

Zachary Bill v. Allandale Place Condominium Corporation
(File # 11623)

**IN THE MATTER OF a complaint
pursuant to Section 12 of the
Human Rights Act, 2010
S.N.L. 2010 c. H-13.1**

BETWEEN

Zachary Bill

COMPLAINANT

AND

Allandale Place Condominium Corporation

RESPONDENT

AND

Newfoundland and Labrador Human Rights commission

COMMISSION

BOARD OF INQUIRY DECISION

Adjudicator

Adjudicator:

C. Brodie Gallant

Dates

Decision Date:

November 4, 2020

Complaint File

File:

11623

Appearances

On Behalf of the Commission:

Donna Strong

On Behalf of the Complainant:

Zachary Bill (Self-Represented)

On Behalf of the Respondent:

Cathie Quinlan

MATERIAL FACTS & PROCEDURAL HISTORY OF THE COMPLAINT

1. The Complainant Zachary Bill is a 27 year old man.
2. On January 7, 2019 Mr. Bill entered into a contract to purchase a condominium unit identified as 91 Allandale Place, Unit #9 St. John's, NL A1B 2W7. The vendor was Mr. Bill's mother. The closing date for the transaction specified by the agreement of purchase and sale was March 15, 2019.
3. The legal regime governing condominiums in this province is set out in the *Condominium Act, 2009*, SNL2009 c. C-29.1, which repealed and replaced the *Condominium Act*, RSNL 1990, c C-29.
4. A "condominium" is a system of ownership for a multi-unit residential or commercial project whereby each "unit" within the condominium is owned separately by the individual who purchases it, while the "common elements" (hallways, elevators, lobby, walkways, etc.) are owned in common by all the unit owners. Each unit owner has an undivided interest in the common elements. The whole of the condominium is also managed by a corporation and it may make by-laws subject to the approval of 66% of the "membership" of the corporation. The membership of the condominium corporation is comprised of the unit owners. This is a form of ownership of real property. It is not a form of rental or leasehold interest.
5. The Respondent Allandale Place Condominium Corporation ("APCC") is the condominium corporation which manages the condominium at 91 Allandale Place (and at other adjacent buildings all of which form part of the one condominium) and it is the potentially discriminatory effect of one of the APCC's by-laws which is at issue in this case.
6. On August 10, 2011 the APCC amended its bylaws to include an article which restricts occupancy of its condominium units to individuals who have reached 55 years of age. Article XII.3 of the APCC bylaws states:

Article XII.3, SENIORS OCCUPANCY

Occupancy of each condominium unit shall be limited to a person who has reached the age of 55 years, or two or more persons, at least one of whom has reached the age of 55 years.

This by-law does not apply to any owner of a unit at the time the by-law is approved by the Registrar, or any tenant residing in a unit at the time the bylaw is approved by the Registrar and who continues as a full-time resident after the by-law comes into effect
7. By correspondence dated January 7, 2019 Mr. Bill contacted Mr. Pearce Vincent, the Chairman of the Board of the APCC and advised him that he had contracted to purchase 91 Allandale Place, Unit #9 and he intended to occupy the property as his residence. He requested that Article XII.3

- be repealed or amended so that he could reside in the condominium he had contracted to purchase.
8. On January 18, 2019 Mr. Bill received correspondence from APCC indicating the request was being reviewed.
 9. On April 26, 2019 Mr. Bill sent correspondence requesting the result of APCC's review.
 10. The Article XII.3 of the APCC bylaws was not repealed or amended.
 11. Mr. Bill did not proceed with the purchase of the condominium unit.
 12. On May 30, 2019 Mr. Bill filed his complaint with the Human Rights Commission ("Commission") alleging that the APCC bylaws are discriminatory and that he was denied an opportunity to own and occupy a residential dwelling on the basis of his age contrary to section 9, and 12 of the *Human Rights Act, 2010*, SNL 2019 c. H-13.1 (the "Act").
 13. On September 11, 2019 APCC filed its Reply.
 14. On November 9, 2019 Mr. Bill filed a Rebuttal to the Respondent's Reply.
 15. On June 3, 2020 the complaint was referred to this Board of Inquiry for adjudication.
 16. On June 29, 2020 the Commission Record was filed with the Board of Inquiry containing the pleadings and relevant documentation filed by the parties up to that point.
 17. On August 11, 2020 the Commission confirmed the parties had agreed that this matter was suitable for determination by way of a hearing on written submissions only, and timelines were set for the filing of written submissions.
 18. On August 12, 2020 Mr. Bill's filed submissions on remedy (styled: "pre-hearing readiness form") and the APCC filed written submissions (dated August 3, 2020).
 19. On August 25, 2020 the Commission filed written submissions.
 20. On September 6 2020 Mr. Bill filed further written submissions.
 21. On September 29, 2020 at the request of the APCC their timeline to file final written submissions was extended by two weeks.
 22. On October 14, 2020 APCC filed its final written submissions.
 23. These material facts are not in dispute. The parties disagree with respect to certain questions of law concerning interpretation of the *Act*, and its application to this case.

OVERVIEW OF THE POSITIONS OF THE PARTIES

24. The Complainant, Mr. Bill asserts that the APCC's by-laws, specifically Article XII.3 is discriminatory and denies anyone under the age of 55, including himself, the right to occupy condominium units managed by the APCC. He asserts that age is one of the prohibited ground for discrimination identified in section 9 of the *Act*. He asserts that the by-law contravenes the clear language of s. 12(1) of the *Act* which prohibits discrimination in the context of occupancy of commercial and dwelling units:

Right to occupy commercial and dwelling units

12. (1) A person, directly or indirectly, alone or with another, by himself or herself, or by the interposition of another, shall not, on the basis of a prohibited ground of discrimination,

- (a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or
- (b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12(1).

