City of Toronto Housing Commissioner

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with Maytree

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Maytree

Poverty • Rights • Change

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1. Executive Summary

Toronto, like many cities and regions in Canada, has experienced a sharp decline in housing affordability. The corresponding rise in homelessness and housing precarity means that more people than ever are struggling to live in adequate housing, with dignity and security, in one of the world's most prosperous cities.

In response to this worrying trend, in December 2019, Toronto City Council adopted a revised Housing Charter and the HousingTO 2020-2030 Action Plan, in which it committed to the progressive realization of the human right to adequate housing. The Plan called for the City to establish a "housing commissioner" that would "independently assess implementation" of the revised Charter and Action Plan, and ensure the City is taking steps toward the progressive realization of adequate housing for all. The City of Toronto is the first municipal jurisdiction in Canada to take this progressive step, and follows similar commitments made by the federal government, which enshrined the right to housing in the *National Housing Strategy Act,* 2019.

Following some delay due to the onset of the COVID-19 pandemic in early 2020, in the summer of 2021, the City Manager retained the services of Crean Consulting and Maytree to explore the potential role and function of a housing commissioner for Toronto. In addition to reviewing relevant governance models and promising practices, the consultants completed a series of consultations with public servants, elected officials, academics, legal and human rights experts, shelter and housing service providers, and individuals with lived experience of homelessness and housing precarity, among others, to inform key criteria, principles, and considerations to guide the implementation of a housing commissioner.

To ensure Toronto can meet its stated commitments on housing, this report finds that the City should:

- Create a locus of accountability to advance the progressive realization of housing as a basic human right (e.g., through a housing commissioner and a housing advisory committee);
- Focus housing policy development and delivery of services through a human rights lens;
- Ensure evidence-based monitoring, using data that are disaggregated by race, gender, age, income, and other variables to determine the impacts of policies and programs on the rights of residents with lived experience of housing precarity and homelessness;

- Provide advice to Council from experts and community members with lived experience and right to housing expertise;
- Enable an "all of government" approach with housing human rights expertise;
- Create opportunities for intergovernmental dialogue on housing as a human right that benefit from expert input;
- Develop systems competencies and performance metrics in the right to housing for the public service; and
- Deliver a robust human rights learning and development program to equip public servants dealing with housing.

The report explores the opportunities and limitations of different actors and models in fulfilling the roles and functions outlined above. While it finds that no one solution may fully suffice, it suggests that the City of Toronto should consider the following:

1. Create a housing commissioner role that could fulfil most of the key criteria;
2. Develop human rights performance metrics and associated accountabilities;
3. Invest in a human rights learning and development program for public servants dealing with housing issues;
4. Increase funding to the Ombudsman's office to support systemic investigations of housing issues;
5. Create a housing advisory committee to Council similar in mandate and governance to other advisory committees;
6. Enhance disaggregated equity data to advance progress in the realization of housing as a human right; and
7. Renew efforts at an "all of government" approach within the public service to streamline service for residents.

2. Introduction

This report represents the consultants' efforts to summarize the research, consultations, and potential options for the role and function of a housing commissioner that is envisioned to support the City of Toronto's goals enshrined in the Toronto Housing Charter. Crean Consulting and Maytree were asked to review relevant governance models; identify promising practices; examine optimal governance frameworks for the City of Toronto; and conduct an engagement strategy with key informants, community members, and other experts.

3. Context

The protection of economic, social, and cultural rights has been deemed necessary as the right to live a dignified life that can never be attained unless all basic necessities of life—work, food, housing, health care, education, and culture—are adequately and equitably available to everyone.[1]

A human rights approach to housing aims to integrate housing as a right in relevant policies, programs, and laws, and seeks to empower individuals in the decisions that directly impact them. The advancement of a positive obligation and the progressive realization of housing as a human right will ensure stronger accountability mechanisms between government and residents that are infused with transparency, meaningful participation, rights-based decision-making, and evidence-based monitoring.[2]

The right to housing flows from the *International Covenant on Economic, Social and Cultural Rights* (ratified by Canada in 1976), which provides a framework of the essential elements, including legal security of tenure, availability of services and materials, affordability, habitability, accessibility, location, and cultural adequacy.[3] Economic, social, and cultural rights are human rights that relate to our ability to live in dignity and fully participate in society. This includes access to housing.

The *Universal Declaration on Human Rights*, ratified by Canada in 1948, affirms that economic and social rights are interrelated, interdependent, and indivisible with

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1 Ontario Human Rights Commission. "Social, cultural and economic rights under international law." Accessed at: http://www.ohrc.on.ca/en/book/export/html/2903.

2 Maytree (October, 2020). "A human rights review of Toronto's multi-tenant homes policies." Accessed at: https://maytree.com/publications/human-rights-review-toronto-mth-policies/.

3 United Nations Committee on Economic, Social and Cultural Rights (December, 1991). "General Comment No. 4: The Right to Adequate Housing (Art. 11 (1) of the Covenant)."

our civil and political rights. One set of rights cannot be fulfilled without the other, and they are to be placed "with the same footing, and with the same emphasis."[4]

The Canadian housing crisis is a clear and present danger to individuals' lives, economic security, health, and well-being. There are both structural supply shortages and demand side factors that contribute significantly to the cost of housing. Average rents and housing prices outpace average household income, resulting in a critical need for affordable and supportive housing. In Ontario, 15.3 per cent of households are in core housing need; among renters, the figure rises to 33 per cent. In Toronto, almost 50 per cent of renter households spend 30 per cent or more of their income on rent. Homelessness, housing precarity, and vulnerability are on the rise.[5]

The scarcity of affordable, adequate, and secure housing results in clear violations of people's right to housing, disproportionately affecting those who already face systemic discrimination and disadvantage, including Indigenous Peoples, racialized communities, people with disabilities, 2SLGBTQ+ individuals, women, and those with little or no incomes. These violations are readily apparent, from people in encampments who are forcibly removed and criminalized for having no other place to go, to refugees and undocumented individuals who endure unsafe and exploitative conditions for fear of losing everything. Youth aging out of care who need compassionate support at a pivotal moment in their lives are instead met by an inadequate system in which many experience mistreatment and find no options. People with disabilities struggling to find an affordable home simply have far fewer housing options to meet their needs, creating a sense of insecurity and a loss of dignity.

The City of Toronto, bound by the exigencies of federal and provincial statute, funding, and policy, is trying to meet residents' housing needs despite the limitations of funding and the tools provided to it by those orders of government. By doing so, the City is aligning itself with federal legislation on the realization of the right to adequate housing and the commitments and opportunities this creates.

The late 1990s saw the Ontario government downloading the management of the housing service system to municipalities without the concomitant funding. This had a significant impact on municipalities in general and Toronto in particular because the City carries a disproportionate load in providing shelter to all residents

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4 United Nations General Assembly (July 12, 1993). *Vienna Declaration and Programme of Action*. A/CONF 157/23. Endorsed by General Assembly Resolution 48/121, December 20, 1993, para 5.

5 CMHC calculations based on the 2016 Census. "Characteristics of Households in Core Housing Need." Accessed at: https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-data/data-tables/household-characteristics/characteristics-households-core-housing-need-canada-pt-cmas

within its boundaries. Notwithstanding, the City has recognized its obligations to residents to protect, respect, and fulfill the right to adequate housing.

In recent years, the federal government and the City of Toronto have taken significant steps toward the progressive realization of housing for all by, respectively, embedding the goal towards achieving the right to housing in legislation (*National Housing Strategy Act*, 2019) and in the updated Toronto Housing Charter and accompanying ten-year housing plan.

The City of Toronto, like the federal government, is also committed to implementing the *United Nations Declaration on the Right of Indigenous Peoples* and has endorsed the *International Decade for People of African Descent*, both of which stress the importance of anti-racist and equity-seeking approaches in addressing social and economic rights. Fulfilling these commitments necessarily requires the City to address the structural and systemic barriers, discrimination, and inequities for those who need it most in achieving the right to adequate housing in Toronto.

4. City Council's Direction

In December 2019, Toronto City Council asked the City Manager to report back with options for the role and function of a housing commissioner when it adopted the HousingTO 2020-2030 Action Plan (the Plan) and the revised Toronto Housing Charter.

City Council called for a housing commissioner to:

- Independently assess implementation of the revised Toronto Housing Charter and the HousingTO 2020-2030 Action Plan; and
- Ensure that the City, within its legislative authorities, and through implementation of various programs and policies, is taking concrete actions to combat systematic housing discrimination and address systemic hurdles in the housing system.

The Plan states, "from a broader system and structural perspective, the Toronto Housing Commissioner role…will assess, monitor, and report to Council on delivery of the HousingTO Plan, as well as identify any systemic barriers, and recommend changes, as necessary."

5. Background

The City Manager's Office (CMO) conducted a preliminary policy and jurisdictional review as part of the work to report back to City Council. It found there were few jurisdictional examples to draw from for a role or function of this sort. While there are other Canadian municipalities that have legislated ombuds, auditors, and accountability officers, Toronto is the only municipality in Canada required to have an Ombudsman, Auditor General, Integrity Commissioner, and Lobbyist Registry.

The Toronto Ombudsman is a statutory authority who conducts investigations and protects the public from unfairness and maladministration. Many governance experts noted the capacity to conduct systemic investigations was a key element to a housing commissioner's role. In this context, the CMO would have to consider a function that either fits within its statutory framework and existing accountability functions such as the Ombudsman or consider how to establish a role and functions that would meet the objectives.

The CMO retained external expertise to consider Toronto's unique context. Fiona Crean (Crean Consulting), the City's first Ombudsman with a human rights background, was recruited to undertake a governance and jurisdictional review. In collaboration with Crean Consulting, Maytree, a partner to the City of Toronto, and a leading organization focused on advancing social and economic rights, was retained to undertake engagement with key housing stakeholders and communities to inform the report to the CMO.

6. The Role of Government in Housing

In Canada, all three orders of government have responsibility for different aspects of housing. At times, these responsibilities are interdependent and require cooperation and coordination.

They all have the duty to respect, protect and fulfill the progressive realization towards the right to adequate housing. Governments must take steps in developing rights-based policies, programs, and laws, and meaningfully involving affected communities in that process.

More specifically, progressive realization requires governments to:

- Set specific timelines and goals in achieving tangible progress toward the right to housing for all;

- Prioritize policies and programs for those at greatest disadvantage and in greatest need;
- Use maximum available resources to achieve adequate housing for all;
- Apply all appropriate means, including legislative measures;
- Prevent discriminatory policies and practices; and
- Ensure access to justice.

The **Government of Canada** has established a leadership position through the funding and policy commitments outlined in the national housing strategy. The *National Housing Strategy Act* (NHSA) was passed by Parliament in 2019 and is Canada's first statute to recognize and commit to the progressive realization of an economic, social, and cultural right under the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

The NHSA lays out Canada's responsibility to meet one of ICESCR's core commitments, namely, to progressively realize the right to housing as part of an adequate standard of living for citizens. The NHSA also recognizes the distinct housing needs of Indigenous Peoples.

The Office of the Housing Advocate and the National Housing Council were created in 2019 to promote and protect the right to adequate housing in Canada. The Housing Advocate was appointed in February 2022. The goal is to drive change on key systemic housing issues and advance the right to housing.

The ten-year national housing strategy commits to creating 100,000 new homes, repairing, and renewing 300,000 existing homes, 50 per cent reduction in estimated number of chronically homeless shelter users, protecting 385,000 community homes after the expiry of operating agreements and creating another 50,000 community homes, providing 300,000 households with affordability support through the Canada Housing Benefit, and ultimately removing 530,000 households from core housing need.

In Budget 2022, the Government of Canada made commitments to significantly increase the supply of housing aiming to double the rate of construction to build at least 3.5 million new homes by 2031. To help achieve this goal, in part, the federal government is aiming to create 100,000 new housing units over the next five years through its new Housing Accelerator Fund, create 6,000 new affordable units through the Rapid Housing Initiative, create 4,300 new units and repair up to 17,800 new units through the National Housing Co-Investment Fund, and create 6,000 new co-operative housing units.

The **Province of Ontario** establishes the legislative framework for land-use planning through the *Planning Act*, sets out the rights and obligations of tenants and landlords in the *Residential Tenancies Act*, and provides the funding framework for housing and homelessness services through the *Housing Services Act*.

The province is an essential cost-sharing partner in the delivery of housing programs and services, including Canada-Ontario Housing Benefits. The province holds responsibility for a range of policies and programs related to the full spectrum of housing, including land-use planning, emergency shelter funding, supportive housing operating dollars, long-term care, and critical income supports.

The **City of Toronto** and its agencies deliver housing policies, programs, services, and infrastructure, which support Toronto's housing system. This includes facilitating local land-use planning, emergency shelter beds, safe multi-tenant houses, long-term care homes, and a growing stock of supportive, transitional, social, and affordable housing. It is responsible for shelters and affordable housing, both of which have provincial governance requirements and funding dependencies.

In moving towards the progressive realization of housing as a human right, the challenges for the City of Toronto must be acknowledged. It deals with a complex landscape of multiple actors upon which it does not have full influence and depends on other orders of government for funding. A recent report on advancing the right to housing in Canadian municipalities[6] speaks to the provincial failure to recognize the right to housing, making it more difficult for municipalities. The report also acknowledges that many policy areas which inform human rights in housing are provincial jurisdiction that require the City to collaborate effectively with other orders of government.

