

Attn: Isaiah Thorning, Committee Clerk
Standing Committee on Heritage, Infrastructure and Cultural Policy
Whitney Block
Room 1405
99 Wellesley Street W
Toronto, ON M7A 1A2

Via email: schicp@ola.org

Re: Bill 97, Schedule 7 – Proposed Section 36.1

The climate emergency has created a public health crisis for low-income tenants. Extreme heat can cause severe health consequences, including death, for vulnerable people. It is an essential climate adaptation measure that all rental units include active cooling. However, low-income tenants are also facing a severe affordability crisis and are unable to pay for the costs of cooling.

The Advocacy Centre for Tenants Ontario, the Canadian Environmental Law Association, and the Low-Income Energy Network support removing barriers to the installation of active cooling in tenant apartments. However, the proposed amendments to the *Residential Tenancies Act* inappropriately place the responsibility and cost for active cooling on tenants. Landlords should be responsible for the safe installation and the ongoing costs of active cooling, and any restrictions on usage should be minimal and clearly listed in the legislation.

A. Background on Advocacy Centre for Tenants Ontario, Canadian Environmental Law Association and Low-Income Energy Network

The Advocacy Centre for Tenants Ontario (“ACTO”) is a legal aid clinic which works for the advancement of human rights and justice in housing for low-income Ontarians through legal advice and representation, law reform, community organizing, training and education. ACTO is a founding member of the Low-Income Energy Network (“LIEN”).

The Canadian Environmental Law Association (“CELA”) is a public interest law clinic dedicated to environmental equity, justice, and health. Founded in 1970, CELA is one of the oldest environmental advocates for environmental protection in the country. With funding from Legal Aid Ontario (LAO), CELA provides free legal services relating to environmental justice in Ontario, including representing qualifying low-income and vulnerable or disadvantaged communities.

LIEN is a joint program of Advocacy Centre for Tenants Ontario (ACTO) and Canadian Environmental Law Association (CELA) and is funded by Legal Aid Ontario (LAO). LIEN’s vision is an Ontario where everyone has equitable access to conservation and financial assistance programs and services to meet their basic energy needs affordably and sustainably.

Canadian Environmental Law Association

B. Extreme Heat and Vulnerable People in Ontario

As global temperatures continue to rise because of climate change, so will the length, frequency and intensity of extreme heat events. The Government of Canada's National Adaptation Strategy recognizes that extreme heat events are the deadliest weather-related events occurring in Canada.¹

Extreme heat is a public health emergency. Various life-threatening conditions can occur when the body cannot maintain its core temperature of approximately 36.6°C due to excessive external heat.² These include dehydration, cramps, heat exhaustion, and heat stroke.³ In Quebec in the summer of 2018, 86 heat-related deaths were recorded.⁴ In British Columbia in 2021, 619 people died during an extreme heat event.⁵

Certain populations are more at risk for heat-related illness and death, including seniors, infants and young children, individuals with chronic illnesses and mobility challenges, and individuals that are socially disadvantaged.

Active cooling within apartment units is critical for tenants. 98% of the deaths in British Columbia during the 2021 extreme heat event were indoors.⁶ We are supportive of removing barriers to active cooling in tenant apartments. However, this submission also highlights our concerns that the costs of air-conditioning should not be borne by the tenant.

C. Analysis of Schedule 7, Proposed Section 36.1

We recommend that a new approach to the provision of active cooling be adopted which would require landlords and not tenants to bear the costs. With respect to the proposed wording of s.36.1, we make the following recommendations.

i. Remove Restrictions on Installation of Air-Conditioning or Active Cooling

Section 36.1(2) provides open-ended discretion to list circumstances where a tenant could be prohibited from installing active cooling in their apartment. It is unclear what is contemplated. Any limited circumstance that would require such a restriction should be included in the legislation to improve transparency about the intended scope of this section.

¹ Government of Canada, "Canada's National Adaptation Strategy", p 7.

<<https://www.canada.ca/en/services/environment/weather/climatechange/climate-plan/national-adaptation-strategy/full-strategy.html>>

² Government of British Columbia, "Extreme Heat and Human Mortality: A Review of heat-Related Deaths in B.C. in Summer 2021" (June 7 2022), p 9, online: https://www2.gov.bc.ca/assets/gov/birth-adoption-death-marriage-and-divorce/deaths/coroners-service/death-review-panel/extreme_heat_death_review_panel_report.pdf ("Extreme Heat and Human Mortality")

³ Government of British Columbia, "Extreme Heat and Human Mortality", p 11.

⁴ Annick Poitras, "Extreme Heat Waves in Quebec", online: <<https://climatedata.ca/case-study/extreme-heat-waves-in-quebec/>>

⁵ Government of British Columbia, "Extreme Heat and Human Mortality", p 4

⁶ Government of British Columbia, "Extreme Heat and Human Mortality", p 5.

Section 36.1(3)(5), which would allow a municipal property standards by-law to prohibit active cooling, should be removed to ensure equitable and fair access to active cooling across the province.

The open-ended discretion provided by the proposed s.36.1(3)(6) should also be removed.

ii. **Tenants Should Not be Responsible for Costs of Installing or Estimating Usage of Cooling Units**

S.36.1(3)(3) and (4) place too much burden on a tenant. It should be the responsibility of a landlord to ensure safe installation of an air conditioning unit by a qualified professional, which would also ensure no damage is done to the landlord's property. Because the landlord should be responsible for safe installation, any notice in writing of installation by the tenant would not be required.

Section 34 of the *Residential Tenancies Act* creates a standard for the tenant to repair any "undue damage" caused by willful or negligent conduct by the tenant.⁷ The proposed standard in s.36.1(3)(3) of "does not damage the rental unit" is a much lower standard and is too burdensome for tenants. It should be removed. Otherwise, a new ground for eviction would be created by these provisions.

It is unclear how a tenant could estimate usage of new cooling equipment or provide energy efficiency information, especially because climate change is projected to cause unpredictable and increasingly frequent extreme heat events. The proposed s.36.1(3)(2) should be removed.

iii. **Rent Increases to Tenants**

We are concerned that low-income tenants will be unable to afford increased utilities bills to cover the cost of active cooling. Landlords should be responsible for the cost of cooling apartments.

Ontario Electricity Support Program levels should be reviewed to ensure they are sufficient to cover any additional costs to tenants for cooling. A new Ontario Energy Board on-bill monthly credit program for natural gas users is also recommended, along with monthly utilities assistance for low-income people dependent on unregulated fuels.

If landlords are provided with the ability to pass along the costs of cooling to tenants as proposed by this framework, which we do not support, then landlords should not be able to charge more to the tenant than the actual cost of increased electricity usage for active cooling, as outlined in ss.36.1(4)-(7).

The proposed seasonal increases and decreases to rent in s.36.1(8) and (9) incentivize low-income tenants to underestimate their cooling needs and to potentially put their health at risk because they cannot afford cooling. This approach may also result in unnecessary negotiations

⁷ *Residential Tenancies Act, 2006*, SO 2006, c 17, s 34.

and conflict between landlords and tenants. Instead, landlords should be required to inform the tenant in writing of the proposed increase in rent, which should be capped by the Act and reflect only the actual increase in electricity.

The restrictions in section 36.1(10) are problematic and may create too much new cost for tenants. It should be removed.

We appreciate the opportunity to comment on Bill 97, Schedule 7, proposed s.36.1 Thank you for consideration of these comments.

Sincerely,

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