

FRPO Rental Housing Regulatory Update

April 16, 2012

Springfest Property Management
Tradeshow

Metro Toronto Convention Centre



Overview

1. Regulatory Issues

- a) Bill 19: Rent Control Cap
- b) Bill 20: CO Detectors
- c) Bill 22: Domestic Violence Act
- d) Human Rights Commission
 - Rental Advertising
 - Licensing
- e) Municipal Act/Tenants Unpaid Water Bills
- f) Rent Dispute Process
- g) Housing Affordability & Poverty Reduction

2. FRPO Legal Inquiries

Three Bills Before the Legislature

- **Bill 19: Rent Control Caps**
- **Bill 20: Carbon Monoxide Detectors**
- **Bill 22: Domestic Violence Act**

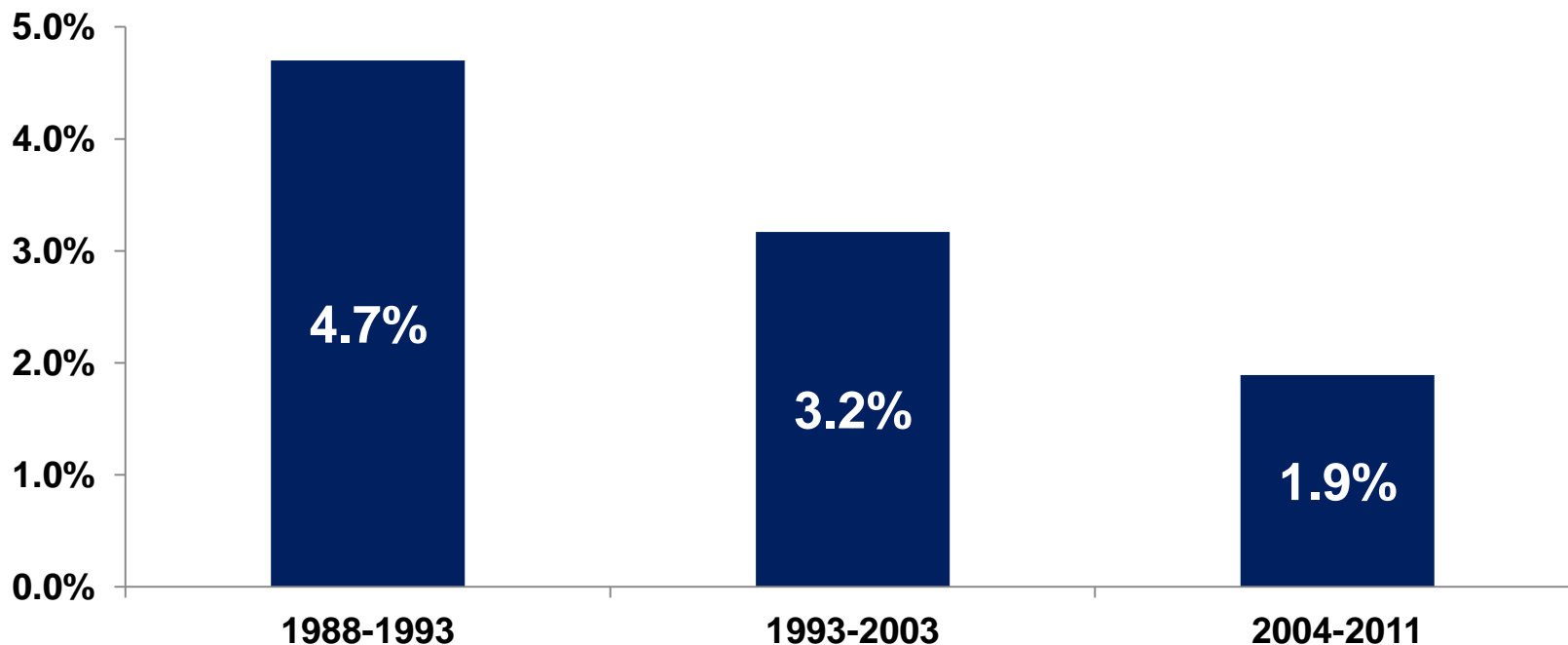


Bill 19 (Rent control)

- Introduced December 2011
- Caps rent increases at 2.5%, regardless of inflation
- Still uses consumer price index formula
- Status: 2nd Reading
- If inflation returns to 1980's/90's level (4%-6%) then this bill will be devastating to rental housing and have a negative impact on tenants' renting experience

Bill 19 is unnecessary: *Only modest rent increases since 2004*

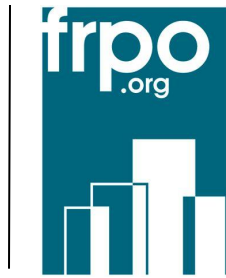
Average Annual Rent Increase (Ontario)



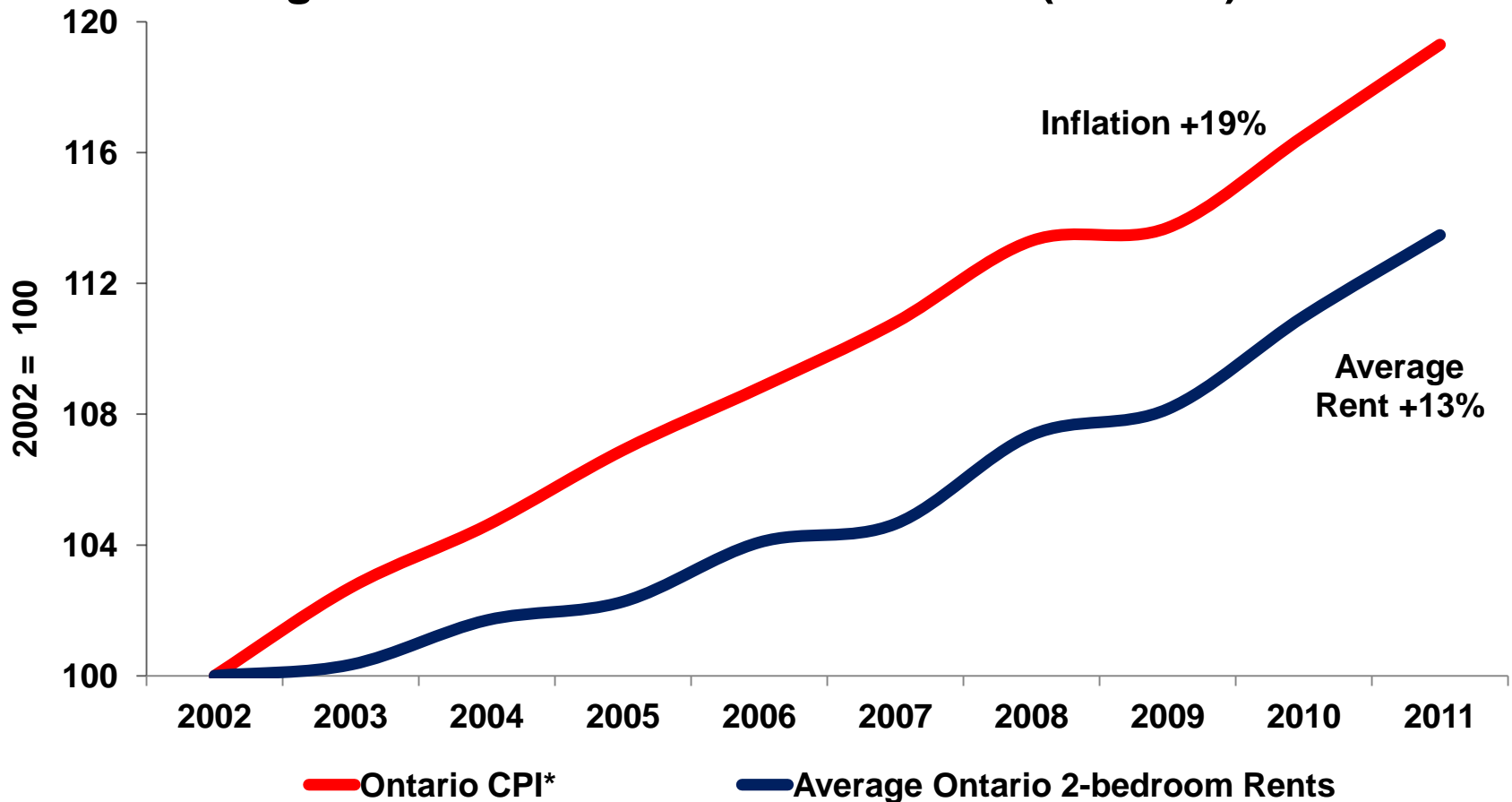
Source: Statistics Canada, CPI Rent Index; Ontario Ministry of Municipal Affairs and Housing June 29, 2011, Press Release

