

Bill 31 - An Act to amend various legislative provisions with respect to housing.

Submission to Quebec's National Assembly

September 13, 2023

National Assembly
Committee on Planning and the Public Domain
Hôtel du Parlement
1150, avenue Honoré-Mercier
Québec (Québec)

Re: Bill 31 - An Act to amend various legislative provisions with respect to housing

Madam Minister, Members of the Committee,

I am writing on behalf of the Canadian Centre for Housing Rights, Canada's leading non-profit organization working to advance the right to adequate housing. For over 35 years, we have worked tirelessly at the intersection of human rights and housing, providing free services to renters facing evictions and human rights violations to remain housed, providing education and training about housing rights across Canada, and advancing rights-based housing policy through research, policy advocacy, and law reform.

I am writing to provide feedback on Bill 31, An Act to amend various legislative provisions with respect to housing, and to make recommendations on the proposed amendments.

The housing crisis in Quebec

All major urban centres in Quebec are experiencing a housing affordability and homelessness crisis, exacerbated by the impacts of the COVID-19 pandemic and rising inflation. Close to 375,000 renter households in Quebec pay unaffordable rents. Of the 400,000 renter households earning less than \$30,000 per year, 65% spend more than 30% of their income on housing, and 20% spend more than half of their income.¹

In a time of high inflation and low vacancy rates, landlords are incentivized to engage in rent gouging, by charging excessive rents beyond what is necessary to maintain a profitable business. Over the past five years, excessive rent increases have become more and more common. The average annual rent increase in Quebec was 3% in 2018, 4-5% in 2019-2021, and 9% in 2022, and is projected to exceed 10% in 2023.² Renter households are increasingly finding themselves with few or no available housing options that they can afford.

Quebec has a rent regulation policy intended to prohibit excessive rent increases, but it does not effectively protect tenants because it relies on tenants to challenge excessive increases. Although the law intends to make excessive rent increases illegal, in practice the increases are only found to be illegal if a tenant exercises their right to have them considered by the Tribunal administratif du logement (TAL). Increases that would be prohibited become legalized if the tenant does not challenge them. Furthermore, when a unit turns over, landlords can evade rent regulation by failing to disclose the legal rent to the new tenant. Quebec law requires that landlords give all new tenants written notice of the previous rent charged for the unit, but this requirement is largely unenforced, and 60% of new leases do not comply with it.³ Even where a rent is disclosed, new tenants often have no way of verifying its accuracy. This reality is well

known to tenants and civil society organizations in Quebec, and is also evident from the TAL statistics.⁴ Very few new tenants are able to effectively challenge abusive rent increases.

Inadequate enforcement of rent regulation is contributing to a rapid loss of affordable housing in Quebec. Rent increases on turnover units have reached 14.5% in 2022 in Montreal and 8.2% in Quebec City, and there is a 28% gap between average rents of units that turned over to a new tenant in Montreal compared to units that did not turn over.⁵ Lower income renter households are increasingly being priced out of the housing market due to excessive rent increases. Landlords are also incentivized to find creative ways to evict tenants to facilitate abusive rent increases through turnover.

Despite a year-over-year increase in rental housing starts, the housing that is being built is not affordable for many renters, in particular for those who are most in need of affordable and adequate housing. New rental builds have vacancy rates close to 6%, but their rents are simply too high for low- to moderate-income renters to afford, with asking rents being 57% higher than the average market rents. In contrast, renters are desperately in need of affordable and deeply affordable housing options. For example, in Montreal, only 1% of rental housing is affordable for low- to moderate-income households.⁶

With fewer and fewer affordable housing options, Quebec's low- to moderate-income households are increasingly experiencing housing precarity and are at risk of homelessness. This is a critical moment for the Quebec government to support renters and ensure they have access to secure and affordable homes.

Recommendations

Bill 31 would strengthen protections for tenants against some types of evictions, and we commend the Minister of Housing for addressing gaps in eviction prevention laws. However, we are deeply concerned about several amendments that could further undermine Quebec's rent regulatory framework.

We urge the Quebec government to adopt the following recommendations to amend Bill 31, which will ensure that renters are adequately protected from excessive rent increases and have access to rental housing they can afford.

1. Specify what maximum rent increases may be set out in leases for newly built rental units.

Newly built rental units are exempt from rent regulation for five years. The purpose of this policy is to encourage new construction. However, a consequence of the policy is that tenants of newer units can be vulnerable to rent gouging.

Bill 31, article 1, would provide some protection against excessive rent increases in new units, by providing that the lease must set out a maximum amount by which the rent can be increased during the five-year exemption period. This would be a step forward. However, to be effective, the legislation must specify what that maximum may be. Otherwise, landlords of these units will

continue to be able to rent gouge, simply by setting out excessive maximum increases in leases.

2. Strengthen enforcement of rent regulation rules.

Bill 31 would provide some new protections to tenants whose landlords seek to evict them by saying they intend to subdivide or enlarge a unit or change its destination. These protections are important, because these types of grounds are often asserted in bad faith by landlords as excuses to illegally end tenancies. We applaud the government for proposing procedural changes that would help tenants defend themselves against bad-faith eviction proceedings. That being said, as long as rent regulation is not adequately enforced after tenant turnover, landlords will continue to be incentivized to evict tenants in bad faith in order to impose abusive rent increases.