25. Mr. Bill asserts that there are no exceptions or statutory provisions which apply in the context of condominium units to save Article XII.3 and so it is discriminatory.
26. Mr. Bill seeks an apology and monetary compensation from the APCC.
27. The Respondent, APCC denies that it discriminated against Mr. Bill. The APCC asserts that from a public policy perspective, discrimination on the basis of age is exempted and allowed in a number of different contexts in Canada and in Newfoundland in particular such as in the sale of alcohol, tobacco, and cannabis; for priority in organ transplants, in calculating insurance premiums, receiving discounts at commercial retail establishments, for providing tax benefits, and in issuing and renewing drivers licenses. The APCC notes that in recent years the federal and provincial governments have come to recognize seniors as a vulnerable population to which age discrimination should specifically be accepted and implemented. The APCC says the concept of "aging in place" is supported by both levels of government, and that seniors allowed to remain in their home environment and communities stay healthier longer and help to ease the burden on the medical and long-term care facilities and resources in the province. The APCC says that one option to achieve these goals is seniors only housing such as its condominium.
28. The APCC has submitted several publications supporting the benefits of the concept of aging in place and identifying the vulnerabilities of seniors in our communities. I have read these documents with interest.

29. The APCC does not advance an undue hardship argument but rather it relies on the statutory exemption in section 12(4) of the Act. Section 12(4) states:
- 12 (4) Subsection (1) as it relates to age and family status, does not apply to the renting or leasing, the offering for rent or lease, or the advertising for rent or lease of a commercial unit or self-contained dwelling unit, where the unit is a rental unit in premises in which every rental unit is reserved for rental to a person who has reached the age of 55 years, or to 2 or more persons, at least one of whom has reached the age of 55.
30. Although section 12(4) specifies an exemption for rental units, the APCC argues that it should be applied to exempt condominium units as well. The APCC argues that at the time this exception was enacted, condominium ownership was in its infancy in Newfoundland and Labrador, and that the Act's silence with respect to condominiums is a simple oversight by the legislature. If the legislature had turned its mind to condominiums, the APCC argues, condominiums would have been included in section 12(4).
31. The APCC argues that this section should be applied in this case to save Article XII.3 or that the legislation should be amended to allow "seniors only" or "55+" condominiums.
32. The APCC also raises one further issue regarding Mr. Bill's legal standing to proceed with this complaint. In raising this issue the APCC asserts that its by-laws and in particular Article XII.3 only apply to "owners" of condominium units. The APCC asserts that this does not apply to Mr. Bill since he ultimately did not purchase the condo and did not become an owner – on this basis the APCC challenges Mr. Bill's standing to proceed with his complaint and this preliminary issue will also have to be addressed.
33. The Commission's written submissions address the legal issues raised by this case.

ISSUES

- I. Does the Complainant has standing to proceed with this complaint?
- II. Has the Complainant established a prima facie case of discrimination?
- III. Has the Respondent established that its conduct was justified by a statutory exemption or otherwise non-discriminatory?
- IV. If the Complainant is successful, what is the appropriate Remedy?

LAW & ANALYSIS

Issue I - Does the Complainant have standing to proceed with this complaint?

34. The APCC challenged Mr. Bill's standing to proceed with his complaint. Mr. Bill made the following submissions in support of his standing to make a complaint:

Standing

11. In response to the question of standing, I repeat that a denial of my standing on the basis of not being a member of the APCC would be a denial of the application of section 12 in all cases of occupancy discrimination. As a person who sought to own and occupy a self-contained dwelling unit and was denied doing so because of a discriminatory restriction based on the prohibited ground of age, my standing is evident.

12. It is untenable to suggest that I had to attain a status of owner in the APCC to have standing to contest a rule that denied, on a prohibited ground, my ability to attain a status of an owner in the APCC. Such an argument would be tantamount to suggesting that a job applicant who is denied a job based on their race could not contest such discrimination for lack of being an employee

35. In reply to this the APCC made the following submissions in its written submissions:

9. As to the issue of standing... APCC submits standing is very much an issue of concern. The Complainant is asking for a broad and liberal interpretation so as to conclude he has some indirect standing where it is clear and unambiguous that he does not. With respect to the distinction between an apartment premises and a condominium premises he seeks a strict interpretation of the exact wording within the Act, but here he suggests that the absence of a direct connection between the allegedly offending by-laws and the Complainant should be ignored because the result would be contrary to the purpose of the Act. With respect, the Complainant cannot have it both ways. The fact is, the Complainant is not a member of the APCC. He was not and is not subject to the by-laws of the APCC. There is a false equivalence in the Complainant's example of being denied a job. The APCC has not denied anything in this case. The APCC has agreed-upon by-laws for its members who sign onto these conditions at the outset. One who is not hired has recourse against an employer if the employer's actions against him/her are discriminatory. However, in this case, the APCC has not had any direct relationship with the Complainant. Simply because the Complainant states it is "untenable" demonstrates that he understands and agrees that sometimes a literal and strict interpretation of a provision would frustrate the very purpose of that provision. We submit this logic should be applied to the provision of the Act which aims to protect vulnerable senior populations in various housing systems.

10. It is the owners of the unit who extended an offer to purchase, not APCC. Had the Complainant purchased the unit he would have agreed to be subject to the by-laws. At that point, and only that point, could he ground an argument that those by-laws preventing his occupancy were a violation of his rights. APCC did not interfere with or impact his purchase or lack thereof. APCC did not offer a unit for sale or sign a contract with the Complainant. Any complaint over the revocation or frustration of that offer is rightly with the other party to that contract. It is our submission that the HRC erred in this case as can be seen from the confusion at the outset of the complaint. We submit that the decision on standing would have been different had the relationship between those parties been "arms-length". The instruction would have been to file the complaint rightly against the vendors, with whom the complainant had a contractual relationship. APCC should not be faulted for this error in communication. The fact remains that APCC has no relationship with and denied nothing from the Complainant. It did not put out an offer nor did it receive an offer. A strict interpretation here is required. The owners had a right to take action as against APCC years ago when Article XII(I) was democratically enacted if they had concerns about its legality. They did not. A new purchaser subject to those by-laws can similarly take action. The Complainant cannot. He is not and was not subject to the by-laws.

