

Bill 3, An Act to Amend the Residential Tenancies Act

Submission to the Government of New Brunswick

December 3, 2024

Summary of Recommendations

1. Apply the annual rent increase guideline to both occupied and unoccupied rental units.
2. Prohibit the use of fixed term leases.
3. Clarify the calculation and implementation of the annual rent increase guideline and above guideline rent increases.
4. Improve enforcement, accountability, and access to justice through a robust Landlord-Tenant Tribunal and legal aid for renters.
5. Explore other policy tools to prevent additional costs from being downloaded onto renters.
6. Commit to advancing the right to housing for all renters.

Hon. David Hickey

Minister responsible for the New Brunswick Housing Corporation
Legislative Assembly of New Brunswick
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Dear Minister Hickey,

I am writing to you on behalf of the Canadian Centre for Housing Rights (CCHR) with respect to [Bill 3, An Act to Amend the Residential Tenancies Act](#). CCHR is Canada's leading registered charitable organization working to advance the right to adequate housing across the country. 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 development, advocacy, and law reform.

As you know, renters across New Brunswick are facing significant challenges and threats to the security and affordability of their homes, with lower income renters bearing the brunt of the crisis. Staggering rent increases, unfair and unnecessary evictions, discrimination, disrepair, poor enforcement and accountability mechanisms, and an insufficient stock of truly affordable housing are leading to increasing rates of housing precarity and homelessness. As outlined by the New Brunswick Coalition for Tenants' Rights (NBCTR) in their recently released, illuminating report, [Without Protection: An Examination of New Brunswick's Rental Housing Crisis](#), the rental housing situation in New Brunswick is "urgent":

- Over 27 per cent of renters live in unaffordable housing, compared to 7.5 per cent of homeowners.
- Average rents increased by nine per cent between 2022 to 2023, and by nearly 30 per cent between 2020 and 2023 (roughly the same as the previous 15 years combined).
- The average vacancy rate is two per cent, and as low as zero per cent in some regions.
- The public housing waitlist has over 10,000 households, double the 2021 number.
- Almost half of respondents to NBCTR's renter survey worried about losing their homes due to rent increases, renovations, or conversion to short-term rentals.

The introduction of Bill 3 is a promising step toward stronger renter protections in New Brunswick. In particular, it is encouraging to see the government propose a more stable and sustainable rent regulation system through the application of an annual rent increase guideline, tied to the rate of inflation. Such a system would allow for more moderate and predictable rent increases over time that more closely reflect the cost of living, helping to stabilize and protect renters from drastic, unmanageable rent increases that can lead to economic evictions.

The proposed legislation would also apply the rent increase guideline to all rental buildings, regardless of age or size, which is critical to ensuring all renters benefit from the same protections, while mitigating opportunities for bad faith actors to circumvent the guideline. Finally, the proposed system would help shift the onus to the landlord to abide by the rent increase guideline, rather than on the renter to prove whether a rent increase is "reasonable in

relation to that charged for comparable units in the same geographical area," as currently stated in the Residential Tenancies Act (RTA).

Notwithstanding these important measures, the Bill also includes some notable gaps that would serve to perpetuate many of the current challenges facing renters in New Brunswick. As the government is debating the Bill in the legislature, we strongly encourage you to consider and adopt our recommendations to strengthen the legislation by ensuring stronger protections for all renters, while helping to preserve affordability across the rental housing market.

Recommendations

1. Apply the annual rent increase guideline to both occupied and unoccupied rental units.

Currently, rent increases proposed under Bill 3 would only apply to occupied rental units, but would not be tied to the rental unit itself. This type of rent regulation system is known as vacancy decontrol. Under vacancy decontrol, once a renter leaves the unit, the landlord can increase the rent as much as they see fit. This gives landlords a strong incentive to evict current renters (especially longer term renters who may be paying lower rents) in order to bring in new renters that can pay higher rents. Lower income renters are particularly vulnerable to eviction under vacancy decontrol, and with few affordable options available in the rental market, increasingly face deep housing precarity and homelessness.

