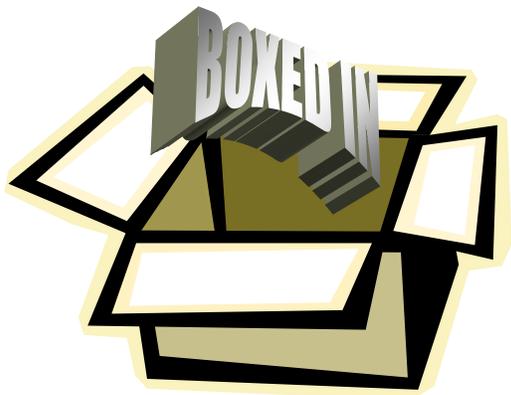




BAFFLEGAB

Community Advocacy & Legal Centre Newsletter

Boxed In: The Affordable Housing Crisis in Hastings County



Preliminary results of the Affordable Housing Research Project were released to a community forum in June 2004. The Project Report includes detailed analysis of survey responses from almost 800 individuals and over 100 agencies. Also included is a

Inside This Issue you will find articles about:

- Legal Rights
- Law Reform & Systemic Advocacy Activity
- Community Development Activities: Working With Our Community
- Where Else Can You Go For Help?
- What's New at the Clinic?

demographic portrait of the different communities that make up Hastings County and innovative ideas from other communities. It also sets out extensive recommendations on how we could tackle this complex issue locally. A key recommendation is for a community-based Affordable Housing Action Network to be formed immediately to carry out a comprehensive, pro-active and innovative Action Plan.

The Report details the level of the homelessness and affordable housing crisis in Hastings County. The extent of invisible homelessness (people who have no place of their own but are not staying on the streets or in a shelter) is startling.

More than 100 respondents, representing almost 300 persons, self-identified as homeless and 50% of those respondents further reported that there were other times in the past when they did not have a place of their own. Among the housed, one-third of respondents representing 239 households, report that during the past 3 years they needed to stay with friends, family or in a shelter because they had no home of their own. (cont'd on page 6)

Local Forum Looks at Ontario's Welfare System and Abused Women

The clinic will be sponsoring a forum on November 4 at 7:00 p.m. at Eastminster United Church in Belleville about the "Walking on Eggshells" report. This report calls on the Government of Ontario to make substantial changes to Ontario's welfare system to better serve abused women. It concludes that abused women have profoundly negative experiences with the welfare system.

Professor Janet Mosher, author of the report states "what is disturbing in the report is the many parallels that women draw between being on welfare and being in an abusive relationship. The expression – "walking on eggshells" is an expression that some of the women we interviewed used - having to tread carefully and always being a little apprehensive because you are going to get cut off or you are going to get hit."

Our panel will include Professors Janet Mosher from York University and Margaret Little from Queen's University, Nancy VanderPlatts, a community research partner, and Donald Simmons, a local social worker who was on the Advisory Committee. The audience will have a chance to share in the discussions and ask questions.

Free childcare and refreshments will be provided. If you require an interpreter, please call Lynda at the clinic at 966-8686, ext. 25, by November 1, 2004.

**Your Help Is Needed!!
Please Complete Our
Enclosed Survey.**

We hope you will be able to take the time to complete the short survey included with this newsletter. We are trying to do two things with it.

First, we want to find out whether our newsletter is useful to you. What are your ideas on how it can be improved? Your opinions are important to us.

Second, we want to find out whether you are interested in learning more about the laws that affect you or your clients. The survey attempts to gauge your interest in a project we are proposing (perhaps in honour of the clinic's 25 anniversary) for a "lay advocacy" or community legal education workshop series for clients, community members and service providers. Part of the training will be internet-based and will include an introduction to our clinic's web site which we hope to have operational by January 2005.

Thanks in advance for helping us out! You can return it to us by mail, by dropping it off at our Belleville office or by faxing it to us at 613-966-6251.