Many parts of Toronto municipal government touch on housing. As of 2022, the City's Housing Secretariat assumed the lead on housing policy, delivery of affordable housing, and the implementation of the ten-year housing plan, with an additional ten divisions and two corporations possessing housing mandates. The review of the housing delivery framework conducted by MNP[7] identifies the need for a greater understanding of the housing continuum which includes homelessness, emergency shelter, supportive housing, long-term care, social housing, affordable rental housing, home ownership housing, market rental housing, and market home

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6 Julieta Perucca and Kaitlin Schwan (The Shift, March, 2022). "Realizing the Right to Housing in Canadian Municipalities." Accessed at: https://make-the-shift.org/wp-content/uploads/2022/04/Canadian-Municipal-Policy-Scan.pdf.

7 City of Toronto Review of Housing Delivery Framework; MNP, June 11, 2021.

ownership. The housing system is complex with numerous moving parts at all levels of government.

7. Legislative Framework - Human Rights and Accountability

The ICESCR articulates the commitment to the progressive realization of the right to housing as a fundamental human right. That is enshrined in the NHSA, which recognizes the right to housing as a "fundamental human right affirmed in international human rights law."

The Canadian Human Rights Commission administers the *Canadian Human Rights Act* with respect to federally related activities. Provinces and territories have human rights legislation within their jurisdictions. These entities focus on equality rights and address discrimination based on enumerated grounds, such as race and gender, in a variety of areas including housing.

There is no municipal human rights statutory authority in Canada, although there are human rights and equity programs within civic services, and the City of Montreal Ombudsman plays a unique human rights role described in section nine of this report.

The City of Toronto has endorsed provisions of the *United Nations Declaration of the Rights of Indigenous Peoples* and the 2015 Truth and Reconciliation Commission Calls to Action. In March 2022, the City of Toronto adopted a ten-year strategy for achieving reconciliation.

Importantly, the *City of Toronto Act,* 2006 (COTA) provides the City of Toronto with the authority it needs to govern and manage its affairs. COTA gives general power to provide any service or thing the City of Toronto deems necessary or desirable for the public. The powers of the City of Toronto are exercised by City Council, and such powers are typically used through the enactment of by-laws.

Toronto's Accountability Officers

The accountability system at the City of Toronto is the most robust among Canadian municipalities. It includes four accountability officers, and while COTA requires a lobbyist registry, City Council went further and appointed a Lobbyist Registrar.

COTA enshrines the roles of Accountability Officers as independent officers.[8] Under COTA, these Officers report to Council forming a sturdy accountability framework and progressive governance model. Accountability to City Council requires annual and other reports including a public accounting of budget spending.

Accountability Officers, such as the Ombudsman, are given the powers of investigation to compel witnesses, enter premises, and seize documents. Investigation reports, typically at a systemic level, may be tabled with City Council and contain recommendations that Council may adopt, vary, or reject, but it is ultimately Council's responsibility to govern.

Only the Ontario Legislature may open and amend any aspect of COTA. Toronto's Municipal Code, on the other hand, may be amended by City Council, which enacts and adopts by-laws. Chapter 3 of the Municipal Code sets out the Accountability Officers' governance framework within the City of Toronto, including their features of independence and accountability to City Council.

The following Accountability Officers are recognized under COTA, and therefore provided with statutory powers and resources:

- The Ombudsman: Ombuds institutions protect people against violation of rights, abuse of powers, unfair decisions, and maladministration. It is an impartial investigator of the public's complaints about the administration of government. The Ombudsman examines fairness from a procedural, substantive, and equitable perspective (see Appendix I). The Office receives complaints, conducts individual and systemic investigations and may on the Ombudsman's "own motion" initiate an investigation into any matter within its jurisdiction.
- The Auditor General holds the public service accountable for taxpayer money. The Office reviews City services and how public funds are used. It may conduct financial, operational, compliance, information systems, forensic, and other special reviews of most City departments and bodies.
- The Integrity Commissioner oversees the conduct and ethical behaviour of City Council and Members of local boards.
- The Lobbyist Registrar ensures the public disclosure of lobbying activities and oversees the regulation of lobbyists' conduct.

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8 See Appendix I for definition of independence.

Council Advisory Committees

City Council appoints advisory bodies with both community and political representation to provide direct input to Council and help advance the City's equity and reconciliation commitments. Currently these include:

- Aboriginal Affairs Advisory Committee;
- Confronting Anti-Black Racism Advisory Committee;
- Toronto Accessibility Advisory Committee; and
- Two Spirit, Lesbian, Gay, Bisexual, Transgender, and Queer Advisory Committee.

City Divisions have developed several Council-approved strategies and plans, informed by consultation with communities, to advance the City's equity commitments, the most recent example being an action plan to advance reconciliation with Indigenous Peoples. There are also strategies geared towards confronting anti-Black racism, poverty reduction, and advancing equitable outcomes for youth, seniors, and newcomers.

8. Toronto Housing Charter and the City's Ten-Year Housing Plan

The Toronto Housing Charter – Opportunity for All (the Charter) is a policy document, updated in 2019, to support, recognize, and move towards the progressive realization of the right to adequate housing as affirmed in international law. Therein lies the genesis for exploring the role and function of a housing commissioner.

The Charter is designed to guide City Council and its public service in its decision-making, resource allocation, policy development, and service delivery. It references the envisioned housing commissioner's mandate to provide independent monitoring of the City's progress in meeting its strategic housing goals and in furthering the progressive realization of the right to adequate housing.

The Charter is bold in its commitment. It meets the City's positive obligations while dealing with limitations imposed by other orders of government.

The Plan (2020-2030) "provides a blueprint for action across the full housing spectrum"[9] and sets a target of assisting over 341,000 households across this continuum realize better housing outcomes. It charts a course to improve Toronto residents' lives and align City policies, such as poverty reduction, real estate strategy, seniors, and resilience. The Plan commits to advancing the progressive realization of the right to adequate housing and embeds partnerships with Indigenous Peoples. It commits to improving accountability and transparency in the delivery of housing services, in part, through the creation of a housing commissioner role and function.

From a broader systemic and structural perspective, the Plan refers to the contemplated housing commissioner's role as assessing, monitoring, and reporting to Council on the delivery of the ten-year Plan, as well as identifying any barriers and systemic issues with associated recommendations. Importantly, from a rights-based perspective, it states that a housing commissioner's role and function should do this in "consultation with groups vulnerable to housing insecurity."

9. Summary of Themes

Methodology

Between August 2021 and January 2022, Crean Consulting conducted 63 individual interviews, 22 with experts from business, academic, public policy, legal, and related fields to housing and human rights, in addition to 31 public servants, and ten elected representatives.

All these informants were either identified as important sources of information on the subject matter or came forward to provide their perspectives and experience. Nine individuals were interviewed several times for purposes of clarification or further information.

Maytree conducted consultations with communities. It held 14 focus groups and conducted four interviews, representing 82 community organizations and 155 individuals, of which 58 were lived-experience experts. The consultations were carried out in accordance with a human rights-based approach, where participants and their representative organizations were selected based on their lived experience of housing precarity and homelessness, with a focus on those that have been disproportionately impacted by the lack of affordable and secure housing.

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9 City of Toronto (September, 2020). *HousingTO 2020-2030 Action Plan*. Accessed at: https://www.toronto.ca/legdocs/mmis/2020/ph/bgrd/backgroundfile-156646.pdf.

Themes

Elected Representatives

The question that consistently emerged from elected representatives centred on, "What problem would this [housing commissioner] fix?" Individuals asked for a definition of a housing commissioner and what problems would be addressed by the role. Several informants saw a positive "duty to assist" and a housing commissioner that would be responsible for seeing gaps at a systems level, conduct research, policy work, and act as a broad-based accountability mechanism. Generally, it was seen as a focus for systemic change and improvements. There was unanimous agreement it should not address individual complaints.

There was acknowledgment that the City may not place enough emphasis on a human rights focus with respect to the right to adequate housing, but individuals did not believe another accountability mechanism would be helpful. One individual did not want an avenue for criticism where other orders of government could then withhold funds.

Others saw the value of a housing commissioner role and function reporting to City Council with a mandate to monitor and report on progress towards achievement of the Plan. One councillor said a human rights lens must be explicitly emphasized. Another informant believed the role would be a catalyst for addressing "gross housing inequities." Neither a human rights approach nor a "housing first" philosophy was evident in the City's housing work, according to another individual.

The majority supported placing the role and function in the Ombudsman's office. They saw it as the most efficient and cost-effective solution, avoiding duplication, cost, and setting up a new office with associated infrastructure. Some did not perceive a difference between the work of the Ombudsman and that of a housing commissioner.

Experts in Governance, Housing, and Human Rights

There was consensus that a housing commissioner role must be independent of the public service. It should report to City Council for the purposes of monitoring the City's progress on the Charter and address progress on housing matters at a systemic level. No one thought it should deal with individual complaints.

Creating another accountability officer (AO) under COTA was considered unwise as it would entail requesting the Province of Ontario to open the legislation for review.

It was also seen as cumbersome and costly to add a fifth AO and poor timing to request a review of the statute.[10]

From a governance and housing expert perspective, informants saw the role with a single purpose, namely, that of advancing housing as a human right and advocating for access to justice on housing matters. The City's commitment to human rights was acknowledged; however, its application and expertise was largely absent, according to some. Other informants noted that human rights expertise (particularly with a focus on housing) was not a competency required for a public servant unless the portfolio was subject-specific. One senior policy informant observed that public servants do not explicitly have responsibility for human rights in their portfolios.

A number of informants opined that with a singular focus on the progressive realization of housing as a human right, the role and function of a housing commissioner could address inequalities and systemic issues. It could do so by noting standards of reasonableness (see definition in Appendix I), promoting cooperation at all levels, encouraging meaningful engagement, and reporting progress on the City's housing agenda.

Placing the Housing Commissioner in the Ombudsman's office would provide the COTA powers to conduct systemic investigations. It was noted that the Ombudsman's independence must be respected in that they may choose to assume this responsibility but cannot be instructed to do so by City Council. There was significant discussion about creating a deputy ombudsman of housing reporting to the Ombudsman with an exclusive mandate on housing. Such a role would provide broad powers to investigate and make recommendations to Council; it would specialize in housing. Governance and other experts saw this as the optimal route to creating a path forward in realizing housing as a human right.

At the same time, informants who spoke about the role and function of a housing commissioner as part of the Ombudsman's office raised the spectre that an ombuds cannot act as an advocate except in advancing its own mandate. In situations where a systemic investigation has been completed, an ombuds may advocate for implementation of their recommendations based on the evidence gathered. There was acknowledgement from some that an alignment of a housing commissioner with the City of Toronto's Ombudsman might be challenging if the role was one

10 In fact, City Council has sought previous efficiencies, including an external review of the AO framework where, for example, the City Manager might examine a cross-appointment of the Lobbyist Registrar and the Integrity Commissioner. A memorandum of agreement was also signed in October 2015 by the AOs in an effort towards efficiency and collaboration on such matters as infrastructure support.

of advocacy for rights holders. Informants, however, noted that if advocacy is understood to be promoting a mandate (such as fairness) through public education and outreach into communities, then the role could work.

A rights-based approach was seen as a fairness issue and a positive obligation by a number of governance experts. There is a positive duty on the Ombudsman to champion substantive fairness although there was acknowledgement that the office does not investigate human rights violations. Notwithstanding, several informants believed that, with the proper resources, an ombuds could advance a housing commissioner's role and function by ensuring the positive onus was placed on the interpretation of fairness: substantive, procedural, and equitable. One expert noted the language of section 21(1) of the Ontario *Ombudsman Act* as instructive.[11]

An academic expert on global ombuds and human rights schemes noted that Canada is lagging (see Appendix II). Over 60 per cent of national ombuds globally have human rights functions within their mandates, the vast majority of whom are in Europe.[12]

While Canada may be "lagging" in some ways, informants spoke about the leadership of the Government of Canada in appointing a Federal Housing Advocate to promote and protect the right to housing in Canada, including the progressive realization of the right to adequate housing.

Informants noted that legislative changes introduced by the federal government on the right to housing could be implemented by provinces and municipalities, including Toronto, leading to substantive change in the path to a progressive realization of housing.

The issue of mandate versus powers under COTA was raised. Several informants stated that if the role reported to Council without COTA powers, but with a clear mandate to advance housing as a human right, the function could monitor, research, comment on policy, support the responsible parties in advancing the realization of housing as a human right, and review publicly available data on the progress being made on the Plan.

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11 *Ombudsman Act*, R.S.O. 1990, c. O.6, S.21(1): "(a) appears to have been contrary to law; (b) was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; (c) was based wholly or partly on a mistake of law or fact; or (d) was wrong."

12 Human Rights Commissions have become research and anti-discrimination institutions in these jurisdictions.

Sufficient funding and resources were raised as critical to the success of a housing commissioner's role and function wherever it is situated. One informant said the dollars were not with the right level of government, and the alignment of funding streams was obtuse. Achieving a tripartite agreement was expressed as a means of ensuring greater cooperation between governments for funding purposes, as well as accountability and policy.

Developers

According to one informant, there was a disconnect between overarching housing policy, including the aspirational provisions of the Charter and those responsible for implementing affordable housing. An example was provided about public assets being used towards Indigenous reconciliation, a stated City objective; but the individual felt insufficient importance was attributed to this objective.

