



Submission to the Honourable Rich Donovan

Fourth Independent Review of the Accessibility for Ontarians with Disabilities Act

Introduction

The Accessible Housing Network respectfully submits the below recommendation for consideration and implementation through the fourth review of the Accessibility for Ontarians with Disability Act, 2005 (AODA). The Accessible Housing Network is a collaboration of non-profit Canadian organizations, advocating in support of people of all ages to live as they wish, in housing that is fully accessible. Our mission is to ensure that, whatever their age or ability, every person in Canada can live in housing that is fully accessible. To this end, we call on every level of government to make universal design mandatory in every unit in all new multi-unit residential buildings.

The experiences of people with disabilities is the focus of the fourth review of the AODA. The causes of the poor lived experiences are based on poor design, most notably, the building and design features of housing units. As such, we do know the experiences of many people with disabilities is one of inadequate living conditions, exorbitant costs for adaptation, and in some cases ongoing legal

battles against landlords and property owners. With an ageing population, and growing number of physical mobility concerns, there must be an effort to embed a human rights - housing rights framework into the AODA. To ensure Ontario realizes and actualizes housing rights for people with disabilities, there must be a set of mechanisms to cause our institutions and building and development sector to change their behaviour and overall compliance to our human rights obligations. The Ontario Human Rights Code, the Right to Housing legislation as embedded within the National Housing Strategy Act and the AODA are mechanisms that must ensure the right to housing for people with disabilities. The Accessible Housing Network (AHN) recommends that the AODA comply with all of our human rights obligations through legislating Universal Design within all new building units and renovated or reconstructed unit developments.

Background

What is Universal Design?

The term '*Universal Design*' was coined by architect Ronald Mace to describe the concept of designing products and the built environment to be aesthetic, useful and accessible for all users – regardless of their age, ability, or status in life. The seven Universal Design principles that he and his team developed have been widely accepted by many architects and clients to promote a more accessible and inclusive built environment,

Why should the AODA care about Universal Design?

According to StatsCan, more than one fifth of all Canadian adults have some form of disability, making them the single largest minority group in society – and this will increase dramatically with our aging demographic. On a pragmatic level, designing buildings using Universal Design principles will increase their appeal and accessibility to all home owners as we age. On a principled level, Universal Design is the right thing to do from a diversity and inclusion perspective. The development and architectural profession has taken an admirable stand when it comes to Sustainable Design, embracing aspirational standards and challenges that go beyond code minimums, such as BOMA BEST, LEED, Architecture 2030

and many others. However, the AODA is behind the curve when it comes to Universal Design, and we need to change that.

What changes are happening to Universal Design legislation in Canada?

In 2020, the Federal Government unanimously passed landmark legislation: the Accessible Canada Act. In simple terms, this law requires all Federal Government departments and federally regulated agencies to be accessible to a degree that is significantly greater than current code minimum requirements. In addition, the Federal Government also legislated the Right to Housing within the National Housing Strategy Act in 2019. As changes are happening, we need all legislative mechanisms that protect the human rights of persons with disabilities and the housing sector, including developers and architects to embrace Universal Design and get ahead of the curve as they have done with Sustainable Design.

Ontario Human Rights Code

If a tenant is in need of accommodation, they have the option of requesting an accommodation from their landlord. Under the [Human Rights Code](#), landlords are obligated to accommodate a tenant's disability by taking action to make their unit accessible. In addition, other accommodations may involve making changes to the physical structure of the building, or the tenant's dwelling. For instance, some structural accommodations tenants may need include:

- Widened doorways or aisles
- A ramp, in buildings with stairs up to the main entrance
- Automatic doors
- Accessible washrooms

The onus is on the person with disabilities to request these changes. There is evidence that people in vulnerable situations may not know their rights or have the capacity to resource their advocacy. Because of the heated rental market and low rental vacancies, taking a proactive approach to seek structural

accommodations may threaten their housing situation or cause them to be threatened with eviction proceedings. Regulation of housing currently does not specify adaptable units or Universal Design in the development of new construction builds. Mandating Universal Design would mitigate future costs by landlords and in addition, Universal Designed housing units have been proven to be a cost-effective method of ensuring that people with disabilities of all ages can live in accommodation that upholds their basic human rights, and ensures long term stable housing. CMHC has reported that the cost of building a new apartment is the same whether it is accessible or not. Thus cost is not a factor.