*Michele Leering, Executive
Director/Clinic Lawyer*

Overpayment Recoveries

Overpayment issues are a priority issue for our clinic, as we continue to get calls from people receiving Ontario Works (OW) and Ontario Disability Support Program (ODSP) benefits who are concerned about the correctness or fairness of overpayment decisions, the accuracy of their outstanding balance, or the fairness of arbitrary reductions of benefits without regard to their ability to pay. Many cannot get any explanation of the reason for the alleged overpayment, or why they still owe money after paying for years. We help people challenge these overpayments by requesting an internal review, and appealing to the Social Benefits Tribunal.

People are often successful in reducing the monthly burden of overpayment deductions, or by reducing or eliminating their overpayment debt, **but only if they challenge these decisions.**

One common problem is that people fail to respond (within the very short time limits) to OW and ODSP decisions to assess or increase overpayments by filing a request for internal review or appeal. Or sometimes they may never have received notice of these decisions, may not have been advised of their rights to request review and appeal, or may not understand the importance of challenging

these decisions (particularly if they receive many apparently similar notices). Or they may not believe that anything can be done about these decisions.

Since you may lose the right to some potential remedies if you don't meet time periods for reviews and appeals, anyone with overpayments should get legal advice as soon as possible!

We are very concerned about this issue because of the unfairness we've seen and the already desperate financial plight of our clients. We are working with other legal clinics to try to change government practices and laws through test case litigation and lobbying. The newly formed "Overpayments Working Group" will be meeting with senior civil servants at the Ministry of Community and Social Services in late September. Litigation strategies are also in development.

Although most of our current cases deal with overpayment collection against current recipients (because the government can collect from them by reducing their benefits) there is a strong possibility this may soon change. We have heard the government intends to aggressively pursue recovery against former recipients, who may not have any greater ability to afford to repay than current

social assistance recipients or who will disagree that they even owe any money.

John McKean, Clinic Lawyer

Special Diet Allowance for People Who Receive Social Assistance



A special diet allowance is available for recipients of Ontario Works (OW), Ontario Disability (ODSP), and members of their family who receive benefits under these programs. For ODSP, there is a form available from the ODSP office which a doctor or dietician must sign. ODSP pays the doctor or dietician \$20. There is no special form for OW and no payment by OW – the doctor or dietician can sign a brief note or letter. It is important that the exact type of special diet is listed.

Examples of special diet are:

- milk/dairy free
- bottled water
- pregnancy diet
- breastfeeding diet

- high calorie (either less than 3000 kcal or greater than 3000 kcal)
- prepared supplements such as Ensure, Boost, Carnation Instant Breakfast
- cranberry juice
- diabetic
- iron rich diets
- organic diet
- vitamin/minerals and herbal supplements

For more information contact your OW or ODSP office. If you are refused a special diet, contact the clinic for advice as you can appeal this decision.

Mary M. McCormick, Clinic Lawyer

Increase in ODSP and OW Rates

The announced 3% increase in these rates is delayed due to problems with the Ministry of Community and Social Services computer system. The rates will be increasing as of March 1, 2005. As examples of the increase, a single disabled person will receive a maximum of \$959 (an increase of \$29) monthly, and a single person on OW will receive a maximum of \$536 (an increase of \$16) monthly under the new rates.

Because of this delay, the Ministry has announced that OW and ODSP clients will receive two lump sum payments

in 2004. Single recipients on ODSP will receive \$110 in September and \$110 in November, and families on ODSP will receive \$200 in September and \$200 in November. Single recipients on OW will receive \$65 in October and \$65 in December and families on OW will receive \$130 in October and \$130 in December.

Mary M. McCormick, Clinic Lawyer

Hastings County Social Services Department - Policy Changes for Medical Travel

We have been informed by the Hastings Social Services Department that they are reassessing the policy which determines how they calculate payments for medically necessary travel, which is a mandatory benefit for Ontario Works recipients. We intend to meet with the Department to provide input on this new policy, although some changes have been implemented already.

In at least one case, this has resulted in a significant reduction in benefits. We intend to challenge these decisions legally. Please call the clinic if you are receiving less money.