Another informant stated there was a systemic issue with implementation. Divisions did not see themselves as interdependent in their responsibilities. For example, if Planning is the lead, Parks Forestry and Recreation did not see a role. The lack of coordination between public service divisions was articulated as an evident gap.

Public Servants

With the understanding that City Council "directs" and the public service implements those directives, most informants referenced Council resolutions that describe the role and function of a housing commissioner. Many felt unsure about what the role would achieve with a consistent question arising: "What are the gaps in the system that the role should address and what are the outcomes to be achieved?"

Some senior public servants expressed concern about cost, duplication, additional oversight, and the need to maintain a coordinated approach with partners at other levels of government. A few informants questioned the role in relation to the Housing Secretariat mandate following the re-organization of divisions' responsibilities. Others saw the Housing Secretariat as the public service champion, while acknowledging it is part of the public service without the independence contemplated by a housing commissioner's role or function in terms of monitoring, reporting, and/or systemic investigations.

At the same time, a coming together of political advocacy, public service champions, and a housing commissioner's role and function were seen as a valuable strengthening towards the progressive realization of housing as a human right. Public servants were positive about the possibilities despite concerns expressed.

Several noted that human rights were neither a municipal responsibility nor a source of expertise in their portfolios. There was acceptance that this knowledge was important to the realization of housing as a human right. Informants expressed the need for learning and development within the public service about the application of a progressive realization of housing as a human right.

Others were open to any support that would advance the City's ten-year housing action plan. Some public servants noted the value that a housing commissioner would bring to their work in terms of advice, support, and critique. There was agreement the role must be independent from the public service in terms of reporting to City Council on monitoring the City's progress and investigation of systemic issues.

Public servants thought a housing commissioner role and function could:

- Keep Council and public service "honest";
- Bridge silos and bring more cohesive governance;
- Bring a systemic and systems perspective;
- Focus human rights in the development of policy and delivery of services;
- Conduct transparent evidence-based monitoring;
- Independently validate progress using metrics and publicly available data; and
- Assist the public service with the development of a human rights lens and expertise.

Consultation with Communities

The dominant theme that emerged from the consultation with communities was the need for a housing commissioner to advance City Council's ability to focus housing decisions on solutions for those most impacted by homelessness and housing precarity. There was a pervasive sense that the needs of more privileged residents and developers are structurally prioritized over those of vulnerable and low-income communities.

In terms of governance, independence from the public service was seen as fundamental to the role of a housing commissioner's ability to effectively provide direct advice to Council. Accountability and transparency in how housing decisions are made at the City were viewed as critical elements to the success of a housing commissioner.

Further, the importance of accountability to communities in the form of a strong human rights and equity-based engagement strategy was consistently raised. Feedback focused on those made most vulnerable by housing precarity and homelessness and those who have historically been left out of discussions.

Strong statements were made that any engagement process with affected communities must be multi-faceted, meaningful, and ongoing. Ensuring that people with lived experience are engaged in a housing commissioner's work was seen as essential. It was repeatedly suggested that a lived-experienced advisory group should be established. Though hopeful that important changes could be realized this way, many participants expressed skepticism that without a direct line to City Council, recommendations would not be implemented by the public service.

Participants largely supported the notion that a housing commissioner should be charged with undertaking systemic reviews of housing barriers, as opposed to responding to individual complaints. They also acknowledged that many housing issues are intertwined with decisions made by other orders of government (see point below on "all of government" approach). Participants identified a number of priority challenges that could form the basis of systemic reviews, including:

- **Criminalization of homelessness:** Current approaches to homelessness—including forcible evictions of encampments and excessive monitoring and surveillance of those who live in shelters—were said to ignore the systems that produce housing precarity and instead place inordinate blame on the individual.
- **Landlords as barriers to adequate housing:** Onerous pre-conditions and screening processes that prevent low-income individuals and families from securing a home were identified as a major concern. Members of Indigenous and racialized communities, people with disabilities, trans/non-binary individuals, who are routinely discriminated against by landlords, face even greater barriers in finding housing.
- **Adequacy and safety in subsidized housing:** An investigation into the condition of affordable units and buildings (particularly City-funded or City-owned properties) was suggested as a means to improving living standards in places that are marked by significant degradation, due in large part to inconsistent enforcement of maintenance standards.

Participants also raised the need for a housing commissioner to possess considerable data collection and analytic capability to assess the effectiveness and impact of housing interventions, track the changing housing landscape, and measure progress toward realizing housing for all.

Another consistent theme was that of taking an "all of government" approach. This included an emphasis on facilitating interdivisional communication and cooperation across the public service's infrastructure on housing as a priority. Given the intergovernmental nature of housing policy and investment, a housing commissioner was also considered to be an important link to other orders of government.

Using a human rights lens to monitor progress, community informants also thought a housing commissioner should actively work alongside policy-makers. For instance, several individuals suggested the role and function should support rights-based reviews of existing policies and apply it to the development of new ones affecting supply, development, and accessibility of housing.

Finally, participants suggested that the role must also be an educational one, where the public and the public service are educated about the human right to housing, where awareness is raised and there is improved access to housing resources and supports. Systemic barriers that prevent residents from accessing housing information and supports were seen as a priority area. Given the breadth of the envisioned role and responsibility of a housing commissioner, participants also highlighted that, rather than a lone individual, a team would likely be required to support the mandate of the office.

(See Appendix III for a full report on consultation with communities.)

10. Highlights of Jurisdictional Scan

The research did not yield any direct parallels that would apply to the City of Toronto's governance framework (see Appendix II), but there are useful learnings that can inform Toronto's options.

Federal Housing Advocate and National Housing Council

The *National Housing Strategy Act* states that it is the policy of the government to recognize that the right to adequate housing is a fundamental human right and to "further the progressive realization of the right to adequate housing."[13] The newly created Housing Advocate is situated within the Canadian Human Rights Commission, at arm's length from the government and its public servants. The office's funding comes from the Canada Mortgage and Housing Corporation and it reports to the Minister of Housing, potentially compromising its independence

13 *National Housing Strategy Act*. S.C. 2019, c.313, s.4(a) and (d).

because it does not report to Parliament and receives its funding from the public service.

In November 2020, the Minister of Families, Children and Social Development launched the National Housing Council as an advisory body and important role in the success of the National Housing Strategy, promoting participation and inclusion in the development of housing policy. The Council includes a diverse range of experts who advise the Minister on housing issues. It should be noted that this model is situated in a different governance context than municipalities, with both the Federal Housing Advocate and National Housing Council reporting directly to a Minister within the federal cabinet.

Provincial Landscape

Provinces have created programs for affordable housing and established landlord-tenant systems for dispute resolution. In Ontario, there are affordable housing programs. Housing has been recognized as a human right by the *Ontario Human Rights Code*, but the effect of this on government policy and practice is unclear. Further, the positive duty to progressively realize adequate housing as a human right is not evident.

While Ontario has promoted advocacy roles in the past, the current government integrated the Child Advocate and the French Language Services Commissioner into the Ontario Ombudsman's mandate. The Environmental Commissioner of Ontario was also dismantled by the government with some responsibilities moved to the Auditor General. The advocacy role in each case was discontinued. Prior to this time, the roles were independent, reporting to the Ontario Legislature through their respective Ministers. A significant part of each of their mandates was to advocate on behalf of environmental issues, French constituencies, and the voices of children, particularly those in child welfare.

The difference between an advocate and ombuds function in these illustrations is that an ombuds will advocate for fairness and for the implementation of recommendations once the evidence from an investigation reveals unfairness. The Child Advocate, the Environmental Commissioner, and the French Language Services Commissioners' mandates were not only to advance their mandates, but also to act as the voice of their constituencies, championing their rights.

City of Montreal

Human rights codes in Canada are primarily concerned with the prevention of discrimination. A partial exception at the municipal level is the *Charter of Rights and Responsibilities* of the City of Montreal.[14] While there is no reference to the right to adequate housing *per se*, Article 18 creates a responsibility to ensure housing meets public health standards, that there is adequate housing for individuals who are homeless, and that measures are taken to foster adequate access to housing for vulnerable persons.

The Ombudsman of Montreal may review complaints about alleged violations of Montreal's Charter of Rights and Responsibilities. Their investigation powers are established through city by-law. The Charter itself is not a basis for legal action and is not solely related to housing, although shelter issues are included.

Montreal is unique on the Canadian landscape. Its Charter creates a kind of social contract seeing safe housing as a protection for people who are vulnerable. The Charter also adopts the stance that civic services should be assessed and provided through an appreciation of human rights.[15]

International Landscape

European states and the European Union have recognized either a right to housing or the state's obligation to promote the right. This recognition is at constitutional and quasi-constitutional levels. For example, the Constitution of Finland indicates that public authorities shall promote the right to housing, the Constitution of Spain states that all citizens are "entitled to enjoy decent and adequate housing," and the European Social Charter states that everyone has the right to housing and establishes obligations to make that an effective right.

In Argentina, the city of Buenos Aires is autonomous and has its own constitution. Section 137 of that constitution establishes the Defensoria del Pueblo (ombudsman), which deals with both human rights and maladministration. The Ombudsman of Barcelona is another example. A statutory office established under municipal law and the charter of the City of Barcelona, this ombuds reviews cases and provides "judgement" on them. The mandate is potentially very broad as

14 City of Montreal (5th edition, 2021). *The Montréal Charter of Rights and Responsibilities*. Accessed at: https://montreal.ca/en/topics/montreal-charter-rights-and-responsibilities. It was adopted 2005 and amended in 2017.

15 The introduction to the Charter, op. cit., states that the document "is for all intents and purposes a social contract that calls for the concrete commitment of Montréal and its entire personnel to the ongoing improvement of public services."

Barcelona is a human rights city and is working toward assessing and evaluating government through a human rights lens.

The United Kingdom's Housing Ombudsman Service, which is an executive, not parliamentary, ombuds service, is housed as a separate public body under the auspices of the Ministry of Housing, which looks at complaints about social housing. Within the U.K., the devolved parliaments also have a role in housing. Wales has its own housing act, for example, which deals with the reduction of homelessness and standards for social housing.

There are interesting examples at municipal levels of government internationally. For example, the City of York in the U.K. has a Human Rights City network that acts as a monitoring mechanism, developed and led by civil society. The network has a steering group which includes members of local community organizations and a representative from City Council. It supports the City in applying human rights laws and principles to its work and, in close collaboration with affected communities, monitors and reports on progress with key indicators. These indicators include homelessness per 1,000 households; number of homeless households in temporary accommodation; and number of homeless households in temporary accommodation with children.

Australian states have developed policy and programs to address various housing issues. New South Wales has created a 20-year housing strategy. It covers taxation, affordable housing, and social housing issues. Another example is the State of Victoria's Geelong Project, which is aimed at early intervention for at-risk youth and, among other things, focuses on homelessness.

Canadian municipalities have taken different approaches to the provision of housing. While acknowledging that there is a social need for housing, municipalities have yet to look at housing issues through a human rights lens, except Montreal. That said, Medicine Hat, Alberta, is a good example of bringing homelessness to virtually zero by involving all elements of the community, agreeing on a singular goal, and using real-time data to drive change.

11. Observations

This section considers the consultations with communities, feedback from individuals and experts in governance and human rights, and the research, alongside the City's commitments, its constraints, governance framework, and how the machinery of municipal government operates.

As decision-makers consider their options about a housing commissioner role, it will be important to bear in mind that equality rights and non-discrimination alone are not what is being considered. Rather, it is the positive obligation that City Council recognized when it endorsed a human rights approach to housing in adopting the renewed Housing Charter and ten-year housing plan. It established policy that recognizes housing as essential to the inherent dignity and well-being of the person and to building sustainable and inclusive communities.

Recognizing the progressive realization towards the right to housing must include critical intersections with the *United Nations Declaration on the Rights of Indigenous Peoples* and the Indigenous-led recommendations from both the Truth and Reconciliation Commission's Calls to Action and the Missing and Murdered Indigenous Women and Girls Inquiry's Calls to Justice. Integrating the right to self-determination, the principle of free, prior, and informed consent, the right to land, territories and resources, and access to justice are all fundamental to the experience of Indigenous housing and service providers. The right to adequate housing for Indigenous People bears a unique set of responsibilities.

The City of Toronto acknowledges that successful implementation "will require ongoing monitoring, tracking and reporting to ensure transparency and accountability."[16] It supports improved outcomes for its residents. The policy is to move deliberately to further the progressive realization of the right to adequate housing recognized in the *International Covenant on Economic, Social and Cultural Rights*.

Against that backdrop, it is evident the housing system is at a flashpoint in Toronto. City Council and the public service are acutely aware of this. Putting in place measures to prevent homelessness, prohibit forced evictions, address discrimination, ensure security of tenure, and help guarantee that peoples' housing is adequate are all critical milestones. Priority goals include the right to housing for vulnerable groups and persons with lived experience of housing precarity or homelessness.

Like cities across Canada and around the world, the growth of homelessness, the presence of encampments, illegal evictions, an expanding crisis of arrears, and development trends that hinder housing affordability show that Toronto's housing system is floundering in the face of providing adequate housing as a basic human right.

16 City of Toronto (September, 2020), *op. cit*.

What Does the City of Toronto Need to Provide a Progressive Realization of Human Rights to Housing?

The City of Toronto requires a central locus of accountability to ensure the effective advancement of the mandate, particularly considering the complexity of Toronto's housing system. That accountability needs to reside both within the public service and through external bodies such as a housing commissioner, auditor general, and ombuds with a central locus in a housing commissioner or equivalent to ensure the mandate is implemented.

