



FOR IMMEDIATE RELEASE - MEDIA ADVISORY & PRESS RELEASE

October 16, 2023

McNeil v. Elizabeth Fry Society of Greater Vancouver: Tenancy rights at stake!

MEDIA ADVISORY

When: Monday October 16, 2023, at 8:30 AM
Where: 800 Smithe Street, Vancouver, BC [[Google map - Smithe Street Entrance](#)]
Who: Our Homes Can't Wait (OHCW) members, Pivot Legal Society (PIVOT) and British Columbia Civil Liberties Association (BCCLA).

xʷməθkʷəy̓əm (Musqueam), səliłwətał (Tsleil-Waututh) and Skwxwú7mesh (Squamish) territories / Vancouver, BC – *McNeil v. Elizabeth Fry Society of Greater Vancouver* [2022 BCSC 2174](#) stands to impact core housing rights and tenancy protections for low-income communities. This press conference is being convened by Our Homes Can't Wait (OHCW), Pivot Legal Society (PIVOT) and the British Columbia Civil Liberties Association (BCCLA).

When Nicole McNeil, the appellant, and four other tenants challenged Elizabeth Fry Society's restrictive building policies at the RTB, their application for dispute resolution was dismissed because the RTB agreed with Elizabeth Fry that their housing was "transitional" and therefore exempt from BC's tenancy laws. Without clarity in this area of tenancy law, landlords can take advantage of the tenuous distinction between supportive and transitional housing to maintain that tenants living in non-profit housing are not covered under the *Residential Tenancy Act* [RTA]. This deprives marginalized tenants of basic rights, and any legal recourse to assert rights that affect housing as a core concern in people's everyday lives.

In RTA exempt-housing, non-profit landlords can ignore the unliveable building conditions in which tenants live, they can subject their tenants to no-notice evictions, excessive rent increases, intrusive identification checks, systemic neglect of buildings, and restrictive guest bans that disproportionately impact Elders, Indigenous, racialized, immigrant and poor communities. This ultimately increases the likelihood of poor communities being pushed out of their homes and communities.

We know that these anti-poor measures are reflective of broader systemic pressures to privatize housing and disentitle whole communities, largely racialized and poor communities from protections from unlawful evictions, restrictive guest bans and other corrupt landlord practices. A [2023 UBC study](#) found that [BC's evictions rates, which are the highest in so-called Canada](#), are overwhelmingly concentrated amongst

Indigenous communities - such that Indigenous folks are 1.7 times more likely to be evicted than non-Indigenous counterparts.

OHCW and Pivot represent the crucial perspective of folks directly impacted by weakened tenancy protections. Many of OHCW's members are living on fixed incomes such as welfare, pensions, and other forms of social assistance, meaning they are forced to live in low-income housing such as SROs, supportive and transitional housing. Our hope is that the BC Court of Appeal will listen to us about the harmful implications of carving out marginalized tenants in non-profit housing from provincial tenancy protections.

MEDIA STATEMENTS

The appellant, Nicole McNeil was generous enough to share with us her thoughts. Below is an excerpt from Nicole's Letter to Pivot Legal Society. The full text of the letter can be found below under background resources:

"Where I live at Mazarine Lodge, we have been reclassified by the Residential Tenancy Branch to be transitional housing with a binding decision from the arbitrator. We are clearly supportive housing and still are supportive housing in my opinion until BC Housing changes that. If you call BC Housing and ask if Mazarine Lodge is supportive housing, the answer given is "YES" every time. The classification issue and the resulting conditions in housing, takes a huge toll on the mental health of the tenants living here as well as past tenants who suffered as well.

Fighting unsuccessfully to be recognized as equal with others who have tenant's rights, leaves tenants vulnerable to abuse of power and results in feelings of helplessness and being unworthy of protection.

Transitional housing designation also puts a time limit on our tenancy so we are constantly under threat of losing our housing whenever they choose. Contrary to David Eby's statement of everyone having/deserving a home, there are no homes for us. We hear that often. We are in a "program" and "allowed" to stay as long as we cooperate because these are NOT your homes. So where are the supportive housing or longer term homes we are supposed to TRANSITION INTO?"

Dianne, OHCW member and a long time DTES resident, notes the classist overtones of a decision that carves out protections for poor people in non-profit housing:

"Everyone deserves to be treated equally. Everyone deserves to have a home. Why are people being discriminated against is the real question? The question has to do with the difference between us being poor and them being rich."

