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# Killer heat, killer smog:

Toronto Board of Health must commit  
to action to protect lives and health of  
tenants during extreme heat and smog

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Submission by:

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Thank you for the opportunity to make practical and positive recommendations to deal with the killer heat and killer smog that has been blanketing Toronto. The Toronto Disaster Relief Committee is a community-based housing and homelessness group that has been leading the campaign for safe and affordable homes for all. We have two key messages and five recommendations for the Toronto Board of Health.

## **Key message #1: Killer heat, killer smog is a major health hazard**

Torontonians are dying and getting sick because of extreme heat and smog in their housing. One month ago, the Medical Officer of Health reported that in an average year, 120 Torontonians die prematurely from heat, and another 822 die prematurely from smog (based on survey of annual death statistics from 1954 to 2000).

In the last week of June, we were able to put a face to these grim statistics. Richard Howell was found dead in his boarding home. The specific circumstances of his death require further inquiry (and that's why the TDRC is asking the Board of Health to endorse our call for a Coroner's Inquest into Mr. Howell's death), but the facts that are currently available demonstrate that heat was a key factor in his premature death.

Killer heat and killer smog qualifies as a *major health hazard* in Toronto. We are very careful to use the term "health hazard". A number of people are dying. Their deaths are preventable. Ontario's *Health Protection and Promotion Act* gives the Medical Officer of Health extensive powers to declare a health hazard and to order specific actions. The MOH can require others (such as landlords) to take action and, if they fail to do so, the MOH can order the action to be taken and charge the cost back to the landlord. Sections 13 to 15 of the *Health Protection and Promotion Act* are attached as Appendix 1.

## **Key message #2: No legal standard for maximum temperature**

When we asked Toronto public health officials why they don't use their powers under the *Health Protection and Promotion Act* to take immediate action to protect the health and lives of low-income tenants in over-heated housing, we have been told that there is a grey area because there is *no legal standard for maximum temperature*.

There are standards for other health hazards in housing. For instance, s. 497-2 of Toronto's *Municipal Code* requires landlords to provide a minimum temperature of 21C "at the landlord's expense" from September 15 to June 1. The *Fire Code* and *Building Code* set out extensive requirements for fire safety. These standards are actively enforced by the City of Toronto. The city's *Emergency Response Plan* for Rooming Houses includes a detailed protocol for assisting low-income tenants. While the *Municipal Code* recognizes that cold is a life safety issue and requires landlords to provide heat, there is no municipal or provincial legislation that recognizes that heat is a life safety issue that requires landlords to provide cooling.

Toronto's *Personal Care Bylaw* has not been updated since amalgamation and is, according to some experts, not legally binding. It doesn't include a standard for

maximum temperature. There are standards for maximum temperature for certain food products, such as milk. Detailed regulations regarding the transportation and shipping of milk set specific maximum temperatures. ***While milk is protected under law from extreme heat, people are not.*** Without a legal standard, public health officials say that it is difficult to use the provisions of the *Health Protection and Promotion Act* to protect the people of Toronto during extreme heat and smog episodes.

## **Request #1: Endorse the call for a Coroner’s Inquest**

A Coroner’s Inquest is the best forum for a detailed review of the circumstances that lead to the death of Richard Howell, and possibly other related deaths.

***The Toronto Disaster Relief Committee is asking the Toronto Board of Health to endorse our request that the Chief Coroner of Ontario call an immediate inquest into the death of Richard Howell.***

## **Request #2: Maximum temperature standard**

However, we cannot wait for weeks, months (or perhaps a year or two) for a Coroner’s Inquest to take several practical steps. The first step is for the immediate implementation of a maximum temperature standard in municipal bylaws.

***The Toronto Disaster Relief Committee is asking the Toronto Board of Health to direct the Medical Officer of Health to prepare a maximum temperature standard for municipal bylaws to be adopted by Toronto City Council and enforced by public health and other municipal officials.***

## **Request #3: Community response protocol**

Toronto needs a detailed community response protocol that is tied to extreme heat alerts, the emergency response protocol and the maximum temperature in housing standard. This protocol should engage municipal staff, community partners, health care professionals, tenants and others. The protocol needs to include specific reference to psychiatric survivors, people with disabilities and the elderly – including those receiving various medications that make them more susceptible to extreme heat. As part of this initiative, Toronto needs to provide financial and staff resources to cover TTC tickets and to provide additional community workers to assist during heat and smog alerts.

