Centre for Equality Rights in Accommodation

Annual Report

2002-2003
ABOUT CERA

CERA - The Centre for Equality Rights in Accommodation, founded in 1986, is a province-wide, non-profit organization that promotes human rights in housing. CERA works to remove the barriers that keep disadvantaged individuals and families from accessing and retaining the housing they need. CERA has become a world leader in using both domestic and international human rights law to address issues of homelessness and poverty. We work collaboratively with non-governmental organizations in Canada and in other countries to promote and enforce economic and social rights.

The general objectives of CERA are to:

✦ Promote knowledge and enforcement of human rights among disadvantaged groups and individuals;
✦ Provide educational materials and programs in human rights to groups whose human rights may have been violated, to landlords, to service providers and to the public at large;
✦ To provide representation to disadvantaged groups and individuals who believe their human rights have been infringed;
✦ To encourage and facilitate effective public education and enforcement of human rights by provincial, national and international commissions, agencies, organizations and institutions and by governments;
✦ To engage in research into human rights affecting disadvantaged groups.

To carry out these objectives, CERA has established several programs and engages in various activities:

✦ Women’s Housing Program
✦ Early Intervention-Eviction Prevention Program
✦ Casework
✦ Test Case Litigation
✦ Public Education and Outreach
✦ International Work
MESSAGE FROM THE CHAIRPERSON

I am pleased to present to you, on behalf of CERA’s Board of Directors, the Annual Report for the 2002/2003 fiscal year.

Organizationally, the past year has been challenging for CERA. In late 2002, CERA’s founder and executive director, Bruce Porter, left the organization to focus his efforts on the substantive work that compelled him to establish CERA in the first place – promoting and enforcing equality rights for disadvantaged groups using human rights legislation, the Charter and international law. Bruce’s contribution to CERA over the past sixteen years cannot be overstated, and his intellect and passion for social justice will be greatly missed by the organization.

2002/2003 also saw the departure of M.S. Mwarigha, who went to work with the Toronto Community Housing Corporation as their Manager of Community Revitalization. Mwarigha worked with CERA for five years, directing many successful programs, notably the Housing Opportunities Made Equal (HOME) program. While the departures of Bruce and Mwarigha have been substantial losses to CERA, we know that we will continue to collaborate with them into the future.

Fortunately, CERA has benefited from the addition of two new talented staff members. Ruth Goba became CERA’s staff lawyer and Women’s Program officer after completing an articling position at ARCH and spending a year in India working with the United Nations Special Rapporteur on the Right to Adequate Housing. Theresa Thornton came to CERA after many years with the WoodGreen Community Centre to coordinate the Toronto Early Intervention program.

In the face of these changes and ever-present funding challenges, CERA’s staff and volunteers worked hard to fulfil the organization’s mandate of promoting human rights in housing and removing the barriers that keep disadvantage households from accessing and retaining the housing they need. Our successes this year have been substantial, and include:

- A significant victory for newcomers to Canada at the Ontario Human Rights Tribunal. In Ahmed v. Shelter Canadian Properties Ltd. an Ontario Human Rights Board of Inquiry found that tenant selection policies that require prospective tenants to have Canadian landlord references and credit history discriminate against newcomers and are in violation of the Human Rights Code.


- The development of the Montréal Principles on Women’s Economic, Social and Cultural Rights. CERA was instrumental in developing the first ever document outlining the meaning and application of economic, social and cultural rights for women. This document has already been endorsed by leading human rights lawyers, academics and advocates and will be published in an international human rights law journal in 2004. It is anticipated that the Montréal Principles will become legal authority and be used domestically in countries around the world.
Critically, CERA also continued to provide effective daily assistance to individuals and families experiencing discrimination in housing or being threatened with eviction, through our casework and intake line.

On behalf of the Board of Directors, I would like to thank the staff and volunteers at CERA for their dedication and hard work to promote human rights in housing. I would also like to thank the Atkinson Foundation, The Metcalfe Foundation, CAW-Social Justice Fund, Rights and Democracy, the City of Toronto, the Regional Municipality of Ottawa, Status of Women Canada, the Canadian Human Rights Foundation, the Ford Foundation, and ESCR-Net for their support of CERA’s important work.

Sincerely,

Frances Nordvie
Chairperson

From left to right: CERA volunteers Lobat Sadrehashemi and Sabrina Karmali, staff lawyer Ruth Goba, bookkeeper Catherine Henderson, volunteer Rochelle Jones, Board member Michelle Mulgrave, and Toronto Early Intervention-Eviction Prevention manager Theresa Thornton.
WOMEN'S HOUSING PROGRAM

CERA’s Women’s Program was initiated in 2000. National and international in its scope, the Women’s Program focuses on advocacy, litigation support, networking and research aimed at investigating and addressing the economic and social conditions that contribute to women’s inequality, especially with respect to housing.

