



A Landlord's Self-Help Centre Publication

Provincial Election 2022:

Ontario Re-Elects PC Party for a 'historic win'

Just 43% of eligible voters turned out at the polls for Ontario's June 2nd provincial election. That's all that was required to re-elect the Progressive Conservative Party led by Doug Ford. The PC Party won 83 seats and will form a majority government in what is being called a 'historic win' for the PC party.¹

The NDP captured 31 seats, with party leader Andrea Horwath being re-elected in her Hamilton Centre riding. This allowed the party to remain as the official government opposition. However, after winning her seat, she announced her decision to step down as party leader.

The Liberal Party, led by Steven Del Duca, won only 8 seats. Del Duca also announced that he would step down as party leader after failing to be elected in his riding of Vaughan-Woodbridge in this election and the last election.

According to the standing orders of the legislature, twelve seats are required to achieve party status. The loss of recognized party status is significant as the status dictates how debate is supposed to proceed, defines the powers of the various parties, defines setting the legislative agenda, and the powers and privileges of the official Opposition and other parties. Recognized parties are also given public money to establish caucus offices and it determines the salary bonuses MPPs get for roles such as house leader, caucus chair or party whip.

Mike Schreiner, the leader of the Green Party of Ontario and local candidate in the riding of Guelph, was also re-elected making it the second consecutive time that a member of the Green Party is elected to the Ontario Legislative Assembly.

What's ahead?

During his victory speech, re-elected Premier Doug Ford said: "Thank you for your trust and thank you for once again putting your confidence in me, it's a responsibility that I will never take lightly. But most importantly, thank you for sharing in the vision for our great province."

According to the 2022 Ontario Budget: Ontario's Plan to Build which is a document released by the Ford government outlining some plans for the housing sector. It says that the provincial government will help municipalities in order to enforce a vacant home tax to increase housing supply in Ontario. The provincial government will meet with municipalities to allow for them to share best practices and approaches to implement this tax efficiently.

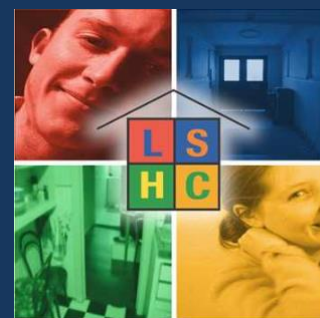
Also, the PC Party had previously said that they would like to move some provincial agencies out of Toronto to bring jobs to other regions in an effort to decrease the real estate prices and rent amounts.

To review the 2022 Ontario Budget: Ontario's Plan to Build document, visit <https://s3.documentcloud.org/documents/21758991/use-2022-ontario-budget-en.pdf>.

¹ <https://globalnews.ca/news/8891354/ontario-election-2022-low-voter-turnout/>

Election Results:	
PC	83
NDP	34
Liberal	8
Greens	1
Other	1

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The views expressed here are those of the clinic and do not necessarily reflect those of Legal Aid Ontario.

Landlord and Tenant Board Backlog

It is well known among residential landlords, tenants and their advocates that legal procedures at the Landlord and Tenant Board (LTB) are currently taking significantly longer. From the time an application is filed through the online Tribunals Ontario Portal to the time a hearing is finally scheduled, users can expect to wait for a period of **at least five months**.

This problem was already a concern at the LTB before the COVID-19 pandemic began, as landlords were experiencing significant wait times to have their matters heard by LTB adjudicators. The backlog became so serious that the Ontario Ombudsman opened an investigation into the LTB delays on January 9, 2020, after receiving at least 190 complaints from landlords and tenants during 2018-2019.

The screenshot shows a webpage with a green header and a yellow body. The title is 'DELAYS AT THE LANDLORD AND TENANT BOARD'. Below the title, there is a breadcrumb trail: 'Home / Resources / Ongoing Investigations / Delays at the Landlord and Tenant Board'. The main content area has the title 'DELAYS AT THE LANDLORD AND TENANT BOARD' and the date 'January 9, 2020'. Below this, there is a sub-heading 'Investigation into delays for hearings and decisions at the Landlord and Tenant Board (LTB)'. There are three buttons: 'Press release, "Ontario Ombudsman to investigate delays at Landlord and Tenant Board" (January 9, 2020)', 'Case Update (Annual Report 2020-2021)', and 'Case Update (Annual Report 2019-2020)'. At the bottom, there is a link: 'Investigation into the delays at the Landlord and Tenant Board (LTB)'. Below the screenshot, there is a blue link: <https://www.ombudsman.on.ca/resources/ongoing-investigations/delays-at-the-landlord-and-tenant-board>

