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# Advancing the right to accessible housing in Canada

Joint Submission to the National Housing Council  
Review Panel on the Lack of Accessible Housing in  
Canada

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## About CCHR

The Canadian Centre for Housing Rights (CCHR) is Canada's leading registered charitable 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 development, advocacy, and law reform.

## About Sunnybrook

From its beginnings as a hospital for Canadian veterans, Sunnybrook has flourished into a fully affiliated teaching hospital of the University of Toronto, evolving to meet the needs of the growing community. Research spans three Toronto-based campuses: Sunnybrook Health Sciences Centre (Bayview), Holland Centre and St. John's Rehab.

Sunnybrook's St. John's Rehab Research Program conducts collaborative, person-centred research that focuses on optimizing long-term outcomes and real-world, lived experiences across the continuum of care. By combining patient care with research, we develop and evaluate new treatments and strategies that allow patients to return home sooner and in better health for the long term.

Sunnybrook is affiliated with Vibrant Community Health. Vibrant is a Community Health Centre and Attendant Care Service Provider with priority populations of persons with physical disabilities and seniors with complex health problems. Vibrant provides community-based care to help people live independently in accessible housing in the community.

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The contributions of these reviewers were advisory in nature, and responsibility for the report's content, findings, and recommendations rests solely with the authors.

# Summary of Recommendations

1. Enhancing adaptability and accessibility standards in new housing construction
2. Establishing a federal home modification program
3. Strengthening monitoring and accountability for NHS accessibility funding
4. Aligning housing and accessibility laws with human rights law
5. Improving access to justice

## Introduction

Access to adequate housing is recognized by the United Nations<sup>1</sup> and Canada<sup>2</sup> as a fundamental human right, which is critical for promoting health, dignity, safety, inclusion, and community and economic participation. Unfortunately, the ability to secure adequate and affordable housing is of growing concern in Canada. People with accessibility needs within and outside of their home, including many older adults and persons with disabilities, face significant barriers in finding and maintaining housing that meets their needs.

As of 2025, there were about 8.1 million older adults (age 65+) living in Canada.<sup>3</sup> This population is set to increase to approximately 10.5 million by 2040.<sup>4</sup> In addition, the number of people in Canada with one or more disabilities limiting their daily activities has increased by five per cent over the past five years to 27 per cent of the population, or 8 million people.<sup>5</sup> Older adults, people with disabilities, and their co-habitant family members often face intersecting experiences of marginalization that make it difficult to secure appropriate housing, such as high rates of low-income,<sup>6,7,8</sup> discrimination,<sup>9,10,11</sup> and barriers to finding and accessing resources to secure housing and/or modify their home.<sup>12,13</sup> Consequently, many people in these groups have unmet housing needs, which results in them living in unsafe and inaccessible homes, or residing unnecessarily in institutional settings.<sup>14,15,16</sup>

Research from other countries shows that having physical accessibility features in housing provides many social and economic benefits,<sup>17</sup> such as greater independence and reduction in home care costs,<sup>18</sup> reduced falls,<sup>19</sup> reduction in care home admissions,<sup>20</sup> and improved quality of life.<sup>21</sup> However, accessibility in housing is often treated as an add-on, if it is even considered. Accessibility standards and regulations are improving, but they are still insufficient. In addition, they are rarely consistent across Canada, and are often exclusionary rather than complementary, due to a lack of alignment between different regulatory regimes. While there are anti-discrimination laws in all Canadian jurisdictions that protect the human rights of people with disabilities, including the right to accommodation in housing through home modifications, weak accountability and enforcement frameworks mean that individuals must often bear the burden of navigating complex processes to obtain the accommodations to which they are already entitled.

As such, it is critical that accessible housing needs and priorities, as well as strategies to improve the current state of accessible housing in Canada, be at the center of national conversations about housing and human rights.

## Disability and Housing Insecurity in Canada

### 1. Definitions of disability

Perceptions and measurement of disability in Canada have evolved significantly over the past two decades, moving away from the medical model (which centers the source of disability on an individual's medical state or condition(s) and resulting impairments), and towards definitions that account for social and environmental barriers. The most significant recent shift came about with Canada's ratification of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) in 2010.<sup>22,23</sup>

Since that time, there has been adoption of definitions based on the social model of disability and the more holistic, biopsychosocial model of disability.<sup>24</sup> Broadly, the social model considers disability to be primarily a result of socially constructed environmental barriers. The biopsychosocial model acknowledges that disability experiences are more complex, and result from interactions of a person's body, mind, and health condition with environmental barriers. Importantly, this change away from medical models shifts responsibility and accountability for disability from being thrust solely upon individuals with functional impairments and moves it towards the broader public and governing systems that construct our environments and society.<sup>25</sup>

Accessibility needs within the home are rarely static and many disabilities are non-visible, including chronic pain, cognitive impairments, vision and hearing related conditions, and sensory processing or environmental sensitivities, amongst others.<sup>26</sup> Consider this scenario: a person with a history of depression sustains a moderate brain injury and other traumatic injuries after being struck by a car as a pedestrian. While this person may be able to survive independently in a home without physical accessibility features or care supports, they are at a high risk of social isolation, falls, and rapidly declining health. Physical barriers make it difficult for them to leave their home or shower safely when chronic pain and other conditions are not well controlled. For this person, an adequate and safe home includes physical accessibility features, as well as trauma-informed care, mental health services and supports that collectively ensure their day-to-day safety and wellbeing.