Right to Housing legislation within the National Housing Strategy Act

The National Housing Strategy (NHS) introduced on November 22, 2017, promised rights-based legislation to implement the federal government's commitment to the progressive implementation of the right to housing, as guaranteed in the International Covenant on Economic, Social and Cultural Rights. That promised legislation, the National Housing Strategy Act, received Royal Assent on June 21, 2019.

The NHS Act brings Canada in line with international standards, which require the right to housing to be ensured not only through policies and programs but also through independent monitoring and access to hearings and effective remedies. It does so through a unique model that does not rely on courts but on alternative, accessible and participatory mechanisms that give a meaningful voice and role to rights-holders and provide for investigation, hearings and recommendations to ensure compliance with the commitment to the progressive realization of the right to housing.

This legislation affirms that the government's housing policy is based on the recognition of the right to housing as it is understood in international human rights law. This means recognizing that all people have the "right to live somewhere in security, peace and dignity," according to the United Nations. It requires the government to implement reasonable policies and programs to ensure the right to housing for all within the shortest possible time frame. It also

means priority must be given to vulnerable groups and those in greatest need of housing.

The NHS Act affirms that this commitment must guide housing policy and programs, prioritizing those in the greatest need. Under international human rights law, the right to housing means that governments must, among other things:

- Refrain from actions that violate the right to housing, such as criminalizing those who are homeless or discriminating against particular groups;
- Protect the right to housing through appropriate legislation and regulation;
- Implement housing policies and programs focused on those most in need as well as on progressively ensuring access to housing for all;
- Prohibit all forms of discrimination and address systemic barriers to access to housing facing women, racialized groups, persons with disabilities, young people, LGBTQ, elderly people, and other groups; and
- Fulfil the right to housing over time through rights-based housing strategies and programs.
- Protect affordable housing and ensure security of tenure, including protection from unreasonable rent increases
- Ensure that any upgrading of existing housing or new developments are administered with meaningful participation of existing residents in their design and planning, ensuring that they are able to remain in, or return to their communities and are ensured access to adequate housing during any necessary relocation.

Some of these aspects of the right to housing are already protected in provincial, territorial or federal legislation in Canada. The NHS Act does not affect existing

protections of security of tenure, non-discrimination property standards or planning law, though it is hoped that all levels of government may be encouraged to improve existing laws and regulations so as to conform with international human rights. This is why the AODA must ensure the right to housing for people with disabilities by legislating Universal Design within all new builds or reconstruction of housing units in Ontario.

The Cost of Universal Design

Universal design creates housing that can work for everyone. It makes housing accessible to those with disabilities, and also lets people stay in their homes as their circumstances change, without expensive renovations. And because a well-designed accessible unit doesn't look different from a standard unit, it appeals to those who need special features — and to those who don't. Designing a building to Universal Design principles does not necessarily involve a cost premium. Research published last year by HCMA Architecture + Design demonstrates that if designers implement RHFAC recommendations during design, a building can achieve RHFAC Certification for little or no additional cost. Furthermore, that research demonstrates that a building can achieve RHFAC Gold Certification, the highest form of recognition by the program, for a modest construction-cost premium of approximately 1% depending on project type.

The Canadian Mortgage and Housing Corporation (CMHC) had done research and found that with the ageing of the population and increasing life expectancy, the construction of sustainable homes that change with occupants' needs could have benefits for residents and communities. The majority of seniors express a preference for "ageing in place". Adaptable housing could delay or eliminate the need for older residents to relocate and a longer period of independent living would retain residents' established support services, maintain their existing social links and allow continued participation in the community.

