ie make up of Board of Directors if applicable) – this is in respect to municipal council representation, indicating pressure or influence
- Vacancy rate within the units
- Wait time for people who are on the waiting list to acquire a public housing unit (including the length of the list)
- Average rent applied as a proportion to tenant income
- Providing the opportunity to acquire renters insurance at a low rate

These factors may explain total number of evictions per corporation. Consider, perhaps, a tenant who has violated their tenancy to some degree; it is up the social housing manager to ultimately decide if the tenant is to be evicted. The manager responsible for deciding on eviction may be influenced by other deserving people who are on the waiting list. If the waiting list for one corporation is larger than the waiting list for another, also factoring in the average waiting time, the administrator may be more prone to evict that tenant with the intention of bringing more people into the system.

One factor considered in this study is the number of evictions that occur as a result of the LTB's decisions. The decision to evict by an adjudicator or mediator may offset the intended results of the evictions that are decided upon by administrators within the social housing corporations. Recognizing the LTB's role in the eviction process is important because they may decide not to evict a tenant in a situation where an administrator within a corporation would want to evict or vice versa. The LTB's role may be interference to evictions and thus must be acknowledged as such. The results from the survey will explain this issue as it occurs in Ontario housing providers.

Questions in the survey sought information such as the existence of documented eviction prevention policies, and whether or not the corporations offer renters insurance at a low rate.

The structure of the Board of Directors for each case was also sought for as it was one variable thought to be important here. The concept here is that the majority of Boards of Directors for social housing corporations operate at arms-length from their municipality. Since many organizations in Ontario are structured differently, the intent here is to find how much influence municipal council has within the corporations or

regional housing divisions. Therefore, the percentage of municipal representation will indicate how much influence there is in total number of evictions. The responses in the survey are intended to produce such results.

Another factor explored in the survey was the average rent that is applied to a corporation's tenant population. Most corporations apply RGI which is an accurate way of distributing rent levels to tenants based on their income levels. Although this is ideal, some tenants in social housing are not eligible for RGI, which may lead to non-payment of rent violations. Therefore, a question asking for the average rent that is applied to a corporation's tenant base eligible for RGI is necessary to determine if it influences their total number of evictions.

Vacancy rates are also included in the survey. It is measured by the number of vacant units in proportion to the number of units. This percentage will indicate how desirable it is for the corporations to keep their tenants within the system which possibly influences the number of total evictions. The assumption here is that because affordable housing units are always in demand, there is no problem with vacancy within the system; however, the questions pertaining to vacancies are still important to acquiring complete research.

Upon organizing the responses from the survey that was sent out, it was noticed that there was little to no connection between these variables and the concepts described. For example, it was found that the existence of an eviction prevention policy did not render a lower eviction rate, nor did the other factors such as vacancy rate, length of and time of wait on the waiting list, and average rent applied. The fact that the majority of the evictions that occurred had been approved by the LTB raised many questions about

the relationship these corporations have with the LTB as well as with their municipality and their influence within the system. The overall finding that arose after receiving the survey results was that there may not be direct evidence between these factors and eviction rate, but that there was considerable discretion at the local level NOT to evict.

The following table outlines some of the results gathered from the survey, and confirms some interesting facts.

TABLE 1: Numbers Gathered From Survey and Preliminary Questions

Total Eviction Rates	Evictions Avoided Due to Payment Plans	Evictions due to Non-Payment of Rent	Existence of an Eviction Prevention Policy
1.25%	125	70%	No
0.3%	25	88%	Yes
0%	8	Na	No
0.3%	40	100%	Yes
0.6%	45	100%	Yes
0.9%	25	75%	No
1.7%	10	83%	No
0.38%	40-50	92%	Yes
1.5%	Na	Na	Yes
0.16%	Na	Na	Yes
1.10%	Na	85%	Yes
1.4%	6	36%	No

*All numbers here are from survey results. For reference, see END NOTES: CONFIDENTIAL section

The corporations and municipal housing providers have been excluded from the table to respect confidentiality. The numbers displayed in the first column correlate with the numbers displayed across the table. The rows of numbers displayed are in no particular order.