Ombudsman Dubé noted, *“What we’re seeing in some of these complaints is that delays have a very real human impact. For example, when a landlord whose family relies on the rental income of a property has to go without that money for months before the LTB even schedules a hearing. Or when a tenant who has asked for repairs or is threatened with eviction has to live in limbo, waiting for the board’s decision.”*

Tribunals Ontario also stated in their annual report that the LTB had not been meeting their operational standards since 2017 due to a shortage of adjudicators. However, the primary focus of the investigation conducted by the Ontario Ombudsman is to determine whether or not the provincial government is taking adequate steps to solve this issue. The investigation will also determine if there are other factors contributing to this problem such as relevant legislation, training, funding and technology.

As part of this investigation, the Ontario Ombudsman is encouraging affected parties or any person with relating information to file an online complaint on www.ombudsman.on.ca, or by phone 1-800-263-1830.

Once the COVID-19 pandemic hit, this substantial backlog worsened due to a moratorium imposed by

the Superior Court. The Landlord and Tenant Board was ordered to suspend all residential evictions for non-urgent matters from March 19th to August 1st, 2020 which consequently increased the wait times significantly. According to Global News, the LTB ended the period of 2020-2021 with 34,731 active cases in comparison to 22,803 in 2019-2020, and 14,726 from the previous year. These active cases range from issues based on non-payment of rent to ending a tenancy for own use by a purchaser. In an effort to enhance the Access to Justice in Ontario, the Tribunals Ontario Portal was launched on December 8th, 2021 having the LTB as one of the first tribunals to try the new technology. This is a new case management system allowing landlords and tenants to file applications and pertaining paperwork for the LTB to process and schedule hearings. The LTB also moved its hearing model from an in-person setup to a virtual setup via Zoom. Further, the LTB hired more adjudicators to hear matters and streamlined mediation through the Online Dispute Resolution tool available on the portal. However, the LTB backlog continues.

Sources:

<https://www.ombudsman.on.ca/resources/news/press-releases/2020/ontario-ombudsman-to-investigate-delays-at-landlord-and-tenant-board>

<https://globalnews.ca/news/8738378/landlord-tenant-board-evictions-backlog-pandemic/>

<https://www.ctvnews.ca/canada/landlord-tenant-board-backlog-why-ontarians-are-waiting-months-for-resolutions-1.5872030>

LTB Update: Renting in Ontario

The Landlord and Tenant Board launched the new **Renting in Ontario** webpage on May 5, 2022. This new page contains information ranging from important things to know before a lease begins, to how a legal proceeding is conducted through the Board.

The **Renting in Ontario** webpage has been created in order to consolidate various material and information to make it more user friendly.

The screenshot shows a webpage with a dark blue sidebar on the left and a white main content area on the right. The sidebar has a menu with items: 'ABOUT US', 'OPERATIONAL UPDATES', 'NAVIGATE TRIBUNALS ONTARIO', 'TRIBUNALS ONTARIO PORTAL', 'RENTING IN ONTARIO', 'APPLICATION & HEARING PROCESS', 'FORMS, FILING, FEES', 'NON-PROFIT CO-OP EVICTIONS', 'LAWS, RULES, DECISIONS', and 'CONTACT THE LTB'. The main content area has the title 'About the LTB' and a paragraph: 'The Landlord and Tenant Board (LTB) resolves: • disputes between residential landlords and tenants • eviction applications filed by non-profit housing co-operatives'. Below this, there is a paragraph: 'The LTB also provides information about its practices and procedures and the rights and responsibilities of landlords and tenants under the Residential Tenancies Act.' There are three buttons: 'Tribunals Ontario Portal', 'Check File Status', and 'File by Email, Pay Online'. Below these buttons, there is a button: 'Navigate Tribunals Ontario'. At the bottom, there is a small text: 'Use Navigate Tribunals Ontario to learn about your rights and responsibilities and the rules and processes at the LTB.'

<https://tribunalsontario.ca/lfb/renting-in-ontario/>

What is “Missing Middle Housing”?

The “Missing Middle Housing” is a term used to describe a wide range of multi-unit housing types compatible in scale with single detached neighbourhoods and that have gone missing from many cities such as Toronto. For example, these could be laneway housing, garden suites, duplexes, triplexes, fourplexes, row houses, townhouses and, low and mid-rise apartments.