John McKean, Clinic Lawyer

New Legal Information Pamphlets

As part of a series produced by Community Legal Education Ontario, the following new pamphlets are available at the legal clinic:

- "Social Assistance: - Participation Agreements and Your Ontario Works Benefits" (July 2004)
- "Community Start-Up Benefit" (July 2004)
- "Disability Benefits in Ontario: Who Can Get Them, How to Apply" (July 2004)
- "Getting an Inheritance When You Are On Ontario Disability Benefits" (June 2004)

Contact the clinic for your free copy or view/obtain online at www.cleo.on.ca

Clinic Expands Services in Workplace Rights

The labour force has changed drastically over the last decade. More and more people are working in precarious employment--for temporary agencies, part-time, "on contract" and "as needed." In many cases these workers' rights are poorly respected, and they have no access to legal assistance.

The clinic is responding to this emerging demand by expanding its service in workplace rights for low income workers. We provide service in cases of wrongful dismissal, health and safety, employment standards, human rights and workplace injuries.

We are also available to provide legal education workshops to groups of low income workers and to service providers about employment rights. Please respond to the enclosed survey if you are interested in attending a workshop.

David Little, Clinic Lawyer

When Are You Eligible for Ontario Disability Benefits?

When someone is found to be disabled and eligible for assistance under the Ontario Disability Support Program, there are rules regarding the "date of grant". Retroactive benefits are paid back to this date of grant.

The date of grant is usually very soon after the Disability Adjudication Unit (DAU) has received the fully completed application.

We have been finding that the date of grant by the Ministry of Community and Social Services

is in some cases later than the date of grant we expect. Often this is because the DAU has taken more than 4 months to make its first decision.

If you have just been granted benefits and have any questions about the date of grant, you should call the clinic immediately for advice. In some cases, there may be good grounds for a complaint to the Ministry or the Ombudsman or other action. A disabled person should not receive less money because the DAU is behind in its work.

Mary M. McCormick, Clinic Lawyer

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If you would like to support the clinic by becoming a member or if you would like additional copies of **Bafflegab**, please contact the clinic.

The information in this newsletter is not meant to be taken as legal advice. If you have a legal problem in any of the areas of law mentioned in the newsletter, you should contact the clinic in your area.

Spouse-in-the-House Victory



Anti-poverty activists are praising the government's decision to drop an appeal to the Supreme Court of Canada that sought to undermine the rights and dignity of single women on social assistance.

In 1995, as part of their drastic welfare reform, the previous government changed the definition of spouse so that two people were presumed to be spouses as soon as they were living together. The previous definition of spouse allowed people to live together for three years before they were characterized as spouses, unless they had children together. It matched the definition of spouse under the *Family Law Act*. As a result of this change in definition, more than 9000 recipients, almost all of them women, lost their social assistance benefits.

In 1995, Sandra Falkiner and three other single mothers challenged the definition of spouse, with the assistance of the legal clinic system and pro bono counsel. All of the women had previously experienced abuse in the past and were cautious about establishing new relationships.

"Many women start to develop relationships - that doesn't mean that the man automatically becomes responsible for the women and her children," says Falkiner. "Women should not be forced into financial dependence that they don't want and is not appropriate. The definition of spouse assumed that any man who happened to stay overnight was supporting the woman he was visiting. This definition was insulting and unfair to women receiving social assistance. The decision to drop the appeal is the first step towards restoring dignity to those who are financially disadvantaged."

Falkiner and the other women argued that the definition of spouse discriminated against them on the basis of sex, marital status and receipt of social assistance. In 2002, the Ontario Court of Appeal agreed that the definition violated the *Charter of Rights and Freedoms*.

This is the first time the Court has recognized that people in receipt of social assistance have been and continue to be subjected to discrimination and unfair treatment because they receive social assistance and therefore, should be protected by the *Charter*.

"The government has done the right thing by dropping the appeal," says Kate Stephenson, one of the lawyers involved in the case. "The next step is to re-establish the definition of spouses as those who have lived together for three years in an intimate relationship, as is the definition in family law." This definition was the law from 1987 to 1995. The current law requires an investigation of the possibility of a spousal relationship after two people have been living together for three months. This law will now be challenged.

