

Discussion Document

# Investors for Affordable Cities

Responsible Investment in Housing: General Principles and Progressive Framework

APRIL 2023





The Right to Adequate Housing is a human right under the Universal Declaration of Human Rights and a fundamental right under the Canadian National Housing Strategy Act.<sup>1</sup> This document is intended to guide investors in upholding the Human Right to Adequate Housing.

**This document is a draft for discussion and a work in progress. If you have any questions or suggestions regarding the principles or the Investors for Affordable Cities initiative, please contact Tamara Herman ([therman@share.ca](mailto:therman@share.ca)).**

**What this document for discussion includes:**

**1** **General principles for responsible investment in housing: A set of eight general principles to commit and adhere to**

**2** **Framework for Investing in the Human Right to Adequate Housing: A progressive framework of practices and related disclosures.**

**Who this document is for:**

There are many ways in which investors are exposed to residential real estate. These include direct investments, investing in private market funds and holding units in Real Estate Investment Trusts (REITs). The level of investor involvement in the management and operation of assets varies. When investors invest directly in housing, they may operate the assets themselves and/or enter into a partnership with an entity that provides in-house asset management services. In these cases, there are many opportunities to adopt these principles and benchmark their progress with this framework. In cases where an investor holds a minority position in an asset, fund or company, such as units in a REIT, and/or is not implicated in the operation of the asset, it can use its leverage and influence to promote the principles and use the progressive framework to assess and engage the entities in which it invests.

For more information on why housing affordability is an issue of concern to investors and the role that they play in the market, please consult our background document [Investors for Affordable Cities: Responsible investment and affordable rental housing in Canada](#).



# General principles for responsible investment in housing

**1** Make a policy commitment to respect the Human Right to Adequate Housing (“right to housing”), in line with the responsibilities of businesses and investors under the UN Guiding Principles on Business and Human Rights (UNGPs) and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises

Adequate housing is a human right under the Universal Declaration of Human Rights.<sup>i</sup> The UNGPs establish that businesses – including institutional investors – should respect human rights.<sup>ii</sup> The Office of the United Nations High Commissioner for Human Rights (OHCHR) and the OECD provide guidance for institutional investors that specify their responsibilities to prevent or mitigate human rights impacts with appropriate actions according to factors such as asset class, investment strategy and position in a portfolio.<sup>2</sup>

i The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognize the right to adequate housing as a human right. See: Office of the UN High Commissioner on Human Rights. (n.d.). The Right to Adequate Housing, Fact Sheet No. 21/Rev.1. [https://www.ohchr.org/documents/publications/fs21\\_rev\\_1\\_housing\\_en.pdf](https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf)

ii OHCHR. (2011). Guiding Principles on Business and Human Rights. [https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

## **2 Incorporate the right to housing into responsible investment and environmental, social and governance (ESG) frameworks**

Many institutional investors have responsible investment frameworks that provide direction in incorporating ESG factors and considerations into their investment decision-making and stewardship as a way to better manage risk, generate sustainable long-term returns and align their investments with the broader objectives of society. These ESG frameworks should be oriented to promote the right to housing in residential real estate investments in public and private markets.

## **3 Do not invest in strategies that are dependent upon the exploitation or displacement of low-income tenants**

Academic research, housing advocates and media reports have documented how certain investment strategies have been linked to practices that systematically outprice, evict or displace low-income tenants in order to attract tenants that can pay higher rents.<sup>3</sup> Investors should assess human rights risks in the pre-investment phases when considering real estate investment strategies that depend on pursuing high turnover rates and/or repositioning. They should monitor and review their benchmarks and/or expected rates of return to ensure that they are not driving allocations to investment strategies that are dependent upon these practices.

## **4 Ensure that the principles of equality and non-discriminatory access to adequate housing are considered at every stage in the housing investment process**

The right to housing includes the right to be free from discriminatory laws, policies, measures and practices, including – but not limited to – freedom from discrimination when renting housing, discriminatory planning and development processes that facilitate forced evictions of people from equity-seeking communities<sup>iii</sup> and developments that establish spatial segregation based on socio-economic status.<sup>4</sup> Investors should ask the operators of their assets to formally commit to providing equal treatment in housing without discrimination and harassment, establishing appropriate policies, guidelines and processes.