Domestic Activities

2002-2003 was an important year for the Women’s Program at CERA. Working closely with Status of Women Canada, we secured funds for an 18 month project devoted to women’s housing equality. The project has three areas of focus:

i/ it will establish the first National Working Group on Women and Housing in Canada to coordinate activities across the country devoted to improving the housing conditions of women;

ii/ the Women’s Program will do cross country outreach to learn more about women’s housing conditions in four different cities, to exchange information about CERA’s services, and to engage more groups in the National Working Group; and

iii/ the Women’s Program will participate in government established committees, such as the Committee devoted to Affordable Homeownership being run by Habitat for Humanity.

The Women’s Program also developed a funding proposal to undertake research in the city of Toronto to explore the systemic causes of eviction for low income women. We anticipate receiving funding for this project in the coming fiscal year.

International Achievements

Research on the Right to Housing for Indigenous Peoples

In March 2003, CERA was engaged by the United Nations Commission on Human Settlements and the United Nations Office for the High Commissioner for Human Rights to undertake the first research study on the status of the right to housing for Indigenous peoples, particularly women, around the world. The report will focus on several case studies including: Canada, Mexico, Ecuador, Kenya, Scandinavian countries, Philippines and Australia.

The Montréal Principles

In December 2002, CERA and the Women’s Working Group (which CERA co-coordinates) of the International Network on Economic, Social and Cultural Rights (ESCR-Net) hosted an historic meeting in Montréal, Québec which brought together over 20 leading activists and academics working in the area of women’s economic, social and cultural rights for an intensive two day meeting. Amongst the participants were several leading Canadian equality rights lawyers and advocates including, Shelagh Day, Gwen Brodsky, and Prof. Lucie Lamarche. International participants included: Prof. Christine Chinkin (United Kingdom), Karrisha Pillay (South Africa), Sara Hossain (Bangladesh), Shanthi Dairiam (Malaysia), and Prof. Dianne Otto (Australia).
Participants spent two days discussing and drafting fundamental principles necessary for the enjoyment of economic, social and cultural rights by women. The outcome of the meeting was the adoption of a formal legal document entitled: the Montréal Principles. This is the first document to outline the meaning and application of economic, social and cultural rights for women. CERA is convinced that the Montréal Principles—like the Limburg Principles and the Maastricht Guidelines—will eventually become quasi-legal authority and will be used by advocates and judges in the promotion and protection of women's economic, social and cultural rights.

This meeting was made possible with the generous support of the Ford Foundation, the Canadian Human Rights Foundation, ESCR-Net, and CIDA—The Canadian International Development Agency.

Since their release in June 2003 at the Inaugural Conference of ESCR-Net in Chiang Mai, Thailand, the Montréal Principles have generated a great deal of interest and have been endorsed by leading human rights organizations, scholars, judges and advocates including: Rights and Democracy, The Association of Women's Rights in Development, Professor Rebecca Cook, Justice Richard Goldstone of the Constitutional Court of South Africa, Former Supreme Court of Canada Justice, Clair L'Heureux-Dube, and Nancy Rubin, the former United States Ambassador to the United Nations Commission on Human Rights.

A leading human rights journal, Human Rights Quarterly, has accepted the Principles for publication in a forthcoming edition (June 2004).

The Montréal Principles have already been used to influence the United Nations Committee on Economic, Social and Cultural Rights, which is currently preparing a General Comment on Article 3 (equality between men and women) of the International Covenant on Economic, Social and Cultural Rights.

**Lobbying for the Adoption of a Resolution on Women's Housing Rights at the Commission on Human Rights**

CERA representatives attended the 58th Session of the Commission on Human Rights in April 2002 to defend the Resolution on "Women's equal ownership of, access to and control over land and the equal rights to own property and to adequate housing". There was some risk that a number of countries would try to defeat the resolution on the basis that it supports equal inheritance rights for women, which is precluded under interpretations of Koranic law. In turn, CERA worked closely with the delegation from Mexico, which was responsible for tabling the resolution and encouraging other governments to co-sponsor it.

