Canadian Federation of Apartment Associations

# SUBMISSION TO
# THE GOVERNMENT OF CANADA

# RENTAL HOUSING INDUSTRY FACTS

**October 3, 2022**

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## EXECUTIVE SUMMARY

The Canadian Federation of Apartment Associations ("CFAA") represents more than 15,000 rental housing providers of all sizes, ranging from "Mom and Pop" owners through investors with dozens of rental units, to large corporate owners and the multi-family Real Estate Investment Trusts (REITs). Those REITs are also members of REALPAC, along with many other REITs and major corporate owners of other real estate, such as office towers, shopping centres and industrial malls.

CFAA is vitally concerned about the about the impacts on housing supply and affordability that could result from a potential new surtax on certain rental income, and from potential measures to curtail the alleged "excessive profits" in rental housing. We understand that there is to be a formal consultation, and we look forward to participating in that consultation. However, it is important for the industry to provide certain information to help inform the Government during the development of the consultation.

Canadian rental housing provides homes for nearly 10 million Canadians, in every life situation. Close to half of all rental housing is provided by investors with a few units, in rented single-family homes, two-unit buildings and condominiums. There are also many larger owners who compete among themselves and with that secondary rental market. Rental housing has a very low level of concentration, where even the largest players do not have economic power.

Typically, more than 90 cents of each dollar of rent goes to pay the costs of providing rental housing, including the financing, property taxes, utilities, other operating costs, and major repairs and renovation. Typically, about 8 cents of each dollar of rent goes to provide a modest return on investment. That "profit" on gross revenue translates to a typical profit of 3 per cent of invested capital, which is at the low end of profit across industries.

Renting is more affordable than homeownership. In numerous cases, the cost of renting is less than half the cost of buying. Taking the multi-family REIT Group together, more than half of their apartment and townhouse units are rented at affordable rents according to the CMHC standard. Similar figures apply to many corporate owners too.

Some of the language of the tenant advocates suggests that landlords can evict tenants at any time the landlord chooses. In fact, landlords can only terminate for specific reasons specified by provincial law. According to the available provincial figures, *o*n average, in each year, only one out of 2,000 tenants receive an application for termination for renovations. (That is 0.05%, i.e. not 5%, but a figure 100 times smaller than 5%). In addition, most of those terminations are legal and proper under provincial law, which provides strong protections for renters.

The current tax rules are set up so that essentially the same amount of tax is paid on rental housing income, whether the real estate is owned by an individual in their own name, or through a corporation, or through a REIT.

Policies not founded on a clear and complete understanding of rental housing could have a very damaging effect on the supply and affordability of rental housing, thereby hurting the very people such new policies are meant to help. It is crucial that the consultation examine the facts about rental housing having regard to evidence, and based on best practices for the use of research and surveys. CFAA looks forward to engaging directly with federal decision makers on these matters, and in a robust consultation, getting at the facts and analyzing the likely effects of various policy options.

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## 1. INTRODUCTION

### A. About CFAA

The Canadian Federation of Apartment Associations ("CFAA") represents the owners and managers of close to 1.5 million residential rental homes and apartments across Canada, through 14 provincial and regional apartment associations, and direct memberships. In total, the private rental housing sector provides 4.5 million rental homes for more than ten million people of all ages, incomes and situations. That includes two-thirds of the renters in core housing need each year. (Community housing provide housing for the other one-third of those low-income people and households.)

As direct members, or through our member associations, CFAA represents more than 15,000 rental housing providers of all sizes, ranging from "Mom and Pop" owners with just one or a handful of rental units, through investors with dozens or hundreds of units (often in scattered buildings, or in ownership groups or "syndicates, with a single apartment building), to large corporate owners and the private and publicly traded multi-family Real Estate Investment Trusts (REITs)[1]. Members' properties are located in all provinces from coast to coast, as well as in the territories. Through our close connections with rental housing providers and developers of all sizes in most areas, CFAA has access to information that is not readily available from other sources and can materially assist the Government in its consultation planning and policy determination.

CFAA and our members believe that a healthy rental market contributes greatly to Canada's national well-being and economic prosperity. We believe that the policies we advocate will benefit not only landlords, but also taxpayers and renters at all income levels, including low-income renters and vulnerable populations. CFAA advocates reasonable government support for those who cannot adequately address their own housing needs.

CFAA and our members believe that rental housing providers and renters share a common interest in

- flexible and responsive rental markets,
- fair taxation of residential rental property,
- appropriate property standards to ensure tenant safety,
- high industry standards for customer service, and
- adequate housing assistance that supports tenants' abilities to choose their housing and to move when and if they please.

### B. The government's consultation on the renoviction and related issues

CFAA is vitally concerned about the potential of a new surtax on certain rental income, and measures to curtail "excessive profits". We are also concerned about allegations that increasing industry concentration and the "financialization" of housing require policy interventions from the federal Government such as have been suggested. CFAA is also concerned about proposals to reform the taxation of REITs, although we will defer to other industry representatives on that issue.

We understand that there is to be a formal consultation, and we look forward to participating in that consultation. However, we think it is important for the industry to provide certain information to inform the Government during the development of the consultation and while policy approaches are being considered.

[1] Most of those REITs are also members of the Real Property Association of Canada (REALPAC), along with many other REITs and major corporate owners of other real estate, such as office towers, shipping centres and industrial malls.

### C. Note about impediments to understanding

Canada's rental housing system is complex. Many people work in rental housing or rental housing policy. People who work in rental housing naturally feel that they see and understand the whole housing system, but there are many impediments to that.

When tenant advocates spend their whole day, every day, helping tenants who come to see them because they have a dispute with their landlord, and hear primarily the tenants' side of the story, the advocates naturally tend to form a mental image that many landlords behave badly. To get an accurate picture of the extent of issues, the use of random surveys, or hard numbers for arrears or applications, is almost always more accurate than anecdotal "information".

A further impediment is confirmation bias, which is the natural tendency to search for, interpret, favour, and recall information in a way that confirms or supports one's prior beliefs or values.

## 2. RENTAL MARKET STRUCTURE

### D. The main segments of the housing market

The rental market has a number of segments. See Figure 1 for a breakdown of the main segments, in the context of the whole housing market, including owner-occupied homes.