***The Toronto Disaster Relief Committee is asking the Toronto Board of Health to direct the Medical Officer of Health, in consultation with other municipal staff, community partners, health care professionals, tenants and others, to develop and implement a community response protocol for extreme heat and smog.***

## **Request #4: Update the *Personal Care Bylaw***

Toronto's *Personal Care Bylaw* has not been reviewed since the amalgamation of the mega-city. Some experts believe that the bylaw does not have a strong legal standing. The *Personal Care Bylaw* is meant to address the social and health conditions in low-income housing and is a companion to the minimum property standards bylaws.

***The Toronto Disaster Relief Committee is asking the Toronto Board of Health to direct the Medical Officer of Health, in consultation with community partners, to immediately review and update the Personal Care Bylaw and to confirm its legal status.***

## **Request #5: Housing rehabilitation program**

Landlords, especially those who provide housing for low-income tenants, often complain that they cannot afford the cost of upgrades to meet new standards. Landlords complained about this when the minimum temperature provision were introduced. They complained again in the early 1990s when fire safety standards were upgraded after the deadly Rupert hotel fire. Low-income tenants cannot afford to cover the capital costs, nor can they bear increased monthly costs for utilities.

The Toronto Environmental Alliance, the Low Income Energy Network and the Green Communities Alliance are three groups that are working on energy conservation and energy retrofitting issues for low-income households. There is expertise in Toronto, and elsewhere, to develop cost-effective and practical programs to bring housing up to a safe standard in an affordable manner.

The City of Toronto administers the Residential Rehabilitation Assistance Program (RRAP – a federally-funded housing rehabilitation program). This program provides financial assistance to landlords to upgrade properties. RRAP is nearing the end of its current three-year funding cycle, but the federal government has committed in the last Throne Speech and federal budget to “extend and enhance” RRAP.

***The Toronto Disaster Relief Committee is asking the Toronto Board of Health to recommend to Toronto City Council's Community Services Committee that it immediately develop a retrofit program to bring existing rooming and boarding houses, and other dwellings, up to the new maximum temperature standard with funding from a renewed and enhanced Residential Rehabilitation Assistance Program.***

## Appendix 1

### Ontario's *Health Protection and Promotion Act* (ss. 13 to 15)

Order by M.O.H. or public health inspector re health hazard

**13.** (1) A medical officer of health or a public health inspector, in the circumstances mentioned in subsection (2), by a written order may require a person to take or to refrain from taking any action that is specified in the order in respect of a health hazard. R.S.O. 1990, c. H.7, s. 13 (1).

Condition precedent to order

(2) A medical officer of health or a public health inspector may make an order under this section where he or she is of the opinion, upon reasonable and probable grounds,

(a) that a health hazard exists in the health unit served by him or her; and

(b) that the requirements specified in the order are necessary in order to decrease the effect of or to eliminate the health hazard. R.S.O. 1990, c. H.7, s. 13 (2).

Time

(3) In an order under this section, a medical officer of health or a public health inspector may specify the time or times when or the period or periods of time within which the person to whom the order is directed must comply with the order. R.S.O. 1990, c. H.7, s. 13 (3).

Idem

(4) An order under this section may include, but is not limited to,

(a) requiring the vacating of premises;

(b) requiring the owner or occupier of premises to close the premises or a specific part of the premises;

(c) requiring the placarding of premises to give notice of an order requiring the closing of the premises;

(d) requiring the doing of work specified in the order in, on or about premises specified in the order;

(e) requiring the removal of anything that the order states is a health hazard from the premises or the environs of the premises specified in the order;

(f) requiring the cleaning or disinfecting, or both, of the premises or the thing specified in the order;

(g) requiring the destruction of the matter or thing specified in the order;

(h) prohibiting or regulating the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing;

(i) prohibiting or regulating the use of any premises or thing. R.S.O. 1990, c. H.7, s. 13 (4).

Person directed

(5) An order under this section may be directed to a person,

(a) who owns or is the occupier of any premises but where an order is directed to the occupier, the person making the order shall deliver or cause the delivery of a copy of the order to the owner of the premises;

(b) who owns or is in charge of any substance, thing, plant or animal or any solid, liquid, gas or combination of any of them; or

(c) who is engaged in or administers an enterprise or activity, in the health unit served by the medical officer of health or the public health inspector. R.S.O. 1990, c. H.7, s. 13 (5).