36. I find the analogy to the employment context useful in deciding the issue of standing. The APCC says *"There is a false equivalence in the Complainant's example of being denied a job. The APCC has not denied anything in this case. The APCC has agreed-upon by-laws for its members who sign onto these conditions at the outset. One who is not hired has recourse against an employer if the employer's actions against him/her are discriminatory."* It is true that Mr. Bill was not prevented from purchasing the condominium unit, and it is only once he purchased the unit that he would have become directly subject to the by-laws. It is only once he purchased the property that he would become a unit owner and be directly denied the right to occupy the property he had just purchased.
37. However if we modify the Mr. Bill's employment analogy slightly, Mr. Bill's standing to proceed becomes more apparent. If the hypothetical prospective employer had advertised a job opportunity with the words *"Help Wanted – People of Colour need not apply"* would we require individuals of one race or another to apply for the job and be denied employment before they could bring their complaint to the Human Rights Commission? No we would not.
38. Discrimination has been defined in broad terms by the Supreme Court of Canada and it includes making a distinction whether intentional or not which has the effect of imposing burdens, obligations or disadvantages, on an individual or limits access to opportunities, benefits, and advantages:

I would say then that discrimination may be described as a distinction, whether intentional or not but based on grounds relating to personal characteristics of the individual or group, which has the effect of imposing burdens, obligations, or

disadvantages on such individual or group not imposed upon others, or which withholds or limits access to opportunities, benefits, and advantages available to other members of society. Distinctions based on personal characteristics attributed to an individual solely on the basis of association with a group will rarely escape the charge of discrimination, while those based on an individual's merits and capacities will rarely be so classed.

Reference: *Andrews v Law Society of British Columbia*, [1989] 1 SCR 143

39. Article XII.3 makes a distinction based on age which places a burden, obligation, or disadvantage upon Mr. Bill and any prospective purchaser who is not over the age of 55, or at minimum it *limits access to the opportunity* to occupy the property. The disadvantage is imposed directly upon any owner of units who is under 55, and indirectly any prospective purchaser under 55.
40. Section 12 of the act prohibits a person from directly or indirectly denying or otherwise discriminating against a person with respect to occupancy or with respect to the term or condition of occupancy of a dwelling unit on the basis of any of the prohibited grounds.

Right to occupy commercial and dwelling units

12. (1) A person, directly or indirectly, alone or with another, by himself or herself, or by the interposition of another, shall not, on the basis of a prohibited ground of discrimination,

- (a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or
- (b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12(1).

41. In addition Section 25(1) of the *Act* permits a person to make a complaint if they have “reasonable grounds for believing that a person has contravened this *Act*”.

Complaints

25. (1) A person who has reasonable grounds for believing that a person has contravened this *Act* may file with the executive director a complaint in a form acceptable to the commission.

(2) A complaint made under subsection (1) shall be made within 12 months after the alleged contravention occurs or, in the case of a continuing contravention, within 12 months after the last incidence of the alleged contravention.

(3) Where a complaint is made by a person other than the person who it is alleged was dealt with contrary to this Act, the executive director may refuse to accept the complaint unless the person alleged to be offended against consents.

(4) The executive director shall serve each person who is alleged to have contravened this Act with a copy of the complaint unless the complaint is dismissed by the executive director or the commission under section 32 .

(5) A person who makes a complaint under this section may withdraw the complaint at any time before the beginning of a hearing under [section 35](#) .

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 25.

See also *Haseeb v. Imperial Oil Limited*, 2018 HRTO 957 at para 80-93 (wherein the Ontario Human Rights tribunal endorses a broad and liberal approach to standing consistent with the remedial and quasi-constitutional in nature of human rights legislation).

42. I conclude that Mr. Bill had standing to bring his complaint and his complaint will proceed.

Issue 2 - Has the Complainant established a prima facie case of discrimination?

43. The *Human Rights Act, 2010* provides protection from “Discrimination” on the basis of certain personal characteristics referred to as “the prohibited grounds” which include a person’s race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 9.

44. This complaint falls within the scope of section 12 of the *Act* which governs discrimination complaints in the context of rights to occupy commercial and dwelling units. Section 12 states:

Right to occupy commercial and dwelling units

12. (1) A person, directly or indirectly, alone or with another, by himself or herself, or by the interposition of another, shall not, on the basis of a prohibited ground of discrimination,

(a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or

(b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12.

45. Discrimination in contravention of the *Act* does not require an intention to discriminate. Often a discriminatory distinction is made innocently in the sense that the distinction is made without the intent to disadvantage a particular group; nevertheless the imposition of adverse consequences and disadvantage is the result.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 14.

46. At this stage the Complainant bears the burden of proof and he must establish a *prima facie* case of discrimination on a balance of probabilities. A *prima facie* case is one which covers the allegations made and which, if they are believed, is complete and sufficient to justify a verdict in the Complainant's favour in the absence of an answer from the Respondent. In *Moore v. British Columbia (Ministry of Education)*, 2012 SCC 61, the Supreme Court of Canada described in the evidentiary burdens placed on complainants and respondents:

[33]... to demonstrate prima facie discrimination, complainants are required to show that they have a characteristic protected from discrimination under the Code; that they experienced an adverse impact with respect to the service; and that the protected characteristic was a factor in the adverse impact. Once a prima facie case has been established, the burden shifts to the respondent to justify the conduct or practice, within the framework of the exemptions available under human rights statutes. If it cannot be justified, discrimination will be found to occur..

Reference: *Moore v. British Columbia (Ministry of Education)*, 2012 SCC 61 at para 33.
See also: *Ontario Human Rights Commission v Simpson-Sears Ltd*, [1985] 2 SCR 536 at para 28.

47. In this case it is not seriously in dispute that Mr. Bill is less than 55 years of age and that Article XII.3 of APCC's bylaws would have denied him the right to occupy the condominium unit he intended to purchase. The submission of the APCC focused primarily on the reasons for the 55+ restriction on occupancy, the policy and legal arguments for why the APCC should be allowed an exception to the application of section 12(1) of the *Act*.

48. I find that Mr. Bill has established a prima facie case. It is apparent from the commission record and written submissions of the parties that the Complainant's age was not merely a factor but it was the only reason he would be denied occupancy of the condo unit he proposed to buy.
49. Having concluded that the Complainant has proven a prima facie case of discrimination on the basis of age under section 12(1), the burden of proof shifts to the Respondent to justify the age restriction implemented by Article XII.3, within the framework of the exemptions available under the Act.

Issue 3 - Has the Respondent established that its conduct was justified by a statutory exemption or otherwise non-discriminatory?

50. Once a prima facie case of discrimination is established the burden of proof shifts to the Respondent to establish that the impugned conduct was justified by a statutory exemption and is therefore not discriminatory.
51. The APCC relies on the statutory exemption codified in section 12(4) of the Act and asks that this Board of Inquiry adopt an interpretation which would apply section 12(4) to condominium units. Section 12(4) states:

Right to occupy commercial and dwelling units

12. (1) A person, directly or indirectly, alone or with another, by himself or herself, or by the interposition of another, shall not, on the basis of a prohibited ground of discrimination,

- (a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or
- (b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit.