The best way to protect tenants from bad-faith evictions would be to remove the incentive by ensuring that rent regulation properly protects new tenants. The Quebec government should establish a mandatory rent registry and implement stronger protections against abusive rent increases and penalties for landlords that impose them.

3. Either keep assignment rules as they are, or enact alternate measures to protect new tenants from abusive rent increases

Article 7 of Bill 31 would allow landlords to arbitrarily refuse consent to assign tenancies. This would be a drastic and unnecessary change. Quebec law has always provided that a landlord cannot refuse consent to assign a tenancy without a serious reason. In 1973, the government enacted s.1893 of the *Civil Code*, which provides that residential landlords and tenants cannot contract out of that law. Hence, for the past 50 years, landlords have been required to accept assignments unless they have a serious reason not to. The current law is reasonable, and does not need to be changed.

Because of inadequate enforcement of rent regulation for new tenancies, assignments have emerged as an important way for tenants to preserve legal, affordable rents. In an assignment, because the new tenant deals directly with the previous tenant, they know the lawful rent for the unit. This prevents landlords from evading rent regulation by concealing the previous rent.

Since renting to a new tenant can be a way to evade rent regulation, it is no surprise that in the current market, some landlords would rather not accept reasonable assignments. If landlords are allowed to refuse reasonable assignment requests, abusive rent increases will only become more common.

It is imperative that the government take action to enforce rent regulation in Quebec, especially if it removes one of the only existing ways for tenants to avoid abusive rent increases.

4. Strengthen investments in affordable housing

Bill 31 would broaden some of the language describing housing assistance in several existing laws. While we are encouraged that the government may have more options for delivering affordable housing, we are concerned that private market housing may be prioritized at the

expense of other housing options that provide deep affordability. Private market housing does not create deeply affordable housing options to meet the needs of Quebec's renter households living on lower incomes. This is particularly true in the absence of minimum requirements on the proportion of affordable units and the level of affordability in private developments.

In 2021, there were over 50,000 households on the waitlist for social housing, with 60% of households on a waitlist for more than 2 years.⁷ In Montreal, households sometimes have to wait up to 6 years before accessing social housing.⁸ The growing challenges for renters living on lower incomes to access affordable homes are putting people at risk of experiencing homelessness.

We urge the government to increase its investments in public, non-profit, and cooperative housing, and to institute standards to ensure that units provided by the private market are genuinely affordable to Quebec households.

5. Ensure robust oversight of private as well as non-profit affordable housing providers

Bill 31, articles 20 to 22, strengthens the oversight power of the Société d'habitation du Québec (SHQ) over the operations of non-profit housing providers receiving subsidies for the development of affordable housing. The same oversight and audit mechanisms should apply to the operations of private landlords who are recipients of housing subsidies. Unlike non-profit providers, private landlords do not have a mandate or incentive to ensure that the housing they provide is affordable to Quebec renters. Robust oversight is necessary to ensure that they meet their obligations.

6. Prioritize those most impacted by unaffordable and inadequate housing

Low- to moderate-income renters, including persons with disabilities, lone parents, youth, Indigenous peoples, Black households, newcomers, racialized communities, and other equity-seeking communities, are disproportionately impacted by the housing crisis. The government should prioritize those who are most impacted by housing affordability and inadequacy challenges, meaningfully engaging and collaborating with these communities to develop long-lasting solutions and investing the maximum available resources to support the housing needs of lower income renters.

Conclusion

While Bill 31 provides new mechanisms to increase security of tenure for renters, it also removes existing mechanisms that give Quebec its housing affordability advantage. Therefore, we urge the government to reconsider amendments that would undermine rent regulation, and to strengthen amendments that would protect tenants from abusive rent increases and evictions.

We welcome the opportunity to provide our housing expertise and look forward to further discussions with the Minister of Housing to ensure that Quebecers can live in secure and affordable homes.

Sincerely,



Dale Whitmore
Director of Policy and Law Reform
Canadian Centre for Housing Rights (CCHR)

¹ Front d'action populaire en réaménagement urbain (FRAPRU) (December 2022) - [Crises du logement et droits humains au Québec : Rapport à la Défenseure fédérale du logement](#)

² CBC/Radio-Canada (April 28, 2023) - Interview with CMHC economist F. Cortellino: <https://ici.radio-canada.ca/nouvelle/1975118/schl-prevision-loyer-augmentation-2023>

³ Vivre en Ville & Léger (May 2023) – [Registre des loyers, volet Québec: Sondage web auprès de Québécois\(es\)](#)

⁴ In 2021-2022, for example, applications to determine rent increases were filed for 6,651 existing tenancies, but for only 351 new tenancies:

Tribunal administratif du logement (December 2022) – [Rapport annuel de gestion 2021-2022](#).

⁵ Canada Mortgage and Housing Corporation (January 2023) – [Rental Market Report](#)

⁶ *Ibid*

⁷ Statistics Canada (July 2022) - [Waitlist status including length of time, by tenure including social and affordable housing](#)

⁸ CBC/Radio-Canada (July 15, 2023) - [How long do Canadians in need have to wait for affordable housing? Depends where they live](#)