Note how the total eviction rates are relatively small in comparison to the media perception that portrays housing corporations as aggressive in their evictions. Since all of these eviction rates are less than 2 percent (and other than one rate at 0 percent, another as low as 0.16 percent)⁵², negative media and public perception of housing corporations in regards to eviction is clouded. A housing provider evicting aggressively is a myth based on these findings. The next column shows the numbers of cases where eviction was avoided because managers have worked out a payment plan with their tenants who may have been faced with rent arrears. Regardless of these relatively high numbers, the column showing numbers of the evictions due to non-payment of rent are all high percentages. This indicates one of the biggest problems regarding eviction. These numbers may possibly relate to the last column, the existence of an eviction prevention policy, in that over half of the participants in the study have indicated that they use these policies guiding them in their eviction discretion. It is no coincidence that the majority of these policies are geared towards the prevention of rent arrears, thus trying to keep tenants housed.

Even though the survey results provided some information for analysis, a second stage of research was required in order to delve deeper into the issues raised by the survey. For several of the cases here, an in-depth interview was conducted with the

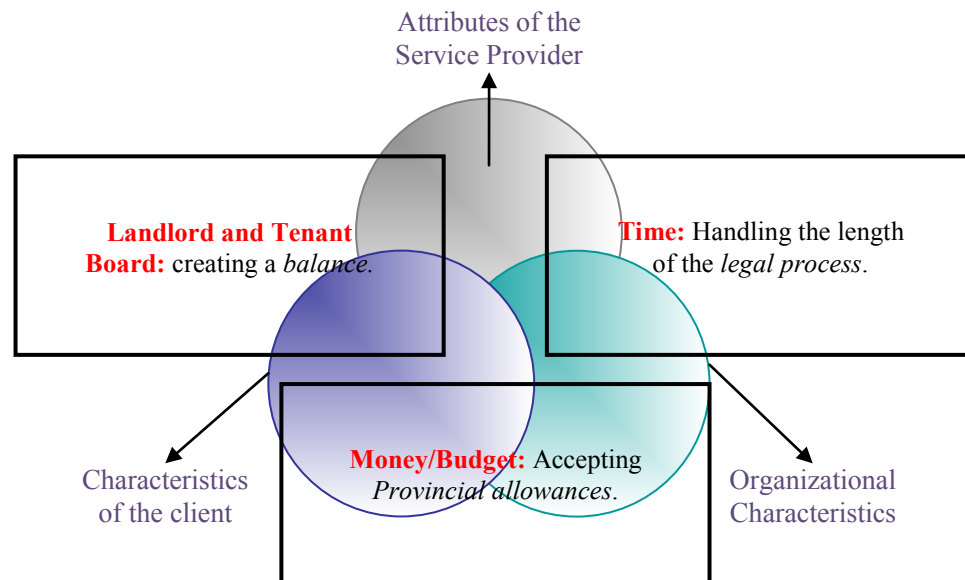
⁵² Survey Results – For reference, see END NOTES: CONFIDENTIAL section

respondent of the survey. *See Appendix B for Interview Template.* The following corporations had provided in-depth qualitative information based on the survey:

- Chatham-Kent Social Housing
- York Housing Inc
- Region of Waterloo Community Housing
- Windsor-Essex Community Housing Corporation
- London & Middlesex Housing Corporation
- Wellington and Guelph Housing Services

The questions in this interview were solely based on the responses gathered from the survey; however, all questions for these interviews remained relatively the same. It was originally assumed that the initial survey would provoke questions that required open-ended responses to further develop insight into the theories of the topic and carefully assist in exposing the necessary information to complete this study. As part of the second stage of primary research, the in-depth interview consisted of follow-up questions that were instigated by the responses in the initial survey. The questions were not developed until the first few survey responses were gathered because they were based on the initial information. The questions in the interviews were open-ended questions that addressed eviction rates and the overall process of eviction within the system.

Posted here is a new model which includes Scott's three characteristics. All information described below has been gathered through interviews with housing managers across Ontario. The purple text that is not boxed in displays Scott's three components to his street-level bureaucratic framework. The red and black text within the three boxes reflects the findings that have been discovered through research in this study.



Together, using Scott's discretion components in a new model with added elements in the three boxes shown here, a complete explanation of the face of eviction discretion in social housing is displayed. All components in this new framework apply the literature, past studies, and housing politics to the current realities that the housing managers experience in their day to day jobs regarding eviction.