...

(4) Subsection (1) as it relates to age and family status, does not apply to the renting or leasing, the offering for rent or lease, or the advertising for rent or lease of a commercial unit or self-contained dwelling unit, where the unit is a rental unit in premises in which every rental unit is reserved for rental to a person who has reached the age of 55 years, or to 2 or more persons, at least one of whom has reached the age of 55.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12.

52. The APCC argues that the public policy objective served by the section 12(4) exemption for rented dwelling units is to protect and benefit senior citizens who are a vulnerable population. The APCC has referred this Board of Inquiry to publications from several sources including the Department of Children Seniors and Social Development which recognize the concept of “aging in place”. In one publication to which I was referred entitled “Provincial Healthy Aging Policy Framework Status Report” (undated) the concept of “aging in place” is defined as follows:

Aging in place means having the health and social supports and services needed to live safely and independently in one’s home or community for as long as a person chooses and is able.

53. The APCC argues that in 2006, when the *Human Rights Code* was amended to include protection for rights to occupy commercial and dwelling units, condominium residency was in its infancy, and the provincial government had not yet announce policies or taken steps to accommodate and care for our aging population. The APCC argues that had condominium living been common in 2006, the legislature would have enacted the same 55+ exemption for condominium units as it did for rented residential dwellings.

Reference: *Human Rights Code*, RSNL1990 c. H-14 s.7 (repealed & replaced).
Human Rights Act, 2010 SNL2010 c. H-13.1 s. 12.

54. The APCC refers me to the 2006 Hansard debates in the House of Assembly of this province. Condominiums are not mentioned in the debate and the APCC argues that condominiums were simply not considered by the legislature as they were not a common or relevant housing option at the time of debate and drafting human rights legislation in this province. The APCC argues that if it was the clear intention of the legislature to exclude condominiums, the Hansard would reflect such intention. The APCC submits that as a matter of statutory interpretation “*Silence does not imply exclusion*” and “*that silence demonstrates that [condominium] housing structure was not in contemplation at the time of drafting*”.
55. The APCC submits that making a distinction between ownership of condominium units and rental of a dwelling unit is arbitrary. The APCC asks the Board of Inquiry to conclude that no such distinction was intended the legislature, and that because condominiums in their infancy were simply not considered at the time. The APCC argues that as a matter of statutory interpretation this Board of Inquiry is in a position to adopt a broad interpretation of the section 12(4) exemption to include both rented dwelling units and owned dwelling units such as a condominium unit.

56. The APCC submits that the Supreme Court of Canada has previously determined that the protections provided by Human Rights legislation are to be interpreted broadly in accordance with the purpose of the legislation. The APCC argues *“the vulnerable population that requires protection in this situation is not the young, single, individual who has limitless housing options and the physical adaptability to live anywhere he chooses. The vulnerable group that requires the protection of the Act in this case are those living in the seniors’ community at APCC.”* The legislation should be interpreted broadly in order to include them in the clearly intended protections for those over 55.
57. I’m not satisfied that the premise of the APCC’s argument is correct. I’m not prepared to find as a fact that in 2006 condominiums were a new concept in this province, or that the provincial government had not announced policies or taken steps to address the issues affecting the province’s aging population. No statistics were provided to this Board of Inquiry regarding the prevalence of condominium living within this province in 2006, I would note that the legislation regulating condominiums in this province had been enacted at least 16 years prior (see *Condominium Act* RSNL 1990, c C-29). With respect to the province’s engagement with seniors issues I note that that the “Provincial Healthy Aging Policy Framework Status Report” (undated) to which I was referred references the provincial governments previous publications including one entitled “Our Blueprint for the future (2003)” which identified “healthy aging” as a provincial priority and one initiative implemented to achieve this goal was the “Provincial Healthy Aging Policy Framework as a guide to the development of legislation, policies, programs and services impacting older adults”.
58. The Human Rights Commission filed written submissions with this Board of Inquiry. The Commission refers this Board of Inquiry to the decision of the Supreme Court of Canada in *New Brunswick (Human Rights Commission) v. Potash Corporation of Saskatchewan Inc.* where the court addressed the proper approach to statutory interpretation in the context of human rights legislation.

Reference: *New Brunswick (Human Rights Commission) v. Potash Corporation of Saskatchewan Inc.* 2008 SCC 24 (CanLII), [2008] 2 SCR 604 at paras 58-69.

59. To summarize, the correct approach is:
- The starting point of statutory construction is the words of the statute. If they are clear, that is the end of the matter. If there is ambiguity the language of the legislation, we turn to the principles of statutory interpretation. The words of the provision, read as a whole, “in their entire context and in their grammatical and

ordinary sense harmoniously with the scheme of the Act, the object of the Act and in the intention of Parliament.”

- However Human Rights Legislation is viewed not merely as statutory, but as quasi-constitutional. From this follows the principle that Human Rights Legislation must be given a broad, purposive, and liberal interpretation. Special rules of construction apply to human rights legislation.
- The purpose of Human Rights Legislation is to curtail discriminatory practices, in this case on the basis of age. This is the dominant purpose of the legislation. The limitations and exceptions that come after are just that – limitations and exceptions which further the goal of preventing discrimination while balancing other interests such as the economics of operating a business, or as in this case addressing the issues of appropriate housing options for seniors.
 1. The protections conferred by human rights legislation should be interpreted broadly.
 2. The exceptions to the prohibition against discrimination are to be construed narrowly.
 3. A strict grammatical analysis may be subordinated to the remedial purposes of the law.
 4. In interpreting human rights legislation, courts and tribunals should strive for an interpretation that is consistent with the interpretation accorded to similar human rights provisions in other jurisdictions. Different jurisdictions may phrase the protections and their limitations in different ways. Nevertheless they should be interpreted consistently unless the legislature’s intent is clearly otherwise.
 5. When the meaning of a provision of human rights legislation is open to more than one interpretation, it must be interpreted in a manner consistent with the Canadian Charter of Rights and Freedoms.