The Ontario Housing Affordability Task Force was appointed in the fall of 2021 to conduct research about the Missing Middle Housing and released their report two months later. The Task Force is comprised of industry leaders and experts. In their report, they define the “Missing Middle Housing” as an important part of the housing shortage solution and they define this term housing that includes mid-rise condos or rental housing, smaller houses on subdivided lots or in laneways and other additional units in existing houses.

The Task Force consulted with stakeholders including municipalities and advocacy groups to develop their report. The final report contains feedback from municipal leaders, urban planners, unions, developers and builders, the financial sector, academics, think tanks and housing advocates from across the province. As a result of the recommendations made by the Task Force, the government of Ontario launched consultations on increasing the “Missing Middle Housing,” including any required supports for multigenerational housing.

The Minister of Municipal Affairs and Housing Steve Clark said that the report gives the government a long-term road map to implement these recommendations. The Minister stated that they need municipalities to be on board as well, but the provincial government is aware that municipalities are not ready to implement the Task Force’s ambitious policies and recommendations right away. The provincial government will be establishing a Housing Supply Working Group this summer to work with municipalities to develop the Missing Middle Housing.

On April 29, 2022 LSHC prepared a written Submission on behalf of the small-scale landlord community. The submission supported the recommendations made by the Ontario Housing Affordability Task Force which could support opportunities for the creation of Missing Middle Housing. These recommendations include:

- Allowing “as of right” residential housing up to four units and up to four storeys on a single residential lot; and
- Permitting “as of right” secondary suites, garden suites, and laneway houses province-wide.

On a municipal level, the Expanding Housing Options in Neighbourhoods is one of the initiatives taken by the City of Toronto to facilitate more low-rise housing in residential neighbourhoods. The city is working to expand opportunities for “missing middle” housing forms in Toronto ranging from duplexes to low-rise walk-up apartments.

To learn more about the Expanding Housing Options in Neighbourhoods, visit <https://www.toronto.ca/city-government/planning-development/planning-studies-initiatives/expanding-housing-options/>

Heating and Air Conditioning

According to the Toronto Municipal Code, Chapter 629, Property Standards, sources of heat and air conditioning (when provided) have to be repaired and maintained as needed in a given property. Landlords must then provide heat between September 15th and June 1st at a minimum temperature of 21 degrees Celsius. When a source of air conditioning is available in the rental unit, landlords have to provide it from June 2nd to September 14th at a maximum temperature of 26 degrees Celsius, <https://www.toronto.ca/city-government/public-noticesbylaws/bylaw-enforcement/not-enough-heatother-vital-services/>. Check with your municipality for local heating and air conditioning requirements.

Self-Help TIPS

This issue of **Self-Help Tips** will focus on how to deal with existing tenants when selling a tenanted property for investment purposes.

Selling a tenanted rental property

When selling a tenanted property, there are many things to consider:

Pictures: A landlord can take pictures of the inside of the rental unit if the tenant agrees, or if there is a term in the tenancy agreement that allows the landlord to serve notice to enter for the purpose of taking photos of the unit.

Notice of Entry: The tenant must be provided with a proper 24 hour written notice of entry for each showing. Keep COVID-19 precautions in mind when showing the unit.

If the tenant interferes with your ability to show the rental unit to prospective buyers, after proper legal notice is provided, the landlord may have to serve the *N5: Notice to End your Tenancy for Interfering with Others, Damage or Overcrowding*, and continue with the Landlord and Tenant Board for the behaviour issues if they are not corrected by the required date in the notice.

Renovations: When selling a tenanted rental property, only maintenance issues should be addressed. Renovations for the purpose of aesthetics should not be done while the tenant is still in the unit, unless the tenant consents. If the landlord wants to end the tenancy so they can do renovations to the unit before listing it for sale, try negotiating with the tenant. If the landlord and tenant are able to come to a mutual agreement to end the tenancy, Landlord and Tenant Board (LTB) Form *N11: Agreement to End the Tenancy* should be completed.

Term of Tenancy: If the tenant is on a fixed-term lease, the tenancy cannot be terminated for purchaser's own use until the end of the tenancy. If the tenant is on a month to month tenancy, you may be able to provide the tenant with a termination notice.

Termination Notice: If the tenant is on a monthly tenancy, or their fixed term tenancy is almost complete, LTB Form *N12: Notice to End your Tenancy Because the Landlord, a Purchaser or a Family Member Requires the Rental Unit* can be provided to the tenant **after** the following requirements are met: a purchase and sale agreement is signed and an offer is firm; an eligible individual is looking to move into the property; and the building has 3 or fewer units. If the purchaser is buying the property as an

investment, the tenant is allowed to stay.