Further, vacancy decontrol erodes existing affordability in the rental housing market, as rents on vacant units are free to rise without restriction and without consideration of other socioeconomic factors (e.g., rate of inflation, cost of living, etc.). Again, this significantly disadvantages lower and moderate income renters, as rents can increase dramatically, thus decreasing the affordability of homes available in the rental market.

To address this critical gap, Bill 3 should clearly state that the annual rent increase guideline would apply to both occupied and unoccupied rental units (i.e., vacancy control). It is important to note that despite prevalent myths to the contrary, [multiple studies have shown](#) that there is no evidence that regulating rents deters rental housing construction. In reality, a myriad of economic factors impacts the pace of rental housing construction, including financing and construction costs. In fact, despite cancelling the temporary rent cap in 2022, New Brunswick saw a [decrease](#) in new housing starts in 2023, ending the year both below the national average per capita and last among the Maritime provinces.

2. Prohibit the use of fixed term leases.

Like vacancy decontrol, another significant loophole currently exists in New Brunswick's RTA, which would similarly allow landlords to circumvent the rent increase guideline through the use of fixed term leases. In other Canadian jurisdictions, lease agreements for tenancies that are twelve months or longer automatically renew as month-to-month tenancies after the first year. This provides much greater security for renters over the long term, especially when paired with rent increase guidelines that ensure rent increases are moderate and predictable.

In New Brunswick, however, landlords are permitted to apply fixed term leases with expiry dates, which put renters in extremely precarious positions. As Bill 3 is currently proposed, landlords would be able to evade the rent increase guideline by forcing renters to move when their lease expires, leading to similar consequences as those noted above with respect to the impacts of vacancy decontrol. To ensure all renters in New Brunswick can enjoy long term security and affordability in their homes, Bill 3 should be amended to prohibit the use of fixed term leases.

3. Clarify the calculation and implementation of the annual rent increase guideline and above guideline rent increases.

As noted above, it is promising that Bill 3 proposes that the rent increase guideline would be reviewed annually based on relevant economic factors, such as the rate of inflation, Canada Mortgage and Housing Corporation (CMHC) rental market surveys, and vacancy rates, both in New Brunswick and across the country. However, to provide greater clarity and certainty, Regulation 82-218 should clearly state the manner in which these factors would be considered and calculated to determine the annual rent increase guideline, in particular when considering factors external to the New Brunswick rental housing market (e.g., vacancy rates in other jurisdictions).

Similarly, greater clarity is needed with respect to the calculation and implementation of above guideline rent increases. Bill 3 proposes that a landlord could only apply for a rent increase above the annual guideline if they provide proof that “capital expenditures for renovations have been incurred.” In addition, above guideline increases would be limited to a maximum of nine per cent. While it is important to determine parameters around above guideline rent increases to ensure fairness and transparency, the parameters currently proposed in Bill 3 lack much needed clarity. To ensure above guideline rent increases are implemented fairly, greater clarity is needed to determine:

- The period of time over which above guideline increases could be applied.
- Parameters for above guideline increases to be phased in gradually to minimize the financial burden on renters and phased out to ensure renters do not bear a perpetual financial burden for a finite expense.
- The frequency by which above guideline increases could be requested.
- Restrictions on above guideline increases for landlords with outstanding renter complaints against them.

Moreover, a robust accountability system should be in place to ensure above guideline rent increases are justified and not automatically approved, especially for landlords with unresolved renter complaints (see below for more on enforcement and accountability). In particular, above guideline rent increases should not be allowed in instances where landlords have neglected to uphold their duties to ensure rental units are maintained in a state of good repair.

4. Improve enforcement, accountability, and access to justice through a robust Landlord-Tenant Tribunal and legal aid for renters.

While the adoption of a strong rent regulation system is a critical step forward to protect security and affordability for renters, it must be paired with strong enforcement and accountability

mechanisms to ensure renters' rights are upheld in practice and that they have clear pathways to access justice. As noted in NBCTR's [Without Protection report](#), enforcement of renter protections in New Brunswick's current system is extremely limited and dependent on renter complaints to the Tenant and Landlord Relations Office (formerly the Residential Tenancies Tribunal).