The accountability framework must have the capacity for systemic reviews, the ability to monitor progress, the capacity to access relevant disaggregated equity data, and the ability to provide expert input within the City and at other orders of government. Central to this accountability framework is the relationship to communities in which there needs to be meaningful engagement on the barriers to adequate housing.

The development of a nimble public service that is knowledgeable about human rights principles, commitments, and approaches in housing is a key part of the accountability equation. It calls for a change-management initiative in the public service. To achieve greater organizational effectiveness requires a clear *purpose* that identifies priorities; a *structure* that best meets systems needs;[17] *processes and systems* that address the needs; *leadership* capacity; relevant competencies in the *public servants*; a *culture* which reflects the values and behaviours needed to advance the goals; and *governance* that meets the needs.[18]

Overall, there is a need for rights-based decision-making, participation, and leadership just as there are for protocols that staff and officials can use to review the impact of decisions, policies, and the exercise of discretion in ensuring consistency with the realization of housing as a basic human right.

A practical example of the progressive realization of human rights at the City is equity responsive budgeting, which seeks to embed equity impact analysis through the development and decision-making stages of the budget process.[19] While it is intended to report on efficiencies and other changes, equity responsive budgeting

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17 For example: the recent reorganization to place the Housing Secretariat in a leadership role for housing.

18 Adapted for the public service from the McKinsey 7S model.

19 City of Toronto (January 20, 2021). "Operating Budget Briefing Note: Equity Impacts of Changes in the 2021 Operating Budget." Accessed at: https://www.toronto.ca/legdocs/mmis/2021/bu/bgrd/backgroundfile-159896.pdf.

also examines the impact on Indigenous, racialized, and other marginalized communities.

This review highlights the need for increasing human rights competencies in the public service. It is a systems issue and requires the development of performance metrics, but it cannot be achieved without a significant investment in learning and development.

The public service is currently ill-equipped to tackle systemic housing issues with a human rights lens. Public servants by their own acknowledgement are not trained in human rights or its application in a housing context. While this can be retained and learned over time, the public service overall does not currently possess the expertise or experience. If the City is to further the progressive realization of the right to adequate housing, it must put in place robust human rights learning programs and measures to evaluate on established indicators over time.

Although significant knowledge development is needed, experience shows that it can be acquired and cultivated in an agile and timely way, as the human rights policy review of multi-tenant houses demonstrated. A two-month project in the fall of 2020 was led by a small team of human rights experts in collaboration with an interdivisional working group of public servants. Results revealed that the collaborative process helped build a shared vision and break down silos, allowing for a strong staff position to emerge. The human rights frame for analysis helped connect the work of different divisions on a complex and divisive policy issue. Additionally, human rights understanding improved over a short period of time, and the application of a human rights frame surfaced considerations that had not been previously raised.

Focused expertise in human rights on housing is critically needed to support the City in implementing its commitments. This is not a matter for a singular solution such as training. It is about acquiring the capacity to bring systemic expertise and focus to dismantling barriers and supporting public servants in their development and application of policy, practice, and service delivery in a human rights context.

Alongside an ambitious Plan and Charter, it is about the City bringing a human rights lens to reform and improve its housing policies and programs. To further the progressive realization of housing as a human right requires dedicated resources with an articulated plan and metrics with which to measure progress.

What Are the Key Features and Criteria Required to Advance the City's Goals?

1. Function independently and make recommendations to Council.
2. Connection with communities by prioritizing those in greatest need through meaningful engagement on barriers to adequate housing;
3. Systemic reviews of housing challenges and monitoring of human rights outcomes;
4. "All of government" approach within City and with other orders of government to advance adequate housing; and
5. Advocacy and education through providing expertise in housing as a human right to the public service and related advice to City Council.

Across the board there was consensus about these criteria.

Features/Criteria	Observations
Governance	
Independence	Independence, at minimum, requires that the role and function not be part of the public service. Reporting to City Council provides the necessary independence without the responsibility of service delivery.
Accountability Report on findings from engagement, systems/ systemic reviews, and make recommendations.	A housing commissioner, ombudsman, auditor general, or advisory committee could report to Council and make recommendations. (Note: an advisory committee would not conduct systemic reviews but could report on engagement with communities.)
Reporting	Reporting to the public service compromises independence, but not if the body reports to the legislative authority. (Note: the federal housing advocate reports to a minister, not the legislative body.)

Connection with Communities	
Prioritize those in greatest need through meaningful engagement about barriers to adequate housing with residents, the rights holders.	Requires human rights and equity-based engagement strategy with individuals, communities, and organizations that have lived-experience and expertise of housing precarity and homelessness. Could be done by a housing commissioner and/or a housing advisory committee.
Systemic Reviews and Monitoring Human Rights Outcomes	
Capacity to do systems/ systemic reviews.	Reporting to Council, able to receive feedback from stakeholders, access data, and undertake reviews to recommend potential improvements. A housing commissioner without COTA powers could only do this through publicly available data and what the Housing Secretariat might provide. With COTA powers, the Ombudsman or Auditor General can conduct a full investigation.
Provide expertise in housing as a human right.	Specific expertise not currently available within the public service. Disaggregated equity data needed to advance progress in the realization of housing as a human right.
Apply human rights lens on evaluation of all performance metrics.	Specific expertise not currently available within the public service.
"All of government" Approach	
Employ "all of government" approach within City and with other orders of government.	Public service can renew its efforts in this regard. Locus of accountability driving this as an explicit goal guided by human rights outcomes. Externally, current model works with need for human rights-focused expertise on housing.

Advocacy and Education	
Advocate for the advancement of human rights as a central tenet to adequate housing.	Create housing commissioner as standalone body and/or community advisory committee. Advocate for residents' right to adequate housing.
Encourage and promote competencies in housing as a human right across the public service.	Competencies and metrics require development and application by the public service. Learning and development programs on human rights in housing, potentially managed by Housing Secretariat (see equity infrastructure for precedents).

What Is the Intergovernmental Role to Be Played?

The City of Toronto on its own cannot realize the provisions of the international covenant on housing. It needs federal and provincial cooperation. While the *National Housing Strategy Act* formally applies only to the Government of Canada, this commitment to the domestic implementation of international law applies to all orders of government in Canada, including cities.

There is an opportunity to interact with the Federal Housing Advocate to support, from a human rights perspective, the efforts of all governments, including the City of Toronto, the Province of Ontario, and the Government of Canada to progressively realize housing as a fundamental human right. There is an important and direct line of communication to coordinate and work with other human rights accountability mechanisms and it is in keeping with the provisions of the City's Charter. Learning and sharing experience and promising practices with all orders of government will lend credibility to an "all of government" approach and advance the agenda on housing as a human right.

The Mayor is the City of Toronto's lead on intergovernmental dialogue and all municipal matters that influence or are impacted by other orders of government. The Mayor could draw on reports of, and expert advice from, the City's human rights housing expertise, whether an advisory committee or housing commissioner, as support to the role.

Internally, the public service's "all of government" approach has been to reorganize the Housing Secretariat to act as lead on housing and CreateTO to maximize city

assets for affordable housing development. There remains more to be done in taking a more coherent and consistent approach to housing as a human right.

12. Considerations

The role and function of a housing commissioner has variously been described as an advocate; a monitor; a convenor across the city's housing service delivery system; a policy-maker; a data collector; an amplifier of people's lived experience of homelessness; and an investigator of systemic issues.

A **housing commissioner** could exclusively advance, impartially and transparently, housing as a fundamental human right in Toronto. It would not face the conflicting priorities that federal, provincial, and municipal elected representatives and public servants must deal with every day. The governance structure of a housing commissioner reporting to Council could provide third-party validation of the City's progress without falling within the ambit of COTA. The role could act as a resource for input and advice to public servants, elected officials, and communities, advancing the City's work as a unique point of accountability for the achievement of the City's housing goals.

A **housing advisory committee**, constructed in the same manner as the other Council advisory groups, could fulfil an important role in providing housing and human rights expertise, advice, and advocacy on behalf of rights holders, namely, residents with lived experience of homelessness and housing precarity. It could not, however, conduct systemic reviews or provide human rights expertise across the public service.

Given Toronto's existing accountability framework, the Ombudsman or Auditor General can undertake systemic reviews and investigations referred to them. The **Ombudsman** could create a deputy ombuds on housing with exclusive focus on that mandate, but the Ombudsman's discretion cannot be fettered so they would have to agree to creating the role and with that would require the appropriate resources.

The ombuds scheme is concerned with the panoply of decisions made in the course of public administration. That means substantive, procedural, and equitable fairness. Ultimately the idea of substantive fairness opens itself to looking at matters through a lens of positive human rights. Depending on the evidence following systemic investigations, ombuds might comment on standards of reasonableness and issues such as maximum available resources. In Canada, however, ombuds do not actively advocate for the progressive realization of housing as a human right.

There is logic to recommending the Ombudsman's office, although it currently does not possess the human rights expertise nor sufficient resources.

In the final analysis, a housing commissioner would only be one of a range of tools that would support the public service in achieving the City's goals. Investing in the capacity to learn from people with lived experience, undertaking systemic reviews, and monitoring progress through the appropriate metrics will all fill a crucial gap. Dedicated resources will have to be considered, along with performance competencies and learning programs.

Opportunities to Advance the City's Goals

There are opportunities for the City to do more in realizing housing as a basic human right. While legislative, policy, and funding changes are required at other levels of government, there are initiatives that can be addressed by the City:

- Create a central locus of accountability;
- Focus housing policy development and service delivery through a human rights lens;
- Ensure evidence-based monitoring using data that are disaggregated by race, gender, age, income, and other variables to determine the impacts of policies and programs on the rights of residents with lived experience of housing precarity and homelessness;
- Provide advice to Council from experts and community members with lived experience and right to housing expertise;
- Enable an "all of government" approach with housing human rights expertise;
- Create opportunities for intergovernmental dialogue on housing as a human right that are led by the Mayor and City Manager, but benefit from expert input;
- Identify and review capacity gaps in the public service and among key decision-makers developing systems competencies and performance metrics; and
- Deliver a robust learning and development program that focuses on housing as a human right to equip public servants dealing with housing.

Merely giving public servants additional responsibilities will not increase the City's overall capacity to meet the progressive realization of the right to housing. The work of the public service is geared towards the well-being of residents and the

elected body. Public servants are neutral and serve any government regardless of political affiliation by providing "best advice" and acting in a non-partisan manner. The public service cannot advocate, conduct systemic reviews, or be independent of the bodies developing policy and delivering service.

Equally, it must be recognized that it is the elected body that makes policy decisions and allocates funding. The job of an accountability officer or a housing commissioner is to report to the elected body, make transparent its findings, and let that body govern.

A range of options presents itself. To address the issues identified will mean budget allocation, resources, expertise, and a locus of central accountability. Whatever options are pursued, they must be properly resourced or they will fail.

Consideration of Roles and Functions

Role of public servants

- Coordinate multiple service areas that impact Toronto's complex role in the housing system;
- Procure and advance human rights training of public servants;
- Develop human rights competencies and metrics to hold the public service accountable;
- Advance development of baseline data against which to measure progress;
- Cannot undertake systemic investigations, but able to refer matters to accountability officers;
- Limited ability to advocate; and
- Unable to independently monitor progress of the Plan's implementation.

Role of accountability officers

- Independence enshrined in COTA;
- Undertake systemic investigations and report to Council;
- Independently monitor progress of implementation of the housing plan;
- Advocate on investigated housing issues and recommend changes to public service and Council;

- Unable to direct the public service, but some ability to influence policy; and
- Limited ability to advocate without results of investigations.

Role of a housing commissioner

- Council able to appoint role(s) that are independent of the public service to provide advice to it, but these roles cannot direct the public service;
- A housing commissioner would need examination on how it might fit in the municipal governance framework;
- Make recommendations to Council about advancing access to adequate housing as a basic human right;
- Limited in its ability to procure and advance human rights training for public servants although it can provide expert advice;
- Independently monitor progress of the Plan's implementation through publicly available data;
- Dependent for resource allocation and supports from the public service unless Council allocates specific monies and FTEs;
- Provide independent advice to Council on human rights matters that impact housing; and
- Unable to undertake investigations, but able to refer matters for systemic investigations to an accountability officer.

Role of a housing advisory committee

- Independently monitor progress of the Plan's implementation through publicly available data, but may be limited in capacity to do so;
- Provide advice to Council; and
- Provide expertise and insights into lived experience of housing precarity and homelessness to public service and Council.

There is a strong external view that an advocate role outside the public service is required. It will be important to bear in mind the key features and criteria of the role that were repeatedly raised by both the research and informants across the board.

No one solution will address all the City's objectives. The City of Toronto may need to consider which objectives are to be prioritized. These include but may not be limited to:

- Creating a housing commissioner that could fulfil most of the key criteria;
- Developing human rights performance metrics and associated accountabilities;
- Investing in a human-rights learning and development program for public servants dealing in housing issues;
- Increasing funding to the Ombudsman's office to support systemic investigations of housing issues;
- Requesting the Ombudsman create a deputy ombudsman on housing;
- Creating a housing advisory committee to Council similar in mandate and governance to other advisory committees;
- Enhancing disaggregated equity data to advance progress in the realization of housing as a human right; and
- Renewing efforts at an "all of government" approach within the public service to streamline service for residents.