**Figure 1: The main segments of the private housing market in 2021**

| Market segment | Number of dwellings | Percentage of dwellings |
|---|---|---|
| Primary rental market (purpose-built rental) (3 units and more) -- CMHC's "Rental Universe" | 2,440,000 | 16% |
| Secondary rental market (rented single family homes, two-unit buildings and condos ) | 1,885,000 | 12% |
| **TOTAL PRIVATE RENTAL UNITS** | **4,325,000** | **28%** |
| Community housing | 550,000 | 4% |
| TOTAL "RENTAL" UNITS | 4,875 000 | 32% |
| Owner occupied (single family homes, condos and co-operatives) | 10,480,000 | 68% |
| TOTAL HOUSING STOCK (excluding dwellings not occupied by usual residents nor vacant between occupants) | 15,355,000 | 100% |

Note: Several of the figure in the table are estimates. Appendix A provides more actual figures for 2016. The updated data from the 2021 Census is to be released on September 21, 2022.

Sources: For the figure for the primary rental market, 2,440,000, CFAA used the Altus Report, dated September 1, 2022, footnote is at page 14.

For the secondary rental market, CFAA based the figure, 1,885,000, on the Census data for 2021, deducting the renter households in the primary rental market from the total of rental households (including community housing), and adjusting for vacancies. (There are more rental units that there are rental households --- or occupied dwellings.)

The figure 550,000 is commonly used within the community housing sector as an estimate of the current size of that sector. CMHC does not have good figures on that sector.

For the total housing stock, CFAA based the figure 15,335,000, on the Census data for 2021 for all occupied dwellings plus 2.5% for normal vacancies.

## E. The degree of concentration of rental housing

Within economics, there is a sub-discipline known as industry structure. Basically, industries vary according to how concentrated they are. The degree of concentration is closely associated with how businesses behave and how goods or services are priced. The range is from competitive pricing, where prices are determined by supply and demand, to monopolistic pricing, where a single provider has a significant amount of pricing power. In broad terms, the more providers, the more prices are determined by supply and demand. A standard test for concentration is to determine what proportion of the market is supplied by the largest five providers.

For example, in 2021, the largest five Canadian banks held 85% of total bank assets ($85 out of every $100 of assets)[2]. The five largest providers of telecommunications services (including affiliates) accounted for 86.9% of total revenues in 2020 ($87 out of every $100 of revenue).[3] Those are concentrated industries, where economists expect the leading service providers to have considerable pricing power.

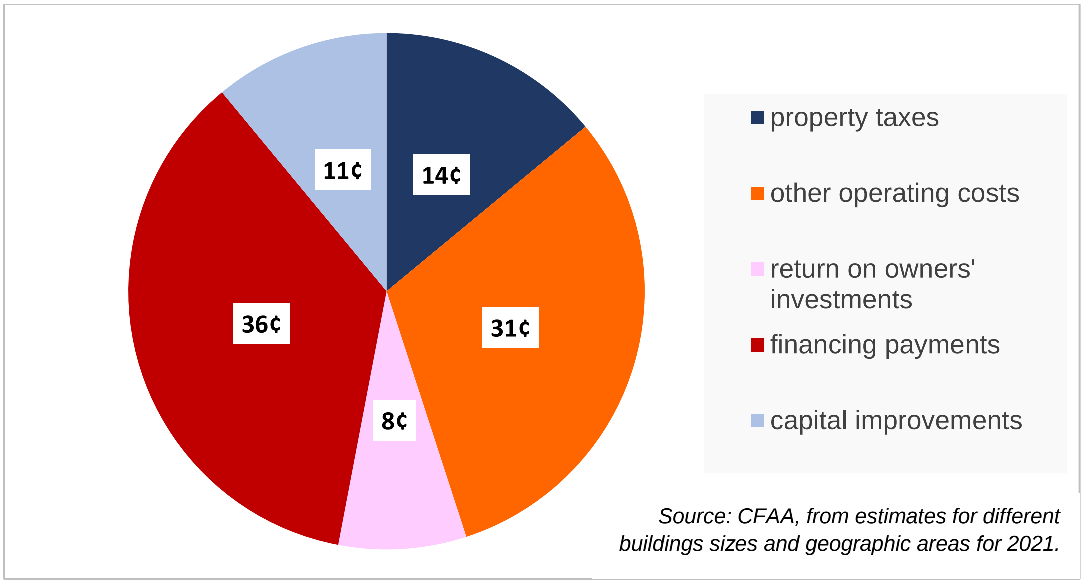
In contrast, the five largest multi-family REITs own and operate 5.5 out of every 100 apartment and townhouse units in the primary rental supply (135,080 units out of 2,440,000 units, or 5.5%). Taking the definition of the rental market one step further, they own and operate 3 out of every 100 rented dwellings in the total rental market, including the secondary market (132,000 out of 4,325,000, or 3.1%).

When evaluating industry concentration, those are tiny numbers. Economists agree that rental housing has a very low level of concentration, where even the largest players do not have economic power. In other words, all rental providers, including the largest, need to take the price (the rent) determined by supply and demand in each market for all rental units. Rents will vary according to unit size, amenities and location, but even the largest providers cannot set their prices higher than the market allows.

## F. What is the usual profit in rental housing?

Many renters and commentators have the impression that all, or almost all, of the rent people pay ends up in the pockets of landlords as profit. In fact, a relatively small portion of the rent paid ends up as profit, or as we prefer to call it, return on investment. See Figure 2.

**Figure 2: Where $1.00 of rent typically goes**




*Source: CFAA, from estimates for different buildings sizes and geographic areas for 2021.*

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[2] https://fred.stlouisfed.org/series/DDOI06CAA156NWDB (The St.Louis branch of the US Federal Reserve

[3] https://crtc.gc.ca/eng/publications/reports/policymonitoring/2021/tel.htm (the CRTC)

In most cases, more than a third of rent goes to pay for the financing on the rental building, usually one or more mortgages, say 36 cents on average. Roughly 14 cents is used to pay municipal and provincial property taxes. Just under a third (or 31 cents) usually goes to pay for other operating costs, including heating costs, electricity, water, cleaning, on-going repairs, landscaping, building management and insurance.

The remaining 19 cents of the typical rent goes for two main purposes: building upgrades and renovations[4] on the one hand, and return on the owner's investment on the other hand. In a good year, with little or no major upgrading or renovations, an owner may end up with close to 19 cents. In other years, no return at all is received, and money may be borrowed to pay for building upgrading and renovations. Over the long haul, the average return on investment is about 8 cents out of every dollar of rent.