Physical and technological accessibility features, including those that support communication, are a crucial part of accessible housing. Equally critical are human-mediated supports and services, such as home healthcare, personal care supports, and service animals that allow people to live safely, independently, and with dignity in their communities. Policies that address and impact the availability of accessible housing must move beyond definitions and frameworks centered solely on visible and static disabilities and toward ones that also account for non-

visible, episodic, and acquired disabilities. In this way, accessible housing policies and programs must treat both physical design and human-mediated supports as equally essential components of an accessible home, and it starts with how disability is defined in the law.

The shift in Canada towards a biopsychosocial model of disability is apparent within the *Accessible Canada Act (ACA)*,<sup>27</sup> the federal government's policy for a barrier-free Canada by 2040, which adopts a definition grounded in the interaction between impairment and barriers:

**“disability** means any impairment, including a physical, mental, intellectual, cognitive, learning, communication or sensory impairment — or a functional limitation — whether permanent, temporary or episodic in nature, or evident or not, that, in interaction with a barrier, hinders a person's full and equal participation in society.”

This definition applies to Crown corporations in Canada, including federally regulated housing agencies, such as the Canada Mortgage and Housing Corporation (CMHC) and, upon passage of the *Build Canada Homes Act*, Build Canada Homes (BCH),

Human rights laws across Canada protect people against discrimination in various areas, including housing, on the basis of disability and other protected grounds. However, human rights laws vary considerably in how they define disability. This has practical implications for the type of accessibility-related accommodations that can be claimed and who is protected under provincial and territorial statutes.<sup>i</sup>

Section 10(1) of Ontario's *Human Rights Code* (RSO 1990, c. H19) contains one of the more detailed definitions of disability at the provincial level. It defines disability based on a medical model and includes five medical categories based on conditions and diagnoses. Critically, an additional section, 10(3) 'Past and presumed disabilities', extends protection to those who are believed to have or to have had a disability. This broader reach supports non-visible and fluctuating disabilities.

In contrast, the BC *Human Rights Code* (RSBC 1996, c. 210) and Alberta's *Human Rights Act* (RSA 2000, c. A-25.5) both use the term “physical or mental disability” as a protected ground. In British Columbia the term does not have a statutory definition and as such, it is left up to tribunal and judicial interpretation. Alberta's Act contains medically based definitions of physical and mental disability, but has no equivalent to Ontario's s. 10(3), leaving people with episodic conditions and those without clear or confirmed medical diagnosis with less textual protection.

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<sup>i</sup> Law is interpreted through ever evolving caselaw, and so what is written in legislation such as human rights codes does not necessarily capture the sum total of protections that are available. However, the language in legislation still has a limiting effect as protections outside of those listed are less clear and less known.

Canada's approach to accessibility in housing also operates through a multi-layered system of building codes, regulations and technical standards across federal, provincial, and municipal levels. While the *National Building Code of Canada* (NBC)<sup>28</sup> provides a baseline model, provinces, territories, and some municipalities are able to adapt and enforce their own building codes – many of which also contain various definitions relating to accessibility and disability. This creates significant jurisdictional variations in accessibility requirements and their application across the country.

How disability and accessibility are defined across these various legal and regulatory frameworks is therefore critical, as these definitions shape the scope of legal protections, the interpretation of obligations, and the design solutions that ultimately do or do not get implemented in residential construction.

## 2. Impacts of the housing and homelessness crises

Canada is experiencing a worsening housing and homelessness crises. Encampments are now common throughout major urban centers and increasingly within small towns across the country.<sup>29</sup> This is a symptom of the increasing financialization of housing, which has led to a widespread lack of affordable, accessible housing. One consequence of the financialization of housing is a rise in economic evictions,<sup>30, 31</sup> wherein renters are forced out of their homes because they cannot afford rapidly increasing rents in the private market. In the absence of an adequate supply of affordable, accessible housing, low- and even moderate-income renters often have nowhere else to go and may experience homelessness as a result. As such, renters and lower-income households are at the highest risk for homelessness,<sup>32</sup> and people with disabilities are four times more likely than other groups to experience homelessness, housing insecurity and/or live in inadequate housing.<sup>33</sup>

In Canada, the key federal indicators that examine whether housing is adequate are known as the “core housing need” indicators. These metrics assess three key dimensions of housing need, including 1) affordability of housing-related costs relative to household income, 2) suitability with respect to the home size and number of occupants, and 3) adequacy with respect to the state of repair.<sup>34</sup> Unfortunately, these metrics do not currently consider accessibility. Generally, accessibility in housing has been underexplored in Canada,<sup>35</sup> which has led to a lack of systematic data collection and reporting on critical housing outcome measures related to disability, supportive housing, and accessibility needs.<sup>36</sup> As a result, there is a limited understanding of the state of accessible housing and the level of need. This leaves people with disabilities and older adults particularly underserved by the very measurement tools meant to identify and respond to housing needs in Canada. This invisibility of accessible housing needs in Canadian housing data reflects a broader invisibility in how homelessness itself is measured and understood.

