

Just Healthy Housing: A Position Statement from Inner City Health Associates

Executive Summary

On November 22, 2017 the Government of Canada released its first ever National Housing Strategy, *A Place to Call Home*. Importantly, the strategy is explicitly framed as a ‘rights-based approach’ to housing that will ‘affirm the International Covenant on Economic, Social and Cultural Rights’¹.

As Canada’s largest homeless health care organization with a membership represented by family medicine, psychiatry, emergency medicine, internal medicine, palliative care and public health providing care for Canada’s largest homeless population, Inner City Health Associates received the news of the Government of Canada’s commitment to a National Housing Strategy recognizing the right to adequate housing with particular attention and optimism.

The evidence is firm in supporting rights-based approaches to housing policy as effective for both individual and public health. Human rights-affirming approaches, however, come with specific legal obligations to respect, protect and fulfill international human rights law. Some of these requirements were included in *A Place to Call Home*; however, others that significantly impact the lives of our patients, resulting in their inequitable burden of illness and early death, were not.

Inner City Health Associates applauds the Government of Canada for its courage to commit itself to just housing policy. The necessary foundation of a human rights-based approach to housing is the existence of legal rights to housing for those in need. *We join numerous partners in calling on the Government of Canada to establish a legal right to adequate housing, including a legal responsibility to assist the homeless, as the cornerstone of its National Housing Strategy.*

A core obligation of the right to adequate housing is to ensure that priority is given to the most vulnerable and marginalized members of society. While *A Place to Call Home* is an improvement towards a more fair housing policy, it does not prioritize people experiencing homelessness. *Inner City Health Associates calls on the Government of Canada to develop a National Strategy to End Homelessness as the key priority of the National Housing Strategy to ensure those most need are prioritized in accordance with Canada’s international human rights obligations.*

The right to adequate housing is inextricably bound to the right to health. As physicians to the homeless, we understand the profound connection between housing and health and are heartened that international law reflects this reality. Despite the necessity of health rights to housing rights, *A Place to Call Home* does not identify health care services as part of its strategy. *Inner City Health Associates calls on the Government of Canada to ensure that health and the right to health, with a priority on the homeless, is centered in its housing policy to ensure that the right to adequate housing is realized.*

While *A Place to Call Home* alludes to housing for First Nations, Inuit, and Metis Peoples through a commitment to a ‘distinctions-based’ approach, *Inner City Health Associates calls on the Government of Canada to ensure that this approach is consistent with self-determination, inherent rights, the UN Declaration on the Rights of Indigenous People and Indigenous definitions of homelessness.*

¹ See ‘A Place to Call Home’, available at <https://www.placetocallhome.ca/pdfs/Canada-National-Housing-Strategy.pdf>; accessed May 22, 2018.

We look forward to working with the Government of Canada, Indigenous governments, provincial and municipal governments and partner organizations to ensure that the housing and health rights of people experiencing homelessness in Canada are respected, protected, and ultimately fulfilled.

Just Healthy Housing:

Housing Rights Depend on Health Rights and the Prioritization of Homelessness

A Position Statement from Inner City Health Associates

The Government of Canada Recognizes the Mutually Dependent Rights to Adequate Housing and the Highest Attainable Standard of Physical and Mental Health

1. As a community-based homeless health care organization in Toronto with a membership of 90 physicians from numerous disciplines including family medicine, psychiatry, emergency medicine, internal medicine, palliative care and public health providing care for Canada's largest homeless population to ensure their health and housing rights are respected, protected and fulfilled, *Inner City Health Associates received the news of the Government of Canada's commitment to a National Housing Strategy recognizing the right to adequate housing with particular attention and optimism.*

2. Canada has long had international legal obligations to ensure the rights to housing and health for all peoples residing within its borders, grounded in its binding commitments to numerous international human rights treaties including the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination Against Women, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Persons with Disabilities, the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Convention Relating to the Status of Refugees^{2,3}. *Inner City Health Associates believes that the Government of Canada's international human rights obligations are crucial to ensure human dignity for all and works daily to respect, protect and fulfill the health and housing rights of the homeless.*

3. Through the principles of universality and accessibility of the Canada Health Act⁴ and the equality provisions of Section 15(1) of Canadian Charter of Rights and Freedoms⁵, Canada has committed to ensuring equality and non-discrimination in health care, including for the homeless. *Inner City Health Associates is proud to work in a country where equality in health care for all is guaranteed as part of the legal infrastructure of the health care system.*

² Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing.