That return on investment pays the owner for the use of the owner's money invested in the property (since lenders rarely lend 100% of the purchase price).[5] Small landlords may report some income which is really paying them for their time managing the property, or even cleaning it or repairing it. Larger owners typically pay for property management, either through salaries or through a management contract. All owners also need to receive compensation for the risk they take that their investment will not do as well as planned, due to the economy or unforeseen events.[6]

Of course, when we speak of a dollar of rent, we mean the average dollar of rent. Under rent control, rents tend to vary between units depending on how long ago the tenant began their tenancy. Low rents may in fact provide revenue only to pay the property taxes, financing costs and operating costs, leaving nothing for building upgrades or return on investment. Then when the unit turns over, the new rent pays for suite upgrades, and for building-wide upgrades, and then for some return on investment.

It is not legitimate to translate 8 cents of "profit" on a dollar of rent into a profit rate of 8%. That 8 per cent would be an expression of profit as a percentage of gross revenue. However, among industries and businesses, the percentage that profit makes of gross revenue varies widely. The standard comparison for rates of profit across industries is a comparison of profit as a percentage of equity or capital invested.

Currently, the profit on gross revenue translates to a typical profit of 3 per cent of invested equity, which is at the low end of profit on equity across industries. (The relationship of profit on equity invested with the return on a dollar of rent is discussed in Appendix B at page 22.)

## 3. TENANT SATISFACTION AND AFFORDABILITY

### G. Satisfaction of tenants with their housing

To listen to some tenant advocates, most landlords are slumlords who neglect and ignore their buildings until they pay attention to them to seek to evict tenants to obtain higher rents. The reality is different.

Figures 3 and 4 set out the results of a recent third party, random survey of tenant satisfaction with their housing. The survey was commissioned by the Canadian Housing Policy Roundtable, which consists of leaders from associations of social housing providers, housing consultants and CFAA, which provides one

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[4] Building upgrades and renovations re also known as capital expenditures, or capex.

[5] And if 100% financing is obtained, the higher interest costs almost always mean that rental property is producing very little income.

[6] Most rental housing providers saw their properties perform acceptably during the recent pandemic, but some smaller owners suffered badly when rents were not paid, and provincial tribunals were shut down, leaving the owners providing free housing, with no recourse for months, or more than a year in some cases. Rent freezes also limited incomes, when costs were rising.

member out of 12[7]. CFAA's input into the survey design was modest. The survey was designed by CHPR and the Canadian Housing Evidence Collaborative, an academic housing group. CFAA had no involvement in conducting the survey. The survey was conducted over the internet by Vox Pop in January and February 2020 as a random survey of 1,846 renters, stratified to match the whole population of renters (in both the primary and secondary markets) across Canada, giving the survey a high level of accuracy.

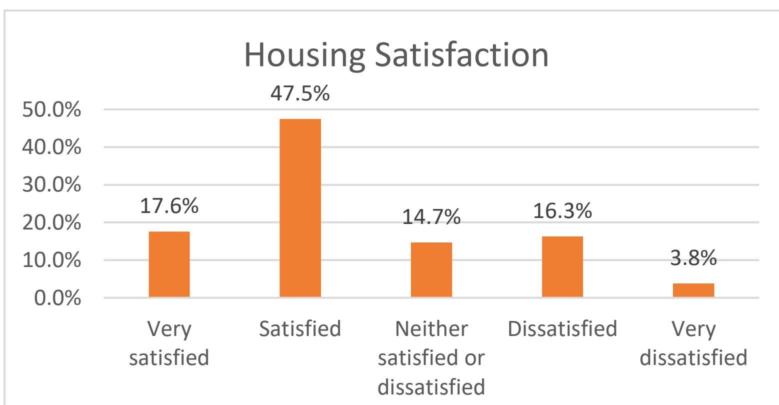
Two out of three tenants were satisfied or very satisfied with their housing (47.5%+17.6%= 65.1%). One of out seven tenants (14.7%) were neither satisfied nor dissatisfied. One out of five tenant were dissatisfied or very dissatisfied (16.3% + 3.8%=20.1%).

Tenants who were very satisfied outnumbered tenants who were very dissatisfied by more than four to one. Tenants who were satisfied outnumbered tenants who were dissatisfied by almost three to one.

**Figure 3: Tenant satisfaction with their housing**

| | | |
|---|---|---|
| Very satisfied | 17.6% | |
| Satisfied | 47.5% | |
| **Subtotal satisfied** | **65.1%** | **65.1%** |
| Neither satisfied nor dissatisfied | 14.7% | 14.7% |
| Dissatisfied | 16.3% | |
| Very dissatisfied | 3.8% | |
| Sub-total dissatisfied | 20.1% | 20.1% |

**Figure 4: Tenant satisfaction with their housing**




### H. Renting is more affordable than buying

Some people have the impression that home ownership is better than renting for almost everyone. People speak of tenants throwing away their rent, while homeowners build equity. Hopefully, the

[7] The CHPR is a successor body to the National Housing Collaborative, which played a leading role in the development of the National Housing Strategy. Among other issues, the CHPR advocated for the Canada Housing Benefit, which was a ground-breaking extension of federal housing activity into providing direct financial assistance to low-income tenants to help them pay their rent in the private market. The CHPR has recently advocated a federal acquisition fund to help non-profit housing providers buy existing affordable housing to keep it affordable.

description of where a dollar of rent goes has started to demonstrate otherwise to the reader. Here is more data which shows specifically that renting an apartment or a home is more affordable than homeownership.

In a recent study of Ontario cities, Altus Group found that "the monthly costs of renting is lower than the total monthly costs of homeownership for both housing types modelled and all interest rate scenarios." Here are key representative figures at an interest rate of 4%. See Figures 5, 6 and 7.