In addition to people experiencing visible forms of homelessness (for example, people living in shelters, encampments, and outdoors), Canada also has high rates of hidden homelessness. This includes people living in transitional accommodation, people who are temporarily living with

relatives or friends, people living in hotels or motels, and individuals that are in institutional care and lack permanent housing.<sup>37</sup> People with disabilities are two times more likely than those without disability to experience hidden homelessness and are more likely to experience homelessness because of violence or abuse. Fifty-three per cent of people with disabilities who experienced homelessness in their lifetime cited violence as a cause, compared to 36 per cent of people without disabilities.<sup>38</sup> Without access to adequate social assistance and accessible housing within the community, people with disabilities can be forced into homes that do not meet their specific accessibility needs and may be unsafe. This may include unsuitable living arrangements with relatives, group or small option homes, or institutional settings such as hospitals and residential care homes that may be far from their family, friends and community, and may not uphold their dignity and autonomy.<sup>39,40</sup>

Given these systemic challenges, alongside recent changes to legislation that have improved access to medical assistance in dying (MAiD), there are now both publicized and unpublicized cases where a lack of adequate, accessible housing and home care supports has resulted in a profound lack of hope and requests for MAiD by persons with disability.<sup>41,42,43</sup> These cases illustrate the complexity, impacts, and stark realities of the shortage of accessible housing in Canada. They have also sparked debate over the ethics of government-supported MAiD for people with disabilities whose natural death is not reasonably foreseeable, particularly when accessible housing and related supports needed to achieve safe and dignified living remain unavailable.

Governments in Canada have a statutory obligation to prevent this from happening, as affirmed recently by a large class action lawsuit against the Government of Nova Scotia. This lawsuit found that arbitrary caps on disability supports led to many people with disabilities being denied social assistance or placed on lengthy waitlists for supports, forcing them into sometimes cruel and inhumane living circumstances, which violate their human rights. This included young adults with disabilities being forced to live for decades in long-term care homes. Recent Canadian census data indicates that 7,590 Canadians under age 55 reside in nursing or seniors' homes, showing that this issue is not confined to Nova Scotia.<sup>44</sup> As a result of the legal action taken in that province, the Government of Nova Scotia is required to compensate thousands of people with disabilities who were denied social assistance benefits, in the second largest class action settlement in the province's history.<sup>45</sup> This case establishes that governments bear legal accountability when systemic failures in disability supports, including those to obtain affordable accessible housing, force people into inhumane living conditions.

## Upholding the right to housing of people with disabilities

Under international law, Canada has an obligation to enable access to adequate housing for everyone. For people with disabilities, this means accessible housing that is responsive to their specific needs and that can be adapted to accommodate visible, non-visible, acquired and episodic disabilities. In new and existing housing, home modifications and accessibility supports have been found to be the most responsive solutions to a wide range of accessibility needs and

best suited to improving the housing conditions of people with disabilities, following a biopsychosocial model of disability.<sup>46,47,48</sup> Several lived experts also highlighted the cost-saving benefits of investing in home modifications:

*“If you can get people to live in their home for 10 or 20 years longer, you’re going to be saving a lot of costs on long-term care. Those are savings that could be invested into a fund that builders or renters can tap into.”*

*“Anything that can help people to stay in their own home and age safely, that’s going to take a lot of burden off of bricks and mortar. You definitely have to make a priority on modifying existing homes for accessibility.”*

Affordable home modifications and access to housing supports, alongside investments in new accessible housing, are foundational to upholding the right to housing and ensuring that people with disabilities and other groups with accessibility needs can live in peace, security and dignity - a human right to which everyone is entitled.

## 1. The right to adequate housing

The right to adequate housing is protected under Article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR),<sup>49</sup> which states that everyone has the right to an adequate standard of living, including housing. To be adequate, housing must meet certain minimum standards: it should be affordable, provide secure tenure, be well-maintained, accessible, close to jobs and services, connected to transit, roads and utilities and should allow the expression of cultural identity.<sup>50</sup>

Accessibility is thus a core element of the right to adequate housing. General Comment No. 5 of the United Nations Committee on Economic, Social and Cultural Rights (CESCR) plainly states that “the right to adequate housing includes the right to accessible housing for persons with disabilities”.<sup>51</sup> This means that accessibility in housing is part and parcel of Canadian governments’ obligation to progressively realize the right to housing. This obligation is further affirmed in the CRPD, which recognizes that people should be protected against housing discrimination on the basis of disability. It explains that people with disabilities are entitled to live independently in the community, and that governments must guarantee access to barrier-free housing, public housing programs and community services to facilitate community inclusion. This may include supportive housing and housing supports at large.<sup>52</sup>

As a signatory to the core international human rights covenants and conventions, Canada has committed to respect, protect, and fulfill the right to adequate housing. These commitments contain an obligation to progressively realize the right to housing, including through the adoption of legislative measures.<sup>53,54</sup> Canada formalized its commitment to advancing the right to adequate housing when it passed the *National Housing Strategy Act* (NHSA) in 2019, the first piece of Canadian legislation that formally recognizes housing as a fundamental human right.

The NHSA requires the federal government to adopt a National Housing Strategy to support the progressive realization of the right to housing and improve housing outcomes for people in greatest need, including people with disabilities.<sup>55</sup>

However, the responsibility for enshrining the right to housing in Canadian laws does not rest solely with the federal government. The adoption of domestic laws to give effect to the right to adequate housing is an obligation that extends to all levels of government.<sup>56,57</sup> This means that federal, provincial, territorial, and municipal governments must use all appropriate means to prioritize people in greatest need, in housing laws, policies and programs.