Rents vs. Inflation

Inflation consistently outpaces rent

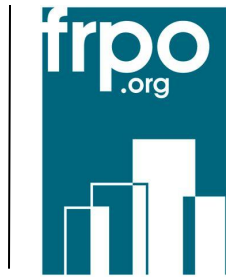


Average 2-bedroom Rents vs. Inflation (Ontario)

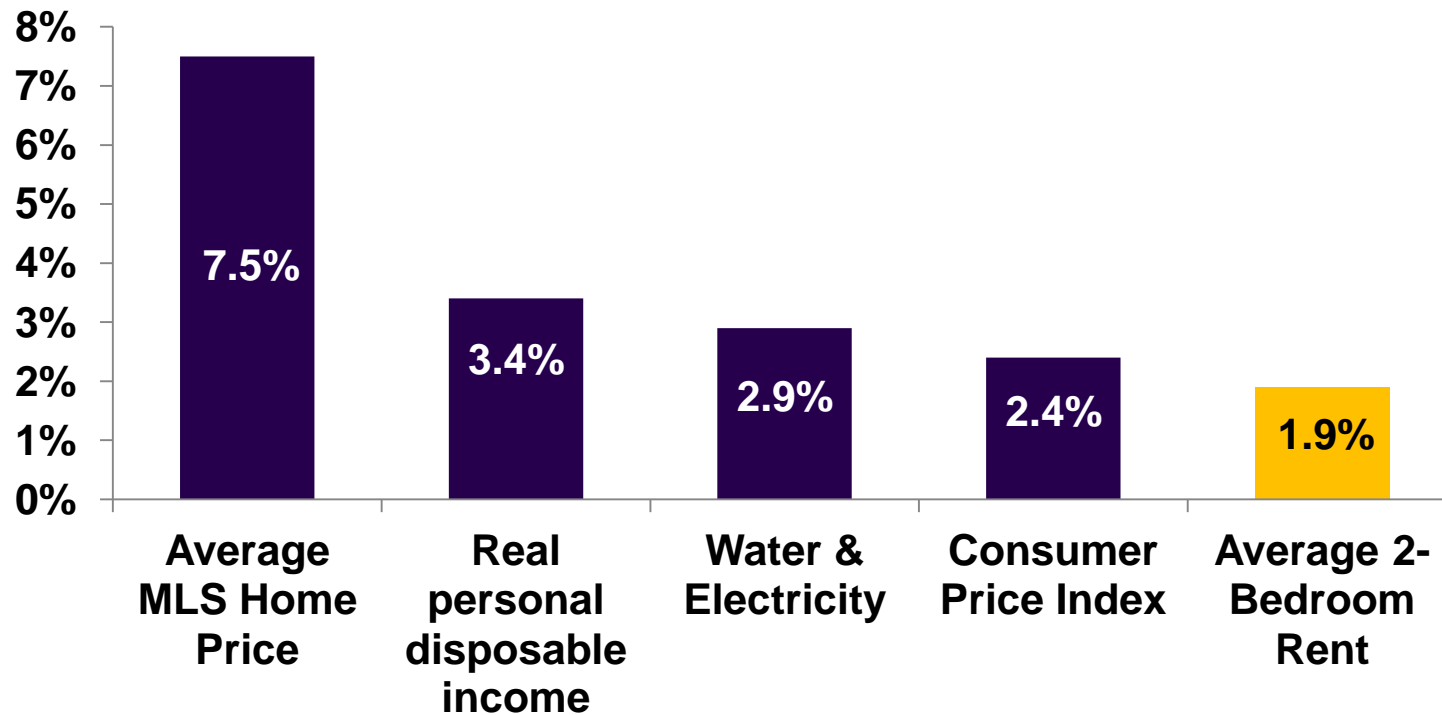


Rent vs. Select Items

Why cap rent increases?