Reflecting recommendations from NBCTR and [CCHR's work](#) on the federal Renters' Bill of Rights, Bill 3 should be amended to ensure strong enforcement, accountability, and access to justice mechanisms for renters, recognizing the inherent power imbalance between landlords and renters. In line with the apparent intention of Bill 3, the onus should be on landlords to apply for and prove the need for rent increases and evictions, with requirements for landlords to provide clear and transparent information to renters. Likewise, renters should also have access to support and recourse to challenge any unfair landlord practices.

As such, New Brunswick should develop a robust Landlord-Tenant Tribunal with clear regulations, procedures, boards, and appeals processes, bolstered by sufficient resourcing and authority to investigate, monitor, and enforce landlord compliance with the law, including through timely dispute resolution, regular inspections, and strong penalties for violations. Similarly, the government should ensure that all renters have the support they need to access justice by providing legal aid to low-income renters to cover landlord-tenant matters.

5. Explore other policy tools to prevent additional costs from being downloaded onto renters.

As noted above, renters in New Brunswick are facing real and significant threats to their housing stability and security. NBCTR's [Without Protection report](#) highlights that over one quarter of New Brunswick renters are living in unaffordable housing (compared to 7.5 per cent of homeowners), while renters earn roughly half the annual income (\$44,000) of homeowners (\$82,000). Moreover, median monthly shelter costs are higher for renters (\$830) compared to homeowners (\$770).

As such, it is incumbent on the New Brunswick government to explore and apply all available policy tools to ensure that renters are protected from additional landlord costs being downloaded onto them, which could further threaten their housing security. There are many tools at governments' disposal that can address some of the key cost increases facing landlords, including property taxes and renovation and repair expenses. In addition to [commitments](#) around electricity rebates and the removal of provincial sales tax from rental housing construction, the government should also consider additional policy levers, including:

- A preferential multi-residential property tax rate (e.g., as implemented by the City of Toronto in its [2024 budget](#)).
- Funding streams to support rental housing renovations and repairs (e.g., low-cost and/or forgivable loans), which could help reduce the need for above guideline rent increases.

6. Commit to advancing the right to housing for all renters.

Under the [National Housing Strategy Act](#), the federal government committed to “the progressive realization of the right to adequate housing as recognized in the *International Covenant on Economic, Social and Cultural Rights*.” Importantly, this commitment extends to all other levels

of government in Canada and encompasses a number of key actions to address the housing crisis through a human rights-based approach, including:

- Meaningfully engaging with and prioritizing the needs of communities most impacted by the housing crisis.
- Dedicating the maximum available resources to meet the needs of those most impacted.
- Promoting access to safe and adequate housing that is affordable, secure, habitable, accessible, close to services, in an acceptable location, and culturally appropriate.
- Ensuring people are treated with dignity and protected from discrimination in housing.
- Planning for the long term, while implementing plans swiftly.
- Developing robust monitoring, enforcement, and accountability mechanisms.

In addition to the provisions proposed in Bill 3 and the recommendations put forward in this submission, New Brunswick could take further actions to advance the right to housing for renters in the province. Building on recommendations from NBCTR's [Without Protection report](#) and [CCHR's work](#) on the federal Renters' Bill of Rights, this could include:

- Recognizing and committing to the progressive realization of the right to adequate housing in all provincial legislation, policy, and program delivery, including through the development of robust monitoring, accountability, and enforcement mechanisms.
- Further amending the RTA to address other pressing renter issues, including renovations, conversions, damage deposits, quiet enjoyment, public housing, etc.
- Developing a public database of rental housing ownership, rent prices, property conditions, maintenance requests, compliance, etc.
- Providing clear, accessible information about landlord and renter rights and responsibilities, including education and training.
- Strengthening the New Brunswick Human Rights Commission to better investigate and address discrimination in the rental housing system.
- Combating the financialization of housing, including by prioritizing and investing in non-market housing and limiting investment properties.

We thank you in advance for considering our recommendations. We welcome the opportunity to provide our housing expertise and look forward to further discussions to ensure all people in New Brunswick can live in secure and affordable homes.

Sincerely,



Sara Beyer
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Canadian Centre for Housing Rights (CCHR)