The first component to the new framework is the Landlord and Tenant Board, the highest authority granting and approving eviction requests. Housing providers turn to the LTB because they can provide assistance and mediation services for cases where an objective third party is necessary for making decisions on eviction applications and appeals. Managers have the authority to apply for an eviction with the LTB when they

serve notice to the tenant as their intent for them to leave. Note that the LTB can only evict when they are requested by the corporations. The relationship a corporation has with the LTB is important because when housing managers utilize their discretion to evict a tenant, the LTB should be in understanding of the situation with the tenant and thus must be on similar grounds with the corporation.

It was found through interview conversation that the main differences between the corporations and the LTB lie in their overall guiding principles and values. There are times when managers will work with adjudicators or mediators that may see the situation with a different perspective. One manager, in fact, made comment that the LTB does not have the bureaucratic structure that may guide their decision making the way that corporations do, thus avoiding being bound by certain restrictions. This can be conflictual if an adjudicator will use Sec.83 of the RTA which allows them to refuse an application of an eviction in the event that they may see the eviction as unfair to the tenant. As a quasi-judicial body that does not have street-level contact with the tenant population, members at that level do not always see the impacts of what would happen when a tenant is to remain in housing. Housing managers may be concerned with these impacts, especially concerning the responsibility they may have to the other tenants in the community. This applies to NaQuin's piece explaining that it is more beneficial to evict one tenant if the safety of the other tenants in the neighbourhood is at risk. Even though adjudicators may not foresee the consequences of continually housing a tenant facing an eviction, there is a need for a balance (with the help of the housing manager) between being compassionate to the tenant about to be evicted, and being fair to those else who live within the community.

It was found through one interview, that at times the corporations are told by the LTB that they are not being “tough enough”.⁵³ However, even though there may be differences experienced at the LTB, especially in terms of perception and discretion between the LTB and the corporations, overall, there is a considerable fair relationship between the two, and the majority of rulings remain consistent.

The second component to the new model is time. In most of the interviews conducted, timing of the legal process and procedures to evict tenants was an issue that was raised. This factor relays back to the LTB as well, because once an eviction application is sent to the Service Manager, and then to the LTB, there are times where managers will have to wait before they get a hearing; and this may take even six to eight weeks, during which the tenant is still being housed. One manager even expressed frustration that a tenant who is up for an eviction may even remain in housing for months before they actually leave their unit.⁵⁴ This delay certainly gives tenants the opportunity to correct their behaviours sometimes in order to sway the final decision. This time is also costly for the landlords if the tenant to be evicted is up for an eviction due to rent arrears, representing a time where the required rent may not be fully collected. If the tenant up for eviction is being evicted due to other reasons that may affect neighbouring tenants, the issue is then prolonged, thus aggravating the other tenants. They are left also waiting for the corporation and the LTB to resolve the issue, an unfair situation for quiet and lawful tenants.⁵⁵ It was expressed through a few interviews that because of this delay, neighbouring tenants may end up distrusting the system altogether, possibly adding to a perception of inefficiency.

⁵³ Interview – See END NOTES: CONFIDENTIAL section

⁵⁴ Interview – See END NOTES: CONFIDENTIAL section

The entire legal process can be lengthy and draining for all parties involved, especially in a case where it is crucial that a tenant leaves housing. The actual hearing may also be of some length. One manager reported that a meeting can be ten minutes, or it can take three hours. It is known that most legislation is very clear for landlords to conform to their policies in order to abide by them. In terms of obstacles faced by landlords with legislation, it is the difference between the landlords in the private sector and those in the public. Abiding by the SHRA, in particular, can certainly pose extra costs to public housing landlords as they juggle abiding by legislation and accommodating tenants as part of their role as a public servant. One manager had suggested: “I would like to see more flexibility to remove tenants that are adversely affecting others in the building or neighbourhoods.”⁵⁶ This would assist the landlords in protecting their other tenants.