In addition to the NHSA, the central pieces of legislation that interact with the right to adequate housing are provincial and territorial residential tenancy acts (RTAs), which govern the relationship between landlords and renters. While RTAs vary considerably across jurisdictions, they generally provide minimum standards around certain elements of the right to adequate housing, like affordability, security of tenure and habitability. There are also some regulatory regimes at the municipal level that can advance the right to housing, for example through enforcement of building codes and property standards, and inclusive zoning bylaws. However, accessibility in housing is not explicitly mentioned in the NHSA, it is virtually absent from provincial / territorial tenancy statutes, and there is limited enforcement at the local level. Instead, housing accessibility is addressed across distinct legal frameworks.

## 2. Legal frameworks around accessible housing

There are three main regulatory frameworks that interact with the right to accessible housing for people with disabilities in Canada. Legal provisions around accessibility in housing are primarily found in human rights law, accessibility legislation and building codes. Together, these frameworks focus on preventing discrimination and achieving equality for people with disabilities.

The *Canadian Charter of Rights and Freedoms* (the Charter)<sup>58</sup> states that “every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination” based on a number of grounds, including “mental or physical disability.” The Charter imposes this duty of non-discrimination (which includes an accompanying duty to accommodate) on Canadian governments, but not on private parties. In this way, it does not regulate private housing providers – but it does regulate government housing providers, and also speaks to governments’ broader duties in the housing sphere.

The *Canadian Human Rights Act*<sup>59</sup> prohibits discrimination by any parties (private or public) under federal jurisdiction, including some community housing. Provincial and territorial governments also have human rights codes that prohibit discrimination in housing by any parties (private or public) under provincial/territorial jurisdiction. These human rights laws are “quasi-constitutional”,<sup>60</sup> and take precedence over other laws.<sup>61</sup> They outline the duty to prevent discrimination in housing, which contains a duty to accommodate the needs of people with disabilities, including through home modifications, retrofits or upgrades.

Canada also established an accessibility framework in recent years, notably with the adoption of the ACA in 2019. Provincial accessibility legislation has evolved significantly over the past two decades, beginning with Ontario's *Accessibility for Ontarians with Disabilities Act (AODA)*<sup>62</sup> in 2005, and all but two provinces adopting similar legislation since. Canadian accessibility legislation focuses on public spaces and rarely includes accessibility requirements in rental housing. Ontario, Manitoba<sup>63</sup> and Nova Scotia<sup>64</sup> are the exception, as they have embedded or attached accessibility standards for the built environment at large, including housing, into their policies. These standards, however, only apply to new construction. They do not apply to retrofits or home modifications, and are limited to multi-unit residential buildings. Even when minimum accessibility standards exist for rental housing, requirements and enforcement mechanisms are highly fragmented across jurisdictions.

The NBC sets minimum accessibility requirements for rental housing, but these requirements are also limited to new builds and major renovations in multi-unit residential buildings, and are not enforceable unless adopted at the provincial / territorial level. This has resulted in a patchwork of accessibility standards and enforcement mechanisms across jurisdictions. In addition, compliance with building codes does not always result in housing that adequately meets the accessibility needs of people with disabilities, as they might need individual adaptations that go beyond building code requirements.

Accessibility in housing may also require the inclusion of supports to fully meet the accessibility needs of people with disabilities, particularly those with complex care needs and/or experiences of homelessness. One lived expert said that:

*"There needs to be more rentals, yes, and also transitional housing. There isn't enough of that right now. The idea is that from rehabilitation, people go straight home. But if you're brand new to an injury, how do you even know what supports you might need? Or what might work for you?"*

Housing supports for people with disabilities can encompass assistance with daily living and home care supports, as well as access to community, healthcare or housing navigation services. In some cases, it may also include financial assistance for home modifications, though very limited. Human rights protections apply to renters with disabilities in supportive housing, but there is no unified framework governing supportive housing in Canada. Currently, supportive housing is simply insufficient, and it lacks clear definitions and standards, resulting in a fragmented and inconsistent regulatory regime in which neither renters nor housing providers can reliably determine which rules apply. This means that many people living in supportive housing are excluded from key renter protections, including protections against evictions, discrimination, and harassment. Some jurisdictions are also actively eroding existing protections for supportive housing renters, while implementing carceral housing models that undermine individuals' dignity and autonomy.<sup>65</sup>

### 3. Review of current accessibility policies and programs

Application and mainstreaming of legal standards for accessible housing through operational programs is also an issue. A brief review of home modification programs, construction incentives under the National Housing Strategy (NHS), and various building code requirements reveals a consistent pattern: accessibility is treated as an afterthought, accountability mechanisms are absent, and the scale of response is mismatched to the scale of the need.

To be sure, the range of available solutions to improve accessibility in housing has expanded significantly over the last few decades.<sup>66,67</sup> However, the average home is approximately 40 years old,<sup>68</sup> and Canada has no robust federal home modification support program. Instead, we have a decentralized patchwork of financial support programs that is difficult to navigate, and which has inherent inequities related to program eligibility and availability. As a result, the amount of support available, if any, depends greatly on the applicant's location, age, and type of disability.

Available home modification programs are usually targeted towards homeowners and exclude renters, while other programs tend to target older adults or very low-income households. Those programs that are available for renters generally require written permission from the landlord for eligibility. This puts renters in the precarious position of having to either 1) accept potentially unsafe, inaccessible housing conditions if a landlord denies permission to modify the home, 2) find a new home in a context where accessible rental housing options that are also affordable are few and far between, or 3) file a tribunal claim in order to secure funding through the program and carry out needed accessibility-related modifications, which can take years and considerable resources. Many home modification programs also have modest lifetime funding caps, which frequently do not match the real cost of accessibility retrofits needed across the course of a person's life.