While creating an independent statutory housing commissioner may appear to be ideal, it may not be a practical solution considering the facts. The absence of independence in any role and function contemplated will have several implications: a loss of credibility on the part of communities about Council's commitment; an inability to monitor the public service's progress from a third-party perspective; and an ongoing absence of human rights expertise in housing.

By adopting policy to move deliberately in furthering the progressive realization of the right to adequate housing as recognized in the International Covenant on Economic, Social and Cultural Rights, and by putting in place the role and function of a housing commissioner, the City of Toronto will fill an important vacuum.

Appendix I

Glossary

Accountability

Accountability is the obligation to take responsibility for performance in light of commitments and anticipated outcomes. This is not limited to meeting performance expectations, but also for the process in achieving outcomes. Accountability includes factors such as accepting responsibility, embracing feedback, and making decisions in a reasonable way.

Administrative fairness

Administrative fairness means that decisions are arrived at fairly. The concept is based on the recognition of natural justice and procedural fairness. Ombuds fairness is procedural, substantive, and equitable, and is about achieving justice with respect to administrative complaints.

Procedural fairness

Procedural fairness concerns how the decision is made—the steps to follow before, during, and after a decision is made. This is about process. The concept of procedural fairness has been developed through the courts to ensure that decisions of administrative bodies are arrived at fairly. The standards of procedural fairness are fluid and flexible. What is procedurally fair will depend on the nature of the decision to be made, the relationship between the administrative body and the individual, and the effect that a decision has on that individual's rights. Procedural fairness includes the duty of fairness, which gives the member of the public the right to know that an adverse decision is going to be made, the right to respond to the decision-maker, and the right to an unbiased decision.

Substantive fairness

Substantive fairness concerns the fairness of the decision itself. Decision-making is a process that begins at the first point of contact with the public. From clarifying the issues to gathering data and assessing the facts, the official is building the information that will influence the decision.

Equitable fairness

Equitable fairness has to do with how the parties to a complaint are treated. It is about making sure that people are treated fairly, not necessarily identically. To some, there appears to be a conflict between fairness, as understood in a conventional sense of equality, as opposed to an inclusive model of equity. It can be a deeply held belief that treating people fairly relies on treating everybody the same and allowing the result to emerge. Treating everyone the same absolves any further responsibility. Treating people differently is thought to be discriminatory or unfair. In fact, treating people differently to provide access to the same result is key. To intend to be fair is important, but it is the result that matters. Being inclusive is critical if barriers to service are removed and equitable service delivery with results that are fair to everyone is to be achieved. Equitable fairness explicitly considers the person or group's social location—that means factors such as education, literacy level, ethnicity, creed, culture, language, age, geographic location, family status, gender, sexual orientation, socio-economic status, and disability. Efforts must be made to redress any imbalance this disadvantage creates.

Discrimination

Discrimination is any distinction, conduct or action (e.g., preference, restriction, exclusion) based on a person's race, Aboriginal ancestry, gender, disability, sexual orientation etc. which, whether intentional or not, has the effect of imposing burdens on an individual or group not imposed upon others, or which withholds or limits access to benefits available to other members of society.

Discrimination may take one of two forms, direct or systemic. Direct discrimination involves an act, behaviour, or practice that treats a person or group unequally. Systemic discrimination occurs where a requirement, qualification, or factor which is, on its face, not discriminatory, results in preference, restriction, or exclusion.

Economic, social, and cultural rights

Economic, social, and cultural rights are human rights that relate to our ability to live in dignity and fully participate in society. They include rights related to the workplace, social security, and access to housing, food, water, health care, and education. They include the right to fair wages and equal pay; the right to adequate protection of income in the event of unemployment, sickness, or old age; and the right to an adequate standard of living.

Equality

Equality entails equal access to, equal participation in, and equal opportunity to derive benefits from information/knowledge, connections, experience and expertise, resources, and decision-making.

Equity

Equity exists when the policies, processes, practices, and procedures of a group or organization result in equitable outcomes for all people without regard to any prohibited ground in human rights legislation.

Under a policy of "equal treatment," the diverse and sometimes competing needs of marginalized and excluded individuals and groups are not adequately addressed and their rights can consequently be undermined. Although equity attends to equality of access, participation, and opportunity, it is ultimately focused on, and measured by, equality of outcomes.

Housing as a human right

Housing as a human right means that everyone has the right to housing that meets a set of basic conditions recognized under international human rights law. The *International Covenant on Economic, Social and Cultural Rights* (ICESCR) establishes that adequate housing must be secure, affordable, accessible, and habitable; provide basic services; be in a location close to services and not polluted or dangerous; and be culturally appropriate.

Independence

An accountability officer must have independence from the organizations it reviews. Generally reporting to the governing body (parliament, legislature, council, board of directors, etc.) includes the absence of external influence and governing bodies must not fetter the officer's discretion in the exercise of their duties. Independence is preserved through features such as term limits; fixed salaries; a super majority of the governing body over appointments; budget submissions approved by governing body in a public forum; and freedom from functional oversight.

Maximum available resources

A key principle of a human rights-based approach is the use of maximum available resources. The government's duty is to address human rights at the individual, community, and systemic level, and it requires the resources to do so. The

government can achieve this in different ways. It can include the use of funds for the public services that contribute to a decent standard of living or funds for the structure and institutions that protect, enforce, or otherwise support our human rights. As part of its implementation, the Toronto Housing Charter identifies the allocation of the maximum available resources within the City's means and jurisdiction, and according to the City's unique circumstances, to support the Toronto Housing Charter.

Progressive realization

The concept of "progressive realization" is a key tenet underpinning the ICESCR. It requires nation-states to take steps toward the full realization of social rights by using their maximum available resources. A wealthy nation such as Canada is expected to achieve more than a country with fewer resources. The ICESCR also requires states to take all appropriate means, "including particularly the adoption of legislative measures" to achieve full realization of rights under the covenant.

Reasonableness

Reasonableness is measured by the consistency of decision-making, such as whether a decision has been made that has a clear relationship to the facts or evidence and whether the decision can be rationally and fairly explained. If a decision has been made that involves undue delay, where no reason is provided, is punitive, or reaches beyond the circumstances of the matter, it may be considered unreasonable.

The standard to be applied in assessing whether strategies or programs comply with the "progressive realization" standard under Article 2(1) of the ICESCR is one of reasonableness. Factors to be considered include the deliberate, concrete, and targeted nature of steps taken; reasonable timeframe; informed by an equality framework, prioritizing the needs of disadvantaged groups and ensuring protection from discrimination; prioritizing grave situations or situations of risk; decision-making is transparent and participatory; and assessment of budgetary measures. Effective remedies are considered part of reasonableness.

Systemic

Systemic (sometimes referred to as adverse impact) issues can be seen in the treatment of groups. A systemic issue involves a practice, policy, procedure, rule, or law that appears neutral in its intent and fair in its form and application but has the effect of discriminating against a group of people who share a common

attribute not shared by the majority group. Intent is of no consequence. The effect of the policy or practice is what is at issue.

System-wide

System-wide refers to a practice, policy, procedure, rule, or law that is applied consistently across an organization or to a group.

Appendix II

Summary of Jurisdictional Scan

This appendix represents a sampling of approaches to realizing housing as a basic human right with a look at the monitoring and enforcement of access to housing, provision of housing, and other housing rights. These examples were reviewed as practices which raise different conceptions about housing rights and the means to enforce them. This scan is by no means comprehensive and should not be taken as such. Rather, it is suggestive of both housing-related rights and how they may be enforced or monitored.

Countries have tried to create affordable housing in other ways. For example, Denmark has capped rent for five years, Singapore has placed heavy taxation on multiple homes by investors, and Spain has also penalized homeowners who have empty houses for long periods of time.

Human Rights and Housing

The *International Covenant on Economic, Social and Cultural Rights* recognizes a right to "adequate" housing as part of a right to an adequate standard of living. Article 11 of the Covenant states in part:

> The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.[20]

It is up to individual states to bring the Covenants into their domestic law and to ensure the realization of this right. A number of countries, including Canada, have recognized this right. Most human rights legislation in Canada does not include such a right and is not prioritizing the promotion of positive rights per se. Human Rights Codes across the country are concerned with the prevention of discrimination

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20 UN General Assembly (December 16, 1966). *International Covenant on Economic, Social and Cultural Rights*. Accessed at: https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights. Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1966. Entered into force January 3, 1976, in accordance with article 27.

which can include discrimination in respect to access to housing, but the legislation does not create a positive entitlement to housing or indeed any form of property or service. A partial exception at the local level appears to be the Charter of Rights and Responsibilities of the City of Montreal.[21]

European states and the European Union have recognized either a right to housing or the state's obligation to promote the right. Differently from most Commonwealth nations, this recognition is at a constitutional and quasi-constitutional level.

For example, the Constitution of Finland indicates that public authorities shall promote the right to housing, the Constitution of Spain states that all Spaniards are "entitled to enjoy decent and adequate housing," and the European Social Charter states that everyone has the right to housing and establishes obligations to make that an effective right.[22]

Canada is lagging in its mandates of ombuds institutions.[23] Over 60 per cent of national ombuds globally have human rights functions within their mandates, the vast majority of whom are in Europe. Human Rights Commissions have become research and anti-discrimination institutions in these jurisdictions.

Housing as a Policy and Legislative Matter

In Canada, concern with housing as a societal good is not new.[24] The concerns have varied from promoting home ownership, and supporting cooperative housing, to reducing homelessness. At the federal level, the *National Housing Strategy Act* states that it is the policy of the government to recognize that the right to adequate housing is a fundamental human right and that it is the policy of government to

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21 Article 18 of the Charter, *op. cit.*, creates a responsibility to ensure housing meets public health standards, that there is adequate housing for persons who are homeless, and that measures are taken to foster adequate access to housing for persons who are vulnerable. There is no entitlement to housing *per se*, however, and the Charter ultimately applies to provision of services by the City itself.

22 *Constitution of Finland* (1999), S. 19; *Spanish Constitution* (1978), Article 47; *European Social Charter* (1996), Part 1, S. 31 and Part 2, Article 31. Note that the justiciability of such a right is critical. The broad issue has been considered in the Mercy Law Resource Centre's "The Right to Housing in Comparative Perspective" (2018), which contrasts states with a constitutional as opposed to statutory right to housing. That report notes that ultimately the power to control taxation and resource allocation is what determines whether a housing right is effective or not.

23 Linda Reif (2020). *Ombuds Institutions, Good Governance and the International Human Rights System*. Brill Nijhoff.

24 Greg Kealey (1889). *Canada Investigates Industrialism: The Royal Commission on the Relations of Capital and Labour*. University of Toronto Press.

"further the progressive realization of the right to adequate housing."[25] While there is recognition of a right, the right does not directly create an entitlement to adequate housing, but does create a goal to ensure that there will be such housing.

At the provincial level, provinces have created programs for affordable housing and established landlord tenant systems for dispute resolution. In Ontario, there are affordable housing programs for example.[26] Housing has been recognized as a human right by the Ontario Human Rights Commission but the effect of this on government policy and practice is unclear.[27]

Other countries have legislation which recognizes the fundamental importance of housing. The *United Kingdom's Housing Act*,1996, for example, contains a section on housing and reducing homelessness.[28] There is no right to housing in the U.K., although there have been calls for legislation to create a core minimum obligation in the provision of housing.[29] Nonetheless the U.K., as have other countries, has attempted a variety of legislative initiatives related to the provision of adequate housing for all.

Within the United Kingdom, the devolved parliaments also have a role in housing. Wales has its own Housing Act which also deals with the reduction of homelessness and matters such as standards for social housing.[30]

The federal government in Australia has, over the years, developed strategies to deal with homelessness.[31] The right to housing articulated in the *International*

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25 *National Housing Strategy Act*, SC 2019, c 313, s4(a) and (d).

26 E.g., see Ministry of Municipal Affairs and Housing web pages, which provide a gateway to affordable housing programs: https://www.ontario.ca/page/affordable-housing-ontario.

27 Ontario Human Rights Commission (May, 2008). "Right at home: Report on the consultation on human rights and rental housing in Ontario." Accessed at: https://www.ohrc.on.ca/en/right-home-report-consultation-human-rights-and-rental-housing-ontario/housing-human-right#fnB12.

28 *Housing Act (U.K.) 1996*, c 52, part VII.

29 Douglas Maxwell (Oxford Law Faculty, 2019). "A Human Right to Housing?" He points to the weakness of the standard of "progressive realization" of the right is and argues for having a core minimum obligation.

30 *Housing Act (Wales) 2014*, c 7, parts 2 and 4..

31 From temporary accommodation through service delivery systems, there have been attempts through the latter part of the twentieth century into the present, to deal with homelessness at the national level. (E.g., see Homeless Hub. "Australia - National strategies to address homelessness." Accessed at https://www.homelesshub.ca/solutions/national-strategies/australia; Australian Government Department of Social Services (2016). "National Homelessness Strategy - Extension." Accessed at: https://www.dss.gov.au/about-the-department/publications-articles/corporate-publications/budget-and-additional-estimates-statements/2005-06-budget/national-homelessness-strategy-extension; Australian Government Department of Social Services (2022). "National Housing and Homelessness Agreement." Accessed at: https://www.dss.gov.au/housing-support-programs-services-homelessness/national-housing-and-homelessness-agreement.)