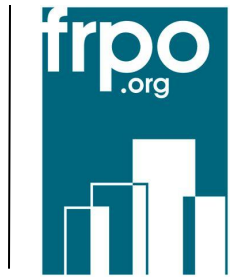


**Annual Percent Growth: Select Items
(Ontario, 2010)**

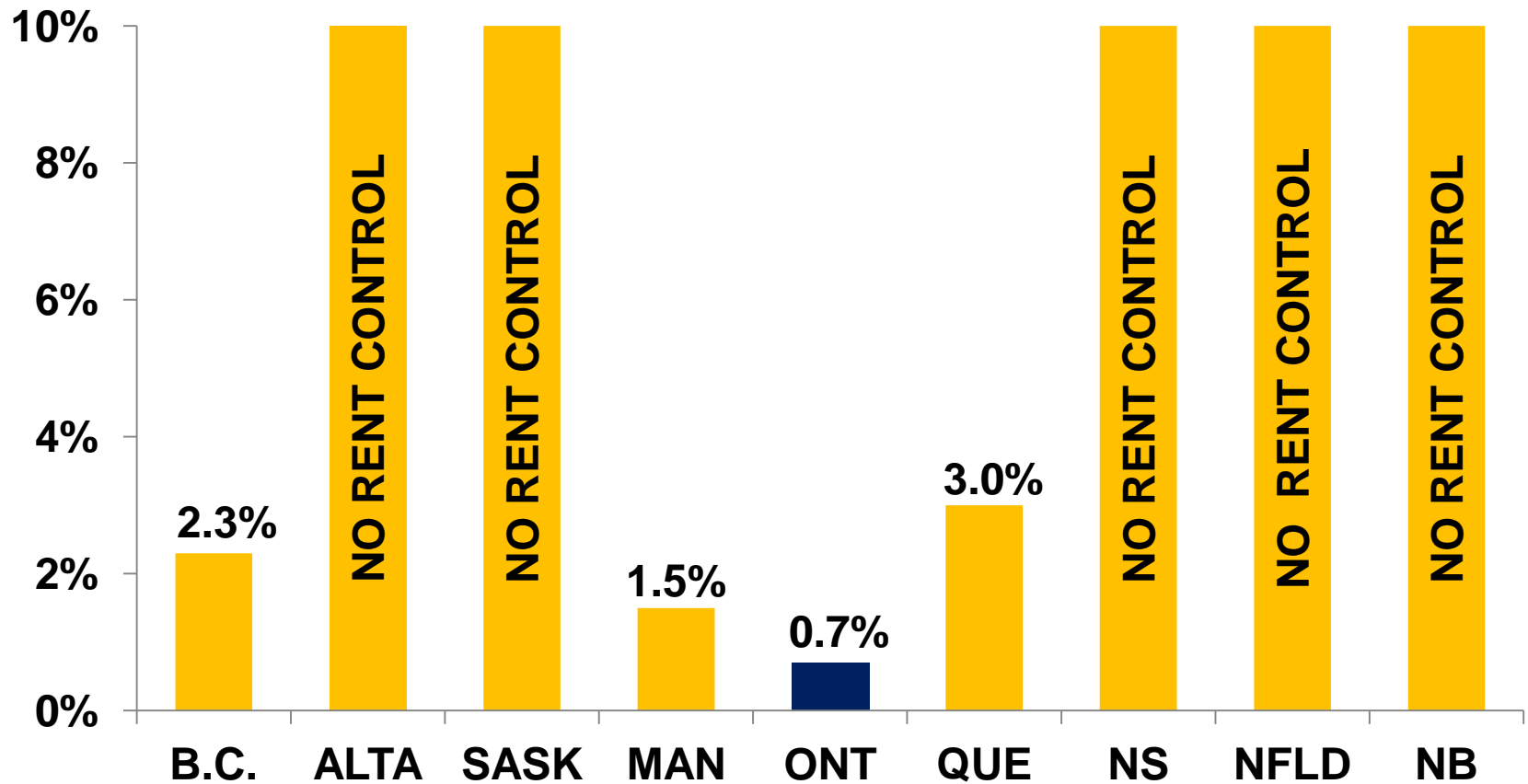


Source: Statistics Canada - Consumer Price Index, shelter, by province (monthly); Ontario Economic Accounts, Third Quarter 2011

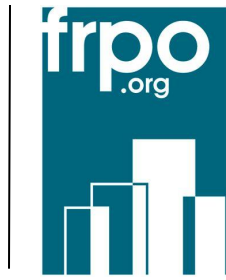
No justification for Ontario's severe rent control:



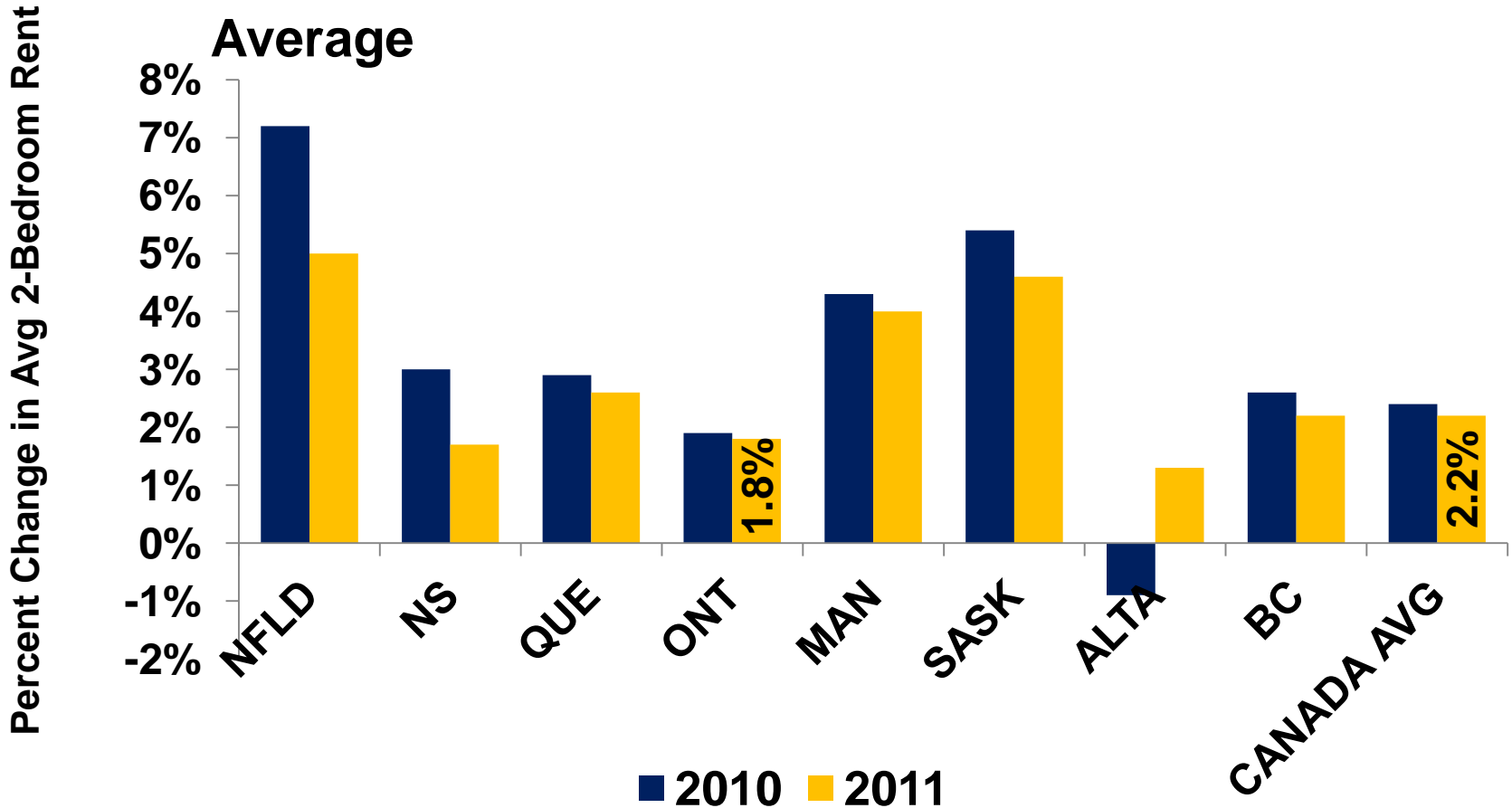
Rent Control Limits Across Canada (2011)



No justification for Ontario's severe rent control:



Ontario Rent Increases Fall Short of Canadian Average



Bill 20: *Hawkins Gignac Act*

- Would require CO Detectors in every residential dwelling with a fuel burning appliance, amends the Building Code
- Status: 2nd Reading, FRPO presented recommended amendments before the Social Policy Committee at Queen's Park on April 2nd
- Awaiting improvements:
 - Remove distinction between one bedroom suites and 2+ bedroom suites
 - Include better definition of terms, eg "service room"

Bill 22: *Domestic Violence Act*

- Private members bill
- Amends the *Residential Tenancies Act*
- Shorten tenant's notice to vacate to 20 days from 60 days if they are a victim of domestic violence
- But, still allows abusive, potentially violent tenant to stay in the unit
- Status: Introduced in December 2011, 1st Reading

Human Rights Issues

- **Advertising**
- **Licensing**



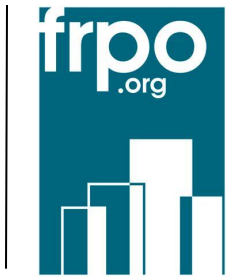
Human Rights & Rental Ads

What's wrong with this ad?

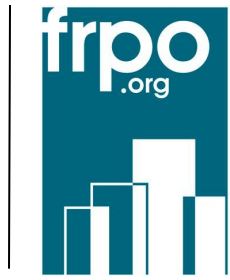


Human Rights & Rental Ads

What's wrong with this ad?



Human Rights Commission: Rental Ad Policy

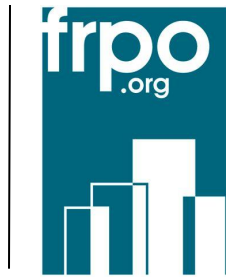


Investigating discriminatory rental ads

Some ads openly discriminate:

- “Adult building” or “Not suitable for children”
- “Must have working income” or “Must provide proof of employment”
- “No ODSP”
- “Seeking mature couple.”