## **5 Encourage resident participation in an active and meaningful way in decisions related to their housing**

The realization of the right to housing requires the meaningful participation of residents in decisions that affect their lives.<sup>5</sup> Tenant engagement in processes such as retrofits and renovations helps ensure that investments that add value to an asset also benefit those whose rents sustain its operation. When investing in new housing developments, investors can maximize their positive impact by supporting participatory planning and allocating to initiatives that sustain the local economy in all phases – through design, development, construction and operation.

iii Including Indigenous people, persons with disabilities, persons on social assistance, (im)migrants, LGBTQ+, youth, Indigenous people, racialized people, women and families with children, and religious minorities.

## 6 Publicly disclose the ownership of residential real estate assets

Disclosing private market real assets and/or direct investment is a step that investors can take to foster transparency, clarity and accountability around investments in housing.

## 7 Identify opportunities to allocate capital to innovative affordable housing initiatives

Affordable rental housing initiatives offer investors an opportunity to generate risk-adjusted returns while contributing to alleviating the housing crisis. Responsible investors in residential real estate can commit to exploring these opportunities and evaluating their impact using tools such as SHARE's *Framework for Investing in the Human Right to Adequate Housing*.

## 8 Responsible contracting and procurement

Investors should ensure that all operators and contractors uphold fundamental labour rights<sup>iv</sup> and promote responsible employment practices, including fair wages and benefits, for construction workers, service industry employees and all other workers employed in the development, construction and management of a residential asset. Responsible investors should encourage contracting and procurement that generates decent work and opportunities for historically disadvantaged communities and equity-seeking groups, including those with connections to the local communities and neighbourhoods where the asset is located.



<sup>iv</sup> Fundamental labour rights are enshrined in the [International Labour Organization \(ILO\) Core Conventions](#), the [ILO Declaration on Fundamental Principles and Rights at Work](#), and the [UN Universal Declaration of Human Rights](#).



# 2 Framework for Investing in the Human Right to Adequate Housing

This section provides investors with a progressive framework to uphold the Human Right to Adequate Housing. It is based on three conditions that the UN Human Rights Office of the High Commissioner (UN OHCHR) defines as necessary for housing to be adequate and that the SHIFT Directives from Financialized to Rights-Based Housing identified as pertinent to institutional investment in housing:

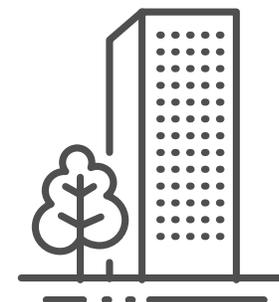
- Affordability
- Security of tenure
- Habitability

These three criteria are interrelated. For instance, tenants require a certain level of affordability in order to enjoy security of tenure. When building habitability is eroded through building neglect and the owner increases rents to invest in upkeep, affordability and security of tenure for the tenant may be eroded.

We propose a set of responsible investment practices for each of these three conditions. The practices are divided into three levels or “steps” that build upon each other in a progression. Every step contains actions that investors can take to act on their human rights responsibilities. The left-hand column represents “baseline practices” or initial steps, with the columns to the right building into “leading practices” with more progressive and impactful measures. Some steps in the framework are accompanied by suggested disclosures to benchmark and track progress. The disclosures are cumulative in that investors who are progressing through the framework should provide or request from investee companies the disclosures listed in the preceding columns.

In some sections, we propose distinct actions for “all buildings” and “new buildings,” or assets in the pre-development through the construction phases, prior to project completion and occupancy. This is because different types of assets may expose investors to distinct human rights risks.

**1 Affordability:** Housing is not adequate if its cost threatens or compromises the occupants' enjoyment of other human rights.<sup>6</sup> This framework defines "affordability" as consistent with the Canada Mortgage and Housing Corporation (CMHC) definition: housing that costs less than 30% of a household's before-tax income based on local demographic data.<sup>v</sup> Because urban homeowners have double the income of renters,<sup>7</sup> we recommend renter household incomes as the local demographic dataset.