The next concern with timing is the tracking process. Most of the managers who have contributed to this project have had to work on getting accurate information because there is no formal tracking process of evictions. Due to a hectic working environment, managers do not have the time or means to keep record of their evictions. One manager had explained that if they found the time to track and record evictions, nothing else would get done. This is another explanation as to how decisions are being made. Simply put, housing managers are busy working with their tenants, not evicting them; and even though the job can be time consuming and frustrating, working with the tenants is never an inconvenience. All managers who have participated in this study have explained that they work one on one with their tenants to avoid eviction altogether. One manager has

⁵⁵ Interview – See END NOTES: CONFIDENTIAL section

⁵⁶ Interview – See END NOTES: CONFIDENTIAL section

expressed that, "...the bulk of all evictions could be eliminated with proper tenant education."⁵⁷ Assumably, this requires time and dedication on the part of the landlord to relay information and partake in proper communication with troubled tenants.

The third and final component that contributes to the overall eviction framework is money and budgeting. This element is indicative of most challenges faced by municipalities and organizations in the public sector, so it is evident that it fits in this scenario here. In terms of maintaining housing stock, managers must be consistently updating regulations and policies within their corporation. This is a challenge because provincial grants and allowances (to the landlord and the tenant), remain the same over the years. Even rental rates set by the province have remained the same since 1993. In LMHC's annual report (2008), it was recognized that "...unfunded capital replacement liability continues to grow"⁵⁸, which raises more concern for budget constraints that housing managers deal with on a daily basis. How this affects eviction, is that a lack of funds contrasted with rising costs of living may lead tenants to not paying their rent, thus risking an eviction.

The public sector constantly faces budget constraints, housing sector most specifically facing costs that must be managed. While abiding by their "Duty to Accommodate" in the Ontario Human Rights Code, public sector landlords are challenged with accommodating tenants with disabilities and special needs (which include mental health and addictions), when at times they may not have complete access to resources and funding to provide the necessary support.⁵⁹ Increased demand for

⁵⁷ Interview – See END NOTES: CONFIDENTIAL section

⁵⁸ London & Middlesex Housing Corporation, Annual Report 2008 (2008) <www.london-housing.ca> Accessed June 2010: p. 19

⁵⁹ Interview – See END NOTES: CONFIDENTIAL section

maintenance of the housing stock and service to the tenancy for LMHC for example, have led to a 15-20 percent subsidy increases each year just to maintain the status quo.⁶⁰ This subsidy increase was funded through city and county budget negotiations.

Tenants are often pressured by rent arrears that build up due to things such as utility rates that are never adjusted, etc. It was reported in one of the interviews that the allowance provided by the province is even ten years old and thus insufficient given the present day costs.⁶¹ This also poses problems when corporations need to update their systems to provincial regulations and conditions even though the grants provided remain the same.

Overall, the survey and interview answers were beneficial to this report because they provided insight and thought on the issue of eviction. Regardless of the various differences between all the corporations and municipal housing divisions, all answers followed a similar trend, one that indicated an effort on behalf of their management team to avoid eviction and ultimately keep their tenants housed. The total eviction rates gathered had little if not no relation to the initial concepts discussed in previous sections. All eviction rates were so similar that there is no need to question what it was that made some eviction rates in some corporations higher than other rates. If anything, it was found that even though the eviction rates were almost the same, exploring various other issues (remember Scott's three characteristics) related to eviction discretion deemed important; if only to dispel the myth that housing managers in the public sector evict aggressively without caution.

⁶⁰ London & Middlesex Housing Corporation, Annual Report 2008 (2008) <www.london-housing.ca> Accessed June 2010: p. 19

⁶¹ Interview – See END NOTES: CONFIDENTIAL section

Section SIX:

Analysis #2 - Eviction Prevention:

In light of the consistent and abrasive media attention that is directed towards painting a negative view of the social housing system, it seems almost necessary that there is some kind of analysis in order to create adequate recommendations for improvement. Indeed, this is what the TCHC board members felt was needed after the death of Mr. Gosling that followed his eviction. In October of 2009, just shortly after the incident, the TCHC Board inquired assistance from an objective third party to investigate the case and propose recommendations for improvement in order to learn from Mr. Gosling's eviction. The Honourable Justice Patrick LeSage issued the "Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation" in May of 2010.⁶²

As part of the report, a website was created to encourage tenants and community members to participate in an on-going forum discussion related to the review of Mr. Gosling's case. Justice LeSage had also held consultation meetings with 300-400 tenants, TCHC frontline staff and management and representatives from community support agencies and legal aid clinics.⁶³ It was recognized that although TCHC management and staff were obligated to provide necessary services and supports in partnership with other agencies, as an entire housing provider, and among other housing providers, they have neither the staffing nor funding to provide such needed services.