Human Rights Commission: Rental Ads

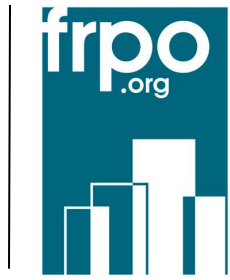


Some ads unintentionally discriminate by accident:

- “Ideal for quiet couple”
- “Suitable for single professional”
- “Perfect for female student”
- “Suits mature individual or couple”
- “Great for working folks or students”

These statements may discourage some tenants from applying

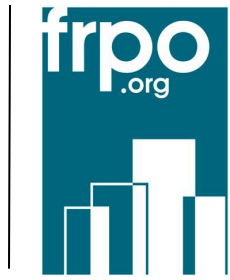
Humans Rights Code and Tenant Selection



The *Human Rights Code* says you can use:

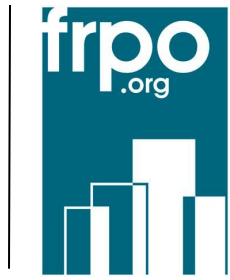
- Rental history, credit references and/or credit checks
- Income information ONLY IF you also look at rental history, credit references and credit rating (if available)
- Income information can only be considered on its own when no other information is made available
- Landlords can only ask for a “guarantor” if they have the same requirements for all tenants.

Human Rights Commission: Licensing



- The Ontario Human Rights Commission (OHRC) has issued two surveys to landlords in Waterloo and North Bay to explore if new rental housing licensing bylaws create discriminatory barriers to rental housing.
- Licensing of apartments is relatively new, enabled by *Municipal Act* changes in 2008.

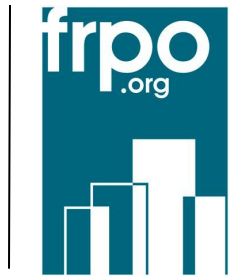
Human Rights Commission: Licensing



Licensing apartments is discriminatory:

- Size and occupancy restrictions discourage lower income youth from renting
- Licensing fees and costs make renting less affordable
- Licensing by-laws are not based on any legitimate urban planning rationale and have the effect of “people zoning,” as opposed to zoning the use of the land

Human Rights Commission: Licensing



Tell the Human Rights Commission how you believe licensing is discriminatory against certain groups of tenants:

- By email: **housinginquiry@ohrc.on.ca** or **info@ohrc.on.ca**

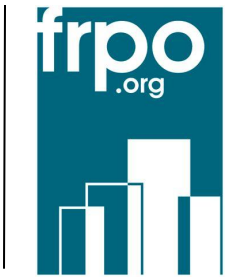
Water Billing

- **Landlords forced to pay for tenants' unpaid bills**



Municipal Act Water Bill

Liability



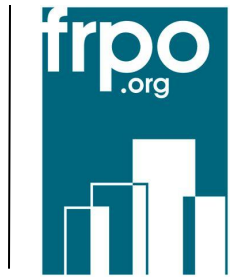
- Section 398(2) of the *Municipal Act, 2001* (the “Act”) allows a municipality to add public utility arrears incurred by a tenant to the municipal tax bill of the landlord
- Ontario Regulation 581/06 permits such arrears to have priority lien status under the Act
- Landlord petition underway to fix this flawed law
- Penetanguishene, Bracebridge & Niagara Falls have reversed their landlord billing policies

Ontario's Broken Rent Dispute Process

- **Causes**
- **Solutions**

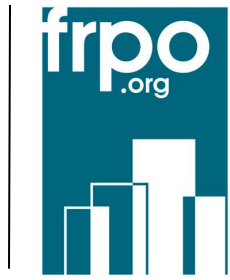


Ontario's Rent Dispute Process is Broken

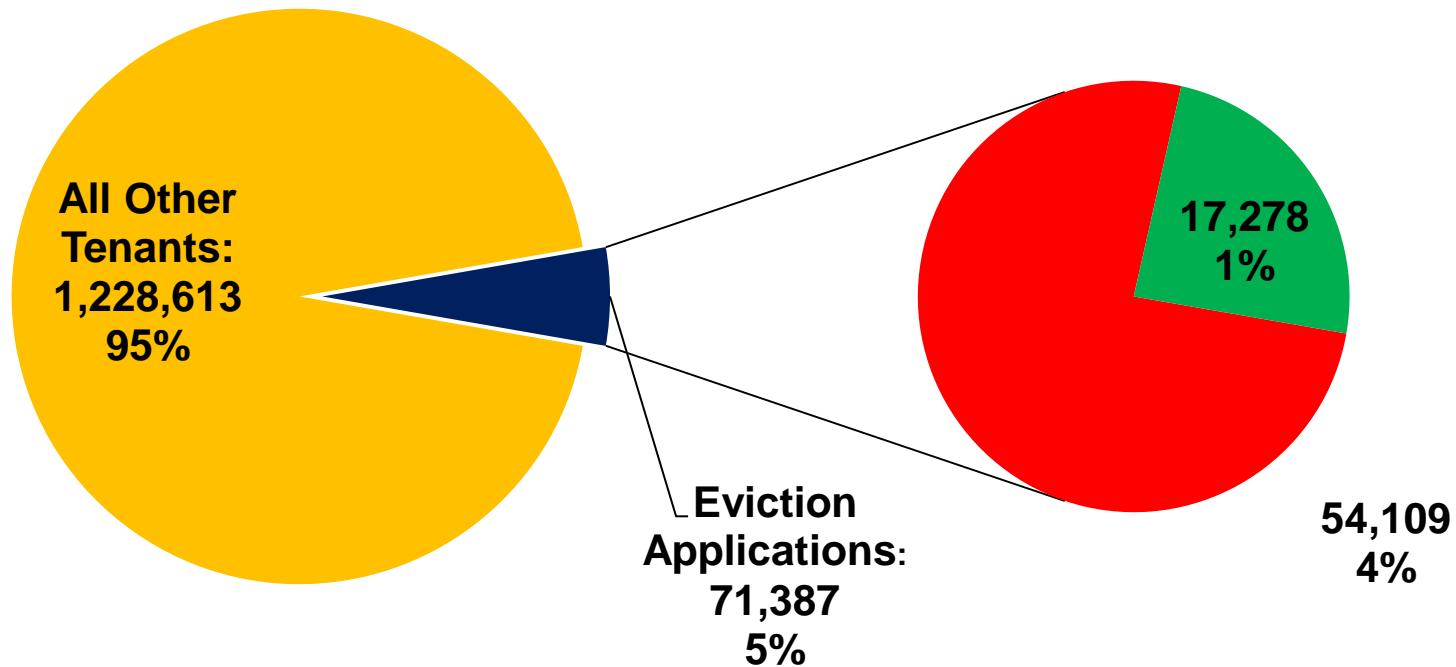


- **Statutory delays built into the system:**
 - 14 Day N4 Delay
 - 11 Day Sheriff Enforcement Delay
- **Efficiency Delays/Backlogs:**
 - 30 Days to schedule a hearing at LTB
 - 5 Days to wait for eviction order from LTB
 - 20 to 40 days to schedule a sheriff
- **Strategic Delays:**
 - Section 82 adjournment can add 30 days

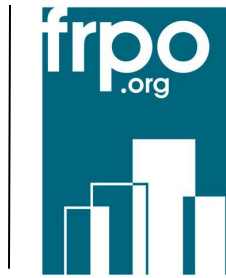
Very few tenants receive eviction applications