### Affordability: All buildings

| Baseline Practices   | →   | Leading Practices  |
|--|---|--|
| <p>Make a policy commitment to housing affordability.</p> <p>Monitor how rents in all assets compare to local renter household incomes.</p> <p>Define affordability targets that outline how many units will be affordable, at what level and at what point in time.</p>   | <p>Establish affordability targets that rent a portion of units at less than 30% of local renter household incomes.</p> <p>Establish rent increase limits in all assets in all jurisdictions, including those with weak or no rent controls, for lease renewals, unit turnovers, "enhanced" turnovers and repositioned units.</p> | <p>Establish affordability targets for all assets in all jurisdictions at less than 30% of local renter household incomes and adjust rent increase limits accordingly.</p> <p>Require that rent increase limits be included in any sale or asset transfer agreement.</p> |
| Disclosures  |   |  |
| <p>Disclose criteria used to categorize a unit as "affordable housing."</p> <p>Disclose average rents per square foot in all assets, segregated by municipality.</p> <p>Disclose target rent increases for:</p> <ul style="list-style-type: none"> <li>• lease renewals (in jurisdictions, zones or assets not subject to rent control);</li> <li>• turned over units;</li> <li>• repositioned units.</li> </ul> | <p>Disclose average rent increases (by percentage), segregated by municipality, across all assets for:</p> <ul style="list-style-type: none"> <li>• lease renewals;</li> <li>• turned over units;</li> <li>• repositioned units.</li> </ul>   | <p>Disclose annual affordability progress report.</p>  |

<sup>v</sup> The appropriate demographic data set used to benchmark affordability is an area of discussion. SHARE will be producing a guidance for investors on this topic in 2023.



### Affordability: New buildings<sup>vi</sup>

In addition to the practices and disclosures in the preceding (“All buildings”) section:

| Baseline Practices  | →   | Leading Practices  |
|---|---|--|
| <p>In all jurisdictions, including those with weak or no rental replacement policies, document the number, size, rent per square foot and type of any rental unit demolished or converted to build new buildings.</p>   | <p>In cases where affordable units are demolished to build a new building, designate an equivalent number of units, based on size and type, as “replacement units.” Establish rents for these units at a rate consistent with the original units they replaced.</p> | <p>Establish partnerships to render a portion of units accessible to tenants in core housing need.<sup>vii</sup></p>         |
| Disclosures   |   |  |
| <p>Disclose participation in any government initiative, at any level, aimed at incentivizing the construction of affordable housing stock.</p> <p>Disclose the number, size, rent per square foot and type of any rental unit demolished or converted to build new buildings.</p> | <p>Disclose number of designated replacement units.</p> <p>Disclose average rents per square foot in all units designated as replacement units.</p>   | <p>Disclose how many units are accessible to tenants in core housing need on a per-building and/or portfolio-wide basis.</p> |

vi “New buildings” refers to assets in the pre-development through the construction phases, prior to project completion and occupancy.

vii <https://www.cmhc-schl.gc.ca/en/professionals/housing-markets-data-and-research/housing-research/core-housing-need>

**2 Security of tenure:** Housing is not adequate if its occupants do not have a degree of tenure security which guarantees legal protection against forced evictions, harassment and other threats.<sup>8</sup>



### Security of tenure: All buildings

| Baseline Practices  | →   | Leading Practices  |
|---|---|--|
| <p>Make a policy commitment to ensure that tenants are not subjected to intimidation, harassment, or discrimination.</p> <p>Make a policy commitment to pursue evictions for non-payment of rent as a last resort.</p>                | <p>Provide any tenant that was evicted solely to facilitate renovations or upgrades with access to remedy, which may include adequate compensation and/or the option to reacquire a similarly sized rental unit at the original site, at a rent that is consistent with their original rental agreement</p>   | <p>Establish accommodations such as rent deferral or rental assistance programs to avoid evictions due to non-payment of rent in cases where tenants are facing homelessness and/or housing precarity.</p> |
| Disclosures   |   |  |
| <p>Disclose the number of citations, fines or settlements related to tenant complaints alleging intimidation, harassment or discrimination.</p> <p>Disclose target turnover and reposition rates.</p> <p>Disclose eviction rates.</p> | <p>Disclose how many evictions were contested by tenants at residential tenancy boards and how many of these cases were settled in the tenants' favour.</p> <p>Disclose how many tenants were provided with the following remedies after being evicted for renovations or upgrades:</p> <ul style="list-style-type: none"> <li>• adequate compensation; or</li> <li>• the option to reacquire a similarly sized rental unit at the original site, at a rent that is consistent with their original rental agreement.</li> </ul> | <p>Disclose accommodations, such as rent deferral or rental assistance, used by tenants.</p>   |



## Security of tenure: New buildings

| <b>Baseline Practices</b>   | →   | <b>Leading Practices</b>   |
|---|---|--|
| <p>Assess potential human rights risks and impacts of any development or redevelopment that will result in the demolition or conversion of any existing rental units.</p> | <p>Make a policy commitment to avoid permanently displacing any tenant living in a building that will be demolished or converted to build a new building.</p> | <p>Offer tenants of buildings demolished or converted to build a new building the right to return to the same size and type of unit at a rent a rate consistent with the original units they replaced and with annual rent increases that meet rent increase guidelines.</p> |
| <b>Disclosures</b>  |   |  |
| <p>Disclose the number of tenants that will be displaced for any new building.</p>  |   | <p>Disclose number of tenants who were offered replacement units.</p>  |