⁶² The Honourable Patrick J. LeSage, C.M., O.Ont., QC. "Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation" (May 2010): pp. 1-90
<http://www.torontohousing.ca/webfm_send/6521/1?#> Accessed July 2010

⁶³ Ibid., i

This is another indication of minimal budget flexibility to fully accommodate vulnerable tenants.

Again, Mr. Gosling had resided with TCHC for twenty-one years and the issue of his rent arrear did not surface until he failed to complete income papers for subsidized rent, and as a result his rent had increased. Simply, it appears his eviction could have been avoided had a number of preventative steps in TCHC's Eviction Prevention Policy been properly implemented for Mr. Gosling. The objective of the LeSage report was "...to make recommendations to prevent evictions of vulnerable tenants for non-payment of rent."⁶⁴; an objective that is used for most all social housing providers, it is the accessibility and implementation of protecting and providing for vulnerable tenants that become complex. The LeSage report clearly discusses and identifies the definition of a vulnerable tenant and acknowledges that the vulnerable includes an infinite amount of circumstances and intricacies. It is stated in the report that "...there are a host of other risk factors, some of which can cause a person not otherwise considered vulnerable, to very quickly become vulnerable. It is important that TCHC develop strategies for assessing a tenant's status on an ongoing basis so that if and when they become vulnerable or ...they become "at risk", systems are in place to provide extra assistance for them to maintain successful tenancies."⁶⁵

Throughout the research process for this project, it was found by several sources that there have been more and more vulnerable tenants in social housing today than in previous years; and it is more common to see tenants become vulnerable when they are in

⁶⁴ The Honourable Patrick J. LeSage, C.M., O.Ont., QC. "Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation" (May 2010): p. 4
<http://www.torontohousing.ca/webfm_send/6521/1?#> Accessed July 2010

⁶⁵ Ibid.,

social housing. LMHC reported that there are more vulnerable and transient tenants in their tenant population today, stating that seven out of ten tenant applicants are coming from the shelter system and that there is more evidence of these tenant applicants who have experienced violence and abuse, addictions, and mental illnesses.⁶⁶ This is the very reason why there is a need for improvement of communication, service, and social supports; if all to avoid eviction and putting their tenants back out of the system. In the case of Mr. Gosling, it was an overlook of consistent communication that caused the end of his tenancy and eventual life.

Several recognitions and recommendations were made through the LeSage report. One of the more important acknowledgments concerns the legislation that housing providers are obligated to abide by. As mentioned previously, legislation must be more flexible for housing staff as they have little discretion with regulations for their tenants, especially in terms of avoiding eviction. Justice LeSage stated that legislation and regulations in regards to rent collection and subsidies are “cumbersome and detailed”⁶⁷; perhaps causing confusion and frustration. These words (among others such as: confusing, unnecessary, duplicative, excessive, complex and complicated) are also used elsewhere in the report describing things such as the arrears collection process and the legal eviction process.⁶⁸ It is what housing managers face on a daily basis.

The main recommendation made out in this report is in regards to the “direct contact” portion of the prevention policy and the communication that is required to assist

⁶⁶ London & Middlesex Housing Corporation, *Annual Report 2008* (2008) <www.london-housing.ca> Accessed June 2010: p. 19

⁶⁷ The Honourable Patrick J. LeSage, C.M., O.Ont., QC. “Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation” (May 2010): p. 16 <http://www.torontohousing.ca/webfm_send/6521/1?#> Accessed July 2010

⁶⁸ *Ibid.*, 23

the tenants in paying their arrears. Although it is stated in the policy that there must be direct contact with tenants, it was found that this direct contact and communication with tenants in the midst of the arrears collection process was very inconsistent in its application. The problem with inconsistency may be the result of a lack of assignment in the eviction prevention policy of which staff position is responsible and accountable for implementing its guidelines.⁶⁹ As previously outlined in this paper, the eviction prevention policy has steps to ensure that arrears are paid by the tenants, but it is unclear on how the steps are practiced. Ultimately, Justice LeSage reported that, "...there is a system in place to assist vulnerable tenants, but it appears clear it is not being utilized to its full potential."⁷⁰ A need for change and improvement is not only inevitable at this point, but necessary. It only took the death of Mr. Gosling for an independent review to take place which recognized the need for improvement in the prevention of evictions.