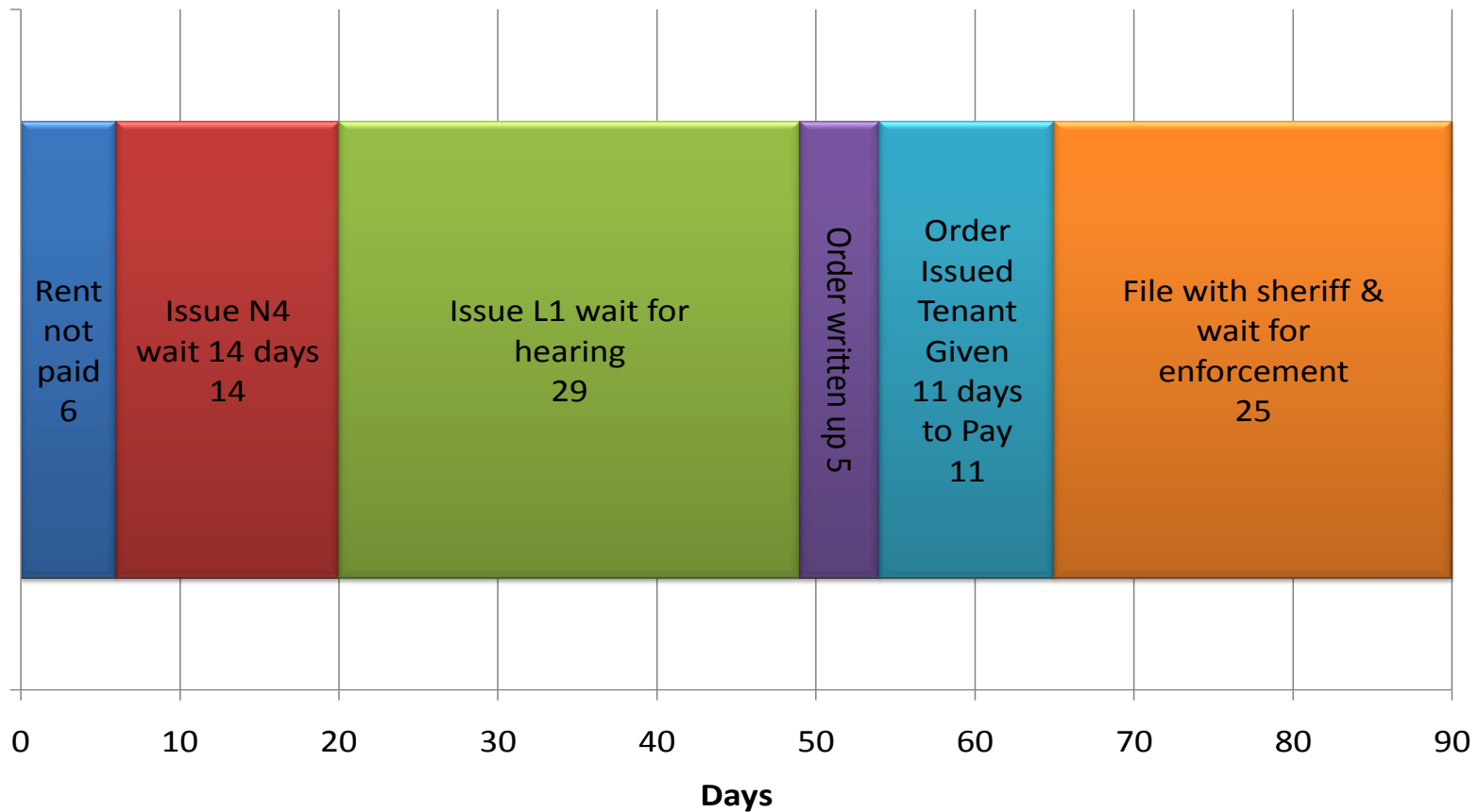
- All Other Tenant Households
- Nonpayment of Rent
- Other Applications



Ontario Eviction Process: 90+ Days

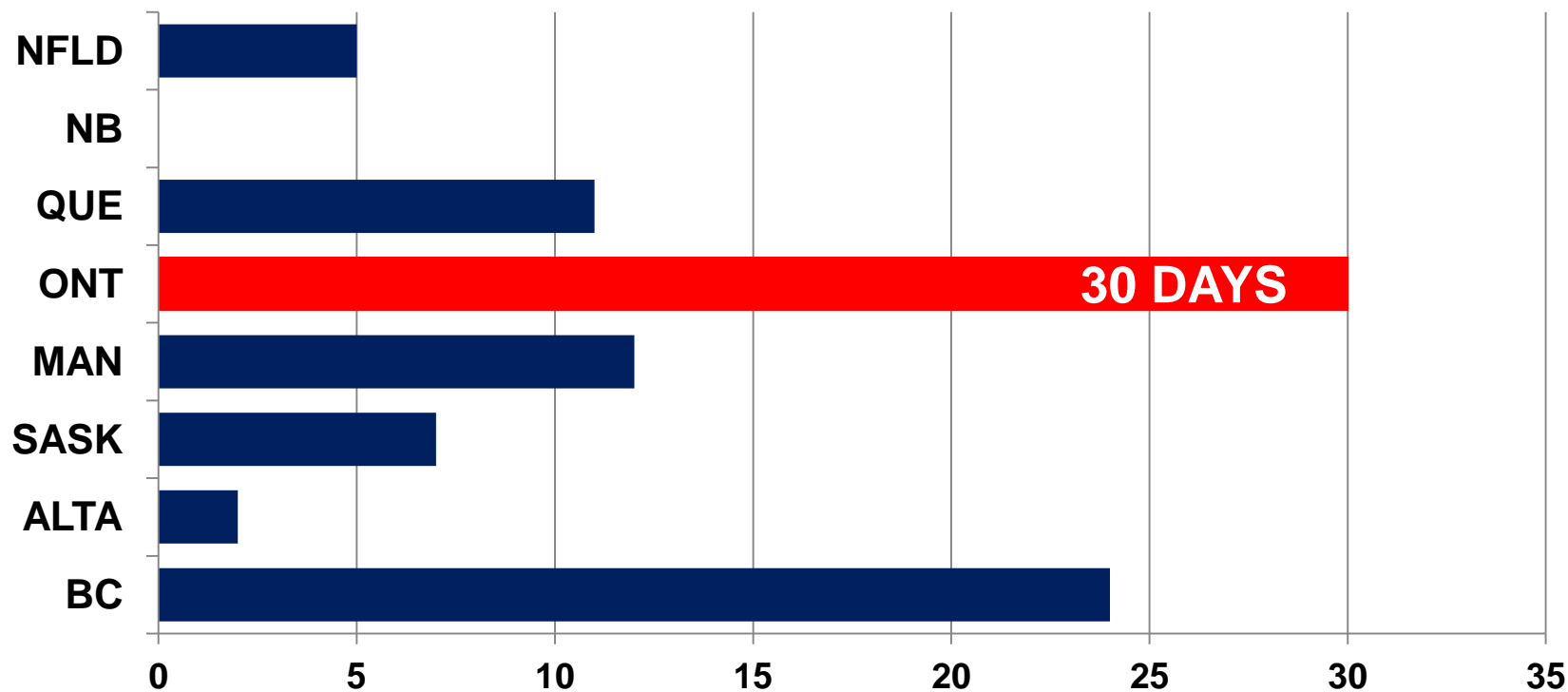


Typical Eviction Process in Ontario



Ontario has longest delays

Hearing Delays by Province

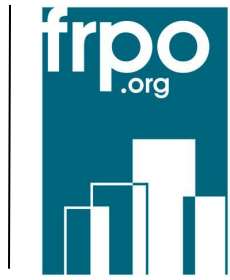


Number of Days to Schedule Eviction Hearing

The Costs of Delay

- **Lost Rent = \$2,700**
- **Application Fee = \$170**
- **Legal / Agent Fees = \$360**
- **Sheriff's Fee = \$315**
- **Landlord's time = \$?**
- **Re-leasing costs = \$1,200**
- **Total Costs = \$4,745+**

Fixing the Rent Dispute Process



Solutions:

- Reduce 14-Day N4 Delay to 5-Days
- Allow landlords to apply for Sheriff immediately after getting order
- Ensure LTB streamlines the process
- Allow telephone hearings (e.g. B.C.)
- Require tenants to file applications, no “trial by ambush”, stop frivolous adjournment requests