As a result of our efforts, the Resolution maintained its strong and carefully negotiated rights language and was adopted with little opposition. This resolution continues to be the only resolution at the Commission that deals specifically with women's economic, social and cultural rights. In 2002, we were successful in having a recommendation included in the resolution directing the Special Rapporteur on Adequate Housing to provide the Commission with a report on women's housing rights, globally.
Developing a General Comment on Women and the ICESCR

Having spent several years working closely with the UN Committee on Economic, Social and Cultural Rights (CESCR) to draft a General Comment on Women and the International Covenant on Economic, Social and Cultural Rights, Leilani Farha was invited by the CESCR to attend a Day of General Discussion on Article 3 of the ICESCR (equality between men and women) in May 2002. Leilani provided the CESCR with a written submission which was published as a UN document. She also did an oral presentation on women’s right to an adequate standard of living (particularly on the right to housing) in light of articles 2(2) and 3 of the Covenant. Based on these submissions, she researched and wrote an academic paper on women’s housing rights which was published in a special edition of the Canadian Journal of Women and the Law devoted to women’s economic and social rights.

EARLY INTERVENTION-EVICTION PREVENTION

CERA’s Early Intervention Eviction Prevention Project continued to provide information, support and referral services to thousands of tenants facing eviction in Toronto and Ottawa. Information packages were mailed to over 28,000 households and in partnership with 10 Toronto agencies, and follow up phone calls were made to over 4,000 of those households. These partner agencies include: COSTI North York Housing Help, Etobicoke Housing Help, North and South offices, West Toronto Community Legal Services, Parkdale Community Legal Services, York Community Services, WoodGreen Community Centre, East York Housing Outreach Centre, Scarborough Housing Help Centre and East York Flemingdon Park Housing Help Centre.

Data from the Ontario Rental Housing Tribunal shows that in 2002, in Toronto, there were 23,310 applications for eviction filed against tenants. Fifty-eight percent, or 13,590 of those households were issued eviction orders, and 35% or 8,078 orders were issued by default, meaning the eviction was issued without a hearing and based solely on the landlord’s application. Eighty percent of all applications for eviction, or 18,610 applications, were for rent arrears. The 2003 Toronto Report Card on Housing and Homelessness points out that in 2002, there was an increase in the number of tenants disputing eviction applications. For example, the percentage of people using mediation as a means to resolve disputes increased from 4.5% in 1999 to 8.4% in 2002. This may reflect a growing awareness of the Tribunal process and the positive impact of housing and eviction prevention services.

Public education and advocacy work continued to be an important aspect of the Early Intervention Project. Eviction Prevention presentations were provided for community members, including a class lecture for Social Work students at Ryerson University. Committee and coalition involvement around eviction, housing and homelessness issues include such groups as Housing Action Now, The City of Toronto Advisory Committee on Homeless and Socially
Isolated Persons, Alliance to End Homelessness and The Housing and Homelessness Network of Ontario. Through this advocacy work, CERA took part in addressing systemic issues around housing and homelessness, including the development of an Eviction Prevention Policy for Toronto Community Housing Corporation and participation in the City of Toronto Budget proceedings.

**HUMAN RIGHTS CASEWORK**

While CERA received minimal funding for human rights casework during 2002/2003, the need for our summary advice and mediation services remained high. While often hidden, discrimination in housing is widespread across the province, placing thousands of young families, newcomers to Canada, persons of colour, youth, people with disabilities and individuals living on social assistance at risk of homelessness. Thanks to the commitment of CERA staff and volunteers, we were able to continue providing daily assistance for individuals and families facing discrimination.

Over the year, CERA worked with almost 540 households struggling to access or retain affordable housing. We provided advice on human rights protections under Ontario's *Human Rights Code*, mediated with landlords to help people access apartments and, where appropriate, assisted individuals to file formal human rights complaints with the Ontario Human Rights Commission. As in previous years, those requiring CERA’s services came from some of the province’s most marginalized communities. Over 50% of people calling CERA during 2002/2003 were in receipt of public assistance, usually welfare or disability benefits, and a significant proportion were single parents, people with disabilities and recent immigrants. Almost 80% of people needing CERA’s assistance were women.

While these individuals experienced a wide range of discrimination, the most common forms reported were discrimination based on disability, family status and receipt of public assistance. That is, people calling CERA were frequently denied access to rental housing because they had children or because they were receiving social assistance, and many landlords were refusing to accommodate the special needs of persons with disabilities. Other common human rights violations reported by callers were discrimination based on place or origin, citizenship, race and age.

While many people using our services live in the Greater Toronto Area, discrimination in housing is by no means a Toronto-specific, or even ‘big city’ problem. CERA’s human rights advice and mediation services were utilized by people living in twenty-one communities across the province – communities both big and small. They included Ottawa, Barrie, Orangeville, Timmins, Kenora, St. Catharines, Ingersol, Hamilton, Peterborough, and Windsor.