60. Following the approach outlined by the Supreme Court of Canada we must first consider the language of the provisions in question, section 12:

Right to occupy commercial and dwelling units

12. (1) A person, directly or indirectly, alone or with another, by himself or herself, or by the interposition of another, shall not, on the basis of a prohibited ground of discrimination,

(a) deny to a person or class of persons occupancy of a commercial unit or a self-contained dwelling unit; or

(b) discriminate against a person or class of persons with respect to a term or condition of occupancy of a commercial unit or a self-contained dwelling unit.

...

(4) Subsection (1) as it relates to age and family status, does not apply to the renting or leasing, the offering for rent or lease, or the advertising for rent or lease of a commercial unit or self-contained dwelling unit, where the unit is a rental unit in premises in which every rental unit is reserved for rental to a person who has reached the age of 55 years, or to 2 or more persons, at least one of whom has reached the age of 55.

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12.

61. Although I do not detect any apparent ambiguity in section 12(1) or 12(4), I will proceed to read the section in the context of the whole act and I note that the definition of self contained dwelling unit in section 2(o) is of particular importance:

Definitions

2. In this Act

- (o) "self-contained dwelling unit" means a dwelling house, apartment or other similar place of residence that is used or occupied, or is intended, arranged or designed to be used or occupied, as separate accommodation for sleeping and eating;

Reference: *Human Rights Act, 2010* SNL2010 c. H-13.1 s. 12.

62. Reading section 2(o) it is apparent that the legislature considered various forms of dwellings to be "self-contained dwelling units": houses, apartments, or other similar place of residence where a person would sleep and eat. I would interpret this to include condominiums. The term is defined primarily by the use of the property as a residence where a person can sleep and eat, and it is not defined by the manner of title be it freehold, leasehold, rental, or in the form of condominium ownership.

63. Section 12(1) protects against discrimination as to occupancy of all self-contained dwelling units. The nature of title is notably absent here.
64. The concept of rental or leasehold interest is only introduced within the exception provided by section 12(4) wherein the terms rental or lease are used 9 times. From the legislator's choice of language concept of rental or leasehold appears significant to the application of the exception. This again does not assist the APCC. It would be a very strained interpretation to expand the application of exception to freehold ownership of a "dwelling house", and a similar struggle to extend it to condominium unit ownership.
65. I acknowledge the arguments advanced by the APCC as to the interests of seniors which section 12(4) attempts to balance and accommodate. However in my view the objective of section 12(4) is not to protect seniors from discrimination, section 12(4) places a limitation or makes an exception to the protection from age discrimination afforded by section 12(1). I'm bound by the directions of the Supreme Court of Canada and I have no authority to expand the scope of the exception clearly defined in section 12(4). Exceptions to the prohibition against discrimination are to be construed narrowly.
66. As a final consideration I will consider whether or not my interpretation would be inconsistent with the interpretation of similar provisions of human rights legislation in other Canadian Jurisdictions. I note that although the legislation of every province and territory prohibits various forms of age discrimination there is not a consistent approach across Canada and each jurisdiction has adopted its own particular scope of protection for occupancy. Some have specific protections related to rentals and tenants, others do not. Some have general limitations and exemptions, some do not. Some provinces provide broad exceptions related to senior citizens in relations to services but not in the context of residential accommodations. Some provinces expressly address ownership and rentals separately, and apply different rules to each. At least one province expressly addresses condominium ownership.

Nova Scotia

67. The human rights legislation of Nova Scotia provides protection from age discrimination. Discrimination in the context of "the provision of or access to services or facilities" is subject to a broad exception for "the provision of or access to services or facilities, to the conferring of a benefit on or the providing of a protection to youth or senior citizens". However this exemption does not apply to discrimination in the context of "accommodations" which is subject to a more narrow and very different exception "in respect of accommodation, where the only premises rented consist of one room in a dwelling house the rest of which is occupied by the landlord or the landlord's family and the landlord does not advertise the room for rental by sign, through any

news media or listing with any housing, rental or tenants' agency; " There is no specific exemption related to accommodations or occupancy by persons aged 55 and over analogous to our section 12(4).

Reference: *Human Rights Act*, RSNS 1989, c. 214, ss. 5 & 6.

New Brunswick

68. The human rights legislation of New Brunswick provides protection from age discrimination. However New Brunswick takes a very different approach by prohibiting discrimination in the context of both occupancy, and the sale of property. There is no specific exemption related to accommodations or occupancy by persons aged 55 and over analogous to our section 12(4). Instead there is an exception for excluding or preferring individuals who have not reached the age of majority.

Reference: *Human Rights Act*, RSNB 2011, c 171, s. 5.

Prince Edward Island

69. The human rights legislation of Prince Edward Island provides protection from age discrimination. There is a specific prohibition with respect to discrimination in the context of occupancy of commercial units or self-contained dwellings. There is no specific exemption related to accommodations or occupancy by persons aged 55 and over analogous to our section 12(4). Instead there is an exception where occupancy of all the dwelling units are restricted to the same sex.

Reference: *Human Right Act*, RSPEI 1988, c H-12, s. 3.

Ontario

70. The human rights legislation of Ontario provides protection from age discrimination. Discrimination in the context of "occupancy of accommodations" is specifically prohibited. There is no specific exemption related to occupancy by persons aged 55 and over analogous to our section 12(4).

Reference: *Human Rights Code*, RSO 1990, c H.19 s. 2.

Quebec

71. In Quebec, human rights legislation provides protection from age discrimination. There is no specific provision related to occupancy, and no specific exemption related to occupancy by persons aged 55 and over analogous to our section 12(4).

Reference: *Charter of Human Rights And Freedoms*, CQLR, c. C-12.

Manitoba

72. The human rights legislation of Manitoba provides protection from age discrimination. There are separate provision prohibiting discrimination in the context of rental of real property and the purchase of real property. Both are subject to an exception where there is a “bona fide and reasonable cause exists for the discrimination”, but there is no specific exemption related to occupancy by persons aged 55 and over analogous to our section 12(4).

Reference: *The Human Rights Code*, CCSM c. H175, ss. 16 & 17.

73. In its written submissions the Commission notes that the Manitoba Human Rights Commission has published guidelines related to housing issues wherein they caution:

A condominium corporation who markets the building as a 55+ building or "adults only" building will be challenged to justify the restriction on the basis that its aim is to provide housing to a group that has historically had less access to housing. Instead, the developer should consider setting reasonable expectations around excessive noise and consider applicants of any age who choose to apply.