**Figure 5: Monthly rents and costs to own**

| Municipality | Rent ($/month) | Rent as % of ownership costs (base) | Base owner ship costs | Rent as % of ownership (net of principal payments) | Ownership costs (net of principal payments) |
|---|---|---|---|---|---|
| **Primary rental market** | | | | | |
| Windsor | $1,130 | 39% | $2,924 | 53% | $2,129 |
| London | $1,335 | 44% | $3,044 | 61% | $2,177 |
| Mississauga | $2,018 | 50% | $4,053 | 71% | $3,294 |
| **Secondary rental market** | | | | | |
| Windsor | $2,084 | 71% | $2,924 | 98% | $2,129 |
| London | $1,926 | 63% | $3,044 | 88% | $2,177 |
| Mississauga | $2,337 | 58% | $4,053 | 83% | $3,294 |

Source: Altus Group, May 5, 2022

**Figure 6: Monthly rents the primary (purpose-built) rental sector compared to costs to own**

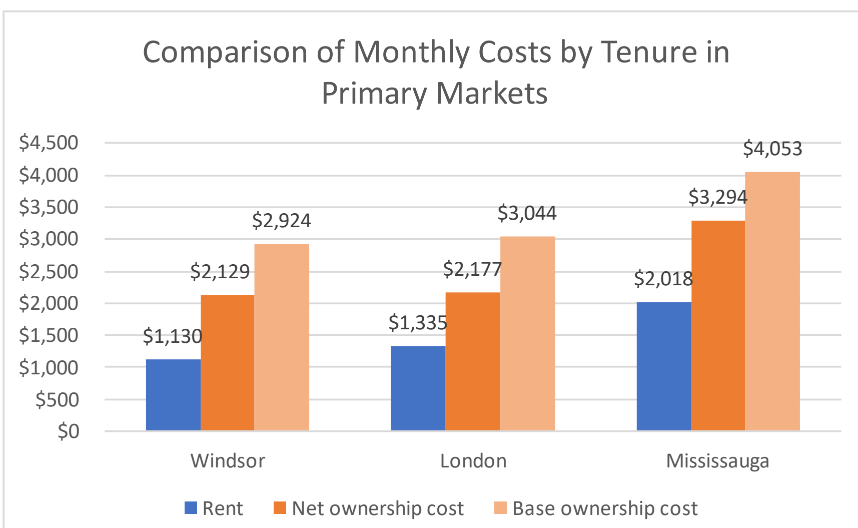
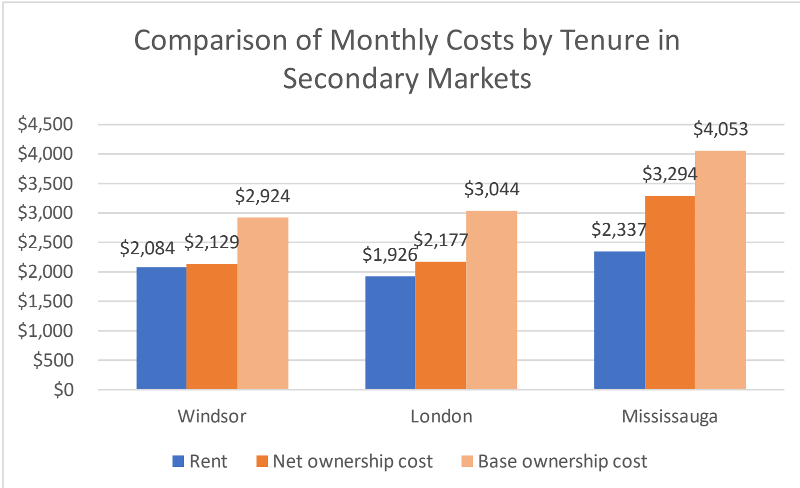


**Figure 7: Monthly rents in the secondary rental market compared to costs to own**




In their report, Altus also stated: "Affordable housing is defined in provincial policy as being housing that costs no more than 30% for households with low-to-moderate income (defined as 60th percentile incomes). Based on this definition, the average monthly cost of renting meets the definition of 'affordable' in almost all the municipalities studied. Conversely, the average monthly cost of owning is not affordable to these households in any of the municipalities."

Note that CMHC uses a somewhat different affordability standard within the rental sector. MLI Select is a new mortgage product CMHC offers to provide an incentive for rental housing providers to continue to rent buildings at affordable rents. The MLI standard for affordability is that rents need to be less than 30% of the median renter income in the CMA (i.e., the 50$^{th}$ percentile of renter income). The public residential REITs applied that test to their rents, with interesting results, as noted in the next section.

### I. Many REIT rents are affordable by the CMHC definition

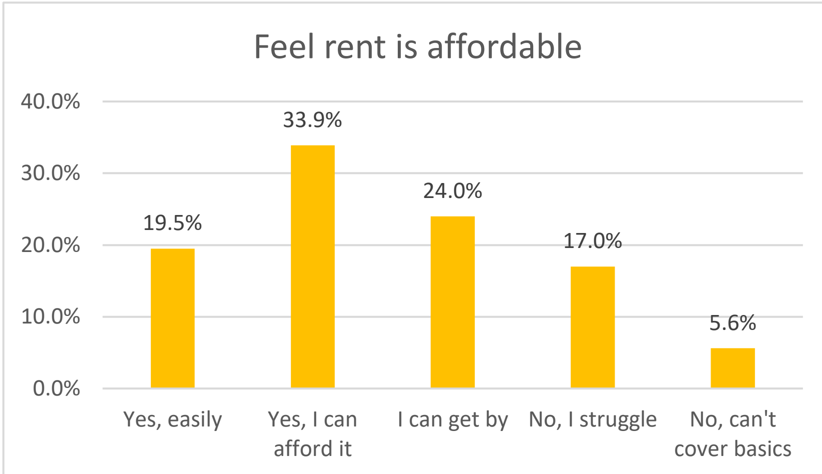
Within the publicly traded multi-family REITs, the rents for many dwellings fall within the MLI Select definition of the affordability standard (30% of income for the median renter income in their locations). Taking the publicly traded multi-family REIT Group[8] together, more than half of their apartment and townhouse units are rented at affordable rents according to the CMHC standard.[9] Similar figures likely apply to many corporate owners.

### J. How tenants see affordability

The survey conducted by Vox Pop, referenced at section D above, applied a different test to affordability, namely the impression of tenants themselves. As shown in Figure 8, the Vox Pop survey found that two in ten tenants find is easy pay their rent (19.5%). Another group of close to six in ten say they can afford their rent or "they can get by" (33.9% plus 24.0% = 57.9%). Only two in ten say they struggle or they can't cover basics (17.0% + 5.6% = 22.6%). Most knowledgeable commentators point to the problem being how low some incomes are, rather than any flaw in the rental market.

[8] The publicly traded multi-family REIT Group consists of CAPREIT, Boardwalk Killam, InterRent REIT and Minto.
[9] For that comparison of rents charged with affordable rents, we have excluded the manufactured home community sites, owned by CAPREIT and Killam, since the rents of those sites are lower because the people who rent the site own the manufactured home they live in (often called a mobile home).