*Sarah Blackstock, Research Analyst
Income Security Advocacy Centre*

Our clinic helped organize this legal challenge to this unfair "man in the house" law that applies to people who receive welfare and disability pensions in Ontario. Please contact our legal staff for further advice on how this decision might affect you.

Boxed In: The Affordable Housing Crisis in Hastings County (cont'd from page 1)

The Report with its **call to action** will be released in October. Hard or electronic copies can be requested by calling Diane at the clinic, at ext. 31.

If you are interested in participating in the Action Network or any of the proposed task forces (Advocacy, Awareness and Community Capacity Building or Bricks and Mortar) or local chapters proposed for Belleville, Quinte West, Centre or North Hastings, please leave a message with Diane, at ext. 31. We hope to begin meetings, workshops and forums by November, conditional on obtaining federal government or other funding for a project co-ordinator.

Michele Leering, Executive Director/Clinic Lawyer

Affordable Housing Research Project

Clinic staff prepared extensive submissions to the Affordable Housing Research Project in June 2004.

Staff made a number of recommendations to deal with many housing related issues in Hastings County (including property standards, mobile

home parks, and community start-up benefits), as well as wider issues such as the need for reform of the *Tenant Protection Act* and the Ontario Rental Housing Tribunal.

A copy of our report will be released at a future forum of the Affordable Housing Action Network. For a copy, please call Denise at the clinic, ext. 0.

Gina Cockburn, Clinic Lawyer

Affordable Housing at Risk

Residents of mobile home parks are becoming increasingly concerned about water treatment issues in their communities.

The *Safe Water Drinking Act* will effect these parks as of December 31, 2004. Park owners are being faced with extensive and expensive upgrading to water systems to comply with the legislation.

We have had many calls from concerned residents as property owners attempt to pass along the cost of these upgrades, in many cases without following the procedure set out under the *Tenant Protection Act*.

Mobile home communities provide affordable housing and affordable home ownership opportunities for many. The affordability and viability of this housing option may be

jeopardized by the cost of complying with the legislation.

The Ministry of Environment has indicated it is aware of the problems faced by mobile home communities, however, there is no solution at this time. Clinic staff are involved in a provincial initiative to help solve this problem.

If you have concerns about the water treatment costs in your mobile home community, contact your Member of Provincial Parliament, or the clinic for further information.

Gina Cockburn, Clinic Lawyer

Service Providers Workshops Continue

In June 2004 the clinic presented a workshop called "Tenant Emergencies for Service Providers". The workshop was well received.

We will be hosting another "Service Providers" workshop entitled "**Legal Rights of Low Income Tenants – Spotting the Issues**" on **November 17** in Belleville at the clinic.

We are also willing to bring these workshops to your place of work.

We are willing to present these workshops throughout our service area.

Who Else Can Help?

If you have interest in a repeat of "Tenant Emergencies" or wish to attend the "Spotting the Issues" workshop, please contact Denise, at ext. 0.

Gina Cockburn, Clinic Lawyer

Domino Effect on Tour!!



Our "Domino Effect" play was written by our clinic staff and board members and was performed to an appreciative audience before our Annual General Meeting last fall. The play dramatically illustrates how one misfortune can set off a series of personal disasters plunging a person into poverty and despair.

The play is designed to encourage thought-provoking discussion of how the social safety net fails so many people precisely when they need it most and how this could change.

The play has since been performed by another legal clinic, and in a community college class. It will be performed at the Three Oaks AGM on November 9, at 7:00 p.m. at the library, 223 Pinnacle Street, Belleville, and at a local high school this fall.

If the play would be of use to you or to your agency, please call Diane, at ext. 31. We

would be happy to provide you with the play and help facilitate a discussion afterwards.

David Little, Clinic Lawyer

Board Member Article

What is the Association of Community Legal Clinics of Ontario?