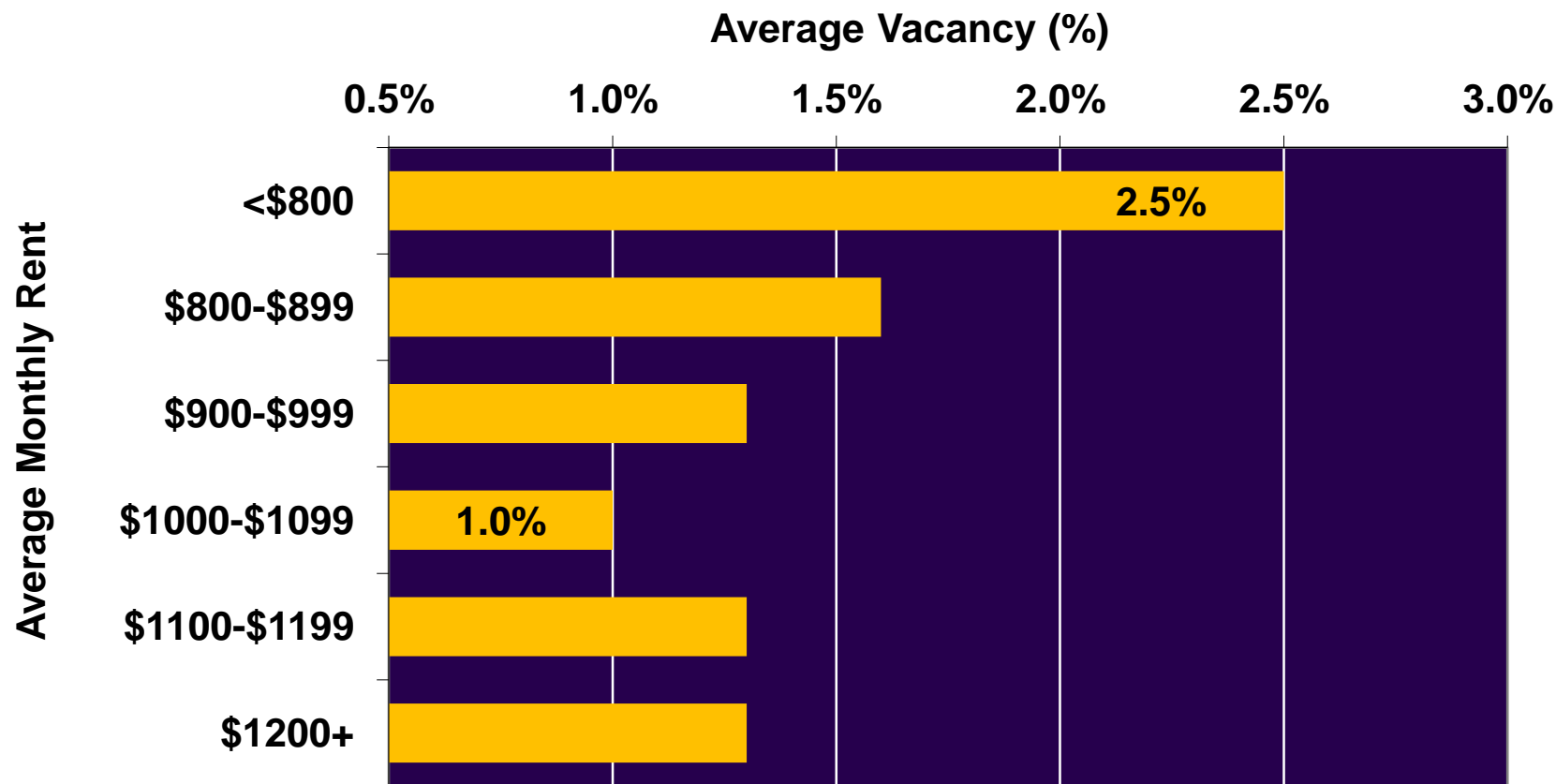
Housing Affordability and Supply



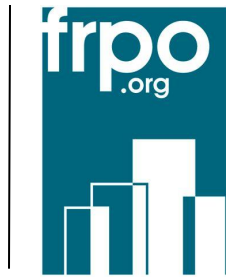
Most Apartment Availability at Lowest Rents



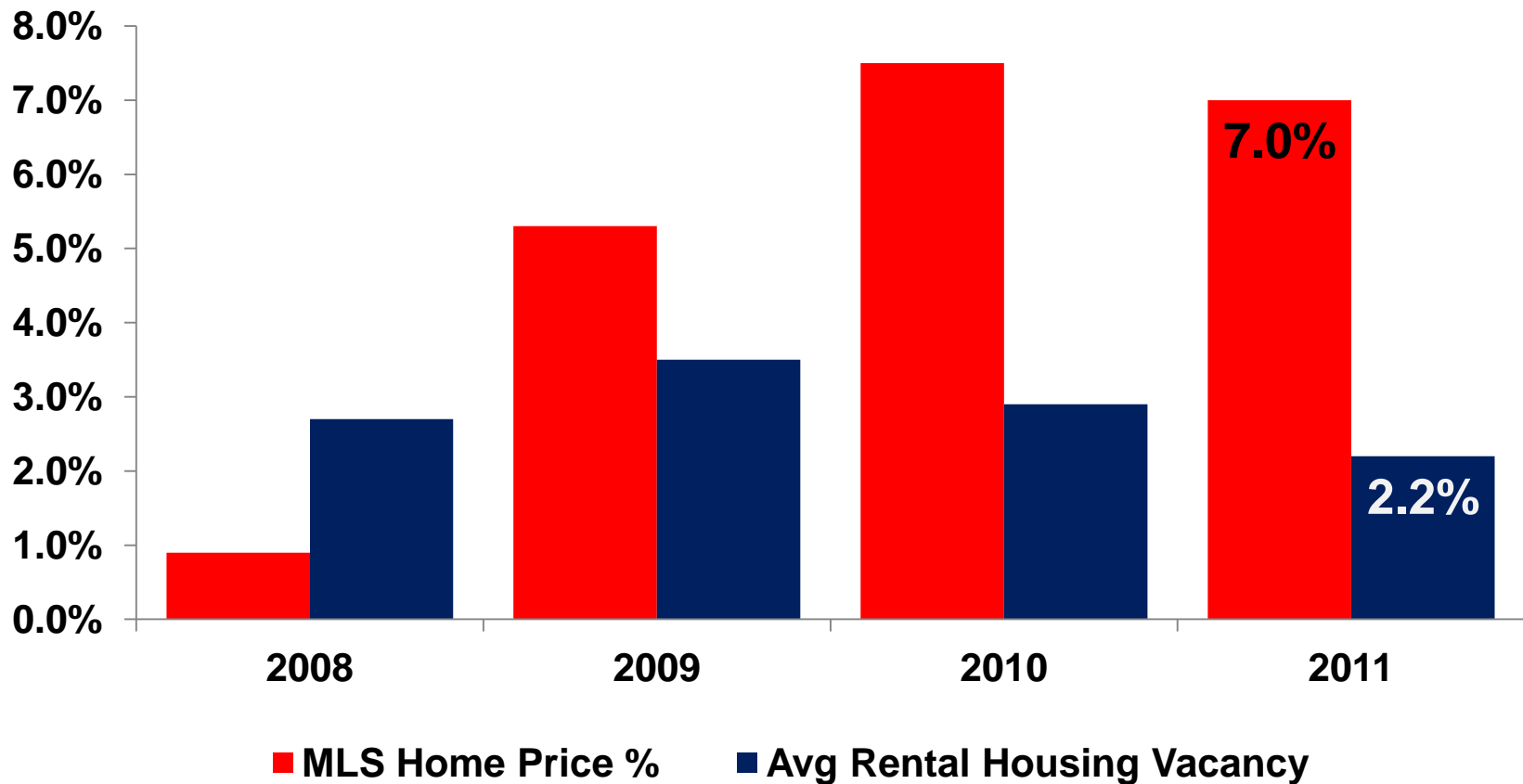
Vacancy and Rent Ranges (Toronto CMA 2011)