**Figure 8: tenant sense of affordability**




## 4. EVICTIONS

### K. Grounds for eviction applications

Some of the language of the tenant advocates suggests that landlords can evict tenants at any time the landlord chooses. In fact, the laws of all provinces and territories limit the ability of landlords to evict tenants. To terminate a tenancy during its term, all provinces require landlords to prove a serious reason for the termination. In some provinces that can be a serious breach of a material term of the tenancy agreement. Ontario goes further: **regardless of the terms of the tenancy agreement, landlords can only terminate for specific reasons listed in the *Residential Tenancies Act.*** Those grounds consist mainly of:

- Illegal acts (N6)[10][11]
- Seriously disturbing other tenants or the landlord (N5)
- Undue damage to the property
- Not paying rent (N4)

Even at the end of a tenancy, most provinces restrict terminations. For example, in Ontario, terminations at the end of a lease can only take place in these situations:

- The landlord intends to live in the unit for one year or more (N12)
- The landlord intends a close family member to live in the unit for one year or more (N12)[12]
- The landlord intends to perform a major repair or renovation to the unit, which requires a building permit and vacant possession for the work to be done (N13)[13]
- The tenant has been persistently late in paying the rent (N8)[14]

[10] The tribunal's case law establishes that the illegal act must be a serious one that affects the tenancy, such as assaulting another tenant or the superintendent, or stealing from another tenant.
[11] The N# indicates the number of the notice in Ontario. That N number is often used as a short form for the ground of termination, as in an N4 or an N12.
[12] If a close family member lives or will live in the building, then a landlord can terminate a tenancy to use the unit for a caregiver to provide care for the close family member.
[13] The tenant has the right to compensation of between one and three month's rent, and has the right to return to the unit at the old rent.

- Tenancies tied to a special situation such as the rental of a condo prior to the condo registration, or tenancies provided to employees of an employer (N8).

Either during and at the end of terms of tenancies, landlords can give notices of termination to tenants alleging one or more of the applicable grounds for termination. If the tenant disputes the facts of the situation, the landlord can only proceed to seek termination by making an application to the landlord-tenant tribunal. That is a formal eviction. Forcible private evictions, with the locks changed and the tenants' belongings put on the street, were ended in Ontario in 1972 (fifty years ago), and at around that time in the other provinces. Any significant action by a residential landlord to pressure the tenant to vacate is a provincial offence.

However, landlords are entitled to negotiate with tenants, and to offer them incentives to vacate, which save the landlord the time and work involved in pursuing a formal eviction. Tenants can obtain money or other concessions to which they are not entitled by law, in exchange for leaving without making the landlord go through the formal process. In almost all areas of legal disputes, it is the policy of the law to encourage dispute resolutions by agreements to settle. Residential tenancies law is no exception.

In Ontario, the Ministry of Municipal Affairs and Housing has an Enforcement Unit, which investigates complaints about violations of the law by landlords (or tenants), and can initiate prosecutions. Other provinces have similar rules and various enforcement provisions.

**L. Formal and informal evictions**

Figure 9 sets out the different categories into which evictions can be classified. "Informal evictions" occur when landlords communicate informally that they are not happy with tenant behaviour, such as paying the rent late, or disturbing other tenants. When other rental units are readily available at a similar rent, tenants sometimes leave to find a landlord "who will not bother them as much". However, if the tenant does not leave voluntarily, then, to proceed, the landlord needs to use the formal eviction notice, and make an application to the provincial tribunal, unless the tenant vacates pursuant to the formal notice.

Both informal and formal evictions are usually legitimate in that the tenant has often been late with the rent, or has substantially disturbed their neighbours. Or in the case of renovations, the landlord genuinely intends to do the major repairs or renovations, and they require a building permit and vacant possession, meeting all three requirements of provincial law.

It is only if the facts are different from what the landlords claims that one can accurately call the eviction illegitimate. Tenants can dispute requests to leave on the basis that the facts do not justify termination. In almost all cases, all the tenant needs to do is to continue living in the rental unit, and it is up to the landlord to make an application (which the tenant can dispute at the tribunal.).

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[14] The late payment has to be very persistent, such as 9 months our of the last 12, and 4 months our of the last 4. Even than, the tribunal will almost always put the tenant "on terms", so that if they pay on time for the next 12 months, they keep their tenancy.

**Figure 9: Different eviction categories**

<table>
<tr><th></th><th>The process used (or the stage reached:</th><th>Informal</th><th>Formal</th></tr>
<tr><td>The substantive grounds and their match to the facts:</td><td></td><td>Oral communication, written communication, offers to waive rent or to provide compensation</td><td>A notice of termination, and if need be, an application to the tribunal</td></tr>
<tr><td>Legitimate</td><td>The reason is among those listed in the provincial law, and the facts fit the reason.</td><td>Smaller landlords tend to communicate informally. Larger landlords tend to use the notices earlier, since the notices of termination must be used before an application can be made to terminate the tenancy.</td><td>To terminate a residential tenancy, all landlords need to use the formal process if they cannot reach a resolution with their tenant which is satisfactory to them. In almost all cases, tenants can choose to take no action, which will require the landlord to apply to the provincial tribunal for a dispute resolution process and the adjudication of the parties' rights.</td></tr>
<tr><td rowspan="2">Illegitimate</td><td rowspan="2">Either the reason is not within provincial law, or the facts do not fit the reason advanced.<br>(For example, an eviction for renovations would be illegitimate if the landlord did not genuinely intend to perform the renovation, or did not in fact perform it.)</td><td>Provincially funded resources for tenants educate and advise tenants about their rights to remain as tenants unless their landlord has a legitimate ground to end their tenancy.</td><td>Provincial law includes measures to prevent illegitimate evictions, for example, information about tenants' rights on the required notices, AND the required hearing process.</td></tr>
<tr><td colspan="2">Provincial law provides remedies if the landlord's action is illegitimate.</td></tr>
</table>