³ Hunt, P. (2016). Interpreting the International Right to Health in a Human Rights-Based Approach to Health. *Health and Human Rights Journal*, 18(2): 109-130.

⁴ Canada Health Act, R.S.C., 1985, c. C-6

⁵ *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11

4. In addition to the International Covenant on Economic, Social and Cultural Rights, as a party to numerous numbered and other Treaties, Comprehensive Land Claims Agreements and Self-Government Agreements with First Nations, under Section 35 of the Constitution recognizing the inherent rights of Aboriginal Peoples⁶, and having fully endorsed the United Nations Declaration on the Rights of Indigenous Peoples, Canada has distinct commitments to the rights to health and housing for First Nations, Inuit, and Metis Peoples living in Canada^{7,8}. *Inner City Health Associates calls on the Government of Canada to respect, protect and fulfill its legal obligations to ensure the equality and self-determination of First Nations, Inuit, and Metis Peoples, including in health and housing governance.*

5. Having endorsed the Vienna Declaration and Program of Action, Canada recognizes that ‘all human rights are universal, indivisible and interdependent and interrelated’⁹. *Inner City Health Associates is pleased that the Government of Canada acknowledges the mutual dependence of the right to adequate housing and the right to the highest attainable standard of physical and mental health.*

6. As physicians working with the homeless, we are deeply familiar with the ways in which a good home is essential to a life of health and dignity¹⁰. People experiencing homelessness have average life expectancies less than 50 years, which is more than 25 years less than that of people who are securely housed¹¹. Additionally, those whose lives are cut so short by homelessness are additionally fraught with morbidity rates that are dramatically higher than people living in secure settled housing, resulting from traumatic and accidental injuries¹², infectious diseases, chronic metabolic and cardiovascular diseases, mental illness and addictions¹³. Such dire health inequalities are experienced by homeless children and

⁶ S.35, Part 2 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK), 1982*, c 11

⁷ Boyer, Y. (2004). The International Right to Health for Indigenous Peoples in Canada; Discussion Paper Series in Aboriginal Health: Legal Issues (Number 3). National Aboriginal Health Organization. 41 pp.; MacIntosh, C. (2013) The role of law in ameliorating global inequalities in Indigenous Peoples’ health. *The Journal of Law, Medicine and Ethics*, 41(1): 74-88.

⁸ Walker, R. (2008). Aboriginal self-determination and social housing in urban Canada: A story of convergence and divergence. *Urban Studies*, 45(1): 185-205.

⁹ UN General Assembly, *Vienna Declaration and Programme of Action*, 12 July 1993, A/CONF.157/23, available at: <http://www.refworld.org/docid/3ae6b39ec.html> [accessed 22 May 2018]

¹⁰ Thomson, H., Thomas, S., Sellstrom, E. and M. Petticrew. (2013) Housing improvements for health and associated socio-economic outcomes. *Cochrane Database and Systematic Reviews*, 28(2): CD008657. doi: 10.1002/14651858.CD008657.pub2

¹¹ Hwang S., Wilkins, R., Tjepkema, M., O’Campo, P. And J. Dunn (2009). Mortality among residents of shelters, rooming houses, and hotels in Canada: 11 year follow-up study. *British Medical Journal*, 339(7729): 1068-1070.

¹² Topolovec-Vranic, J., Ennis, N., Colantonio, A., Cusimano, M., Hwang, S., Kontos, P., Ouchterlony, D. and V. Stergiopoulos (2012). Traumatic brain injury among people who are homeless: a systematic review. *BMC Public Health*, 12: 1059-1067.

¹³ Fazel, S., Geddes, J. and M. Kushel (2014). The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations. *The Lancet*, 384: 1529-1540; Aldridge, R., Story, A., Hwang, S., Nordentoft, M., Luchenski, S., Hartwell, G., Tweed, E., Lewer, D., Katikireddi, S., and A. Hayward (2018). Morbidity and mortality in homeless individuals, prisoners, sex workers, and individuals

adolescents¹⁴ and grow ever more disparate for those who manage to live beyond 50¹⁵. Not even in dying are the homeless spared such inequalities, experiencing significant barriers in their access to, and the quality of, advanced directives and palliative care¹⁶. While homelessness profoundly shapes health and health care, we are also intimately familiar with how health reciprocally affects people's ability to obtain and maintain adequate housing by impinging on financial security, emotional well-being, cognition and functional abilities¹⁷.