**3 Habitability:** Housing is not adequate if it does not guarantee physical safety or provide adequate space, as well as protection against the cold, damp, heat, rain, wind, other threats to health and structural hazards.<sup>9</sup>



**Habitability: All buildings**

| <b>Baseline Practices</b>   | ➔  | <b>Leading Practices</b>   |
|---|--|--|
| <p>Make a policy commitment to properly maintain assets in accordance with relevant legislation and regulations.</p> <p>Make a policy commitment to address tenant concerns regarding maintenance and/or habitability in a timely manner.</p> <p>Establish a formal tenant complaint policy and mechanism.</p>  | <p>Offer access to remedy for tenants who are temporarily displaced or evicted to accommodate maintenance and/or related renovations.</p> <p>Adequately provide for capital expenditures for the maintenance of units within a rental pricing framework that does not lead to economic evictions or the displacement of tenants.</p> | <p>Make a policy commitment to avoid applications for rent increases that exceed annual provincial/territorial allowable rent increases (such as “Above Guideline Rent Increases” or “Additional Rent Increases”).</p> |
| <b>Disclosures</b>  |  |  |
| <p>Disclose the number of citations, fines or settlements for violations of standards of maintenance, health, safety, and related bylaws or regulations.</p> <p>Disclose how many maintenance requests were received and addressed per rental unit and the average response times.</p> <p>Disclose number of complaints received and addressed through complaint mechanism.</p> | <p>Disclose remedy or compensation provided to tenants for reasons related to maintenance or habitability.</p> <p>Disclose the number of applications for rent increases that exceed annual provincial/territorial allowable rent increases (such as “Above Guideline Rent Increases” or “Additional Rent Increases”).</p>           |  |



- 1 The Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights recognize the right to adequate housing as a human right. See: Office of the UN High Commissioner on Human Rights. (n.d.). The Right to Adequate Housing, Fact Sheet No. 21/Rev.1. [https://www.ohchr.org/documents/publications/fs21\\_rev\\_1\\_housing\\_en.pdf](https://www.ohchr.org/documents/publications/fs21_rev_1_housing_en.pdf)
- 2 OECD. (2011). *OECD Guidelines for Multinational Enterprises*. <http://mneguidelines.oecd.org/guidelines/>; OHCHR. (2013). *Request of the Chair of the OECD Working Party on Responsible Business Conduct*. <https://www.ohchr.org/Documents/Issues/Business/LetterOECD.pdf>
- 3 For example, Office of the Federal Housing Advocate. (September 08, 2022). Corporate investment in housing linked to unaffordable rents, evictions, and long-term care deaths. <https://www.housingchrc.ca/en/corporate-investment-in-housing-linked-to-unaffordable-rents-evictions-and-long-term-care-deaths-study>; Luck, S., Pierce, M., Angelovski, I. & Malik, S. (2022). Why Canada is losing affordable rental housing faster than it's being built. *CBC News*. <https://www.cbc.ca/news/canada/financialization-and-canadian-renters-1.6378257>; Dobby, C. (2021). The big business behind the affordable rental housing crunch. *The Toronto Star*. <https://www.thestar.com/business/2021/03/06/the-big-business-behind-the-affordable-rental-housing-crunch.html>; Cardoso, T. & Dingman, S. (December 19, 2019). Eviction factories: How Ontario's tenants get trapped in a never-ending cycle with landlords. *The Globe and Mail*. <https://www.theglobeandmail.com/canada/toronto/article-toronto-ontario-housing-rental-eviction-data-landlords-tenants/>; Herman, T. & Ruiz, G. (2021). Investors for Affordable Cities. *SHARE*. <https://share.ca/wp-content/uploads/2021/10/SHARE-InvestorsForAffordableCities-2021.pdf>
- 4 <https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/SubmissionsCFIhousingdiscrimin/CERA-NRHN-SRAC.pdf>
- 5 <https://www.refworld.org/pdfid/47a7079a1.pdf>
- 6 [https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf)
- 7 Statistics Canada (2022). Canadian Housing Statistics Program, 2019 and 2020. <https://www150.statcan.gc.ca/n1/daily-quotidien/220412/dq220412a-eng.htm>
- 8 [https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf)
- 9 [https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Housing/Guidelines_en.pdf)