## M. The limited extent of evictions and renovictions

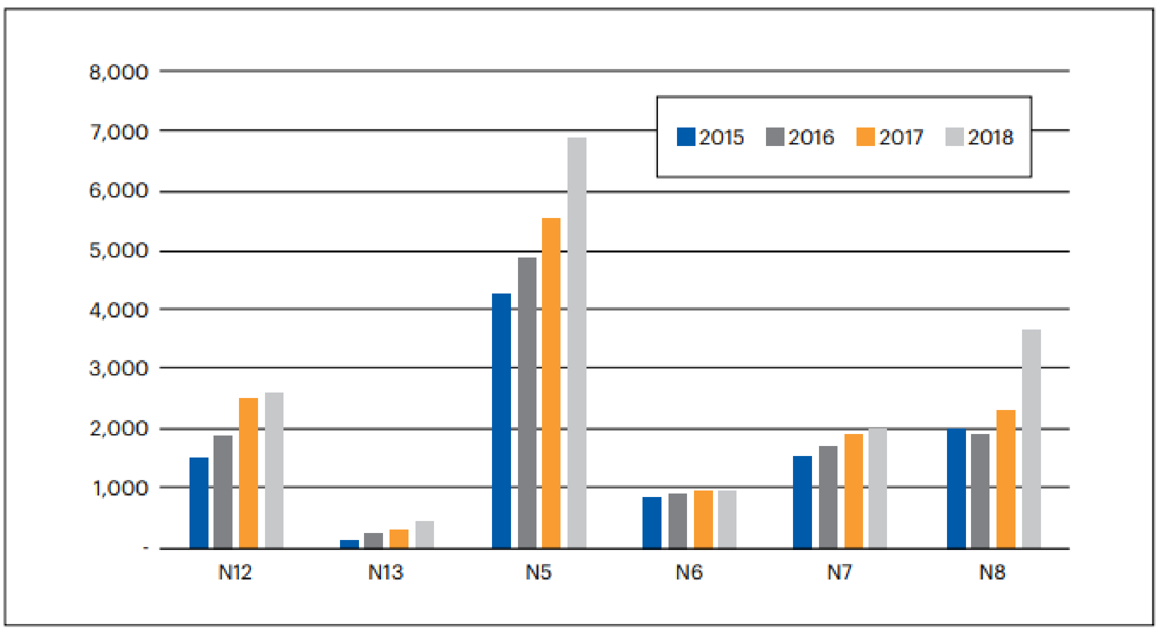
Due to various issues, one cannot currently obtain current data from the Ontario Landlord and Tenant Board quickly. Therefore, despite significant efforts to obtain more current data, the most current data that we have been able to obtain on the breakdown of formal evictions in Toronto is what is shown in Figure 10. (To the best of our knowledge, ACORN and TheShift do not allege that "renovictions" are entirely a recent phenomenon; rather, they say renovictions have occurred in the rental market since rental housing started to become "financialized" some years ago.)

CFAA's information is that, if anything, renovictions have declined recently. ACORN has been very active in opposing what they call renovictions. Some rental providers have experienced negative publicity due to being accused of doing renovictions, and have backed off from doing what they believe are legitimate and fair attempts to offer tenants buy-outs so that they could happily find other accommodation or take up other opportunities (such as investing in a small business), while permitting rental units to be upgraded to meet the demand for modernized apartments. Some landlords continue to offer tenants buy-outs, which is entirely legal under all provincial law.

Figure 10, below, was published by the Wellesley Institute, a well-known anti-poverty organization based in Toronto. By the height of the bars in the graph, one can see clearly what a tiny faction of eviction application are for renovations (which is the definition the tenant advocates use for a renoviction). N13 applications are by far the smallest category of eviction applications in Toronto in the years reported on. The same is likely true across Ontario, and across Canada.

**Figure 10: Data on Formal Evictions**

**Figure 1:** Reasons for Non-Arrears Related Eviction Applications - Toronto 2015-2018




Note:
**N12** – Landlord's own-use evictions
**N13** – Demolition or renovation evictions
**N5** – Conflict with other tenants, disturbance, damage, and/or overcrowding evictions
**N6** – Illegal acts or misrepresenting income in a rent-geared-to-income rental unit evictions
**N7** – "Causing serious problems in the rental unit or residential complex" evictions
**N8** – Notice to end your tenancy at the end of the term (e.g. persistently late rent) evictions

Source: https://www.wellesleyinstitute.com/wp-content/uploads/2021/03/Brief-2-Non-Arrears-Eviction-Application-FINAL.pdf

Figure 10 shows the number of applications for eviction for renovation ranging between 121 and 386 per year, for an average of 242 per year. There are roughly 500,000 rental units in Toronto. On average, in each year only one out of 2,000 tenants receive an application for termination for renovations. (That is 0.05%, i.e., not 5%, but a figure 100 times smaller than 5%). Most of those applications were probably perfectly legitimate, based on stringent provincial law and processes, and the landlord's genuine intention to perform major repairs or renovations. Put another way, most of those terminations for renovations were not "renovictions" under a reasonable use of the term.

## N. Tenants affected by informal evictions

ACORN and TheShift allege that many renovictions occur through the actions of landlords before they apply to the Landlord and Tenant Board (or the tribunals in other provinces). That issue was explored in random survey by CHPR and Vox Pop that addressed tenant satisfaction, as reported in Section D, above. Renters were asked if they have been evicted within the last five years. In the series of questions, "eviction" included informal landlord suggestions that tenant move on, without any formal eviction notice or application. Tenants were also asked the reason for the eviction. The results of the survey are shown in Figure 11.

**Figure 11: Data on evictions (formal and informal) by reason**

| Reason for eviction (formal or informal | Rate (as %) | Rate per thousand |
|---|---|---|
| Evictions for renovations | 0.5% per year | 5 out of 1,000 |
| Evictions for personal or family use | 1.2% | 12 out of 1,000 |

Source: Vox Pop survey and CFAA calculations

REITs and corporations are not in a position to evict renters for personal or family use, whereas individual owners are, when they want to make that use of their property. Both groups of rental property owners can evict for renovations or major repairs when the unit needs them. Taking both informal and formal evictions together, the data from the Vox Pop random survey show that evictions (both formal and informal) for renovation affect five tenants per 1,000 each year (0.5%), whereas evictions for personal or family use (by individual small landlords) affect 12 tenants per 1,000 (1.2%), or 2 and a half times as many renters. Thus, to achieve fewer evictions, society would benefit from having more REITs and corporate owners, rather than fewer REITs and corporate owners. Most or even all of those terminations/evictions may be entirely legitimate under the applicable provincial law, which balances the rights of tenants and the rights of property owners to use their property as permitted by provincial law.