The Association of Community Legal Clinics of Ontario (ACLCO) acts as a voice for the legal clinics in Ontario in working with the main funder of the clinic system, Legal Aid Ontario. The ACLCO also provides information about the community legal clinic system to the rest of the legal community and to the public. Thirteen staff and board members from legal clinics in all four regions of Ontario are elected by the members to serve as the Executive. The ACLCO has one employee, the Executive Director, who provides advice and information to clinic staff and board members on a variety of issues. An important role for the ACLCO is to communicate regularly with Legal Aid Ontario and to advocate for stable and adequate funding for the clinic system.

Clinics from across the province get together in the spring for educational sessions and to

discuss common issues at the ACLCO annual meeting.

Training for board members is offered at that time. I had the opportunity to attend the board training session and ACLCO annual meeting in Toronto, in May of this year. I found it very helpful in increasing my understanding of some of the issues and challenges facing clinics. It was also a chance to learn more about the wonderful work being done by community legal clinics in poverty law and access to justice. Many dedicated staff and board members came together at this event to learn from one another and came away with a sense of renewed energy and direction in working toward common goals.

Cathy McCallum, Board Member

Spotlight on ODSP Issues

Last year the clinic held two meetings in Belleville and one meeting in Bancroft with service providers to discuss problems common to their clients receiving ODSP, including transportation money for attending doctor appointments, community start-up benefits, and spousal issues. Gayle Parks, Manager of our local ODSP office, attended several meetings. We are hoping to have more meetings in late 2004 or early 2005. If you are a service provider and either have an issue you would

What's New at the Clinic?

like discussed or want to ensure you are notified of our next meeting, please call Denise at the clinic, at ext. 0.

Mary M. McCormick, Clinic Lawyer

Changes at the Clinic!

As we mentioned in our last newsletter, our new name "Community Advocacy & Legal Centre" became official in January of this year.

We are still in the process of changing our listing of the Centre publicly from Hastings and Prince Edward Legal Services to the Community Advocacy & Legal Centre. We continue to "carry on business" in both names.

We hope this has not caused any confusion.

Lynda Morgan, Office Manager

Education Law and Non-Profit Corporations - Pro Bono Project

This exciting project will match clients requiring legal service to local lawyers in two selected areas of law, education issues and non-profit corporation matters.

A steering committee has been formed, consisting of a number of local lawyers, an educator and a retired judge.

The project started by providing free legal education to lawyers in Napanee and Belleville in September 2004.

This session provided training to local lawyers so they can provide free legal advice to people having trouble with the education system. For example, lawyers will be able to provide advice about students facing suspensions, expulsions and special education issues. In the late fall we will provide training to lawyers in non-profit corporations law.

If you have a problem involving either of these areas of law, call Lynda Morgan Pro Bono Co-Ordinator, at the clinic, at ext. 25. If you are eligible, you will be referred to a local lawyer for help.

If you are a lawyer wishing to volunteer as part of our referral panel for one of these areas of law, please also call Lynda.

Justice for Children and Youth, one of our partner clinics, have published two pamphlets relating to special education rights and pro bono issues:

- "I am being kicked out of school - what are my rights?";
- "I am a student with special needs. What are my rights with respect to special education".

For copies, please contact Lynda at the clinic, at ext. 25.

Gina Cockburn, Clinic Lawyer

PLEASE JOIN US AT OUR ANNUAL AGM

Our Annual General Meeting will follow the forum "Walking on Eggshells" at 8:30 p.m. on Thursday, November 4, 2004 at Eastminster United Church, 432 Bridge Street East, (corner of Herchimer Avenue and Bridge Street) in Belleville.

See enclosed flyer for more details.

Are you Interested in Standing for Election to our Board of Directors?

We are always looking for new people to help the clinic by becoming members of our Board of Directors. To stand for election to the Board of the clinic, you must be a member of the clinic. To become a member of the clinic, you must live in Hastings, Prince Edward, or Lennox & Addington Counties, agree with the Mission Statement, goals, and objectives of the clinic, and be at least 18 years of age. Please contact a member of the Nomination Committee for more information. You may contact Ken Palmer at 962-6565 or Rasa Baltutis at 478-3368, or just complete and send in the yellow Membership Form enclosed and we will send you a Nomination Form. We hope to see you at our Annual General Meeting!