While home modification programs are a critical component of achieving accessible housing, accessibility standards related to new rental housing construction are equally important. Programs under the current iteration of the NHS, such as the Affordable Housing Fund, the Apartment Construction Loan Program, and the Rapid Housing Initiative (some of which have, or will, sunset with the pending expiration of the current NHS in 2027), require higher accessibility standards within five to 20 per cent of units, depending on the program. Unfortunately, these programs lack accountability and reporting requirements to monitor their performance and assess the actual number of accessible units built and their construction standards (i.e. what accessibility features they contain). As a result, it is unclear whether accessibility-related efforts driven by the current NHS are being met in practice, and whether these programs are achieving their intended goals with respect to accessibility.<sup>69</sup> Given the federal government's recent shift to support affordable housing development through BCH, it is critical that stringent accessibility and reporting requirements be included within BCH and any other funding streams to improve not only the stock of affordable accessible housing, but also data collection and reporting on program performance.

To ensure that housing is truly accessible to people with a wide range of accessibility needs, it is important that funding programs for new housing development require that a percentage of homes meet accessibility standards that are above minimum building code standards (in alignment with the CSA/ASC B652:23 Accessible Dwelling Standard - e.g. roll-under sinks and countertops, curb-less showers, glare-controlled and adjustable lighting, etc.). At the same time, improving the availability of accessible housing requires increasing the baseline level of accessibility and adaptability of all homes and common spaces of multi-unit residential buildings. For example, this includes requiring common spaces to have tactile and large print wayfinding, audible, visual, and tactile cues in entryways, elevators, and alerting systems, wiring that supports lighting options, doorway automation, and doorway and corridor widths that allow access for mobility device users (in alignment with CANASC-2.8:2025 – Accessible-Ready Housing).

One lived expert stressed the importance of these accessibility features in ensuring equality in housing for people with disabilities, stating:

*“When we’re told that the building code is minimum accessible, well in fact, it’s not. It’s not even minimum accessible if it doesn’t include these features. So that’s systemic discrimination in and of itself.”*

Raising the bar on accessibility standards would create a more robust and inclusive rental housing stock, involving fewer requests for accommodation and making necessary home modifications easier and more affordable to implement. The new CAN-ASC-2.8:2025 – Accessible-Ready Housing Standard represents a best practice for adaptability requirements that can be applied to all homes, but it remains voluntary until adopted within regulated building codes, making these practices easily ignored.

Improving the baseline level of accessibility in housing can be achieved by including universal design and adaptability considerations within building codes, which are regulated primarily at the provincial level. The Canadian Board for Harmonized Construction Codes (CBHCC) is currently aiming to harmonize building codes by developing a version of the NBC that attempts to compromise and adopt best practices across jurisdictions. To ensure this will lead to consistent building standards across the country, it will be critical for all provinces and territories to adopt the harmonized national model code.<sup>70</sup>

Improving the baseline level of adaptability in housing is an approach that the Nova Scotia and British Columbia Building Codes have begun to implement, and which the NBC is working towards developing within the harmonized model code. While the most recent 2025 version of the NBC includes provisions for future application of accessibility objectives across all residential construction, the NBC currently exempts all low-rise housing (which makes up the majority of residential construction) from any accessibility requirements, greatly contributing to the lack of accessible housing in Canada. While important efforts are underway to improve building code-related accessibility requirements, building code development committees have limited staff support and are primarily composed of volunteers. This, in turn, considerably

hinders the pace of this work. As a result, significant updates to the NBC take place only every five years. The slow nature of building code development and jurisdictional adoption against the backdrop of recent significant advancements in accessibility standards has illuminated the very significant gap that exists between the level of accessibility currently required under these codes and the standards needed to truly support accessibility needs.

#### 4. The duty to accommodate

Advancements in accessibility standards are an important step towards creating and revitalizing housing supply that is suited to a wide array of people with accessibility needs for the long term. However, new housing developments and redevelopments are rarely affordable to lower income renter households. Renters with disabilities, who are economically marginalized and disproportionately impacted by housing unaffordability,<sup>71,72,73</sup> rely on more affordable but older housing stock that was not designed with accessibility in mind. In addition, even if improved building codes required new construction and major renovations of existing rental housing to meet higher accessibility standards, accessibility needs are highly individualized and may go beyond baseline accessibility requirements. One lived expert shared that:

*“Sometimes on paper, a unit may be accessible, but it doesn’t mean that it works for an individual. A young man was living in a place that on paper was accessible, but he wasn’t able to use his kitchen the way that he needed to. The counter was a little bit lower, but he was experiencing constant injuries like burning himself with boiling beverages. So it was leading to a lot of health complications. Things need to be considered beyond just code and looked at in a more adaptable way.”*

Canada’s current approach essentially provides two separate avenues to accessible rental housing. The first avenue is a multi-layered system of accessibility standards under funding programs and building codes, which are limited to large housing developments. The second avenue is the duty to accommodate embedded in human rights law, which is currently the only justiciable way that people with disabilities can claim the accommodations and supports they need to live in adequate conditions. Both systems need to work jointly to meaningfully uphold the right to housing of people with disabilities. On the one hand, barriers to accessibility need to be proactively eliminated. On the other hand, individualized accommodations and supports are needed to remove barriers that could undermine the dignity and safety of people with disabilities, even when buildings are in compliance with general accessibility standards.

