



**URGENT**

Monday, December 21, 2020

Sent via email: [REDACTED]

Dr. Robert Kyle, BSc, MD, MHSc, CCFP, FRCPC, FACPM  
Commissioner & Medical Officer of Health  
Durham Region Health Department  
605 Rossland Road East,  
PO Box 730, Whitby, ON L1N 0B2

Dear Dr. Kyle,

**RE: Your legal duties and powers regarding suspension of residential eviction enforcement**

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The purpose of this letter is to draw your attention to your legal authority and responsibility to order the suspension or restriction of enforcement of residential eviction orders – a measure urgently needed to help reduce the spread of COVID-19 and the threat that it poses to health.

As Durham Region's Medical Officer of Health, we demand that you act upon the overwhelming evidence that residential evictions exacerbate homelessness, overcrowding of shelters, circulation between households, and other phenomena that encourage the spread of this virus, as well as the human suffering and death that result from it.

The Superior Court of Justice had suspended residential eviction enforcement in Ontario from mid March until the end of July 2020, but has since concluded that it does not have

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jurisdiction to reconsider or reverse that decision.<sup>1</sup> The Court has instead held that the question of whether to suspend evictions is a public policy decision for government to make.<sup>2</sup>

Last week, the Ontario Legislative Assembly unanimously adopted a non-binding resolution, calling for the suspension of residential eviction enforcement in this province until the end of the COVID-19 pandemic.<sup>3</sup> The passage of that resolution came after similar calls by the City of Toronto,<sup>4</sup> the Regional Municipality of Peel,<sup>5</sup> and the Toronto Board of Health,<sup>6</sup> seeking timely provincial action on this matter.

However, none of those resolutions are binding on government, and so enforcement of residential evictions continues as though there is no pandemic. In our view, **as the government official tasked with preventing the spread of disease and protecting the health of the people of Durham Region, you have the power and responsibility to make the decision to suspend the enforcement of residential evictions during the COVID-19 pandemic.** This decision is especially yours to make because it requires the application of public health evidence to temporarily restrict an activity likely to spread a communicable disease.

Section 22 of the *Health Protection and Promotion Act* (“HPPA”)<sup>7</sup> gives you, as a medical officer of health, the power to make orders that “may require a person to take or to refrain from taking any action that is specified in the order in respect of a communicable disease.” Your order may be directed at one or more classes of persons (e.g., residential landlords seeking to enforce

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<sup>1</sup> *Attorney General for Ontario v. Persons Unknown*, 2020 ONSC 6892 (CanLII).

<sup>2</sup> *Attorney General for Ontario v. Persons Unknown*, 2020 ONSC 4676 (CanLII).

<sup>3</sup> Legislative Assembly of Ontario, “Official Report of Debates (Hansard) No. 220,” 1st Session, 42nd Parliament, Dec. 8, 2020, at 11219- 11220, available at: <[https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2020/2020-12/08-DEC-2020\\_L220\\_2.pdf](https://www.ola.org/sites/default/files/node-files/hansard/document/pdf/2020/2020-12/08-DEC-2020_L220_2.pdf)>.

<sup>4</sup> City Council, “Addressing Housing and Homelessness Issues in Toronto through Intergovernmental Partnerships,” City of Toronto, Sept. 30-Oct. 2, at para 4, available at: <<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2020.PH16.8>>.

<sup>5</sup> City Council, “Resolution Number 2020-807,” Regional Municipality of Peel, Oct. 8, 2020, available at: <<https://pub-peelregion.escribemeetings.com/filestream.ashx?DocumentId=6325>>.

<sup>6</sup> Board of Health, “Response to COVID-19: Update on Resurgence,” City of Toronto, Nov. 16, 2020, available at: <<http://app.toronto.ca/tmmis/viewPublishedReport.do?function=getMinutesReport&meetingId=17093>>.

<sup>7</sup> RSO 1990, c H.7.



eviction orders, and Court Enforcement Officers or the “Sheriff”), and may be binding on other branches of government.

In September, the U.S. Centers for Disease Control and Prevention (CDC) declared residential evictions of tenants “detrimental to public health control measures to slow the spread” of COVID-19 and instituted a nation-wide partial moratorium.<sup>8</sup> The CDC was acting on evidence that enforcement of residential eviction orders not only causes persons to circulate within outdoor encampments, shelter spaces, public transit, and acute health care settings – but even in the best-case scenario, such evictions cause entire households to move into other households, increasing contact between persons of varying ages, health conditions, and activity levels within the community.

As the weather turns colder and the second wave of COVID-19 continues, all of these ordinary consequences of residential eviction pose an added health risk not only to low-income and racialized communities most evicted, but to their families, friends, and ultimately the public at large. Tenants facing eviction may end up as patients in a hospital emergency room or long-term care facility; some of them already work as front-line staff in those facilities or in our factories, kitchens, grocery and hardware stores.

This letter is part of a coordinated effort by Community Legal Clinics across Ontario to encourage decisive action, in the interest of protecting our health. We encourage you to take up this call.

Sincerely,

A handwritten signature in black ink that reads "Omar Ha-Redeye". The signature is written in a cursive, flowing style.

Omar Ha-Redeye  
Executive Director,  
Durham Community Legal Clinic

CC: Ministry of the Attorney General (Ontario),  
Agency and Tribunal Relations Branch

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<sup>8</sup> Centers for Disease Control and Prevention, “Federal Register Notice: Temporary Halt in Residential Evictions to Prevent the Further Spread of COVID-19,” Oct. 9, 2020, available at: <<https://www.cdc.gov/coronavirus/2019-ncov/covid-eviction-declaration.html>>.