



Canadian
Environmental Law
Association
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Climate Change and Vulnerable Communities

Clean Air Partnership
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Presentation by:

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CELA's Project

- Ongoing law reform initiative
- Provide legal recommendations on how to address climate change from equity perspective
- Recommendations available on CELA website: [Law Reform: Climate Change Impacts and Vulnerable Communities - Canadian Environmental Law Association \(cela.ca\)](https://www.cela.ca/law-reform-climate-change-impacts-and-vulnerable-communities)

Memo on Municipal Powers

- ***Spraytech v Hudson*, [2001] 2 SCR 241**
 - ‘General welfare powers’
 - Presumption that by-laws passed by municipalities are valid
 - Municipalities can enhance protection provided by other levels of government
 - Provincial legislation in a field “does not oust municipal prerogatives to regulate the subject matter” barring an operational conflict
- ***Shell Canada Products Ltd. v. Vancouver (City)*, [1994] 1 SCR. 231**
 - Municipalities must be given broad jurisdiction
 - Increases efficiency, avoids costs and uncertainty of litigation
- **Provincial legislation: *Municipal Act, 2001; Health Protection and Promotion Act, Planning Act***

Ontario Building Code

- Nothing in the Ontario Building Code or *Building Code Act, 1992* to limit municipal powers
- S.15.1(3) of the *Building Code Act, 1992*

The council of a municipality may pass a by-law to do the following things if an official plan that includes provisions relating to property conditions is in effect in the municipality or if the council of the municipality has adopted a policy statement as mentioned in subsection (2):

1. Prescribing standards for the maintenance and occupancy of property within the municipality or within any defined area or areas and for prohibiting the occupancy or use of such property that does not conform with the standards.
2. Requiring property that does not conform with the standards to be repaired and maintained to conform with the standards or the site to be cleared of all buildings, structures, debris or refuse and left in graded and levelled condition.

Green Roof Recommendation



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- **Benefits**

- Stormwater management; reduced energy usage; reduced urban heat island effect; reduced air pollution

- **Model green roof by-law**

- Authority granted from section 97.1 of the *Municipal Act, 2001*
- Construction on new builds
- Retrofitting older buildings
 - Time limit of 5 years
 - Ensure weight of building may support green roof
 - Payment in-lieu
- Conformance with the *Ontario Building Code* standards

Urban Cover Recommendation

- **Benefits of urban cover**
 - Improvements in air quality; provision of shade; reduction of urban heat island effect
- **Urban cover declines with socioeconomic class**
- **Recommended to implement a Tree Equity Approach**
 - A lower score indicates a greater priority for closing the tree canopy gap in that neighbourhood
 - A higher score indicates that the neighbourhood has acceptable tree equity

OHRC Statement

- **[Ontario Human Rights Commission Statement](#) on Human Rights, Extreme Heat Waves, and Air Conditioning**
- Recognizes access to cooling during extreme heat waves as a human rights issue
- Disproportionate impact of extreme heat on groups protected by the *Human Rights Code*
- Vital service under the *Residential Tenancies Act*
- Improvements in air quality; provision of shade; reduction of urban heat island effect

Maximum Heat By-Law Recommendation

- **Vulnerable populations face higher risks from extreme heat**
 - British Columbia Report “Extreme Heat and Human Mortality” found that most of the people died were in homes without adequate cooling
 - Quebec, most people who died in 2018 heat wave did not have access to air conditioning
- **Public cooling areas are not adequate**
- **Landlords are not currently required to provide cooling**

Model By-Law

- 2.(1) Adequate and suitable cooling shall be provided and maintained so that the room temperature at 1.5 metres above floor level and one metre from exterior walls in all habitable space and in any area intended for normal use by tenants, including recreation rooms and laundry rooms but excluding locker rooms and garages, is a maximum of 26°C.
- (2) Subsection (1) does not apply to a rental unit in which the tenant can regulate the temperature and a maximum temperature of 26°C can be maintained.
- (3) Every residential complex shall have cooling equipment capable of maintaining the temperature levels required by subsection (1).
- (4) Only cooling equipment approved for use by a recognized standards testing authority shall be provided in a room used or intended for use for sleeping purposes.
- 3. Section 2 shall be implemented by the landlord within one year of the passing of this by-law.