Ontario has an expansive framework to enable accessibility in housing, through human rights law, accessibility legislation, building standards, residential tenancy legislation, and local bylaws and enforcement mechanisms. Therefore, the following section examines the duty to accommodate in Ontario to understand what kind of barriers to disability accommodations persist even in, seemingly, the most supportive legislative and enforcement environment.

Notably, the AODA contributed to broader accessibility reform in Ontario and influenced updates to the *Ontario Building Code* (OBC).<sup>74</sup> This has helped strengthen accessibility requirements for new housing and improved accessibility standards in community housing and housing-related services delivered by municipal housing corporations.

While the AODA creates minimum accessibility standards for proactive accommodation, the *Ontario Human Rights Code* (the Code)<sup>75</sup> outlines obligations to uphold equality rights in housing, and is the primary enforcement mechanism protecting people with disabilities from discrimination. The Code establishes a broad and evolving understanding of discrimination, recognizing that it can be direct or indirect, and it requires housing providers to accommodate disability-related needs up to the point of undue hardship. Importantly, accommodation is not only an individual claim or response mechanism to address direct discrimination, but it is also part of a broader obligation to proactively create inclusive and barrier-free environments as a way of addressing indirect discrimination.<sup>76</sup>

Accommodation can be achieved proactively, by preventing and removing environmental barriers for people with disabilities before an individual request is made. Many barriers can be avoided through accessibility planning and inclusive design, for example, by planning residential buildings from the outset with ramps or wheelchair-accessible common areas. Accessibility legislation and construction standards are increasingly supporting this approach (and strengthening Code provisions as a result), but the accessibility baseline is still low and coverage is insufficient. Accommodation can also be provided reactively, as a response to an accommodation request. These accommodations can include retrofitting a residential building with ramps, installing grab bars inside private units, adjusting tenancy rules (such as allowing guide dog handlers and people who need service animals to live in buildings with a no-pets policy), and providing health, social, or economic supports in supportive housing. Currently, reactive accommodations to respond to individual accessibility needs are afforded almost solely through the duty to accommodate.

Whether accommodation under the Code is proactive or reactive, the accommodation process involves a procedural and a substantive component. Procedural accommodation requires housing providers to assess accommodation needs and determine the most appropriate accommodation, in consultation with renters with disabilities. Substantive accommodation requires housing providers to implement the most appropriate solution, to the point of undue hardship. Undue hardship is understood as the point at which accommodating a person's disability would impose such significant difficulty or expense that it could compromise housing providers' ability to operate effectively. In Ontario, the threshold for undue hardship is intentionally high, and assessed primarily based on cost, outside sources of funding, and health and safety requirements. Even when a housing provider cannot provide a requested accommodation because it would cause undue hardship, it must still fulfill its procedural duty by exploring all possible solutions and identifying sources of external funding. Housing providers are also expected to fulfill their substantive duty by providing the highest accommodation standard possible, if the most appropriate accommodation would cause undue hardship.

## 5. Barriers to disability-related accommodations

Failure to meet either procedural or substantive components of the accommodation process constitutes a breach of the Code and can trigger a human rights complaint for discrimination on the basis of disability. In recent years, disability has been the most cited ground for discrimination across Canada (second most cited in British Columbia<sup>77</sup>),<sup>78,79,80,81,82,83,84,85,86</sup>

Discrimination against renters with disabilities can occur before, during, or even after tenancies. Studies show that people with disabilities experience the highest rates of discrimination during tenancies,<sup>87</sup> often as a result of housing providers failing to provide accommodations.<sup>88</sup> There are several ways in which housing providers fail to comply with their duty to accommodate and actively discriminate against renters with disabilities:

- They might refuse to rent to prospective renters with disabilities, or try to evict existing renters with disabilities, to avoid paying for disability-related accommodations.<sup>89</sup>
- They may claim undue hardship, without investigating alternate sources of funding, or providing sufficient evidence that the costs of accommodation would jeopardize their operations.
- They might use conflicting provisions in other legal instruments to justify undue hardship or the need for eviction,<sup>90</sup> for example, by claiming that the requested accommodation might breach sections of the building code related to health and safety, or might interfere with other residents' right to reasonable enjoyment under the RTA.
- They might pass the costs of accessibility upgrades and/or repair and maintenance costs onto renters, resulting in unfair and excessive rent increases that could lead to economic evictions and homelessness.<sup>91,92</sup>
- They may employ strategies to discourage renters with disabilities from claiming their right to accommodation by appearing to comply with their duty to accommodate, such as starting but delaying the accommodation process.
- They might infringe on people with disabilities' right to participate in accommodation decisions, by not engaging with renters with disabilities during needs assessments or deciding which accommodations should be implemented without renters' input.
- They might outright intimidate or harass renters in need of disability-related accommodation.<sup>93</sup>

Sometimes, renters with disabilities have to contend with these types of discriminatory behaviours in more ways than one. One lived expert said that:

*“They use all kinds of shenanigans to delay the start of the work, and you've already packed up your apartment, you've got nowhere to go, you have to go stay in a long-term residence while the work is being done and then the work stalls. And then things get decided without you being there, things that you didn't want or didn't agree to, or just poorly done.”*