Covenant on Economic, Social and Cultural Rights has not yet been brought into domestic law despite various calls for this to happen.[32]

States in Australia, just as provinces in Canada, have developed policies and programs to deal with a variety of housing issues. New South Wales, for example, has created a statewide 20-year housing strategy.[33] It is wide-ranging and covers taxation, affordable housing, and social housing issues. Another example is furnished by the State of Victoria's Geelong Project, which is aimed at early intervention for youth at risk and focuses on homelessness.[34]

Housing, Human Rights, and the Local Level

Housing is a concern at the local level. Cities in Canada often provide social housing as well as a range of housing related services including shelter for people who are homeless or in housing precarity. Various strategies have been attempted and long-term plans adopted.[35] Municipalities have taken different approaches to the provision of housing including the housing first approach pioneered in other places.[36] Cities and towns have adopted various means of assessing their housing needs and policies.[37]

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32 See Justice Connect (March, 2021). "Housing Should be a Human Right." Accessed at: https://justiceconnect.org.au/fairmatters/housing-should-be-a-human-right/; see also Dan Nicholson (2004). *The Human Right to Housing in Australia*. Housing is a Human Right Project. (It laments the absence of such a right.); and Alan Morris (June 2010). "The Lack of a Right to Housing and Its Implications in Australia." *Journal of Australian Political Economy*. 65 (65): 28-57.

33 New South Wales Department of Planning Industry and Environment (2021). *Housing 2041: NSW Housing Strategy*.

34 Homeless Hub (2014). "The Geelong Project Prospectus: Service system reform for the prevention of youth homelessness and disengagement from education." Accessed at: https://homelesshub.ca/resource/geelong-project-prospectus-service-system-reform-prevention-youth-homelessness-and.

35 E.g., see Victoria's Regional Housing First Program, which is an attempt to provide rental housing for high-risk vulnerable populations and is the result of an agreement involving various authorities at the provincial, regional and municipal levels: BC Housing (2016). "Regional Housing First Program." Accessed at: https://www.bchousing.org/projects-partners/funding-opportunities/RHFP. See also, City of Toronto (September, 2020), op. cit., which covers a range of initiatives related to housing services including, but not limited to, preventing homelessness, increasing access to affordable rentals, creating more rental housing, and meeting housing needs for seniors.

36 For example, Medicine Hat, along with other Alberta cities, has adopted a housing first approach to homelessness. The impact of this on homelessness has been widely reported. E.g., see Sean Marks (CTV, January 27, 2022). "Medicine Hat becomes first Canadian community to eradicate chronic homelessness." Accessed at: https://calgary.ctvnews.ca/medicine-hat-becomes-first-canadian-community-to-eradicate-chronic-homelessness-1.5454057.

37 E.g., Collingwood created an Affordable Housing Task Force charged with monitoring planning policies, making recommendations to increase affordable housing, explore funding opportunities for affordable housing, make recommendations for use of town land (one site in particular) and provide support for an action plan for Council which would buttress its support for UN sustainability goals.

Few cities, while acknowledging that there is a social need for housing, have looked at housing issues through a human rights lens. The City of Toronto has accepted that housing is a human right.[38] Montreal's Charter of Rights and Responsibilities creates a kind of social contract seeing safe housing as a protection for people who are vulnerable and seeing safe housing and shelters. The Charter also adopts the stance that public services should be assessed and provided through an appreciation of human rights.[39]

Accountability and the Implementation of Housing Policies and Plans

Policies are made, plans are developed, practices ensue. How are the implementation of plans and rights, entitlements, or benefits enforced? What accountability mechanisms are in place? This note explores some options and models.

Not all housing legislation has a method of monitoring and enforcement of standards or benefits. In the absence of formal monitoring or regulatory bodies, resort to the courts may be the only possible avenue for a remedy.[40] Many volunteer groups such as anti- poverty groups and tenants' rights groups provide advice to individuals and advocacy for groups.[41]

At the local level, domestically and internationally, formal monitoring ranges from auditing mechanisms through rapporteurs, reporting agencies, and committees such as task forces and advisory committees. Formal enforcement mechanisms include tribunals such as landlord and tenant boards which have decision-making power and the capacity to order compliance. There are investigative bodies such as

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38 Toronto's *Housing Charter*, adopted in 2017, sees housing as fundamental to human well-being and the Action Plan, *op.cit.*, names housing as a human right.

39 The introduction to the Charter, *op. cit.*, says that it "is for all intents and purposes a social contract that calls for the concrete commitment of Montréal and its entire personnel to the ongoing improvement of public services."

40 This appears to be the case in Wales, for example, where the Housing Act has no formal regulatory body or monitoring method. This is more common in fact though than having a direct monitoring or accountability mechanism in legislation, policy, or programs.

41 E.g., in Wales, Shelter Cymru provides advice, support and advocacy. See Shelter Cymru. "What we do." Accessed at: https://sheltercymru.org.uk/what-we-do/ and Clinks (2022). "Shelter Symru." Accessed at: https://www.clinks.org/partnership-finder/47830. In Canada, groups such as Ontario's Advocacy for Tenants Ontario and Pro Bono Ontario provide advice to tenants. Municipal governments have also created advocates for people who are homeless – e.g., see Huron County (2020). "Housing Advocate Announced in Huron." Accessed at: https://www.huroncounty.ca/news/housing-advocate-announced-in-huron/ and Huron County (2020). "Temporary Housing Advocate." Accessed at: https://www.huroncounty.ca/jobs/temporary-housing-advocate/.

ombuds which have the capacity to make findings and report on them, along with the capacity to engage in persuasion and publicity to effect change.

Monitoring and Reporting

In Canada, task forces have been established at the municipal level to assess the state of homelessness and affordable housing.[42] Typically, these have a mandate of reporting findings and making recommendations to the council which established them.

Rapporteurs, such as United Nations rapporteurs on human rights, have not been used domestically although many municipal advisory committees on housing can be seen to fulfill a similar function. The function of the UN rapporteurs on human rights has been "to examine, monitor, advise, and report publicly, until 2006, to the Human Rights Commission and, since 2006, to the Human Rights Council."[43] There are country mandate holders who report on violations within their countries and thematic mandate holders who report on the global situation of a right or issue.[44]

The Federal Housing Advocate may be viewed as a type of rapporteur. The mandate of the Advocate is to:

a. monitor the implementation of the housing policy and assess its impact on persons who are members of vulnerable groups, persons with lived experience of housing need and persons with lived experience of homelessness;

b. monitor progress in meeting the goals and timelines—and in achieving the desired outcomes—set out in the National Housing Strategy;

c. analyze and conduct research, as the Advocate sees fit, on systemic housing issues, including barriers faced by persons referred to in paragraph (a);

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42 City of Barrie (2021). "Affordable housing Task Force." Accessed at: https://www.barrie.ca/City%20Hall/MayorCouncil/Council%20Committees/Pages/Affordable-Housing-Task-Force.aspx; City of Kingston (2020). "Mayor's Task Force on Housing." Accessed at: https://www.cityofkingston.ca/city-hall/committees-boards/inactive/housing-task-force. (Note the last meeting of the Task Fore seems to have been in February 2020.); Regional Municipality of Durham (2017). "Affordable and Seniors' Housing Task Force." Accessed at: https://www.durham.ca/en/doing-business/resources/Documents/HousingDevelopment/At-Home-in-Durham/Final-Accessible-Task-Force-Report.pdf.

43 Surya P. Subedi (July 26, 2011). "Protection of Human Rights through the Mechanism of U.N. Special Rapporteurs." *Human Rights Quarterly*. 33: 201-203.

44 *Ibid*., 203.

d. initiate studies, as the Advocate sees fit, into economic, institutional or industry conditions—respecting matters over which Parliament has jurisdiction—that affect the housing system;

e. consult with persons referred to in paragraph (a) and civil society organizations with respect to systemic housing issues;

f. receive submissions with respect to systemic housing issues;

g. provide advice to the Minister;

h. submit a report to the Minister on the Advocate's findings and any recommendations to take measures respecting matters over which Parliament has jurisdiction, to further the housing policy, including the progressive realization of the right to adequate housing, and the National Housing Strategy; and

i. participate in the work of the National Housing Council as an *ex officio* member.[45]

The Advocate is given the power to conduct systemic reviews of housing issues, although it is not clear what power the Advocate has to actually carry out the work.[46] There are no investigative powers, for example.

Investigating and Reporting

Ombuds in various places and jurisdictions have the capacity to investigate, report, and make recommendations, coupled with the power of publicity and persuasion. Some options follow.

Parliamentary and legislative ombuds of general jurisdiction typically have strong investigative powers including the powers of subpoena and summons. In Canada, provincial ombuds have such powers.[47] Municipal ombuds in Ontario and Quebec also have strong investigative powers.[48] While these ombuds are not charged with

45 *National Housing Strategy Act* S.C. 2019, c. 313, s. 13.

46 *Ibid*., s. 13.1(1).

47 E.g., see *Ombudsman Act* R.S.O. 1990 c.O.6, ss.19. 21, 25 and *Ombudsperson Act* R.S.B.C. 1996, c.340, ss. 15, 23, 25, 31

48 *Municipal Act*, 2001 S.O.2001, c.25, s. 223.14; *City of Toronto Act*, 2006 S.O. 2006, c.11 Schedule A, s.172; *Cities and Towns Act* C.Q.L.R. c. C-19, s. 573,17

housing matters *per se*, they may have authority over ministries or departments and/or public corporations which deal with housing.[49]

There are no legislative ombuds in Canada, which have only housing issues as a mandate. One model which does is the United Kingdom's Housing Ombudsman Service, which is an executive, not parliamentary, ombuds service housed as a separate public body under the auspices of the Ministry of Housing which looks at complaints respecting social housing.[50] This model does not appear to have the investigative powers of parliamentary ombuds in Canada, the U.K., or Australia.

Another model relates to human rights. There are human rights ombuds and those that have jurisdiction over human rights matters. In Canada, while most provincial ombuds have jurisdiction over provincial human rights commissions and tribunals, their function has not been to promote or to adjudicate human rights matters *per se*. Although it is arguable that the justice codes within their legislation are broad enough to consider human rights matters broadly,[51] the practice has been to follow a narrower remit with respect to investigation of administrative problems.

The example of a Canadian ombudsman with an explicit human rights role is the Ombudsman for the Ville de Montreal. This Ombudsman may investigate complaints about alleged violations of Montreal's Charter of Rights and Responsibilities. They may investigate, using powers given under her establishing by-law.[52] The Charter itself, though, is not a basis for legal action alone and is not solely related to housing although shelter issues are in the Charter.[53] The Charter also only pertains to actions of the City and its agencies.

There are international examples of human rights ombudsman. Several national level ombuds in various parts of the world have the ability and often the obligation

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49 This is the case with the provincial ombuds of Ontario and British Columbia, both of whom have jurisdiction over Ministries which deal with housing and both of which have jurisdiction over local governments and their agencies as well.

50 See United Kingdom. "Housing Ombudsman Service." Accessed at https://www.gov.uk/government/organisations/housing-ombudsman; see also United Kingdom (September 1, 2020). "Memorandum of Understanding between the Housing Ombudsman and the Regulator of Social Housing." Accessed at: https://www.gov.uk/government/publications/memorandum-of-understanding-between-the-regulator-of-social-housing-and-the-housing-ombudsman/memorandum-of-understanding-between-the-housing-ombudsman-and-rsh, which outlines the role of each agency and their relationship to each other and calls for cooperation and information sharing. Note a complaints system is required by legislation – the Housing Act UK 1996, c.52, Chapter 7, s. 51.

51 *Ombudsman Act* (Ont.), *op.cit.*, s. 21; *Ombudsperson Act* (B.C.), s. 23. The Ontario Ombudsman, for example, may reach a conclusion that a matter is contrary to law, unreasonable, unjust, oppressive, or improperly discriminatory, a mistake of law or fact, or wrong.

52 Ville de Montreal By-Law 02-146.

53 E.g., see *Montreal Charter of Rights and Responsibilities*, Article 18 (b).

to deal with human rights issues.[54] One municipal ombudsman provides an international example as well – Buenos Aires. In Argentina, the City of Buenos Aires is autonomous and has its own constitution. Section 137 of that constitution establishes the Defensoria del Pueblo (the Ombudsman). The jurisdiction of this office appears to be broad, to include public services generally, human rights and security, habitat and environmental issues, financial institutions, and communications entities.[55] The human rights role is clear.[56] The office carries investigative powers, is able to investigate on its own, and can initiate legislation in the civic legislature. The constitutional status of the Ombudsman makes this quite a different institution than North American municipal ombuds who are established by council, albeit with some statutory powers.

The Ombudsman of Barcelona provides another example of an ombuds concerned with defending the "fundamental rights and public freedoms" of residents and others staying in the city.[57] A statutory office established under municipal law and the charter of the City of Barcelona,[58] it reviews cases and provides "judgement" on them[59] although the exact method of review and decision-making and its effects are unclear. The mandate is potentially very broad as Barcelona is a human rights city and is working toward assessing and evaluating government through a human rights lens.[60]

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54 The Parliamentary Ombudsman of Finland, for example, has this obligation. See Parliamentary Ombudsman of Finland. "The Work of the Ombudsman." Accessed at: https://www.oikeusasiamies.fi/en_GB/web/guest/the-work-of-the-ombudsman.

55 Defensoria del Pueblo (1998). "Legislation." Accessed at: https://defensoria.org.ar/legislacion/.

56 Attorney General Buenos Aires. "Ombudsman's Office." Accessed at: https://www.buenosaires.gob.ar/guiajuridicagratuita/defensoria-del-pueblo.