In order to ensure that all people have the ability to live a life of dignity, national housing strategies require homeless prevention and management programs – emergency shelters, transitional housing with appropriate health services and social supports and homelessness prevention initiatives – as well as a diversity of housing governance frameworks, supply and pricing strategies. In November 2017, the Government of Canada announced that it would launch a redesigned community-based homelessness initiative as part of its National Housing Strategy in April 2019¹⁸. *Inner City Health Associates is encouraged to hear that the Government of Canada acknowledges the need for a substantially re-designed community-based homelessness strategy. We are, however, concerned that the National Housing Strategy did not identify the prevention, management and resolution of homelessness as foundational priorities of the National Housing Strategy and has delayed this work until 2019.*

Rights-Based Approaches to Housing and Health Policy Deliver Effective and Just Outcomes

7. The International Covenant on Economic Social and Cultural Rights requires that states achieve the rights contained therein by 'all appropriate means, including particularly the adoption of legislative measures.'¹⁹ The most basic requirement of rights-based approaches to housing and

with substance use disorders in high-income countries: a systematic review and meta-analysis. *The Lancet*, 391: 241-250.

¹⁴ Kulik, D., S., Crowe, C., and E Ford-Jones. Homeless youth's overwhelming health burden: A review of the literature. *Pediatrics and Child Health*, 16(6): 43-47.

¹⁵ Brown, R., Hemati, K., Riley, E., Lee, C., Ponath, C., Tieu, L., Guzman, D. and M. Kushel (2016). Geriatric conditions in a population-based sample of older homeless adults. *The Gerontologist*, 57(4): 757-766.

¹⁶ Huynh, L., Henry, B. and N. Dosani (2015). Minding the gap: access to palliative care and the homeless. *BMC Palliative Care*, 14: 62-65; Sumalinog, R., Harrington, K., Dosani, N., and S. Hwang (2017). Advance care planning, palliative care, and end-of-life care interventions for homeless people: A systematic review. *Palliative Medicine*, 31(2), 109-119.

¹⁷ C. James Frankish, Stephen W. Hwang, and Darryl Quantz (2009). The Relationship Between Homelessness and Health: An Overview of Research in Canada. In: Hulchanski, J. David; Campsie, Philippa; Chau, Shirley; Hwang, Stephen; Paradis, Emily (eds.) *Finding Home: Policy Options for Addressing Homelessness in Canada* (e-book), Chapter 2.1. Toronto: Cities Centre, University of Toronto; Burra, T., Stergiopoulos, V. and S. Rourke (2009). A systematic review of cognitive deficits in homeless adults: implications for service delivery. *Canadian Journal of Psychiatry*, 54(2):122-132.

¹⁸ See <https://www.placetocallhome.ca>

¹⁹ Art. 2(1), UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html> [accessed 22 May 2018]

health are their protection as legal rights^{20,21}. For such rights to be meaningful, effective, and accountably governed, they need to be publicly justiciable^{22, 23}. There is considerable international experience demonstrating the effectiveness and fairness of rights-based approaches to housing and health that provides a rich comparative evidence-base for policy making^{24,25}. *Inner City Health Associates is pleased that by endorsing a rights-based approach to its National Housing Strategy the Government of Canada has decided to act in accordance with its international legal obligations with respect to housing.*

8. Economic, Social and Cultural Rights such as the right to housing and health have been well developed over the last 30 years ensuring their concrete shape, meaningfulness and enforceability. International legal instruments have provided authoritative interpretations, including minimum core obligations, with respect to both housing and health rights^{26,27}. Furthermore, internationally endorsed principles and guidelines have provided detailed explications of the processes required for their legal implementation, assessment of violations

²⁰ Kenna, P. (2010). Can housing rights be applied to modern housing systems. *International Journal of Law and the Built Environment*, 2(2): 103-117.

²¹ Yamin, E. (2008). Will we take suffering seriously: reflections on what applying a human rights framework to health means and why we should care. *Health and Human Rights Journal*, 10(1): 45-63; Hunt, P. (2016). Interpreting the International Right to Health in a Human Rights-Based Approach to Health. *Health and Human Rights Journal*, 18(2): 109-130.

²² Kenna, P. (2010). Can housing rights be applied to modern housing systems. *International Journal of Law and the Built Environment*, 2(2): 103-117; Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing.