# 5. INVESTMENTS IN RENTAL HOUSING

## O. Investments in Canada's old and aging rental supply

Much of the purpose-built rental stock was built in the 1950s, 1960s or 1970s, that is, between 50 and 70 years ago. Many units or buildings are in need of major repairs and renovation. Besides major repairs, there is also the issue of building improvements such as carbon emission reduction initiatives, and investments to improve renters' safety and comfort.

As an example of the money being invested into rental housing, consider CAPREIT, Canada's largest multi-family REIT. During 2020, CAPREIT invested $150,127,000 into building-wide refurbishment for its 45,887 rental suites[15], or $3,272 per unit. (That work included new roofs, new heating equipment, retrofits to elevators, new and additional insulation, renewed building cladding, and repairs and improvements to parking structures, amenities and lobbies.) On unit turnover, CAPREIT invested an additional $57,876,000 into 8,581 rental suites, or $6,745 per unit. Since the turnover suites also benefitted from the building -wide work, the average turnover suite received $10,016 of investment.

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[15] CAPREIT's reports show a higher number of unit than that figure, but the higher figure includes sites in manufactured home communities (sometimes called "mobile home parks"). It is more representative of rental housing as a whole to use the figures for rental suites, which include apartments and rental townhouses, but not manufactured home sites.

During 2021, CAPREIT invested $195,588,000 into building-wide refurbishment for the 47,419 rental suites it owned in that year, or an average of $4,125 per unit. On unit turnover, CAPREIT invested an additional $77,344,000 into 9,654 rental suites, or an average of $8,012 per unit. Since the turnover suites also benefitted from the building-wide work, the average turnover suite received $12,137 of investment. However, most turnover units received less than the average in renovations, and a limited number of worn-out units received much more, making them attractive, modern apartments and homes instead of tired, 60-year old rental units.

Other REITs and rental housing corporations invest similar amounts in building and suite refurbishment, thereby improving the quality and expected life of Canada's supply of rental housing, and offering upgraded, modernized suites to prospective renters who want the upgraded suites (at the increased rents charged for the upgraded suites).

### P. The need for more rental supply

In Budget 2022, the Minister of Finance said: "There are a number of factors that are making housing more expensive, but the biggest issue is supply. Put simply, Canada is facing a housing shortage …."

In its report entitled "Canada's Housing Supply Shortage: Restoring affordability by 2030", CMHC has estimated that Canada needs to increase housing supply by 3.5 million dwellings by 2030. That would be 437,000 dwellings per year, whereas recent annual new supply has been about half of that.

That suggests that individual investors, REITs and corporations should all be encouraged to provide more rental housing, rather than facing more or higher taxes and restrictions, which tends to discourage entry into any market and thus to decrease the amount of rental housing supply from what it would otherwise be.

### Q. The benefits of REITs and other large rental housing providers as a major part of the whole rental housing system

Rental housing has been owned by some people, and occupied by other people, for thousands of years, going back to Roman times and beyond. However, corporations are a development of the last 250 years, and Real Estate Investment Trusts (REITs) are a development of the last 40 years. Although there are some differences, good-sized real estate corporations and all REITs bring similar benefits to investors and to renters.

From rental housing corporations and REITs generally, renters receive the following advantages:

- professional property management
- a formal organization, which operates on a standardized basis through the turmoil that can affect individuals
- large buildings or rental complexes, where renters can access and share a range of amenities
- large buildings or rental complexes, which justify, and usually include, on-site staffing
- owner access to capital to perform major repairs and upgrades in a timely manner.

Publicly traded REITs and corporations add these benefits:

- regular and timely public reporting on their building upgrades and financial results
- regular and timely public reporting on their ESG[16] goals, plans and results
- scale to justify internal specialization and create access to trained employees in different fields such as engineering, finance and employee training.

[16] ESG stands for Environmental, Social and Governance. Along with leading corporation in other economic sectors, leading real estate corporations and REITs are addressing ESG concerns, in addition to seeking the satisfactory profits needed to attract capital investment.

For investors, publicly traded REITs and corporations allow ownership interests in rental buildings to be sold quickly, easily and with low transaction costs. Corporations and REITs also allow rental investors to sell portions of their holdings, and to diversify their holdings within cities or across Canada. Finally, corporations and REITs allow investors to free themselves of the need to manage the properties (since the corporations or REITs do the management).

The current tax rules are set up so that essentially the same amount of tax is paid on rental housing income, whether the real estate is owned by an individual in their own name, or through a corporation, or through a REIT.

Besides being owned in large part by many individuals, REIT units and corporation shares are often owned by pension plans or life insurance companies. Either way, the ultimate owners are ordinary people with a range of incomes. REITs have democratized investment in real estate, including rental housing.

## 6. FINAL POINTS

The government is confronted with two very different views of REITs, rental housing corporations, and indeed all rental housing providers: one held by some tenant and human rights advocates, and one held by rental housing providers and CFAA.

To some tenant advocates and human rights advocates, REITs and rental housing corporations often deny tenants their right to housing by pushing tenants out of their rented homes, by taking rent increases when tenants vacate, and by modernizing suites, taking them out of the price range of ordinary tenants. They believe that certain changes to the Income Tax Act will restrain or eliminate those actions.

To CFAA, the allegation that tenants are being pushed out of their homes is a matter of serious concern. CFAA condemns any action to push people out of their homes, which is, in any way, a violation of the applicable provincial law (enacted by the provinces under their constitutional responsibility to regulate property and civil rights).

However, in addition to condemning illegal action, CFAA believes that such illegal action is very limited in extent, and takes place only in isolated cases; and that federal income tax law is not a suitable tool to use to address that isolated behaviour. Instead, tax changes such as are proposed could well have widespread and serious unintended consequences on the supply and affordability of rental housing. At the same time, more appropriate and effective remedies are available to the provinces. Likewise, rent increases are a matter of provincial jurisdiction, and subject to a much broader range of policy considerations than those which the advocates focus on.

*Rental housing supply*

Along with any other policy or program changes, it is crucial for all orders of government to facilitate more rental supply to solve the overall housing supply shortage. As Minister Freeland said in Budget 2022: “There are a number of factors that are making housing more expensive, but the biggest issue is supply. Put simply, Canada is facing a housing shortage ….” More rental supply requires more investment in rental housing. Adding new taxes, or changing the tax system to discourage certain investment in rental housing risks reducing the total investment in rental housing, thereby making the rental housing supply problem worse.