Reference: “Human Rights Considerations in Housing – Your Rights – Your Responsibilities” (Online: ManitobaHumanrights.ca).

Saskatchewan

74. The human rights legislation of Saskatchewan provides protection from age discrimination, and with respect to occupancy the specific protection is very similar to the language in our Human Rights Act, 2010. It also contains a provision analogous to section 12(4) which provides for a

specific exemption which permits restricting occupancy of rented or leased accommodations to persons aged 55 and older.

Reference: *Human Rights Code*, 2018 S. Sask. c. S-24.2 s. 11.

Alberta

75. The human rights legislation of Alberta provides protection from age discrimination.
76. There is a specific prohibition of discrimination related to accommodations. There is a specific exemption related to age where permitting conferring a benefit on persons aged not less than 55 years. There is a separate and specific exemption exempting minimum age for occupancy of condominiums.
77. There is also a separate specific prohibition of discrimination related to tenancy. This is also subject to a specific exemption permitting restriction of occupancy to those individuals aged 55 and over.

Reference: *Alberta Human Rights Act*, RSA 2000, c A-25.5 ss. 4, 4.1, 4.2 & 5.

British Columbia

78. The human rights legislation of British Columbia provides protection from age discrimination. There is a specific prohibition of discrimination in the context of tenancies and it is subject to a specific exemption analogous to section 12(4) of our legislation and permits restricting occupancy of rented dwellings to individuals aged 55 and older. However the legislation in British Columbia treats discrimination in the context of both “accommodations” and in the context of “purchase of property” separately and differently. Age is omitted from the prohibited ground for discrimination in the context of the “purchase” of property including dwelling units. Age is included in the prohibited grounds for discrimination in the context of accommodations and there is no exception for persons aged 55 and older. A very different system indeed.

Reference: *Human Rights Code*, RSBC 1996, c 210 ss. 8, 9, & 10.

Northwest Territories and Nunavut

79. The human rights legislation of the Northwest Territories and of Nunavut provides protection from age discrimination. The act provides a specific prohibition from discrimination against tenants of commercial units and self-contained dwellings. There is an exception for bona fide

justifications where accommodation cannot be made without undue hardship. There is no specific exemption related to occupancy by persons aged 55 and over analogous to our section 12(4).

Reference: *Human Rightst Act*, SNWT 2002, c 18, s 12.
Human Rights Act, SNU 2003, c 12, s 13.

Yukon

80. The human rights legislation of the Yukon provides protection from age discrimination. It contains a broad prohibition from discrimination “in connection with any aspect of the occupancy, possession, lease, or sale of property offered to the public”. There are several specified exceptions based on reasonable justifications but there is no exemption related to occupancy by persons aged 55 and over analogous to our section 12(4).

Reference *Human Rights Act*, RSY 2002, c 116 s.9(d).

81. What is clear from this review of the legislation in the various Canadian jurisdictions is that each province and territory has adopted its own approach to age discrimination. Each province has enacted different approaches to the rental of property, the ownership of property, and in some cases legislation directly addresses ownership of condominiums. Having observed the inconsistent legislative responses to these issues across Canada, consistency with other Canadian jurisdictions is not a useful interpretive tool in this case. I am not compelled to interpret s. 12(4) to include condominiums on this basis.

82. In the Commission’s written submissions counsel argues:

37. Section 12(1) of the Human Rights Act, 2010 prohibits denying a person occupancy of a self-contained dwelling unit on the basis of a prohibited ground, which would include age.

38. Section 12(2) provides for an exemption from discrimination where the otherwise discriminatory behavior is shown to be based on a good faith qualification. However, this exemption is limited to situations where the discrimination is based on disability.

39. Section 12(4) provides for an exemption from discrimination based on age and family status but only applies where the person is renting or leasing a self-contained dwelling unit where every rental unit is reserved for rental to where at least one person in the unit has reached the age of 55 years.

40. Unlike section 11 of the Act there is no blanket exemption in section 12 for discrimination based on a bona fide reasons.

41. Therefore, the Act clearly prohibits a denial of occupancy of a dwelling unit (which would include a condominium unit) based on age and there is nothing in the Act which specifically exempts discrimination based on age in the context of occupancy of a condominium unit by an owner. Neither is there a more broad defence provided in the wording of the Act based on bona fide reasons.

83. I agree with counsel for the Commission. The Complainant must establish a prima facie case of discrimination. He has done so. The burden then shifts to the Respondent to establish that an exemption applies such that their conduct is justified and is not discriminatory. The Respondent has not done so. The section 12(4) exemption for rental properties does not apply to this case. The Respondent is therefore unable to rely on any statutory exception to save Article XII.3 of their bylaws. The Respondent's bylaws contravene the Act and have a discriminatory effect on the Complainant.

84. The remaining issue is the appropriate remedy in this case.

Remedy

85. Pursuant to section 39 of the Act the Board of Inquiry has broad powers to make orders compelling a respondent to do one or more of the following:

- (i) to stop the contravention complained of,
- (ii) to refrain in future from committing the same or a similar contravention,
- (iii) to make available to the person discriminated against the rights, opportunities or privileges he or she was denied contrary to this Act,
- (iv) to provide compensation to the person discriminated against, including compensation for all or a part of wages or income lost or expenses incurred because of the discriminatory action, and
- (v) to take whatever other action the board considers appropriate.

The board may also make any order as to costs that it considers appropriate.

86. The Complainant's complaint form seeks an order requiring the Respondent to repeal Article XII.3 of its bylaws.

87. The Complainant written submissions state that he is also seeking an apology and damages:

Remedy

15. My thoughts about remedy have not changed from my replies to the question at the pre-hearing readiness stage. I would like a written apology. I would like general damages for being denied the opportunity to conclude the purchase of the condominium unit and for having to leave what had become my home by my failure to conclude the purchase. I would like special damages for out of pocket expenses associated with moving.

88. In his pre-hearing readiness form the complainant states:

I would like general damages as compensation for being denied the opportunity to conclude the purchase of the condominium unit. As the Commission Record indicates the unit was owned by my mother and I was living in it at the time my offer to purchase was accepted. My failure to conclude the purchase represented not only the loss of an opportunity it also meant I had to move from what had become my home when the unit was eventually sold.