57 Sindica de Greuges de Barcelona. "What is the Institution of Sindica de Greuges de Barcelona?" Accessed at: https://www.sindicaturabarcelona.cat/en/what-is-the-institution-of-sindica-de-greuges-de-barcelona/#:~:text=The%20Barcelona%20Ombudsman's%20Office%20is,if%20they%20are%20not%20residents.

58 *Ibid*.

59 *Ibid*.

60 Ajuntament de Barcelona (2016). "Government Measure – Barcelona City of Rights Programme." Accessed at: https://ajuntament.barcelona.cat/dretsidiversitat/sites/default/files/MesuraGovernBCNDrets_ENG_0.pdf.

Appendix III

Consultation with Communities

Methodology

In the fall of 2021, Maytree was retained by the City of Toronto to conduct a consultation with communities on the role and function of a housing commissioner.

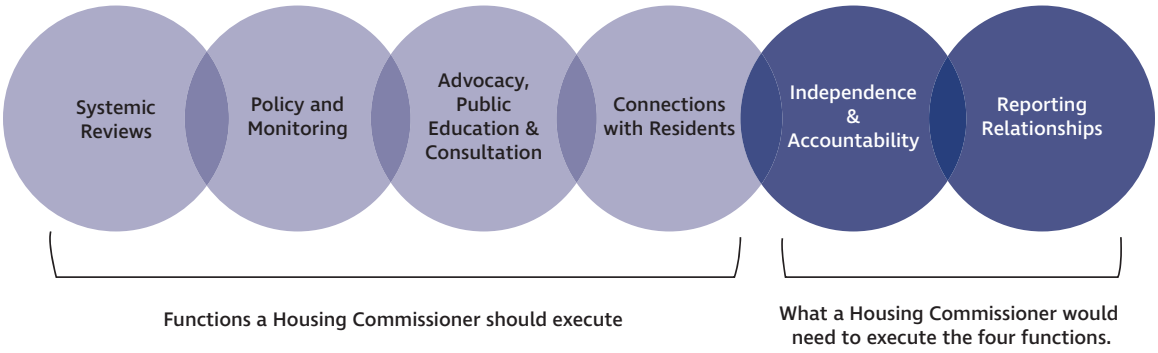
Over the course of three months in late 2021 and early 2022, a total of 155 individuals participated in a series of discussions through 14 focus groups and four one-on-one interviews. Of the 155 participants, 58 were individuals with lived experience of housing precarity and/or homelessness. All other participants were leaders and staff from various organizations providing support to people experiencing housing challenges or advocating on their behalf. A complete list of consulted organizations, 82 in total, can be found at the end of this appendix.

Individual participants were compensated for their time and expertise. Organizations that helped Maytree in coordinating focus groups were also compensated for their staff time.

In all, participants came from across Toronto's neighbourhoods and represented diverse perspectives and experiences. These included:

- Indigenous communities
- Black and racialized communities
- Housing and human rights advocates
- Accessibility community
- Children and youth
- People with lived experience of housing precarity and homelessness
- Housing and homelessness service providers

Prior to each discussion, we provided participants with a "Considerations Document," which summarized the City's human rights commitments, operational and legal constraints, and the initial elements that Maytree and Crean Consulting considered for the Office of the Housing Commissioner (see image below).



During each consultation, Maytree provided an overview of the right to adequate housing in a legal, legislative, and policy context, highlighting issues and obligations at the municipal level.

Each discussion was guided by two questions intended to obtain feedback on systemic housing issues and a housing commissioner's role:

1. What are the key issues around housing and homelessness; and what would you want a housing commissioner to do about them?
2. What do you think a housing commissioner would need to succeed?

All consultations were summarized in documents that were shared with participants to ensure their feedback had been accurately captured.

Note that in this appendix, as throughout the report, "community" refers specifically to those experiencing housing precarity and homelessness and the organizations that support or advocate on their behalf.

Also note that direct quotes published here have been lightly edited for clarity and context.

What We Heard

Following years of declining housing affordability and increasing homelessness in Toronto—aggravated by the unprecedented challenges brought on by the pandemic—more people than ever are struggling to live in the dignity and security of an adequate home.

The prevailing sentiment among communities experiencing this struggle first-hand was of not being heard, and that their interests failed to garner the same attention and consideration afforded to those in positions of greater privilege. Thus, participants in this consultation expressed hope that a housing commissioner

would amplify their voices and achieve impact. But they were also skeptical about the housing commissioner's ability to realize tangible change in absence of effective accountability and enforcement mechanisms.

> "Success is a bottom-up approach rather than a top-down approach. To achieve success, the commissioner needs to make recommendations based on the perspectives and experiences of the community, particularly those with lived experience of homelessness and housing precarity."
> **Local human rights advocate**

> "The City is built on bureaucracy and it needs to be decolonized. Policies are made to keep the power structure moving along by keeping communities down. Some people are benefiting financially from a system that is isolating, marginalizing, and actively harming vulnerable communities."
> **Member of the accessibility community**

The meaningful engagement of communities impacted by housing precarity and homelessness in a housing commissioner's work therefore emerged as a dominant theme of the consultation. In particular, members of IBPOC (Indigenous, Black, and People of Colour), 2SLGBTQ+, and accessibility communities, who are disproportionately affected by the lack of adequate housing options and often furthest removed from the decision-making process, must be empowered to participate meaningfully.

Rights-based engagement with these communities was seen as especially important in fulfilling the City's Indigenous reconciliation commitments, as well as those outlined in equity-seeking doctrines endorsed by the City, including the International Decade for People of African Descent. Follow-through on the City's right to housing commitments was seen to reinforce and aid the City in keeping its promises to structurally marginalized communities.

Participants also emphasized the need for a housing commissioner to address systemic issues, rather than individual concerns. As outlined in the sections that follow, participants repeatedly pointed to a need for a more holistic view of housing challenges, including how policies set by different divisions and orders of government impact on access to adequate housing for all.

A final theme underpinning discussion was the need for a holistic understanding of what it means to live in an "adequate home." Lived-experience participants from different communities stressed that adequacy is not only about affordability, but also about living in dignity. For example, Indigenous participants expressed a need for culturally appropriate homes with green space that facilitate connection to land. Individuals in recovery from addiction noted the challenges of being housed in neighbourhoods with high rates of drug use.

Members of the accessibility community raised the problematic practice of being housed in long-term care homes due to lack of accessible options. And vulnerable young people shared concerns about being uprooted and housed in entirely different parts of a large city, away from the networks and services they had come to know and rely on.

Therefore, a fundamental role for a housing commissioner is to develop a better understanding of, and compliance with, the key elements of the right to adequate housing in the city. These elements are legal security of tenure; availability of services; affordability; habitability; accessibility; location; and cultural adequacy.

The remaining sections summarize the opportunities, concerns, and priorities shared by participants in relation to what a housing commissioner for the City of Toronto should look like and the priority issues it might tackle.

1. Governance and Structure of a Housing Commissioner

Establish an independent housing commissioner to assure it serves its role effectively

Participants were unanimous in their belief that a housing commissioner should be an independent office with the power and ability to freely advocate for the rights of those experiencing housing precarity and homelessness.

Participants from the legal community were also hopeful that an independent commissioner, offering rights-based recommendations to Council on systemic issues, could potentially help overcome polarized and politicized housing discussions in the city.

In terms of where the office of the housing commissioner could be situated within government, participants understood the risks and constraints associated with opening the City of Toronto Act to create a new accountability office. But they also suggested that placing the role within an existing accountability office could reduce

the visibility of the position and, as a result, its influence to make change. For some, there was a lack of confidence in existing structures.

Participants offered a range of opinions on whether investigative powers would be an important or a necessary function of the role, but, again, universally agreed that in order to truly hold the City to account, the commissioner must be independent.

Engage the community in the selection process

Discussions across participant groups revealed a clear position that the community should play a direct role in the selection of the commissioner. For example, a public vetting process that included community leaders, human rights experts, and housing advocates was put forward as a model for the appointment process by homelessness service providers.

> "Ensuring that the commissioner is accountable to the community requires that the community is engaged in the appointment of the commissioner."
> **Anti-black racism advocate**

> "This role must be independent and should be accountable to the Council, and also report to the community. There needs to be community accountability. This role needs to be working with and beside civil society."
> **Refugee advocate and service provider**

It was also strongly stated that the selected individual should themselves have experience of housing precarity or otherwise possess meaningful connections to the communities the role is meant to serve. Many participants—in particular those from IBPOC, accessibility communities, and individuals with lived experience of housing precarity—expressed concern that an individual without deep linkages to the community would fail to adequately represent its interests.

Ensure progress through enforcement mechanisms

Participants agreed that, for the most part, the many systemic issues surrounding housing affordability are well-known to City Council and staff. The main concern shared by consulted communities is whether and how the potential recommendations brought forward by a housing commissioner to address these challenges would be implemented. Many conveyed apprehensions at the number of housing reports and recommendations published by various City divisions

that remain un-actioned. They noted that without enforcement mechanisms in place, proposed solutions by the commissioner risk becoming meaningless, further contributing to a sense of indifference toward affected communities. This was most strongly felt by individuals with lived experience of housing challenges.

> "How will the housing commissioner be any different from the multitude of offices and departments that publish reports on systemic housing issues in the city but fail to acquire any real change or policy response?"
> **Housing advocate and service provider**

> "The City is giving people false hope because it is studying the affordable housing crisis to death, but not taking any action."
> **Indigenous participant with lived experience**

Deliver greater transparency

A frequent theme of discussion across communities was the sense of disengagement from how housing concerns and challenges are addressed by Council and staff. Though individuals with lived experience are often called upon to provide input and evidence on various housing issues, there is a breakdown in terms of sharing back how this information is used in ensuing policy and program decisions. More broadly, housing service providers, shelter operators, and legal clinics also spoke to a sense of disconnectedness from the issues they observe on the ground and the actions (or inactions) of the City.

> "There needs to be more transparency around how and where money is spent. It is a problem that those experiencing homelessness and housing precarity that are actively demanding support, services, programs, and housing repairs are out of the loop in terms of where the finances that are supposed to help them are being spent."
> **Youth participant with lived experience**

As a result, participants communicated a strong need for greater transparency in how data and evidence are used in shaping housing interventions, as well as how and where funds are directed. Going forward, participants also emphasized the need for the housing commissioner to share housing data, the findings of systemic reviews, and any recommendations made by the office.

Bolster accountability by improving collection and sharing of data

Further to the point above, participants routinely raised the need for the housing commissioner's office to possess considerable data collection and analytic capability to assess the effectiveness and impact of housing interventions, track the changing housing landscape, and measure progress toward realizing housing for all.

In terms of specific examples, participants most frequently expressed the need for more disaggregated place-based data, noting also that while there has been some improvement of race-based data, disability data collection is lagging. Other areas of interest included tracking the number of multi-tenant house conversions to less affordable options, better quality data on evictions and above guideline increases, and more documentation on recently created supportive housing units.

Adequately staff and resource a housing commissioner's office

Given the breadth of housing challenges in the city and the extent of potential functions envisioned for a housing commissioner, a number of participants pointed out that a single individual cannot carry out the responsibilities of the office effectively. Participants suggested that policy staff and/or data analysts would be essential to supporting the commissioner in fulfilling their mandate.

Further, as suggested by members of the accessibility community, if the selected housing commissioner themselves do not have lived experience of housing precarity and homelessness, it would be important that there are staff within the office that do.

2. Main Functions of a Housing Commissioner

Monitor, assess, and report on progress

Participants agreed that the major function of a housing commissioner should be to monitor progress toward achieving adequate housing for all. Some also acknowledged that the right to adequate housing cannot be achieved immediately, but that a maximum of available resources should be put toward this goal (in line with obligations under the ICESCR, which the City and the federal government have endorsed).

To this end, it was stated the commissioner must have full range and reach to engage across divisions and corporations in a housing sector to assess how well they are responding to urgent housing problems and whether resources are being spent effectively. In line with the overarching theme of accountability to community, it was suggested affected communities should have an active role in the assessment process, and results should be shared with them, as well as publicized

more broadly. This would shed light on issues and trends impeding the progressive realization of housing rights, as well as highlight success and areas of good practice.

Centre human rights in housing decisions and raise human rights competency across City Council and public service

In addition to monitoring progress, participants indicated that a key responsibility of the office should be to actively guide the City in centring human rights in all policies and programs concerning the supply, development, and accessibility of housing. It was further emphasized by homelessness service organizations and IBPOC participants that such an approach should also include a strong anti-racism focus.

> "The commissioner needs to be actively working with policy-makers to steer them towards using a rights-based lens when formulating policies."
> **Local human rights advocate**

> "In many cases, by-laws and regulations make it more difficult for organizations to deliver affordable housing. The housing commissioner needs to track and evaluate how policies enable or inhibit the City's housing priorities."
> **Anti-black racism advocate**

In terms of specific functions, a number of civil society and human rights advocacy groups suggested the commissioner could undertake reviews of both existing and proposed local policies against human rights standards, ensuring alignment with Indigenous reconciliation, anti-racism, and accessibility commitments made by the City. As previously stated, these agendas were considered in close alignment and as mutually reinforcing.

To encourage the adoption of rights-compliant housing policies, however, participants acknowledged the lack of human rights competencies within the city's public service and among elected officials. An educational role to improve knowledge of human rights and their application to local housing decisions within the City was therefore deemed necessary for a housing commissioner.