Affidavit/Declaration & LTB Hearing: If the landlord sells the property to a purchaser who wants to move into the unit, an *Affidavit or Declaration* should be completed by the purchaser (or eligible person wanting to move in). This will need to be provided to the LTB along with the application. The purchaser (or individual moving in) should also be in attendance at the hearing.

LTB Process: There is a backlog at the Landlord and Tenant Board, and the current wait times for a hearing date can be anywhere from 3 to 6 months, possibly longer. Make sure to serve notice when appropriate and file the application for a hearing right away.

Closing date: Since the LTB process can take longer than the 60 days' notice required for termination, landlords selling a tenanted rental property are cautioned about having short closing dates. Landlords should give themselves as long of a closing as possible, or find a buyer who is flexible with changing the closing date if it's necessary.

Pending LTB Application(s): If the landlord trying to sell a tenanted rental property is already going through the LTB process for termination for another reason such as arrears, unpaid utilities, or damage, it's best to see those applications through. If the property is sold and title changes before the applications are resolved, the seller will no longer be able to pursue termination of the tenancy. The buyer, once they resume the tenancy and take over as landlord, will have to wait for their opportunity to serve a notice of termination.

Small Claims Court Claims: If a purchase and sale agreement is signed with a fixed closing date and promises vacant possession of the unit, the seller may be sued in Small Claims Court if they can't deliver because the tenant is not cooperating or the LTB process takes too long. Make sure to do proper research or speak with a legal representative before signing the purchase and sale agreement.

Tips

- Do your research before signing a purchase and sale agreement for a property.
- Start the eviction process as soon as legally possible, and take the LTB delays into consideration.
- A proper notice of entry must be provided to the tenant when entering the unit to show it to a prospective buyer.

Did You Know?

Q: We rent three rooms and the tenants share the kitchen and bathroom. Who is responsible for cleaning the shared areas?

The tenants are equally responsible for the ordinary cleanliness of the unit. A mutually-agreed on a cleaning schedule may be helpful to divide the workload between the three of them. You may hire a cleaning service, but it should be specified in the tenancy agreement (especially if the cleaners are going to be entering the rental unit at a designated time every month).

If a tenant is not fulfilling his or her cleanliness obligations under the *Act*, you may send a reminder letter letting your tenant know that they must keep the unit clean. A copy of section 33 of the *Residential Tenancies Act* can also be attached (which indicates the tenant is responsible for ordinary cleanliness of the rental unit). If the tenant still fails to comply, then a N5 notice may be served.



Q: My tenant was in arrears of rent so I filed with the Landlord and Tenant Board and obtained an order for eviction. The tenant vacated the unit but left some belongings behind. What can I do with the belongings?

If you received an order of termination after a hearing at the Landlord and Tenant Board, and the tenant moved out as a result, then pursuant to S. 41 (1) of the *Residential Tenancies Act*, you may keep, sell or dispose of any remaining belongings left behind by the tenant.

After a tenancy is terminated, the RTA provides rules for landlords to follow when a tenant moves out of a rental unit but leaves property behind - <https://tribunalsofntario.ca/documents/ltb/Brochures/Property%20Left%20Behind%20When%20a%20Tenant%20Moves%20Out%20%28EN%29.html>



Q: My tenant is still in possession of the rental unit but refuses to pay the rent or vacate. What application should I file with the LTB, L1 or L9?

If you don't want to terminate the tenancy, an L9 application can be filed to collect rent the tenant owes, and the tenant can continue living at the rental unit. Once the Board issues an Order for arrears based on an L9 application, that Order can only be enforced in Small Claims Court. The Board does not deal with the collection process. If you know where the tenant is employed or where their bank, you may file a garnishment of wages or bank account at Small Claims Court. This can be done even if the tenant is still in possession of the unit.

If you want to terminate the tenancy because your tenant refuses to vacate or pay the rent, you should file an L1 application. With an L1 application you are applying for

an order to terminate the tenancy and evict the tenant for non-payment and to collect the rent the tenant owes.



Q: My tenant is complaining about a tenant in another unit that is interfering with his reasonable enjoyment. I asked the tenant if he would be willing to attend a hearing as a witness to all the disturbances he is claiming. The tenant is refusing to be a witness unless I summons him, what can I do?