A lesson learnt from this situation amongst all housing corporations may be that careful treatment and caution is necessary for most tenants, particularly those that are, or may easily become vulnerable. A case in which a tenant had ultimately paid his life because he was not housed surely led to the scrutiny of housing managements' eviction discretion amongst the media and the public. Mr. Gosling's case gave the newspapers something to chew on, which in turn, gave TCHC a negative reputation, confirming their "aggressiveness" in evicting their tenants regardless of their overall eviction rate.⁷¹ There

⁶⁹ The Honourable Patrick J. LeSage, C.M., O.Ont., QC. "Report on the Eviction of Al Gosling and the Eviction Prevention Policy of Toronto Community Housing Corporation" (May 2010): p. 24

<http://www.torontohousing.ca/webfm_send/6521/1?#> Accessed July 2010

⁷⁰ Ibid., 29

⁷¹ **NOTE:** Obtaining eviction information from TCHC was a challenge because no staff member was willing to take part in discussing evictions that occurred within their corporation. Their participation in this study may or may not have followed the general pattern of responses. It is assumed, however, that even though TCHC is the

is no doubt that explicitly following guidelines in eviction prevention policies is now emphasized to all other housing managers. The LeSage report outlined the importance of eviction prevention with or without a policy, and provided guidance as to what is important when following through with their tenants. Client and corporation characteristics (i.e. Scott's three pronged framework) may have played a part in the ultimate decision to evict Mr. Gosling, but this may never be known.

corporation that is referenced as evicting "aggressively", the responses would have been similar to those others that took part in this project.

Section SEVEN:

Conclusion:

This study was intended to prove that there are several things involved with each social housing corporation's eviction rate. It was intended to question what it was that made some eviction rates in some corporations higher than other rates. Each corporation possesses differing characteristics from others and this study assumes that these characteristics influence the total number of evictions that are recorded annually. However, as discussed through this project, original assumptions were quelled by other factors.

In the initial stages of the research, it was shown through other studies that eviction is a serious problem that affects all parties involved. This includes the public administrators who are the ones who decide to evict. The literature has also shown that there are numerous factors that can influence discretion in the public sector. As Scott clearly postulates that there are concrete characteristics that can explain discretion that can produce consequences, such as an increase or decrease in total number of evictions per year. These characteristics take into account all of the factors explored here in this project, but also lead to an extension of Scott's framework that was created based on the final findings as well as to compliment the street-level bureaucratic discretion of local housing managers. Relations such as existence of eviction prevention policies, structure of a corporation's Board of Directors, vacancy rate, average wait time on the waiting list, average rent as a proportion to a tenant's income, and a low rate insurance provided do not necessarily relate to a corporation's eviction rate; however, they do reflect Scott's theory that the prongs in his framework (characteristics of the client, attributes of the

service provider, and organizational characteristics)⁷² may reflect a housing manager's discretion to avoid eviction. It is proven that Scott's factors, as well as the extended framework in a new model apply to the decisions made in the public sector that could potentially produce results that impact an organization's service and performance.

It is obvious that this issue has been a heated debate at the local level and those corporations are being held accountable for their daily operations which include avoiding evictions. There is an apparent public perception drawn from the media that social housing providers are inherently evicting aggressively. If anything has been learned through this project, it is that this perception is merely based on optics. There is a clear disconnect between public perception and reality, and the findings within this project shows this. Often times, housing managers are not able to confront or dispute the allegations of little compassion within the newspapers because they are public servants only doing their jobs and proactively doing the right thing while avoiding the media drama by not adding fuel to the fire. Most public servants are wary about going to the media to 'set the story straight'; perhaps this paper is the opportunity to do so. As was discussed throughout this project, social housing providers are in the business of housing people, not evicting them. And this in itself guides the way they serve their tenant populations.

There are tenant scenarios where housing managers often delay or avoid evictions; however, there can also be explanations as to what influences their decisions to evict and not to evict in the first place. Ultimately, this project was intended to provoke thought into explaining eviction rates in the public housing system, explore the eviction

⁷² Patrick G. Scott. "Assessing Determinants of Bureaucratic Discretion: An Experiment in Street-Level Decision Making" *Journal of Public Administration Research and Theory* Vol. 7, No. 1 (Jan., 1997): p. 39
<<http://jstor.org/stable/1181544>>

process, and analyze the relationships between the LTB and their respective municipalities. It is almost too idealistic to think that perception can change on this issue. The media continually portrays social housing to be “housers of last resort”⁷³, and that, perhaps, may even be the underlying problem.