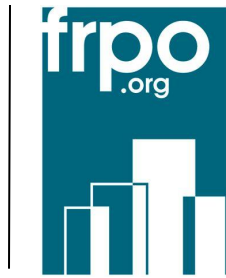
Rising House Prices = Higher Rental Demand



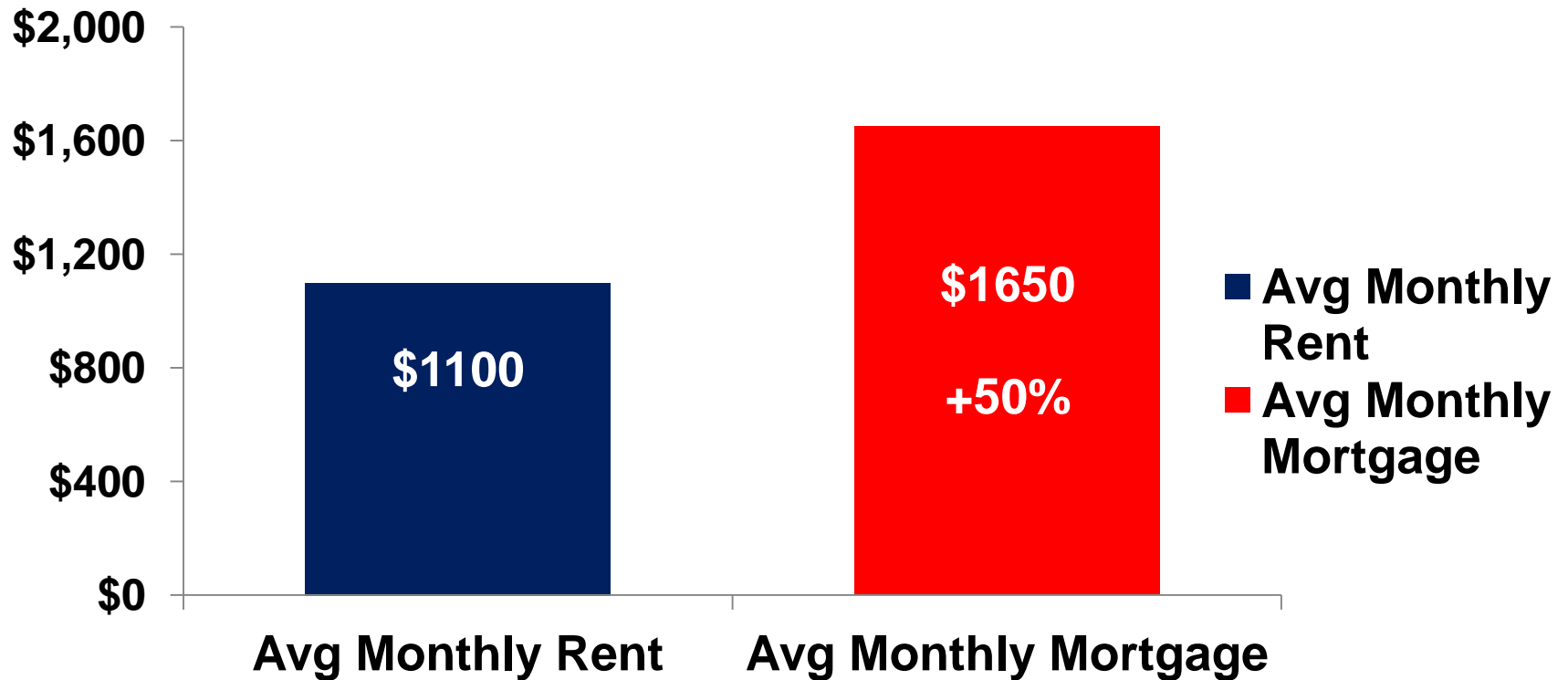
House Price Increase vs. Vacancy Rates



Renting is affordable vs. homeownership

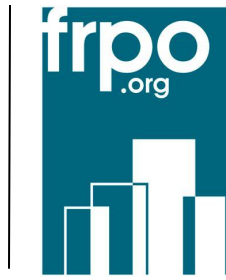


Monthly Cost Comparison: 2-Bedroom Rent vs. \$400,000 Mortgage*

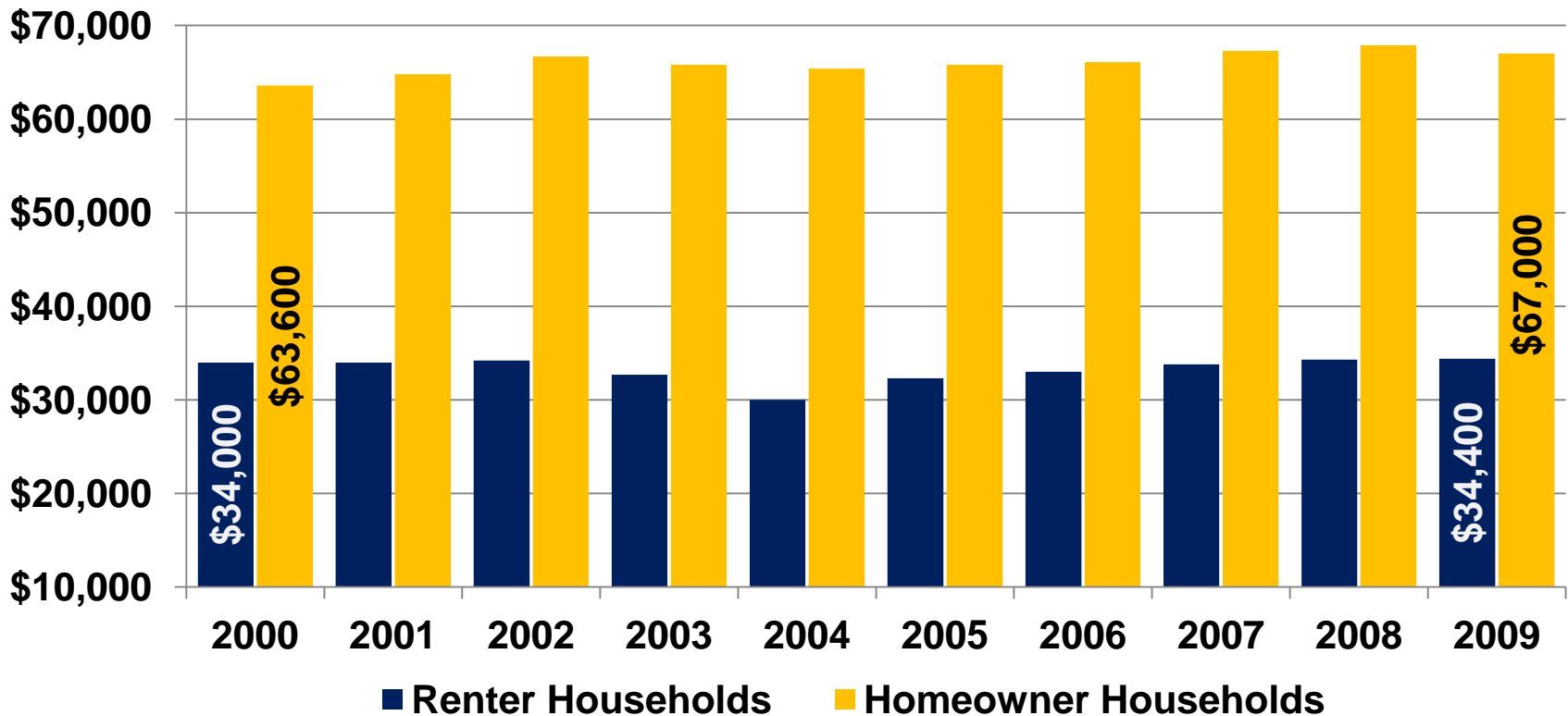


*Based on 30-year amortization and 3.5% interest rate
Source: Toronto Real Estate Board, CMHC Rental Market Report (Toronto CMA)