In addition to general damages I would like to seek special damages for out of pocket expenses I incurred in moving to a new rental accommodation and to rent storage space for certain personal property I am unable to store in my rental accommodation. Furthermore, if the process of adjudication should eventually require me to retain the services of a lawyer then I would also like to seek compensation for legal costs

89. The Respondent submits that an apology is not appropriate in this case. The Respondent also argues that if the Complainant suffered a loss, it is the vendor who should pay and not the APCC. Finally the Respondent requests that this Board of Inquiry issue a recommendation in favor legislative amendment to include an exemption for 55+ condominiums:

12. The request for a written apology suggests some personal motive by an entire Board against an individual with whom we have no relationship, contractual or otherwise.

If the Complainant wants general damages for being denied the opportunity to purchase the condominium unit, then that is owed by the persons or party which denied such action – his parents. APCC does not and did not restrict or deny the Complainant ownership. APCC should not be faulted because the Complainant does not want to seek redress from the correct party. Further, the APCC has no knowledge of the condominium unit “becoming his home” as he was occasionally seen coming and going from the unit typically while his parents were away. Moving expenses would have been incurred by the Complainant regardless of whether he moved into the unit or another residence and should not be borne by an innocent group not party to the cancelled transaction.

...

14. ... We submit there should be a broad interpretation of the Act in favour of better and further protecting the vulnerable minority elderly population in this province. It aligns with the spirit of the Act and the purpose of current government policy and programming. A broad interpretation, absent explicit evidence that such an interpretation was contemplated and rejected by the Legislature, is open to the adjudicator to make. In the alternative, if the adjudicator determines he cannot make such an interpretation, we submit that it would be appropriate to recommend an amendment so that the protection of the senior population extends clearly to within the condominium corporation structure.

21. Thirdly, if the HRC does determine that the Act cannot be broadly interpreted to better protect the vulnerable senior population, which is denied, then APCC submits that such a recommendation should be made by the adjudicator to amend the legislation to explicitly protect seniors in seniors-only condominium complexes all around the metro region and the entire province. This complaint and issue cannot be viewed in a vacuum. There are far-reaching consequences for seniors already comfortably living in supportive seniors-only condo networks who have been led to believe this is permissible and supported by the government. Every permit issued, tax bill collected, and registration approved has implicitly approved the living restrictions and arrangements in condominium corporations, including for APCC. To recommend that an amendment be made to protect and endorse these communities continuing is essential. It aligns with government policy for aging populations (as submitted in our Reply), and protects the vulnerable elderly people in this province which we know from Covid-19 guidelines require heightened policy protection.

90. The Commission submits that general damage awards in discrimination cases from this jurisdiction tend to range from \$5000-\$10000. They suggests \$5500 may be appropriate and is

in line with jurisprudence from Nova Scotia. The Commission takes no position with respect to the Complainant's request for an apology. The Commission submits that this Board of Inquiry may have jurisdiction to make recommendations regarding legislative amendment under the broad authority to "to take whatever other action the board considers appropriate" allowed under s. under section 39(1)(b)(v) of the Act

44. The granting of a remedy for discrimination serves to put the complainant in the position they would have been in had the discrimination not occurred. General damages are awarded for injury to dignity, feelings and self-respect.

...

46. The Commission submits that if discrimination is proven in this case, the Complainant should be awarded general damages, in line with decided human rights tribunal decisions; any expenses incurred as a result of the discrimination(as proven by the Complainant) and an apology as requested.

47. While there are no human rights tribunal cases in this jurisdiction dealing with age discrimination, general damages awarded and settlements reached tend to be in the \$ 5,000- 15,000 range.

48. In a decision from the Nova Scotia Human Rights Tribunal where age discrimination was found, the complainant was awarded \$ 5,500 in general damages, reimbursement of expenses and a written apology.

Leadley v. Oakland Development Ltd.
2004 NSHRC 7 (Canlii) , p. 20-24 [TAB 21]

49. The Respondent, in its submissions, is asking for a recommendation to amend the Human Rights Act, 2010 to include seniors-only condominiums as an explicit exemption under section 12 of the Act. It is the Commission's position that such a recommendation, if the Adjudicator felt it appropriate, would fall within his jurisdiction under section 39(1)(b)(v) of the Act.

91. On the issue of whether the Board of Inquiry can or should make recommendations for legislative change, I conclude that I do not have the authority to make such recommendations. When section 39(1)(b)(v) of the Act is read in full this becomes apparent:

Orders of board

39. (1) A board of inquiry

(b) may, where it finds that a complaint is justified in whole or in part, order the person against whom the finding was made to do one or more of the following:

...

(v) to take whatever other action the board considers appropriate.

92. Section 39(1)(b)(v) allows the Board broad powers to address discrimination by making orders binding on the parties, but not to make recommendations to the legislature. Having said that this case does raise some issues which may be of concern for many of our senior citizens now living in 55+ condominiums or intending to move into 55+ condominiums.
93. Article XII.3 of the Respondent's by-laws does contravene the protections currently provided by the Act. I will order that the Respondent shall amend its by-laws within 30 days to remove therefrom any and all restrictions contained therein which restrict occupancy of its condominiums to individuals aged 55 and older, and in particular by repealing Article XII.3 of said bylaws. The Respondent shall cease limiting occupancy of its condominium units to persons aged 55 and older. The Respondent shall be prohibited and refrain from implementing the same or similar restrictions on occupancy based on age through new bylaws or otherwise.
94. With respect to the issue of an apology the Respondent is opposed to apologizing and asserts that an apology "*implies some personal motive by an entire Board against an individual with whom we have no relationship*". No it does not. An apology confirms and acknowledges that Mr. Bill's rights were violated, and they were violated by the by-laws which the APCC adopted. The Act expressly recognizes that discrimination does not require an intent to discriminate. In my view an apology is the minimum form of redress one can expect from having your rights violated. However, there is a significant body of caselaw which suggests that a disingenuous and forced apology, compelled from an unwilling respondent is worthless and does not serve the cause of promoting human rights. It also raises concerns of freedom of thought, belief, opinion and expression protected under section 2(b) of the Canadian Charter of Rights and Freedoms.

