

LIBERAL GOVERNMENT TACKLES TENANT PROTECTION

That the Liberal government has delayed introduction of new landlord and tenant legislation is indicative of the difficult divisions that exist over rental housing in Ontario. In an attempt at grabbing the tenant vote in last October's election, the Liberals promised to repeal the *Tenant Protection Act* within the year, and reform the Ontario Rental Housing Tribunal, referred to glibly by some as the Tory Eviction Machine.

But like many promises made in the heat of the campaign, this one is now subject to the harsh realities of governing and the need for pragmatism, not ideology. The one-year anniversary of the election, and then the swearing in of Cabinet came and went without the introduction of the promised replacement legislation. Rumour has it that the draft bill was presented to cabinet at the end of October, but that a division emerged with the Toronto area MPPs and Ministers demanding more aggressive changes and a more tenant-centred approach, and the rural MPPs generally accepting of the status quo with minor tweaking. As the story goes, Health Minister George Smitherman and Attorney General Michael Bryant, both downtown Toronto MPPs, were successful in persuading Premier McGuinty to send the draft bill back to the drawing board for a major re-write. It is now expected that the legislation will be introduced in the spring.

A highly regulated system of landlord and tenant law has existed in Ontario in some form for decades. Successive governments keep re-inventing it in new iterations and with new names, without much thought or question as to its desirability. The Liberals and successive governments may tweak the *Act*, but the result will still be a statutory framework in Ontario completely negating the common law of real property and contract, and replacing them with a highly regulated system in which parties are not permitted to contract freely, and the free market has no meaning. The law as it relates to rent controls and tenure is grossly unfair to landlords. The price of other necessities such as gas, food, clothing and taxes is not capped, so why residential rents? It's simple. Governments have imposed onerous regulation on landlords because landlords have been easy targets.

Ontario would be better served by having the parts of the *Tenant Protection Act* dealing with rent control and discretionary relief from eviction eliminated, not just changed. Not only is the legislation unfair, in that it puts landlords in the position of being social service agencies and is akin to nationalization of private enterprise by government, but it is also counter-productive as ultimately there will be nobody willing to build residential accommodation with private money, or to affect repairs and modernize existing rental stock.

Imagine a convenience store, dry cleaner, or restaurant where customers walk out without paying their bills, and having those same customers return the following week after attending a hearing with a decision from a tribunal ordering

that the shop owner be required to serve them and allowing the customer to leave without paying for their new items, let alone paying their outstanding debt. What about a system that allows a customer to substantially interfere with the rights of others attending that business through outrageous conduct, yet the owner of the establishment is powerless to take the action “demanded” by the other irate customers to guarantee their pleasant shopping experience and perhaps to insulate the shop owner himself from litigation? Yet this happens every day with decisions made under the *Tenant Protection Act*, allowing people to stay in their units with long and questionable payment plans or vague promises to correct their conduct. The eviction process is an expensive and time consuming merry-go-round resulting in terrible financial hardship for landlords, particularly the many small private landlords renting out part of their house. Landlords must be the only class of business people who can't charge interest on these outstanding accounts, and who are required to allow people to rack up unrecoverable debt because the government doesn't want to belly up to the plate with their own money to solve problems of poverty and homelessness.

The residential housing industry in Ontario needs this government's support, not roadblocks, derision or scorn. If it is the public will that governments get back into the social housing business (God help us), or provide rent subsidies to private landlords (much better) then so be it. Landlords got into the business for the same reason all investors choose to take risk; for a return on their investment, and in the process, they create wealth and employment. Let the responsibility for the poor or unemployed rest where it was meant to rest, with the public at large, subject to ratification by our elected representatives, rather than foisting societal issues onto private commercial landlords. Doing otherwise is not only unfair, but it is completely unworkable.