Richard, a housing justice activist and OHCW member, notes that a lack of coverage under the RTA forces people to give up essential tenancy rights and gives marginalized communities no chance to challenge their housing conditions:

"No coverage from the RTA means that landlords can dictate whatever rules they want to. Tenants, who are marginalized and in poverty, in addiction and/or recovery – essentially some of the most vulnerable, are being exploited by landlords. People have gone through a lot of marginalization in the DTES. Because of those conditions they have to compromise and give up their rights. People don't have choices because they have no job security. Landlords take advantage of that and it's a housing situation where rules are imposed

upon tenants, which are not imposed on a person covered by the RTA. There are no protections for people in these situations, no chance to fight back.”

Paul, a DTES tenant and OHCW member, explains how tenancy rights are extended to the rich, but not afforded to poor communities, and that these disparities reflect pervasive Western colonial systems:

“The poor are poor and we don’t get protections. We don’t seem to have the same rights, the same laws. There is one law for the poor and another law for the rich. Discrimination against the poor seems to be getting worse in my eyes. We’re still fighting this fight and it’s all about the haves and the have nots. And the haves like to keep it that way I guess. We live in a western type of system. When they came over here they started with the Indigenous people and it hasn’t really changed that much since. They say one thing, but actions speak. Their bad action is they do whatever they can to deny us our basic human rights. “

Julia Riddle of Arvay Finlay, Claire Kanigan of Kanigan Law, and Veronica Martisius, Litigation Staff Counsel for the BCCLA explain how broad interpretations of the transitional housing exception under the RTA sweep marginalized tenants into and have severe impacts on people’s lives and housing conditions:

“The BCCLA is pleased to stand with Pivot and Our Homes Can’t Wait (OHCW) at this important juncture for tenants’ rights. The BCCLA is intervening in this case to urge the Court to clarify what “transitional housing” truly means to prevent government funded supportive housing providers from using this gray area to opt out of the RTA and the protections it provides. Transitional housing must be interpreted in consideration of the RTA’s protective function and the severe consequences of losing those safeguards. Regarding the latter, we are grateful to Pivot and OHCW for uplifting the voices of the people who are most often subjected to the precarious housing circumstances that Nicole McNeil and the other impacted tenants faced.

Being excluded from tenancy protections has a severe and profound impact on not just individuals’ ability to stay housed, but their ability to feel safe and secure in that housing. Currently, the transitional housing exception to the *Residential Tenancy Act* is interpreted so broadly that it puts large numbers of BC’s most vulnerable tenants at risk – at risk of without notice, without cause evictions; unlawful restrictions on what they can and cannot do in their homes; and more. Transitional housing is often the first step to end homelessness or the last resort to prevent it. Receiving social assistance or moving into government-subsidized housing should not make one more likely to be subject to sudden homelessness, but that’s what the law is allowing to happen now. We hope the Court of Appeal will see how profoundly unjust and harmful this is.”

The BCCLA is represented by Julia Riddle of Arvay Finlay and Claire Kanigan of Kanigan Law.

Media Contacts

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Background Resources

[Statement of the appellant, Nicole McNeil](#)

Decision on Appeal - McNeil v. Elizabeth Fry Society of Greater Vancouver, [2022 BCSC 2174](#)

Decision Granting Leave to Intervene - McNeil v. Elizabeth Fry Society of Greater Vancouver, [2023 BCCA 231](#)

OHCW & PIVOT, Fighting for Tenancy Rights and Housing Justice Through Coalition-Building – [PART 1](#)

OHCW & PIVOT, Tenancy Rights Amidst BC’s Housing Crisis - [PART 2](#)

OHCW & PIVOT, Building Community Power for Housing as a Human Right - [PART 3](#)

[Factum of Intervener, BC Civil Liberties Association](#)

[Factum of PIVOT and OHCW](#)

[About Our Homes Can’t Wait](#)

Our Homes Can’t Wait is located on the stolen and unsundered territories of the x^wməθk^wəy^əm (Musqueam), Sk^wxwú7mesh (Squamish), and Selíłwítlh (Tsleil-Waututh) peoples. We are a coalition of Downtown Eastside residents, organizations and allies collectively struggling for universal housing, free from unjust surveillance and management. Many of OHCW’s members are living on fixed incomes including welfare, pensions and other forms of social and income assistance, meaning they are forced to live in low-income housing such as single room occupancy buildings (SROs), “supportive”, and “transitional” housing.

[About Pivot Legal Society](#)

Pivot is a leading human rights legal organization based in the Downtown Eastside of Vancouver. Using the law as a tool, we challenge unjust legislation, policies & practices that undermine human rights, intensify poverty and perpetuate stigma.

[About British Columbia Civil Liberties Association](#)

The BCCLA works to promote, defend, sustain, and extend civil liberties and human rights in British Columbia and Canada. We achieve this mandate through four core programs: litigation in Court; law and policy reform; public legal education; community-based information assistance and advocacy. Relentless in their pursuit of justice, BCCLA has grown from a small group of academics and activists to a non-partisan and non-profit organization of people who continue to fight for civil liberties and human rights.