The size and sophistication of rental housing providers varies greatly, but virtually all private rental housing providers want to earn a reasonable net income and raise the value of their buildings. They do that by providing good value for money, and efficiently managing costs. Rental housing providers of all sizes seek to operate buildings at the optimum level of service and cost. That includes improving rental buildings to meet higher and higher environmental, accessibility and other standards (as mandated by governments and wanted by many tenants), and modernizing units when tenants' demand for modernized units (and the current unit mix in the rental market) make that productive.

Under the current regulatory system, the rental market provides good housing to the vast bulk of the population at rents (or prices) which they can afford. The current problem of affordability faced by some tenants arises from the low incomes earned or received by some people, at the same time as all housing demand is up, and housing supply cannot keep up with demand. The confluence of those three factors is not the fault of rental housing providers, who should not be blamed for the effect of the factors coming together.

Like many of the housing and human rights advocates, CFAA supports targeted direct financial support for low-income tenants to ensure they can pay for the housing they need. CFAA applauds the recent expansion of the Canada Housing Benefit, and recalls with pride our significant contribution to the creation of the CHB. CFAA was pleased to work with the National Housing Collaborative, and with Housing Minister Duclos and his policy team, to promote the CHB, and see it included in the National Housing Strategy.

In CFAA's view, a balance of expanded community housing, more direct financial support like the CHB, and CMHC programs like MLI Select, is the optimal approach to improving housing affordability for those with low incomes, while avoiding the unintended consequence of reducing housing affordability for people with moderate incomes.

*Keys to optimal policy formulation*

Policies based on an insufficient data or a partial understanding about rental housing could have a very detrimental effect on the supply and affordability of rental housing, thereby hurting the very people such new policies are meant to help. It is crucial that the consultation examine the facts about rental housing, having regard to evidence, and based on best practices for the conduct of research and surveys.

Best practices include reliance on surveys of random, unbiased samples of sufficient size, rather than from limited and biased samples. Best practices also include giving more credence to research and analysis by experts in the relevant areas. For example, there are experts in markets, market behaviour, market concentration, rental investment and housing economics. Experts in human rights law, and people with lived experience, have important contributions to make to this broad policy area, but that does not give them expertise in how the rental housing providers and markets will react to the new tax rules they propose.

Economists know the theory of market responses, and many know particular markets through econometric work and specific study of particular markets, such as the market for rental housing units and the market for rental housing assets. CFAA is tightly connected with rental housing providers and developers of all sizes across Canada. Of all the stakeholders involved in this issue, CFAA may be the best positioned to provide the government with information about how rental providers and developers are likely to respond to various reforms on an operational level.

CFAA looks forward to engaging directly with federal decision makers on these matters, as well as participating vigorously in a robust consultation, getting at the facts and analyzing the likely effects of various policy options. CFAA also looks forward to finding ways to improve housing affordability; and to help realize the human right to housing, while at the same time avoiding unintended consequences, such as negative impacts on the overall supply and affordability of rental housing.

## APPENDIX A

**Figure 12: The main segments of the housing market in 2016 as reported in 2021 (with adjustments)**

| Market segment | | Number of dwellings | Percentage of dwellings |
|---|---|---|---|
| Primary rental market (purpose-built rental) (3 units and more) -- CMHC's "Rental Universe" | | 2,135,00 | 15% |
| Secondary rental market (rented single family homes, condos, doubles (aka semi-detached), duplexes, apartments in houses | | 1,920,000 | 13% |
| Community and non-profit housing | | 550,000 | 4% |
| TOTAL RENTAL UNITS | | 4,605,000 | 32% |
| Owner occupied (single family homes, condos and co-operatives) | | 9,820,000 | 68% |
| Total housing stock | | 14,425,000[17] | 100% |

Sources:

1. StatsCan for 2016 as reported in 2021.
2. The common estimate of community and non-profit housing

[17] In 2021 a revised number of 14,072,000 was reported for the total dwellings occupied by usual residents. To that has been added 2.5% to allow for vacancies at that rate. The vacancies have been assumed to apply at the same rate in the two main rental sectors and in the owner-occupied market (because homes occasionally sit vacant between owners, and sometimes for months.)

APPENDIX B

**The relationship of profit on equity invested with the return on a dollar of rent**

We saw at pages 7 and 8 that a typical return was about 8 cents out of each dollar of rent. It is not legitimate to translate that profit on a dollar of rent into a profit rate of 8%. That 8 per cent would be an expression of profit as a percentage of gross revenue. However, among industries and businesses, the percentage of profit on gross revenue varies widely. The standard comparison for rates of profit is a comparison with the funds invested, that is the value of the assets deployed.

In rental housing, the value of the assets can be estimated as a multiple of gross revenue, or more accurately as a function of the net income.

Gross revenue is often used for small buildings, and in today's market conditions, the Gross Income Multiplier is often around 10 (with a range of 8 to 15). Therefore, to determine rate of profit, the calculation is $1.00 of gross revenue times 10 equals $10 of value. Eight cents on $10 is a profit rate on gross assets of 0.8 per cent (8 tenths of one per cent). That would be unacceptably low.

However, in rental housing financing is almost always used to achieve a higher rate of profit on the owner's equity. If we assume 75 per cent financing, then the equity invested is not $10.00; instead, it is $2.50. Eight cents on $2.50 is a profit rate on equity invested of 3.2 per cent. Expressed another way, that is a profit of $3.20 on every $100 invested. In many industries, that would be considered a low rate of profit, but it is normal in rental housing.

The net income approach would arrive at a similar figure. Based on the amounts shown in Figure 2, at page 7, the net income (before financing and capital improvements) is 55 cents ($1.00 less 14 cents for property taxes and 31 cents for other operating costs). Market net capitalization rates are now about 5 per cent (with a range of 4 to 6 per cent depending on the building and its location). Dividing 55 cents by .05 produces a figure of $11.00.[18]

If we assume 75 per cent financing, then the equity invested is not $11.00; instead, it is $2.75. Eight cents on $2.75 is a profit rate on equity invested of 2.9 per cent. Expressed another way, that is a profit of $2.90 on every $100 invested. In many industries, 2.9 per cent would be considered a low rate of profit, but it is normal in rental housing.

The multi-family REITs produce profit rates similar to those shown in these "typical" calculations.

[18] That figure is different from the value produced by the GIM approach, but at a net cap rate of 5.5 per cent, the value would be the same, namely $10.00. The GIM and net cap rate approaches throw off different building values depending on the expense ratio, the GIM used and the net cap rate used. Those rates vary with the building and its location, and current market conditions, especially interest rates.