²³ Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2):62-72; Forman, L., Beiersmann, C., Brolan, C., Hammonds, R., and G. Ooms. (2016). What do core obligations under the right to health bring to universal health coverage? *Health and Human Rights Journal*, 18(2): 23-34.

²⁴ Loison-Leruste, M. and D. Quilgars (2009). Increasing access to housing: Implementing the right to housing in England and France. *European Journal of Homelessness*, 3: 75-100; Tars, E. and C. Egleson (2009). Great Scot! The Scottish Plan to End Homelessness and Lessons for the Housing Rights Movement in the United States. *Georgetown Journal of Poverty Law and Policy*, 16(1): 187-215; Fitzpatrick, S. and N. Pleace (2012). The statutory homelessness system in England: A fair and effective rights-based model? *Housing Studies*, 27(2): 232-251; Watts, B. (2013). Rights, needs, and stigma: A comparison of homelessness policy in Scotland and Ireland. *European Journal of Homelessness*, 7(1): 41-68.

²⁵ Yamin, A. (2011). Power, suffering and the courts: Reflections on promoting health rights through judicialization. in Yamin, A. and S. Gloppen, (eds.): *Litigating health rights. Can courts bring more justice to health?* (pp 333-372). Cambridge, Mass.: Harvard Univ. Press ; Yamin, A. (2014). Promoting health equity: What role for the courts? *Health and Human Rights Journal*, 16(2): 1-9; Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2):62-72.

²⁶ Hohmann, J. (2014). *The Right to Housing: Law, Concepts Possibilities*. Portland, OR: Hart Publishing; see Farha, L. (2018) Human Rights Based National Housing Strategies, A/HRC/37/53.

²⁷ Forman, L., Caraoshi, L., Chapman, A., and E. Lamprea (2016). Conceptualising minimum core obligations under the right to health: How should we define and implement the ‘morality of the depths’? *The International Journal of Human Rights*, 20(4): 531-548.; Forman, L., Beiersmann, C., Brolan, C., Hammonds, R., and G. Ooms. (2016). What do core obligations under the right to health bring to universal health coverage? *Health and Human Rights Journal*, 18(2): 23-34.

and the approach to remedies for established violations^{28,29}. Importantly, the World Health Organization has noted the necessity of ‘addressing the underlying social and economic determinants of health through policies and programmes that enhance health equity and integrate pro-poor, gender-responsive, and human rights-based approaches’³⁰. More recently, the UN General Assembly reaffirmed in detail the right to health while identifying its fundamental connection to ensuring Universal Health Coverage³¹. Similarly, access to safe, affordable and adequate housing for all has been made an explicit target of the UN Sustainable Development Goals as part of its focus on inclusive, safe, resilient and sustainable cities³². *Inner City Health Associates advocates that legislative and policy standards for Canada’s housing and health sectors be guided by its international legal obligations and the considerable Canadian and international expertise on the substantive policy and operational strategies required to adequately implement the rights to housing and health.*

9. A key dimension of international legal obligations with respect to the rights to housing and health are minimum core obligations. These are obligations that exist, except in restricted circumstances irrelevant to Canada, regardless of a country’s economic status and are therefore of immediate effect. In its general definition of minimum core obligations, the Committee on Economic Social and Cultural Rights regards ‘essential primary health care’, ‘basic shelter and housing’, ‘sanitation’, and to ‘ensure equitable distribution of all health facilities, goods and services’³³ as explicit examples of minimum core obligations. Programs developed to meet these obligations are further defined by a minimum core obligation to devise adequate monitoring and evaluation programs to ensure the realization of the substantive minimum commitments³⁴. *Inner City Health Associates urges the Government of Canada to ensure that the minimum core obligations of the right to housing and the equitable distribution of health care for the homeless and demands that such minimum conditions for dignity are enforced.*

10. The principles of equality and non-discrimination animate international human rights law³⁵. Under international law, prohibited grounds of discrimination include ‘property...physical or

²⁸ U.N. Doc E/CN.4/1987/17, Annex. The Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1987). *Human Rights Quarterly*, 9: 122-135.

²⁹ The Maastricht Guidelines on Violations of Economics, Social and Cultural Rights (1998). *Human Rights Quarterly*, 20: 691-705.