> "Once the renewed Housing Charter was put in place, all departments and divisions should have been educated on the Charter, and their roles and responsibilities in light of the Charter should have been explained. This could be a role of the commissioner.
> **Tenant rights advocate**

Conduct systemic reviews

Participants largely supported the notion that a housing commissioner should be charged with undertaking systemic reviews of housing challenges, as opposed to responding to individual complaints. In keeping with the major themes of the consultation, participants also emphasized that such reviews must include participation of affected communities and be conducted with maximum transparency.

Participants put forward a number of issues that could form the basis of systemic reviews, five of which are discussed at a high level below. They acknowledged that many of these issues are intertwined with decisions made by other orders of government and cannot be addressed by the City alone. As suggested further down, it would be the function of a housing commissioner to cast light on the intergovernmental linkages and advocate for change on a system-wide basis.

HOUSING CHALLENGES REQUIRING SYSTEMIC REVIEW

- **Landlords as barriers to adequate housing:** Landlord issues emerged as one of the key challenges to accessing and remaining in an adequate home. For example, participants highlighted onerous pre-conditions and screening processes—e.g., not recognizing social assistance as income, requiring co-singers, needing deposits—that prevent low-income individuals and families from securing a home. Members of IBPOC communities, who are routinely discriminated against by landlords, face even greater challenges in finding housing. Vulnerable groups, including youth, refugees, and undocumented persons, are also prone to exploitation, whereby landlords may demand illegal rent increases or ignore unsafe and unsanitary living conditions because tenants' housing options are known to be limited. Illegal evictions are a major concern, but evictions of those with mental health issues and likely facing homelessness were noted as especially troubling.

"We need a commissioner to control landlords and to level the power balance between tenants and landlords."
Participant with lived experience

- **Lack of accessible housing:** Despite the many promises that have been made to increase the supply of accessible housing, participants in the accessibility community felt their needs remain largely unmet. Again, those that also identify as members of IBPOC communities spoke to even greater disadvantage. This is a serious and urgent issue, which for many can mean the difference between life and death, as pointedly stated by one participant with lived experience. It was suggested that an investigation into the root causes of the lack of progress would be a beneficial starting point, paired with an initiative to institute accessibility standards for new development projects, with particular attention paid to preventing segregation of disabled communities.

"The bottom line is that not one cent should be spent on making housing that is not accessible."
Member of accessibility community

"Accessible housing is the difference between life or death for the disabled. Many people within this community cannot afford to be homeless because of the supports they require to function in their daily lives. Being homeless is a death sentence for many people."
Member of accessibility community

- **Adequacy and safety in subsidized housing:** Participants stated that maintaining and preserving existing affordable housing is as important as the development of new stock. However, it was noted that many units and buildings are marked by significant degradation because of a lack of consistent enforcement to ensure proper maintenance. Participants noted that investigation on the condition of these buildings, especially City-funded or City-owned properties, could help improve living standards. Currently, it is up to tenants to file a complaint, while inspectors are under no obligation to report or publicize findings, a process that provides little impetus for improvement. Additionally, participants expressed significant concerns regarding safety and security in City-owned housing, where it was felt that current law enforcement measures have been failing.

> "City-owned housing complexes are not effectively surveilled … vulnerable residents such as seniors that are living in unsafe neighbourhoods are not being protected."
> **Participant with lived experience**

- **Criminalization of homelessness:** There were two ways in which participants discussed criminalization of homelessness. First, and in the literal sense, participants raised the problematic approach of penalizing those living in encampments and forcibly removing residents. Second, participants spoke to a pervasive perception that people who live in subsidized housing or in shelters are dishonest and need to be tracked and monitored, and that stringent mechanisms are necessary to validate their experiences. Both of these approaches were said to ignore the systems that produce homelessness and housing precarity, and instead place inordinate blame on the individual.

> "People are setting up tents and living on the street not because they want to, but they are simply trying to survive, and rather than being supported or helped they are being condemned. Rather than condemning the system that is causing people to live on the street, we're condemning the people."
> **Participant with lived experience**

- **Children and youth homelessness:** Children and youth face unique challenges in the housing system. Once aged-out of the child welfare system, homeless youth find themselves in an extremely vulnerable position. According to those with lived experience, youth shelters are characterized by power imbalances that prevent young people from speaking up about serious mistreatment, leading to a loss of dignity and a sense of hopelessness. IBPOC and 2SLGBTQ+ youth face particular difficulty in this respect. When seeking supports to improve their circumstances, they are met with inconsistent age cut-offs and general lack of awareness of the programs and services designed to help. If they are lucky to bypass an adult shelter and secure transitional housing, youth are placed on social housing waitlists as long as ten years. Indigenous youth face yet another layer of difficulty, being forced to conform to a system that fails to meet their cultural needs on many fronts.

> "Indigenous children are placed with non-Indigenous families causing a big culture shock and making it even harder to transition from the care system and into independent living."
> **Indigenous youth participant with lived experience**

> "In transitional programs, you have a year, and they don't transition you into affordable housing. They just transition you out. This whole time I've been transitioning to nowhere."
> **Youth participant with lived experience**

ENGAGE IN ADVOCACY AND PUBLIC EDUCATION

Participants communicated a clear desire for a housing commissioner to serve as an advocate for those who struggle to enjoy the security and comfort of an adequate home. It was strongly felt that the needs of better-off residents and developers are consistently prioritized over those who cannot afford the basic necessities of life, and that a housing commissioner could therefore help amplify the interests of communities who continually feel left behind.

> "A lot of housing is being created in the city, but it is simply not affordable. The city severely lacks an adequate supply of safe and affordable housing, and those on a fixed income struggle to cover the housing costs for even the smallest units because they are overpriced."
> **Housing service provider**

> "Corporate and developer interests significantly influence the housing landscape in the city, and it should be the housing commissioner's responsibility to keep an ear to the ground and monitor trends that are impacting the supply of affordable housing through systemic investigations, the collection and analysis of data, and connecting with communities."
> **Legal services provider**

Participants highlighted a number of specific issues the commissioner could speak out on, including renovictions and the demolition and shrinking stock of deeply affordable accommodations that displace low-income tenants. In this capacity, the commissioner could also act as a bulwark against NIMBYism, by publicly addressing the critical need for affordable housing projects in neighbourhoods

where such developments are contested. Furthermore, participants suggested the commissioner would be well-placed to speak out on policies instituted by other orders of government that limit affordability of housing within the city. Vacancy decontrol, limits on foreign investors, and greater transparency of financialized landlords' investments and practices were among some of the key policy challenges raised.

Finally, to support its advocacy efforts and broader agenda, it was suggested the commissioner would likely need to engage in a level of public education and awareness on the right to adequate housing, much as it would do internally with the City's public service and elected leadership.

ENABLE MEANINGFUL COMMUNITY ENGAGEMENT AND PARTICIPATION

Underpinning all the commissioner's efforts should be a robust infrastructure that supports ongoing and meaningful engagement of affected communities, as well as affordable housing stakeholders, including service providers, experts and advocates. Participants were clear that the voices of the most vulnerable and those traditionally removed from power should be amplified and enabled to participate in the decisions impacting their lives. This would require a process that moves beyond moment-in-time consultations that only seek feedback into a predetermined issue, to incorporating multiple methods of engagement to ensure reach into affected communities, which include homeless individuals. Special consideration must be given in the engagement of Indigenous communities as part of this process, in clear acknowledgment of past harms.

> "Marginalized communities are invited to participate in the conversation, but it's on a surface level of engagement. The commissioner could be a legitimate place for dialogues to take place."
> **Anti-black racism advocate**

> "Black, Indigenous, and people of colour are always being asked to speak on their experience… Sharing your lived experience is only worth it if there is some action that follows it, and if not, it feels like a betrayal. But this happens all the time."
> **Member of accessibility community**

Additionally, it was put forward by a number of participants—including housing service providers, legal clinics, shelter operators and equity-seeking organizations—

that a permanent advisory body formed of people with lived experience of homelessness and housing precarity should bring its expertise to bear on the commissioner's work. For instance, such a group might regularly provide input on its advocacy activities, take part in monitoring of progress, and participate in rights-based reviews of housing policy, programs, and by-laws.

Finally, in keeping with the theme of accountability to community, participants emphasized the importance of transparency in how feedback from community members is used and incorporated in housing decisions. It was felt that current consultation and engagement processes on housing issues often lack this critical component. It was also noted that those offering their time and expertise should be appropriately compensated.

Facilitate interdepartmental coordination and intergovernmental linkages

Many participants noted the complexity of the City's housing policy and program structure as well as the wider housing system, including dependencies and linkages with other orders of government. This is a major factor in the subsequent failures and gaps that occur, a number of participants offered. Another important function for a housing commissioner would be to bring together and better coordinate the multiple teams and divisions whose work impacts on housing outcomes.

> "There is a disconnect between the planning and development departments that are responsible for the supply of housing and those that are responsible for the enforcement and provision of affordable housing and homelessness support. The commissioner could facilitate the connection between these groups to ensure a more coordinated approach to building an affordable housing supply."
> **Legal service provider**

> "There are instances where similar systemic issues are identified by multiple departments and having a commissioner that could monitor departments and identify these specific issues would be beneficial. For example, mental health and housing instability."
> **Tenant rights advocate**

From an intergovernmental perspective, participants noted that a commissioner would be beneficial in terms of assisting the city in advocating for support from provincial and federal governments to, for example, provide more affordable

housing or improve policy coordination on eviction prevention. Housing rights advocates also offered that a commissioner could connect with the Federal Housing Advocate, and even encourage neighbouring cities to establish similar offices that could coordinate efforts on achieving housing for all.

Improve awareness and access to housing resources and supports

Participants frequently raised the difficulties many face in navigating what is widely considered a highly complex system of support. In one pointed example, a participant from the housing services provider group explained how city councillors themselves often request assistance in understanding available supports when approached by their constituents for help.

A general lack of awareness seems to most often be the issue. Participants with lived experience from the youth community and particularly Indigenous youth raised this as a key barrier. But there are also more structural challenges that have emerged as the City continues to digitize access points to services. This poses difficulty for people for whom language and digital literacy is an issue. More broadly, lack of English language skills was raised as another important barrier to accessing supports.

As a result, a recurrent theme was that a housing commissioner should both interrogate the systemic barriers that prevent residents from accessing needed information and resources, as well as develop and implement a strategy to assist residents in identifying and securing available supports.

List of consulted organizations

Maytree would like to thank City of Toronto staff for their assistance in the consultation process. The following is a list of organizations that informed and were involved in the consultation process

1. Aboriginal Legal Services
2. Accessible Housing Network
3. ACORN Canada
4. ACORN Toronto
5. ACORN York West Chapter
6. Advocacy Centre for Tenants Ontario
7. Advocacy Centre for the Elderly
8. Agincourt Community Services Association
9. Albion Neighbourhood Services
10. Alliance for Equality of Blind Canadians
11. Autistics for Autistics Ontario
12. Beyond Housing Project Toronto Alliance
13. Black Legal Action Centre
14. Black Planning Project
15. Confronting Anti-Black Racism Unit
16. Council of Agencies Serving South Asians
17. Centre for Addiction and Mental Health
18. Centre for Equality Rights in Accommodation
19. Cooperative Housing Federation of Toronto
20. Chinese and Southeast Asian Legal Clinic
21. Centre for Independent Living
22. Citizens with Disabilities Ontario
23. Community Occupational Therapy Associates
24. Confronting Anti-Black Racism Advisory
25. Covenant House Toronto
26. CP Planning
27. Don Valley Community Legal Services
28. Downsview Community Legal Services
29. Elizabeth Fry Toronto
30. Eva's Initiatives for Homeless Youth
31. FCJ Refugee Centre
32. Federation of Metro Tenants' Association
33. Fred Victor Centre
34. Friends of Ruby
35. Ghanaian Canadian Association of Ontario
36. Greater Toronto Apartment Association
37. Housing Help Centre (Scarborough)
38. Jane Finch Housing Coalition
39. Kearns Mancini Architects
40. Lakeshore Affordable Housing Advocacy and Action Group
41. Le Centre francophone du Grand Toronto
42. MAP Centre for Urban Health Solutions
43. Margaret's Housing
44. Member Advocacy Committee
45. Midaynta Community Services
46. Na-Me-Res
47. Native Child and Family Services

48. Native Women's Resource Centre of Toronto
49. Neighhourhood Legal Services
50. Nishnawbe Homes
51. Parkdale Activity-Recreation Centre
52. Parkdale Community Legal Services
53. Parkdale Neighbourhood Land Trust
54. Red Door Family Shelter
55. Ryerson School of Urban and Regional Planning
56. Scarborough Community Legal Services
57. Sojourn House
58. South Asian Legal Clinic Ontario
59. St. Felix Center
60. St. Margaret Anglican Church
61. Street Haven
62. Toronto Alliance to End Homelessness (TAEH)
63. TAEH People with Lived Experience Caucus
64. The 519
65. The Dream Legacy Foundation
66. Neighbourhood Land Trust
67. The Salvation Army
68. Thunder Woman Healing Lodge Society
69. The Neighbourhood Organization
70. Toronto Community Housing Corporation
71. Toronto Drop-In Network
72. Toronto Shelter Network
73. Trudelle Street Tenants Association
74. UNISON
75. University Health Network
76. United Way of Greater Toronto
77. Voices of Scarborough
78. West Scarborough Community Legal Services
79. Wigwamen Incorporated
80. WomanACT
81. WoodGreen Community Services
82. Working for Change