Main Problem: Renters' Incomes Persistently Low



Real Median Household Income After-Tax
(2009 Constant Dollars)

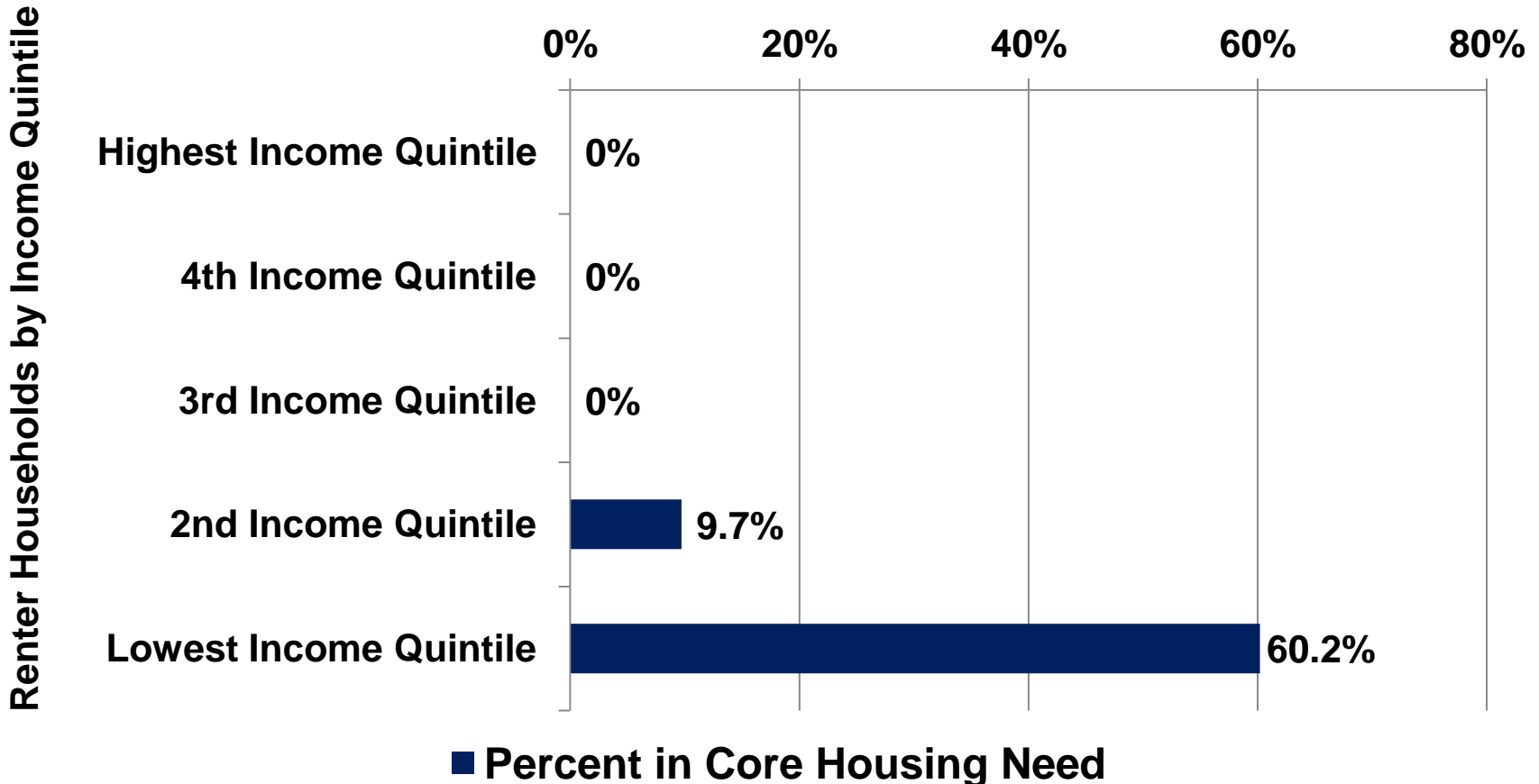


Source: CMHC Housing Observer Data Tables, 2011

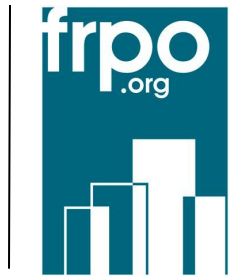
It's the lowest income tenants who need the help...



**Percent in Core Housing Need
(Renter Households, 2007)**



Housing Affordability Solutions



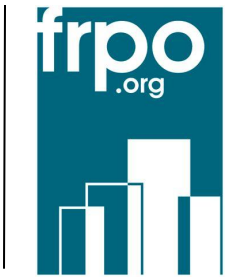
- Social & economic policies should promote income growth
- A monthly Housing Benefit would provide crucial income assistance to the working poor
- Programs like ODSP should provide an adequate shelter component
- Remove government barriers to new housing supply
- ***Rent control has no impact on tenants' incomes & provides a "subsidy" to all tenants, including the majority who have no affordability problem***

Sample Legal Questions

FRPO's Legal Advice Service



Can a Tenant install locks on bedroom doors?



- Section 35 (RTA) prohibits changing the lock on any door giving access to the apartment.
- In principle what happens inside the apartment is the tenant's business. The tenant can install deadbolts on the room doors under the locking rules.
- A different issue could be whether the locks indicate that the tenant is renting out rooms or subletting in violation of the lease.
- Check your local fire code

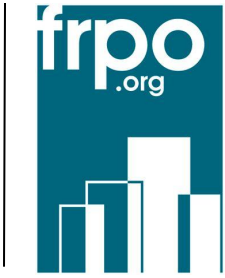
What if I receive an “Excessive Noise Complaint”



- Complaint is from the city by-law office
- QUICKLY cooperate with city by-law staff
- Many municipalities attempt to make landlords responsible for the actions of tenants
- Act promptly against the tenant in question: issuing a warning letter and/or an N5 or an N6, and then pursue an application to the Landlord Tenant Board. By-law violation can be an illegal act.
- If the landlord acts quickly, the city should see your action as not permitting the breach of the by-law.

Air Conditioners: Example 1

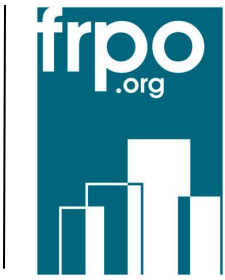
Can I charge for air conditioners?



- Landlord bought a building.
- Some pre-existing tenants have no written lease.
- Landlord wants to charge an extra monthly fee for use of window air conditioners for the pre-existing tenants
- The Landlord has no remedy for existing tenants where there is no lease.
- His only remedy is for damage where AC units are not properly installed, but no relief for increased cost of electricity from the air conditioners

Air Conditioners: Example 2

Are rent rebates required if the air conditioning breaks?



- Could be considered a "loss of service" or "substantial interference" with the residents' reasonable enjoyment of the rented premises
- Could warrant a rent reduction, based on cost of providing air conditioning, or even a significant rent abatement if temperature in the 25 to 32 degree range
- But, no breach if breakdown and interruption in service are due to circumstances beyond the landlord's control, and landlord acts quickly to repair