³⁰ WHO Commission on the Social Determinants of Health, see p. 195, available at: http://apps.who.int/iris/bitstream/handle/10665/43943/9789241563703_eng.pdf?sequence=1. Accessed May 18, 2018.

³¹ UN General Assembly, Global Health and Foreign Policy, U.N. Doc A/67/L.36 (2012), para. 10.

³² Transforming Our World: The 2030 Agenda for Sustainable Development. U.N. Doc A/Res/70/1 (2015), para. 51.

³³ UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No: 3: The Nature of States Parties’ Obligations (Art.2, Para. 1, of the Covenant), 14 December 1990, E/1991/23, available at <http://www.refworld.org/docid/4538838e10.html> [accessed 22 May 2018]

³⁴ *Ibid*

³⁵ Dworkin, R. (2002). *Sovereign Virtue: The theory and practice of equality*. Boston, MA: Harvard University Press; Dworkin, R. (2013). *Justice for Hedgehogs*. Boston, MA: Belknap Press; Yamin, A. (2009) Shades of Dignity: exploring the demands of equality in applying human rights frameworks to health. *Health and Human Rights*, 11(2): 1-18; Yamin, A. (2014). Taking equality seriously: applying human rights frameworks to priority setting in health. *Human Rights Quarterly*, 36(2): 296-324.

mental disability, health status (including HIV/AIDS), [and] social status³⁶. Non-discrimination on such grounds constitutes one of the fundamental minimum core obligations of the rights to both health and housing. However, every day 35,000 homeless people living in Canada experience discrimination in their access to housing and health care³⁷. The consequences of such discrimination include further stigmatization, emotional distress, declining health and significantly premature mortality³⁸. *Inner City Health Associates enjoins the Government of Canada to implement comprehensive monitoring systems directly tied to regulatory interventions to mitigate discriminatory practices in the housing and homeless health sectors.*

11. International human rights legal obligations require that priority be placed on the most marginalized members of society. The Committee on Economic, Social and Cultural Rights states that ‘vulnerable members of society can and indeed must be protected’³⁹ even in times of severe economic constraints. With respect the right to housing, ‘such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere’⁴⁰. Further, states parties ‘must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others’⁴¹. Similar prioritization of the most marginalized and vulnerable is made with respect the right to health wherein the Committee states that health facilities, goods and services must be accessible to all, ‘especially the most vulnerable or marginalized sections of the population’⁴². *Inner City Health Associates notes that the Canada Housing Benefit and the National Housing Co-Investment Fund of the National Housing Strategy are not targeted to prioritize the homeless nor are they sufficiently valued to substantially impact those currently homeless. We call on the Government of Canada to ensure these programs prioritize the homeless in keeping with its international legal obligations.*

³⁶ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant)*, 11 August 2000, E/C.12/2000/4, available at: <http://www.refworld.org/docid/4538838d0.html> [accessed 22 May 2018]

³⁷ Gaetz, S., Dej, E., Richter, T., and M. Redman., 2016. *The State of Homelessness in Canada 2016*. COH Research Paper #12. Toronto: Canadian Observatory on Homelessness Press. 85 pp.

³⁸ Fitzpatrick, S. (2005). Explaining homelessness: A critical realist perspective. *Housing, Theory and Society*, 22(1): 1-17; Skosireva, A., O’Campo, P., Zerger, S., Chambers, C., Gapka, S., and V. Stergiopoulos. (2014). Different faces of discrimination: perceived discrimination among homeless adults with mental illness in healthcare settings. *BMC Health Services Research*, 14: 376-387; McCarthy, L. (2013). Homelessness and identity: a critical review of the literature and theory. *People, Place and Society*, 7(1): 46-58; Johnstone, M., Jetten, J., Dingle, G., Parsell, C., and Z., Walter. (2015). Discrimination and well-being amongst the homeless: the role of multiple group membership. *Frontiers in Psychology*, 6: 739-748.