Reference: *Graham v. Shear Logic Hairstyling*, 80 C.H.R.R. D/304, 2014 CarswellNS 1083 at para 97.

XY v. Ontario (Government and Consumer Services), 2012 HRTO 726, 2012 CarswellOnt 17736 at para 285-287.

Stevenson v. Canadian Security Intelligence Service, 2003 FCT 341, 2003 CFPI 431, 2003 CarswellNat 919 at para 30.

95. There are many cases where respondents deny that their conduct was discriminatory but are willing to apologize in the event their position is found to be incorrect. This was the case in *Maharajh v Atlantic Offshore Medical Services Limited* and in that case an apology was ordered. I would encourage any respondent whose conduct is found to violate the human rights of another, to consider offering an apology but I will not compel them to do so. No apology will be ordered in this case.

Reference: *Maharajh v Atlantic Offshore Medical Services Limited*, 2020 CanLII 49888 (NL HRC).

96. With respect to the claim for special damages in compensation for expenses and economic loss, no evidence was presented to substantiate any special damages. The burden of proof with respect to damages claimed rests with complainants. Complainants must provide evidence of their loss which may be in the form of documentation such as receipts, invoices, bills or estimates and quotes on expenses when an expense is claimed; cheque stubs, pay stubs, income tax returns or notices of assessments when income losses are claimed; or alternatively they must provide *viva voce* evidence (in person testimony by themselves or other witnesses) or affidavit evidence (evidence in written form sworn under oath or solemn affirmation) which provides some basis for calculation of their losses. It is not enough to say a loss was incurred without providing evidence of the monetary value of the loss. It is all too common for complainants (often self-represented) to come before this Board of Inquiry alleging a loss but without documentation or other evidence which provides a basis to calculate their loss. The nature of the loss and the evidence of that loss should also be disclosed to respondents in advance of the hearing. Respondents are entitled to know the case against them and to make arguments in response. A complainant can only be compensated for losses established by the evidence presented to the Board of Inquiry. I encourage the Commission to draw future complainants to this paragraph of this decision as a means to inform them of the evidentiary burden of proof which they must discharge. In present case I make no order with respect to special damages as no loss has been established by the evidence.
97. With respect to the Complainant's claim for general damages. General damages may be ordered to compensate a complainant for injury to dignity, feelings and self-respect. In this case the complainant expresses that the condominium he sought to purchase was owned by his mother.

He lived there or lived there at times and considered it his home. He has had to find other accommodations. He has suffered injury to his feelings in the sense that he is undoubtedly saddened and disappointed by not being allowed to remain in his home. This is not a case where there is evidence of injury to the dignity of a person, or their self worth, or self respect. In my view general damages in this case will be set toward the low end of the range.

98. In *Malone v Dave Gulliver's Cabs Limited*, 2016 CanLII 152826 (NL HRC) the complainant was denied service by taxi drivers because she has a visual impairment and was travelling with her Guide Dog. The drivers were rude and they drove away without taking steps to ensure the complainant had alternate transportation to her destination. The Complainant in that case described the importance of access to safe and reliable transportation in her experience as a person with a visual impairment. She also testified about how she was treated and how it made her feel. She was shocked and offended. She felt vulnerable. She worried the drivers could identify her but she could not identify them. She worried because she regularly relied upon taxi services and called them to her home. She was awarded \$5000 in general damages. Perhaps she would be awarded more today.
99. In *Fennelly v J. Co Holdings Inc.*, 2020 CanLII 80311 (NL HRC) the adjudicator compared the circumstances as being akin to those found in *Proulx v Quebec* with the long-term implications for the Complainant considered to be more severe than those discussed in *Malone v. Dave Gulliver's Cabs Limited* where the denial of transportation was short term and did not impact the individual's livelihood. General damages in the amount of \$6,500.00 were awarded.
100. In *Maharajh v Atlantic Offshore Medical Services Limited*, 2020 CanLII 49888 (NL HRC) the complainant was denied employment because he had a disability and had disclosed to the prospective employer that he used medical marijuana prescribed by his physician. He testified to feeling stress, sadness and embarrassment from the incident. He described that he had told family and friends of his new job opportunity. When he was not hired the complainant had to explain to his family and friends that he had been disqualified by the position. He was awarded \$7500 in general damages.
101. In *S.R. v Newfoundland and Labrador*, 2018 CanLII 116135 (NL HRC) the violation of the complainant's rights had a severe psychological impact on him. He described the humiliation he has experienced, the loss of dignity and the loss of respect. He testified that he felt "de-humanized". There was evidence that others witnessed a big change in the complainant. He withdrew socially and he became a different person. The complainant in that case experienced a loss of self-worth. As of the hearing he still suffered from flashbacks. \$30,000 were awarded in general damages.

102. The case of *Leadley v. Oadkland Developments Ltd.*, 2004 NSHRC 7 (CanLII) cited by the Commission involved a denial of rented accommodations on the basis of family status. The complainant was a mother recently separated from her former partner, searching for affordable housing for herself and her with children. The tribunal noted that it was abundantly clear from the evidence that “Ms. Leadley suffered great injury to her self-respect and dignity. The complainant’s children were equally hurt and saddened by the episode.” This appears to refer to an incident at the apartment building in question in the presence of the complainant’s children. The evidence in that case established that during a meeting to view an apartment the superintendent of the building referred to the complainant’s children (who were present with her) by pointing at them and asking “what are those”, “whose are they”, “will they be living with you”, “we don’t allow kids”. The complainant testified she was “devastated for them... Devastated for myself, humiliated...” and that she took the children out of the building to her car where she cried, and the children cried. The impact on the complainant in that case was somewhat more severe than in the present case. \$5500 were awarded in general damages.
103. As I have said, in this case there isn’t evidence that the respondent’s conduct, albeit discriminatory, had a significant impact upon the Complainant’s dignity, his sense of self-worth or self-respect. However, he has had to move out of his home and this was no doubt distressing and frustrating. He has been impacted, inconvenienced, and disappointed, his rights were violated, and this must be appropriately addressed by a general damages award. I order that the Respondent pay the Complainant general damages in the amount of \$4000. This is at the low end of the range for general damage awards in this jurisdiction. This sum shall be paid by the Respondent to the Complainant within 30 days of this decision.
104. I will ask the Commission to draft the formal order for my review.

C. Brodie Gallant
Adjudicator