If the person does not want to go to the hearing, or if they need an official document in order to get time off from work, you can request a summons be issued by the LTB. If your request for a summons is approved, you will be required to pay the witness. Learn more about [requesting a summons](#), serving the witness and the costs.



Q: I am a new landlord, how do I collect information from prospective tenants?

When selecting tenants, the *Residential Tenancies Act* gives landlords the right to use income information, credit checks, credit references, rental history, guarantees, or other similar business practices as prescribed in the regulations made under the *Human Rights Code*. Use a pre-printed rental application to ensure you are collecting the same information from all prospective tenants. Members of Landlord's Self-Help Centre can access an application for free from the member's page on our web site. Visit <https://landlordselfhelp.com/membership-program/> to learn more about our membership program.



Q: I have a three year lease with my tenant which expires a year from now. The lease includes a clause stating that the lease can be terminated early if the landlord requires the unit back for personal use by giving 60 days' notice. Am I able to terminate the lease earlier because of this clause?


Despite the fact that this clause is in the lease you would not be able to terminate the lease earlier for the purpose of moving in. When there is a fixed term lease in place a landlord can only terminate the tenancy for the landlord's personal use at the end of the lease term.



LTB Update: Consent to Disclosure form

The LTB Rules of Procedure were amended on March 8, 2022 to support the creation of the Tribunals Ontario Portal. The amended Rules are posted on the Landlord and Tenant Board website- <https://tribunalsontario.ca/ltb/operational-updates/#rules>

Pursuant to the new Rule 3.1(i), a landlord and a tenant in a legal proceeding must give consent in writing that they both agree to give each other all pertaining documents (including evidence and submissions relevant to their file) through the Portal before they can be uploaded to the Portal. To document this consent, the Landlord and Tenant Board created a new form called Consent to Disclosure through Tribunals Ontario Portal, which can be used and uploaded on the portal at the same time you upload your evidence.

 Tribunals Ontario Landlord and Tenant Board		Consent to Disclosure through Tribunals Ontario Portal <small>(Disponible en français)</small>	
Name of Tenant	Email Address		
Name of Landlord	Email Address		
Address of Rental Unit			
File number			
<small>The landlord and tenant agree to give each other all documents, evidence and submissions relating to this LTB file number by uploading them directly into the Tribunals Ontario Portal.</small>			
Important Information from the Landlord and Tenant Board			
<ol style="list-style-type: none"> This form must be signed by the landlord and tenant. If there is more than one tenant, each tenant must sign a separate form. The Consent must be in writing, although you do not have to use this form. If you decide later that you want to stop receiving documents in the Tribunals Ontario Portal, you may tell the other person in writing. Each person is responsible for checking the Tribunals Ontario Portal to see if any documents have been uploaded to the file. Keep a copy of this form for your records. For more information see the brochure How to Serve a Landlord or Tenant with Documents which is available from the LTB website at tribunalsontario.ca/ltb. If you have any further questions you can contact the LTB by phone at 416-645-8080 or 1-888-332-3234. 			

Municipal Election – October 24th!

A friendly reminder, the next municipal election is October 24, 2022 - **your vote is important!**

Municipal governments are responsible for policies, programs and services at the local level such as by-law enforcement, building permits, fire services, water supply and distribution, waste management, licensing - including landlord licensing, the short-term rental bylaws and can implement new programs such as a vacant home tax. The provincial government has indicated they will share best practices and approaches with municipalities to implement the vacant home tax efficiently.

DISCLAIMER

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LSHC Volunteer Recruitment:



Are you ready to get involved?

Volunteers are an essential ingredient for the efficient operation of many community-based organizations, including LSHC. We operate as a specialty community legal clinic and are funded by Legal Aid Ontario. In fact, the rules under which we operate require that our Board of Directors reflects the diversity of the community that it serves be comprised of members of the community.

LSHC is recruiting candidates to fill three vacancies on the Board of Directors. In this campaign we are seeking applications from **fundraisers** who can help us develop and implement a strategy to generate new revenue. We're also inviting applications from **legal service providers** who possess a high level of expertise in the area of residential tenancy/housing law and who would contribute to law reform initiatives and generally support the service direction of LSHC. Lastly, we are seeking candidates with **information technology skills** who can help grow and further develop the website and contribute to a full range of IT operational matters.

If you're interested in contributing to LSHC's governance and organizational objectives, we'd like to hear from you. Please visit <https://landlordselfhelp.com/board-recruitment> for further details and information on how to apply.

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