Renters with disabilities whose needs are not accommodated tend to experience worse housing and health outcomes.<sup>94</sup> They are often forced to choose between remaining in inadequate living conditions, bearing the costs of the accommodations they need, or leaving their homes without access to accessible and affordable housing options, usually leading to experiences of homelessness or long-term institutionalization.<sup>95</sup> For renters with disabilities seeking redress, complaints can be made to a human rights tribunal, but these processes usually take years to be resolved and do not always result in helpful sanctions or remedies.<sup>96,97</sup>

In cases where failure to accommodate is tied to an eviction, the capacity of housing tribunals to consider human rights laws in their decisions is often ignored or improperly exercised.<sup>98</sup> Renters may try to bring their accommodation matter to their human rights tribunal, but because of delays, often face eviction at a housing tribunal before their accommodation matter is resolved. This puts renters in the situation of having to fight for their rights on two fronts.

As it currently stands, the duty to accommodate in human rights law is generally only used as a remedial measure and does not adequately prevent discrimination in housing. To proactively prevent discrimination, the duty to accommodate must include stronger enforcement mechanisms, alongside greater alignment with other legal and policy instruments at all levels of government. This would provide renters with disabilities with additional layers of legal protections and swift claim resolution mechanisms. Measures to ensure housing providers comply with their duty to accommodate should aim to deter bad faith practices, and at the same time, better support housing providers who are willing, but unable, to provide accommodations.

Housing providers who, in good faith, cannot provide disability accommodations also face barriers to the duty to accommodate. A lack of education and knowledge of their obligations is one such barrier.<sup>99</sup> Most importantly, a lack of alternate sources of funding to pay for disability-related accommodations is a persistent barrier amongst rental housing providers, especially small-scale private housing corporations and non-profit organizations.<sup>100</sup> Funding is often modest, with narrow eligibility, and simply insufficient to allow housing providers to implement the most appropriate accommodations without straining their own resources, particularly in situations where they have to respond to multiple requests for accommodation.

A series of consultations with housing providers in Ontario highlighted that governments must take part in the duty to accommodate and provide access to more funding for disability-related accommodations,<sup>101</sup> a position that was also echoed by 95 per cent of Canadians in the 2024 National Accessibility Study.<sup>102</sup> One of the core tenets of governments' obligations to the progressive realization of the right to adequate housing is the use of all appropriate means,

including the adoption of legislative measures and the use of maximum available resources.<sup>103</sup> Under international law, governments are the primary duty-bearers in upholding human rights.<sup>104</sup> This means that governments not only have obligations towards rights-holders (in this case, people with disabilities), but also towards secondary duty-bearers, such as other levels of government, as well as private and non-profit entities (including housing providers). This also means that governments have an implicit duty to accommodate when other duty-bearers lack the capacity to meet their obligations.

General Comment No. 31 of the International Covenant on Civil and Political Rights (ICCPR) further requires governments to ensure that rights-holders have access to effective remedies to claim their human rights, through the establishment of appropriate judicial and administrative claim/response mechanisms for addressing human rights violations.<sup>105</sup> Currently, claim mechanisms for disability accommodations are fraught with obstacles and perpetuate, rather than prevent, discrimination in housing. Some housing providers may exploit the lack of proactive enforcement and excessive delays in adjudicating human rights complaints, or the lack of alternative claim mechanisms to avoid complying with their duty to accommodate altogether. This only creates situations whereby renters with disabilities either face discrimination by landlords, or on a systemic level through a lack of access to justice. All levels of government in Canada therefore have an obligation to step in to lift barriers to accessible housing faced by people with disabilities, but also to ensure that secondary duty-bearers can fulfill their own obligations and be held accountable when they fail to do so.

## Recommendations

Current housing policies and programs are woefully insufficient to meaningfully reduce core housing need and homelessness, particularly for renters with disabilities and people with accessibility needs. Governments must strengthen their focus not only on enhancing regulated accessibility standards in new affordable housing developments, but also on making home modifications affordable and accessible to renters with disabilities. Accessibility in housing is not a privilege or luxury, but a human right that people with disabilities are entitled to under international law. This places an obligation on all levels of government, and on housing providers, to ensure that housing is accessible to people with diverse accessibility needs, whether through universal design in new builds or accessibility-related retrofits in existing housing. The failure to do so constitutes discrimination, and while there is a clear human rights framework in Canada to prevent discrimination in housing, claim mechanisms and enforcement of anti-discrimination laws are poorly implemented, often leading to people with disabilities being rendered even more vulnerable to housing insecurity and homelessness.

The current NHS will be reaching its end in 2027. Its pending renewal, alongside the recent launch of BCH, presents a critical opportunity for the federal government, in partnership with other levels of government and civil society, to integrate a human rights-based approach into the renewed NHS and BCH, and embed human rights standards and principles related to accessibility in all housing laws, policies and programs.