Reasons for order

(6) An order under this section is not effective unless the reasons for the order are set out in the order. R.S.O. 1990, c. H.7, s. 13 (6).

Oral order

(7) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the medical officer of health or the public health inspector may make the order orally and subsection (6) does not apply to the order. R.S.O. 1990, c. H.7, s. 13 (7).

Description of person directed

(8) It is sufficient in an order under this section to direct the order to a person or persons described in the order, and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order. R.S.O. 1990, c. H.7, s. 13 (8).

Directions by M.O.H.

**14.** (1) A medical officer of health, in the circumstances specified in subsection (2), may give directions in accordance with subsection (3) to the persons whose services are engaged by or to agents of the board of health of the health unit served by the medical officer of health. R.S.O. 1990, c. H.7, s. 14 (1).

When M.O.H. may give directions

(2) A medical officer of health may give directions in accordance with subsection (3) where the medical officer of health is of the opinion, upon reasonable and probable grounds, that a health hazard exists in the health unit and the person to whom an order is or would be directed under section 13,

(a) has refused to or is not complying with the order;

(b) is not likely to comply with the order promptly;

(c) cannot be readily identified or located and as a result the order would not be carried out promptly; or

(d) requests the assistance of the medical officer of health in eliminating or decreasing the effect of the health hazard. R.S.O. 1990, c. H.7, s. 14 (2).

#### Contents of directions

(3) Under this section, a medical officer of health may direct the persons whose services are engaged by or the agents of the board of health of the health unit served by the medical officer of health to take such action as is specified in the directions in respect of eliminating or decreasing the health hazard. R.S.O. 1990, c. H.7, s. 14 (3).

#### Idem

(4) Directions under this section may include, but are not limited to,

(a) authorizing and requiring the placarding of premises specified in the directions to give notice of the existence of a health hazard or of an order made under this Act, or both;

(b) requiring the doing of work specified in the directions in, on or about any premises;

(c) requiring the removal of anything that the directions state is a health hazard from premises or the environs of premises specified in the directions;

(d) requiring the detention of any matter or thing removed from any premises or the environs of any premises;

(e) requiring the cleaning or disinfecting, or both, of any premises or thing specified in the directions;

(f) requiring the destruction of any thing specified in the directions. R.S.O. 1990, c. H.7, s. 14 (4).

#### Recovery of expenses by action

**15.** (1) The expenses incurred by a board of health in respect of a health hazard in, on or of any premises may be recovered from the owner or the occupier, or both, of the premises, with costs, by the

board of health by action in a court of competent jurisdiction. R.S.O. 1990, c. H.7, s. 15 (1).

#### Statement to municipal clerk

(2) In the alternative, where costs and expenses of a board of health that may be recovered from the owner or occupier of premises are not paid within sixty days after a demand to the owner or occupier for payment, the secretary of the board of health may transmit to the clerk of the municipality in which the premises are situated a statement setting out,

(a) the amount of the costs and expenses;

(b) the name of the owner of the premises; and

(c) the location of the premises. R.S.O. 1990, c. H.7, s. 15 (2).

#### Collection

(3) Upon receipt of the statement, the clerk of the municipality shall enter the amount in the collector's roll and the amount shall be collected in the same manner as municipal real property taxes and the amount collected shall be paid over to the board of health. R.S.O. 1990, c. H.7, s. 15 (3); 1999, c. 12, Sched. J, s. 32.

#### Recovery by occupier

(4) Where an amount recovered by a board of health after a demand or under subsection (1) from an occupier of premises is, between the occupier and the owner of the premises, the responsibility of the owner, the occupier is entitled to recover the amount from the owner or to deduct the amount from any other amount due from the occupier to the owner. R.S.O. 1990, c. H.7, s. 15 (4).

#### Recovery by owner

(5) Where an amount recovered by a board of health after a demand or under subsection (1) or (3) from an owner of premises is, between the owner and the occupier, the responsibility of the occupier, the owner is entitled to recover the amount from the occupier or to add the amount to any other amount due from the occupier to the owner. R.S.O. 1990, c. H.7, s. 15 (5).