³⁹ See note 33

⁴⁰ UN Committee on Economic, Social and Cultural Rights (CESCR), *General Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)*, 13 December 1991, E/1992/23, available at: <http://www.refworld.org/docid/47a7079a1.html> [accessed 22 May 2018]

⁴¹ *Ibid*

⁴² See note 36

The Right to the Highest Attainable Standard of Physical and Mental Health is Essential to Achieving the Right to Adequate Housing

12. The right to adequate housing has been interpreted by the Committee on Economic Social and Cultural Rights to entail a right to live somewhere in ‘peace, security and dignity’⁴³. The Committee further explicitly rejected the conception of shelter as ‘merely having a roof over one’s head’⁴⁴. The dependence of the right to adequate housing on health and health care are noted numerous times by the Committee:
- a. When discussing the availability of services, it states that an ‘adequate house must contain certain facilities essential for health, security, comfort and nutrition’⁴⁵. This position places health at the foundation of the concept of ‘housing’ itself. Our patients regularly are forced by circumstance to live in shelters and homes that do not meet the basic international legal standards to qualify as a home.
 - b. When considering affordability, there is a legal obligation to ensure that ‘the attainment and satisfaction of other basic needs are not threatened or compromised’⁴⁶. As physicians for the homeless, we are made aware daily of the tragic decisions that our patients must make between rent, food and medicine to survive through the day.
 - c. The most explicit consideration of health is contained in the Committee’s discussion of habitability, where it cites in entirety the World Health Organization’s Health Principles of Housing⁴⁷. Such principles ensure that housing promotes health and protects from disease, structural hazards and harmful environmental exposures. Despite such ideals, every year numerous homeless people living in Canada perish due to such exposures.
 - d. Reviewing the legal obligations for criteria in housing prioritization, health considerations are cited repeatedly as relevant to such decisions including ‘the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, [and] the mentally ill’⁴⁸. While our patients suffer profound health inequities, such morbidity seldom translates into prioritization for housing.
 - e. The right to adequate housing stipulates that the location of housing must allow access to health care services⁴⁹. As homeless individuals frequently face profound stigmatization, discrimination and economic and health related restrictions to mobility, requiring separately located or non-outreach health services is a substantial barrier to access⁵⁰. Therefore, for the homeless living in shelters, health services need to be

⁴³ See note 40

⁴⁴ *Ibid*

⁴⁵ *Ibid*

⁴⁶ *Ibid*

⁴⁷ *Ibid*; World Health Organization. (1989). *Health principles of housing*. Geneva: World Health Organization

⁴⁸ See note 40

⁴⁹ *Ibid*

⁵⁰ Shortt, S., Hwang, S., Stuart, H., Bedore, M., Zurba, N. and M. Darling. 2008. Delivering primary care to homeless persons: A policy analysis approach to evaluating the options. *Healthcare Policy*, 4(1): 108-122; Hwang, S. and T. Burns. (2014). Health interventions for people who are homeless. *The Lancet*, 284: 1541-1547; Luchenski, S.,

available in shelters themselves while for those sleeping on the street, outreach services are necessary. While Inner City Health Associates provides health care in over 45 shelters in Toronto, there are innumerable shelters without any on-site health services throughout the country and people living on the street without access to outreach health care services. Such unnecessary limited access to health care for the homeless must be remediated immediately to reduce harm and restore the minimal housing and health rights of the homeless.

Inner City Health Associates is determined to ensure that the health and housing rights of the homeless are respected, protected and fulfilled. Adequate health care located in shelters and delivered by street outreach for the unsheltered are minimum requirements of the right to housing itself, in addition to the right to health. *We urgently call on the Government of Canada to make the provision of health care services in shelters and to the unsheltered a condition of receiving Federal funds for housing delivered as part of the National Housing Strategy.*

13. The international right to health for Indigenous Peoples requires self-determination in their provision of health care services. ‘Indigenous Peoples have the right to specific measures to improve their access to health services and care. These health care services should be culturally appropriate, taking into account traditional preventive care, healing practices and medicines. States should provide resources for Indigenous Peoples to design, deliver and control such services so that they may enjoy the highest attainable standard of physical and mental health.’⁵¹

Inner City Health Associates notes with concern that most health care services for Indigenous Peoples in Canada are not designed, delivered or controlled by Indigenous Peoples. *We call on the Government of Canada to ensure that health care services for homeless Indigenous Peoples be delivered in models consistent with the principle of self-determination.*

The Right to Adequate Housing is Essential to Achieving the Right to the Highest Attainable Standard of Physical and Mental Health

14. The international legal right to health is an ‘inclusive right extending not only to timely and appropriate health care but also to underlying determinants of health, such as access to...an adequate supply of safe food, nutrition, and housing, [and] healthy occupational and environmental conditions’⁵². Housing is both explicitly and implicitly addressed among the minimum core obligations of the right to health including:
 - a. Explicit reference being made to the requirement of the right to housing where it is noted that the right to health requires that states ‘ensure access to basic shelter, housing and sanitation’⁵³.
 - b. Implicit reference to housing status is made when reviewing the grounds protected from discrimination, as they include ‘property’ and ‘social status’. As homelessness is a

Maguire, N., Aldridge, R., Hayward, A., Story, A., Perri, P., Withers, J., Clint, S., Fitzpatrick, S., and N. Hewett. (2018). *The Lancet*, 391: 266-280.