**Significant Human Rights Cases and Initiatives**

During 2002/2003 CERA continued to be the forefront of initiatives to promote the equality rights of disadvantaged Ontarians. Highlights include:
Ahmed v. Shelter Corporation

As reported in last year’s Annual Report, CERA represented Aslam Ahmed in his human rights complaint against Shelter Corporation. In this case the landlord refused to rent to Mr. Ahmed and his family because, as newcomers to Canada, they could not provide Canadian landlord references or a credit rating. They were also denied because their income did not meet the landlord’s rent-to-income criteria. In May 2002, an Ontario Human Rights Tribunal found that these policies disadvantage newcomers to Canada, discriminate because of citizenship and place of origin, and are illegal under Ontario’s Human Rights Code. This case is precedent-setting. It is the first Human Rights Tribunal case in Ontario to challenge the requirement that prospective tenants provide landlords with Canadian landlord references and employment history.

Iness v. Caroline Co-Operative Homes Inc. and Canada Mortgage and Housing Corporation (CMHC)

CERA Staff continued to work on the Eleanor Iness case. Eleanor filed a complaint with the Ontario Human Rights Commission, alleging that a rent-gearred-to-income co-operative, operating under an agreement with Canadian Mortgage and Housing Corporation (CMHC), had discriminated against her because she was in receipt of social assistance. The co-op had been charging all residents 25% of their income as rent, but changed its policy so that recipients of social assistance had to pay the co-op the entire amount of their shelter allowance. This meant that Eleanor had to start using a portion of her basic needs entitlement to pay for hydro and insurance. Other residents of the co-op continued to pay 25% of income.

After a Human Rights Tribunal was appointed, CERA sought to have CMHC (a Crown Corporation) added as a party to the proceedings on the basis that the co-op was merely implementing a policy dictated through their operating agreement with CMHC. CMHC opposed the motion on the grounds that a federal body operating pursuant to federal legislation and exercising its spending power is not subject to provincial human rights legislation. The Human Rights Tribunal decided in favour of Eleanor and joined CMHC as a respondent. CMHC appealed to Divisional Court which reversed the Human Rights Tribunal decision. Eleanor has appealed to the Court of Appeal.

CERA’s work on this case has focused on developing the idea that jurisdictional issues must be decided in keeping with equality rights principles. That is, that the quasi-constitutional status of the Ontario Human Rights Code, and the equality rights principle of ensuring disadvantaged group members have access to effective remedies, must be considered in an assessment of jurisdictional issues, such as those at play in this case.

Challenging Inadequate Social Assistance Shelter Allowances

Since the summer of 2002 CERA has been actively coordinating the Pay the Rent AND Feed the Kids campaign from its Ottawa office. This community based campaign is aimed at educating municipal and provincial governments as well as the broader public about the inadequacy of shelter allowance rates for social assistant recipients in Ontario. The campaign has used a poster as its hallmark. CERA has been involved in developing, distributing, and individualizing the poster for each city or town wishing to join the campaign. CERA has also encouraged community groups to approach their city councils to adopt resolutions pertaining to the demands of the campaign: i/ raise shelter allowance to average rents; ii/ restore the 21.6% cut to social assistance rates; and iii/ index social assistance rates to the rate of inflation. To date, Windsor, Peterborough, and Ottawa have passed resolutions in this vein.
The *Pay the Rent AND Feed the Kids* campaign has been integral to the development and launching of a legal challenge to the adequacy of shelter allowance rates in the province.

In the fall of 2002 CERA began working with the *Advocacy Centre for Tenants Ontario* (ACTO) on a legal challenge to the adequacy of shelter allowance rates of social assistance entitlements, using Ontario’s *Human Rights Code*. CERA and ACTO are arguing that the effect of the government’s policy of setting shelter allowance rates far below average rents is discriminatory. 82 percent of people on social assistance rent in the private market, so when the government sets shelter allowance rates far below average rents, people in receipt of social assistance are prevented from finding and keeping housing in that market. This is particularly true for single mothers. They often cannot afford available apartments and are forced into homelessness, or they rent an apartment and in order to keep it, must choose between paying the rent and feeding their children. Social assistance recipients have no other means of paying rent but through the shelter allowance. So by setting shelter allowance rates far below average rents, the government is failing to accommodate the needs of social assistance recipients and this is a violation of Ontario’s *Human Rights Code*.

In February 2003, CERA, ACTO and 15 complainants launched the case by way of a press conference at Queen’s Park. CERA, ACTO and one complainant made brief statements and answered questions from the media. After the press conference, the complainants, accompanied by their counsel and the media, attended at the Ontario Human Rights Commission to personally file their complaints. The launch of the case generated significant media attention, including television coverage on City TV and CBC, and written coverage in the Toronto Star and the Globe and Mail.