To that end, we ask the Review Panel to consider the following recommendations to the federal Minister responsible for housing:

## 1. Enhancing adaptability and accessibility standards in new housing construction

As a long-term strategy to increase the stock of accessible homes and reduce the need for both costly accessibility-related modifications and duty to accommodate requests, the federal government should require compliance with the CAN-ASC-2.8:2025 - Accessible-Ready Housing Standard as a baseline condition for all new residential construction funded through the NHS, including BCH. This should include requirements to ensure that 100 per cent of units are adaptable, while progressively increasing the proportion of fully accessible units that meet CSA/ASC B652:23 - Accessible Dwellings Standard over time, toward a minimum of 20 per cent across all NHS programs. To ensure that NHS programs are aligned with the NHSA and meaningfully uphold the right to housing of people with disabilities and other groups with accessibility needs facing affordability challenges, accessibility in new housing construction should be accompanied by strict affordability requirements, based on household income rather than fluctuating measures of market affordability.

## 2. Establishing a federal home modification program

To ensure disability-related accommodations and home modifications are accessible and affordable to both renters with accessibility needs and housing providers, the federal government should establish a national home modification program within the renewed NHS that provides grants to housing providers and renters for accessibility-related home modifications, with nationally consistent eligibility criteria, explicit renter inclusion, and sufficient funding to meet the real cost of complex modifications. Reporting requirements must include conditions to prevent landlords from passing the costs of home modifications onto renters.

## 3. Strengthening monitoring and accountability for NHS accessibility funding

To ensure that accessibility requirements are being met in practice, the federal government should require mandatory independent verification and public reporting on the accessibility outcomes of all NHS programs. Meaningful engagement and participation of people with accessibility needs is essential in defining and evaluating program outcomes. These outcomes should be measured against an enhanced measure of core housing need that includes accessibility, and should be supported by robust data collection methods with disaggregation by disability type or functional domain (e.g. mobility, vision, hearing, communications, mental health, etc.). Additionally, to support enforcement and accountability across all levels of government, funding allocation should be conditional on demonstrated compliance rather than stated intent.

## 4. Aligning housing and accessibility laws with human rights law

To ensure that people with accessibility needs can pursue more than one avenue to obtain the accommodations required for safe and healthy living conditions, the duty to accommodate must be reflected across all legal frameworks governing accessibility in housing. This means, for instance, involving people with accessibility needs in the development of the NBC, and considering whether accessibility standards in building codes are sufficient to prevent indirect discrimination in housing. There should also be a unified definition of disability, following a biopsychosocial model that recognizes visible, non-visible, episodic and acquired disabilities, across all regulatory frameworks on accessibility. This requires aligning definitions between human rights statutes and accessibility legislation and policies across all jurisdictions, with the definition contained in the ACA. Federal, provincial and territorial accessibility legislation should also be amended to ensure that mandated accessibility standards apply to all housing providers and are aligned with the national standards developed by Accessibility Standards Canada, such as the CAN-ASC-2.8:2025 - Accessible-Ready Housing Standard.

In addition, the federal government should strengthen the application of the NHSA and use all the levers and tools at its disposal, including conditional funding agreements under the renewed NHS, to require provincial and territorial governments to amend their residential tenancy laws and reflect the legal requirements and principles outlined in international and domestic human rights laws, including the duty to accommodate. RTAs should make it clear that human rights obligations take precedence over any other obligations, especially in relation to eviction filings, building and fire safety, and repair and maintenance issues. For example, RTAs must require that, before initiating an eviction, landlords must prove that they have 1) inquired whether circumstances or behaviours upon which they intend to rely to justify the eviction are related to a disability, and 2) worked to accommodate any disability to the point of undue hardship.

## 5. Improving access to justice

Similarly, the federal government should leverage its authority to regulate housing through bilateral program agreements with other levels of government to improve access to justice. Such agreements should clearly state that human rights law must be upheld in housing tribunal decisions and should take precedence over RTA provisions that conflict with the right to disability-related accommodations. For example, such accommodations should always be considered by housing tribunals before issuing an eviction order.

Access to justice is also contingent on the existence of efficient resolution mechanisms for people whose human rights have been compromised or violated. All levels of government should increase funding to legal aid systems and to federal, provincial and territorial human rights tribunals and commissions to ensure complaints of discrimination are addressed swiftly and effectively. They should also provide adequate resourcing for education programs to support renters and housing providers in learning about their legal rights and obligations.

We thank the Review Panel for the opportunity to participate in this written hearing. We also wish to acknowledge and thank the organizations and individuals listed further below that have endorsed this submission and its recommendations. Their support reflects a shared commitment to advancing the right to accessible housing in Canada, and we welcome the opportunity for further dialogue on the recommendations set out in this submission and on the measures needed to ensure that all people in Canada can live in safe, secure, affordable, and accessible homes.

Sincerely,

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Canadian National Institute for the Blind (CNIB)

Canadian Poverty Institute (CPI)

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Catalyst Occupational Therapy

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Collaborative Aging

Community Living Toronto

DisAbled Women's Network of Canada (DAWN)

Ex Aequo

Inclusive Solutions Consulting

Intelegia

Intentional Community Consortium

Literacy Quebec

March of Dimes Canada

Moelle Epinière et Motricité Québec (MÉMO-Québec)

Ontario Renters for Fair Housing Coalition

Ontario Society of Occupational Therapists (OSOT)

OT2U Ltd.

Pivot Legal Society

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Regroupement des comités logement et associations de locataires du Québec  
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Restoration and Empowerment for Social Transition (REST Centres)

Saint-Antoine 50+ Community Centre

Seniors Action Quebec (SAQ)

South Fraser Active Living

Spinal Cord Injury NL

Spinal Cord Injury Ontario

St. Jude Community Homes

StopGap Foundation

Toronto Drop-In Network (TDIN)

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