The vast majority (75%) of accessibility features cost less than \$500, and more than half were no-cost or had negligible costs. Features estimated to cost between \$500 and \$1,000 included kitchen cabinets with vertical storage for a

future wall oven, an easily modifiable structure in the shower, and preparation for potential installation of an elevator. The costliest features were those that impacted the layout of the building, for example, added floor space in the garage and manoeuvring area in the kitchen and bathrooms; protection against the elements above the entry; and a refuge in case of fire on a second floor balcony. The additional costs of including up to 60 design features to make a newly constructed home accessible or adaptable in the future, although not insignificant, are nonetheless much lower than the cost of converting an existing dwelling in order to make it accessible.

Implications for the Housing Industry

Research illustrates that the costs of adding accessibility features in new housing are insignificant, and they are far lower than the amounts that may be needed in the future to adapt relatively inflexible systems, equipment and floor plans to better accommodate an ageing population. Homebuilders, and renovators, have a role to play in making their clients aware of the opportunities to include accessibility (or accessibility supporting) features in their new homebuilding or renovation projects in a more cost-effective manner. Affordable housing providers could also benefit from the inclusion of cost-effective accessibility features in their projects that would allow units to be more easily adapted for changing demographics in the future.

Recommendations for Consideration:

- 1. Add housing to the AODA.**
- 2. Mandate that every unit in all new housing must be universal design, so anyone of any age or ability can live there.**
- 3. Mandate that any renovation to apartments in any multi-unit residential buildings must make the unit accessible.**
- 4. Mandate that developers exceed minimum accessibility requirements where public funds are involved.**

- 5. Change the Ontario Building Code to align with amended AODA, mandating that all new units in any new multi-unit residential building must make the unit accessible, thus complementing the Ontario Human Rights Code and an improved AODA**
- 6. Develop a comprehensive Built Environment standard to improve access to all buildings, including residential buildings via Universal Design.**

Thank you for the opportunity to provide a set of recommendations to ensure that all persons with lived experience of disabilities can have a home that is a safe place and where everyone can live with dignity and thrive.

The Accessible Housing Network

<https://www.accessiblehousingnetwork.org/>

Resources:

Angus Reid Institute: Accessibility: A source of future anxiety and a significant consideration for Canadian consumers today

<https://angusreid.org/accessibility-future-anxiety-rhf/>

CMHC: Cost of Adaptability and Accessibility Features – Existing Modest House

<https://assets.cmhc-schl.gc.ca/sites/cmhc/data-research/publications->

reports/research-insight/2019/research-insight-cost-adaptability-accessibility-features-existing-modest-house-69611-en.pdf?rev=2746dafc-66a5-41ca-8f4a-c76cb98416d8

CMHC: Cost of Accessibility Features in Newly-Constructed Modest Houses

https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/publications/research_insight/68668.pdf

CMHC Research Insight:

https://eppdscrmssa01.blob.core.windows.net/cmhcprodcontainer/sf/project/archive/publications/research_insight/68668.pdf

Canadian Architect: <https://www.canadianarchitect.com/a-spotlight-on-universal-design/>

CMHC Universal Design and Adaptive Models: <https://www.cmhc-schl.gc.ca/en/professionals/industry-innovation-and-leadership/industry-expertise/accessible-adaptable-housing/universal-design-adaptable-housing-models>

National Right to Housing Network: <https://housingrights.ca/right-to-housing-legislation-in-canada/>

Ontario Human Rights Code: <https://www.ohrc.on.ca/en/ontario-human-rights-code>

ARCH Disability Law: <https://archdisabilitylaw.ca/resources/>

Canadian Centre for Housing Rights:

<https://housingrightscanada.com/resources/ontario-housing-law-101-accessible-housing/>

Ontario Human Rights Commission statement for National Housing Day

November 22, 2020: Accessible housing makes social, economic sense

http://www.ohrc.on.ca/en/news_centre/ohrc-statement-national-housing-day-november-22-accessible-housing-makes-social-economic-sense