**PUBLIC EDUCATION AND OUTREACH**

CERA believes that public education is a critical tool for promoting human rights in housing and challenging discrimination. Housing seekers need to know their rights and how they can be enforced. Equally important, landlords have to be educated on their obligations under the *Human Rights Code* and on the impact of discriminatory tenant selection practices. In 2002/2003, CERA staff conducted approximately 20 workshops on human rights in housing in a range of communities across the province. Workshops were held for tenants, housing workers, small landlords, co-op Boards of Directors and other community partners. In addition, we continued to widely distribute our pamphlet, “*Discrimination – It’s Against the Law*” and started work on a guidebook for housing workers on human rights, housing and homelessness prevention.
INTERNATIONAL WORK

Advocacy for an Optional Protocol to the ICESCR

In April 2002, CERA attended the 58th Session of the United Nations Commission on Human Rights for two weeks. While there, we worked in collaboration with Rights and Democracy, the International Commission of Jurists, the International Network on Economic, Social and Cultural Rights (ESCR-Net) and others to advocate for the establishment of an open-ended working group on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR).

On the issue of an Optional Protocol to the ICESCR, the primary concern for a number of governments was whether economic, social and cultural rights are “justiciable”. A number of States, including Canada, assert that economic, social and cultural rights are matters of policy, and do not lend themselves to litigation, and for this reason, oppose an Optional Protocol to the ICESCR. CERA spent a great deal of time discussing this issue with representatives from the federal Department of Foreign Affairs and International Trade (DFAIT), both in formal sessions at the Canadian mission as well as at the Commission. We had similar discussions with government representatives from Thailand, Australia, Sweden, South Africa, Mexico and India. As a result of our conversations with DFAIT, CERA and Rights and Democracy secured a commitment from DFAIT to hold a meeting on the justiciability of economic, social and cultural rights. This meeting was held at the end of October 2002 (see below for more details).

Justiciability of Economic, Social and Cultural Rights: Meeting with Federal Government

In August and September 2002, CERA and Rights and Democracy worked in conjunction with DFAIT to coordinate the hosting of a meeting in Ottawa on the justiciability of economic, social and cultural rights. Bruce Porter, the former Executive Director of CERA, wrote a background paper on the Federal Government’s position with respect to economic, social and cultural rights in domestic courts and in international contexts. In total, over 60 people participated in this meeting. This day-long meeting was a first step toward establishing ongoing dialogue between Canadian professionals practicing in the area of economic, social and cultural rights and federal government bodies.

Developing and Sharing Resources for Domestic ESCR Advocacy

In conjunction with ESCR-Net, CERA spear-headed the development of a database of cases pertaining to economic, social and cultural rights. Working with a team of students from Osgoode Hall Law School, as well as organizations based in Geneva, Switzerland and Buenos Aires, Argentina, over 50 cases were collected. CERA focused on collecting case law and information from South Asia.

This database is unique as it is broader in its orientation than most legal databases. It includes both legal and extra-legal initiatives to claim economic, social and cultural rights, and provides information not only on legal arguments and pleadings made but also on political strategies, media coverage, support for claimants and outcome analysis and networking information for ongoing work. To view the case law database go to: <www.escr-net.org>.
CERA’S BOARD OF DIRECTORS

Frances Nordvie
Chair

Novlette Franklin
Secretary

Maria Cunanan

Albena St. Hill

Brian Edgcombe
Co-Chair

Michelle Mulgrave
Treasurer

Antoinette Panzuto

Joanna Birenbaum

CERA’S STAFF

Bruce Porter
Executive Director

Leilani Farha
Women’s Program Manager/
Executive Director

Theresa Thornton
Eviction Prevention Manager, Toronto

M.S. Mwarigha
Program Director

Sherrie Tingley
Eviction Prevention Manager, Ottawa/
Financial Officer

Cristina Todeila
Program Officer

Ruth Goba
Staff Lawyer/Women’s Program Officer

Maroulla Andreou
Administrator

Catherine Henderson
Bookkeeper

We would also like to extend a sincere thank you to all of our dedicated volunteers.

THANK YOU TO OUR FUNDERS

Atkinson Foundation
City of Toronto
Metcalf Foundation
CAW Social Justice Fund
Rights and Democracy
Ford Foundation
Regional Municipality of Ottawa
Status of Women Canada
Canadian Human Rights Foundation
ESCR-NET
Housing is a Human Right