⁷³ Dee NaQuin Shafer, "To Evict or Not to Evict" *Journal of Housing and Community Development* Vol. 59, No. 4 (Jul/Aug 2002)

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APPENDIX A

Survey Template

Public Housing Eviction

Welcome to the survey for employees in public housing corporations and municipal departments. The questions in this survey are geared towards total number of evictions in the past year and are intended to gather data on factors that may increase or decrease this number. Please click the shaded box to answer Yes or No for the corresponding questions and fill in the blanks respectively. Please answer N/A to any question that will not apply to your corporation or department.

Introductory Questions

What is your current tenant population? :

In the past year, how many tenants have left public housing? :

In the past year, how many evictions took place under your corporation? :

- Of the number of evictions that occurred with your corporation in the past year, how many have been an end result to an eviction appeal? :
 - Of the number of evictions that occurred with your corporation in the past year, how many have been ordered by the Landlord and Tenant Board? :
-

Question 1:

1.1 What percentage of your current tenant population has renter's insurance? : %

1.2 Does your corporation currently provide the option of acquiring renter's insurance at a lower than market rate? : Yes No

- If yes, what percentage of tenants has acquired the low-rate renter's insurance that your corporation has offered? : %

Question 2:

2.1 In the past year, how many evictions have been avoided or delayed due to a payment plan or similar contract? :

2.2 In the past year, how many evictions have occurred due to administrative complaints? (This may include a tenant who has neglected to file an income report, or other required documents):

2.3 In the past year, how many evictions have occurred due to non-payment of rent?:

2.4 In the past year, how many evictions have occurred due to criminal activity? (This may include violence or drug related violations):

2.5 In the past year, how many evictions have occurred due to damage to a unit? (This may include accidental damage such as a grease fire):

- Of this number, how many evictions have occurred due to a tenant not having renter's insurance to cover the damage to the unit? :

Question 3:

3.1 Does your corporation currently have a documented Eviction Prevention Policy?:

Yes No

- If not, is your corporation looking into implementing an Eviction Prevention Policy? :
Yes No
- Please name any other policies pertaining to eviction that your corporation or municipality currently abides by:

Question 4:

4.1 What is your educational background? :

Question 5:

5.1 How many members are there in your Board of Directors? :

5.2 Of the members of the Board, how many members act as representatives of municipal council? (This may include the Mayor, or a representative of the Mayor):

- Of the members of the Board, how many members are executive staff members of your corporation? :
- Of the members of the Board, how many members are tenant representatives? :

Question 6:

6.1 What is the average rent applied to all tenants? : \$

6.2 What is your current tenant population of those who are eligible for and receive rent-geared-to-income? :

- What is the average rent applied to tenants who receive rent-geared-to-income?:
\$

Question 7:

7.1 What is your current vacancy rate? : %

Question 8:

8.1 How many applicants are currently on the waiting list to acquire a unit within your corporation? :

8.2 What is the average wait time for a recently filed applicant? :

APPENDIX B

Interview Template

Date:

Time:

Interviewee:

Corporation:

Extra Note:

1. What is the biggest concern you have about evicting your tenants? (Obstacles and barriers)
2. Once a tenant is evicted, how are their chances of getting back into the system?
3. Do you find that disruption of other tenants “quiet enjoyment” as another reason for evicting tenants? Is this a big issue?
4. Are there challenges to abiding by the Social Housing Reform Act and the Residential Tenancies Act concerning evictions?
5. Do you have set up any policies or procedures to alleviate waiting time on the waiting list?
6. Is there often a challenge or a disagreement amongst the Landlord and Tenant Board and their orders to evict one of your tenants? What is the biggest misunderstanding or frustration between your corporation and the LTB?
7. How does your eviction prevention policy intend to protect those from unjust evictions? (Especially those that are ordered by the LTB) – (the makeup and the content of the policy)
8. What are the challenges your corporation faces with the municipality? (Depending on the makeup of the Board of Directors)
9. Is there any other information or insight that you could give me concerning evictions that I may not be getting at?