⁵¹ See note 36

⁵² *Ibid*

⁵³ *Ibid*

social identity and a state involving the lack of ‘property’⁵⁴, it is a prohibited ground for discrimination in health care services.

Inner City Health Associates is aware that the Government of Canada has yet to endorse a domestic legal right to health. When well constructed, a legal right to health has been shown to improve population health and health equity while meeting minimum requirements of international human rights obligations⁵⁵. Furthermore, as housing and health rights are reciprocally essential for the full realization of one another, *Inner City Health Associates implores the Government of Canada to ensure that the National Housing Strategy include a housing-focused health rights strategy, with a prioritization on the homeless and those requiring supportive housing for mental and physical health needs. While meeting international human rights obligations, this would also be consistent with Canadian and international best practice in health and social services planning including Housing First and supportive housing*⁵⁶.

4 Key Calls to Action from Inner City Health Associates to Ensure Canada’s National Housing Strategy Meets the Minimum Core Obligations of the Rights to Adequate Housing

15. We are encouraged that the Government of Canada is taking its legal obligations regarding housing seriously and engaged in a rights-based approach to a new National Housing Strategy. This is a significant policy shift and the challenges involved in such a change are appreciated.

Inner City Health Associates looks forward to working with the Federal, Indigenous, provincial and municipal governments, along with our colleagues in social advocacy organizations and the private sector, to ensure that any National Housing Strategy produced meets the full requirements of a rights-based approach, including both the right to adequate housing and the right to the highest attainable standard of physical and mental health.

16. Rights-based approaches to policy development are grounded on the existence of legal rights. Without legal rights, such approaches are both incoherent and ineffective.

Inner City Health Associates calls on the Government of Canada to ensure that the National Housing Strategy include legislation to implement a legal obligation on the part of Federal Agencies to identify and assist homeless individuals in obtaining housing.

⁵⁴McCarthy, L. (2013). Homelessness and identity: a critical review of the literature and theory. *People, Place and Society*, 7(1): 46-58

⁵⁵ Flood, C. and A., Gross (2014). Litigating the right to health: What can we learn from a comparative law and health care systems approach? *Health and Human Rights Journal*, 16(2): 62-72.

⁵⁶ Aubry, T., Goering, P., Veldhuizen, S., Adair, C., Bourque, J., Distasio, J., Latimer, E., Stergiopoulos, V., Somers, J., Streiner, D., and S. Tsemberis. (2016). A multiple-city RCT of housing first with assertive community treatment for homeless Canadians with serious mental illness. *Psychiatric Services*, 67(3): 275-281; Katz, A., Zerger, S., and S. Hwang. (2017). Housing First the conversation: discourse, policy and the limits of the possible. *Critical Public Health*, 27(1): 139-147; Gubits, D., Shinn, M., Wood, M., Bell, S., Dastrup, S., Solari, C., McInnis, D., McCall, T., and U. Kattell. (2016). *Family Options Study: 3-Year Impacts of housing and services interventions for homeless families*. Washington, DC: Government Publishing Office; U.S. Department of Housing and Urban Development.

Such an obligation would require a formal definition of homelessness to identify those in need. We recommend the Canadian Observatory on Homelessness National⁵⁷ and Indigenous⁵⁸ Definitions of Homelessness for this purpose. Such an obligation to assist would also require a National commitment to end both chronic and intermittent homelessness while preventing and efficiently managing acute homeless episodes as a matter of legal responsibility. Given the multiple jurisdictions involved in housing and that international human rights obligations are requirements of all levels of Canadian government, Inner City Health Associates further notes that, to be effective, any such obligation must be mirrored by provincial and municipal governments. We recommend that these obligations be supported by funding conditionality provisions being included in Housing Co-Development Funds, other Federal-Provincial/Territorial agreements included in the National Housing Strategy as well as broader Federal funding such as the Canada Health Transfer and Canada Social Transfer.

17. International human rights obligations and rights-based approaches to policy unequivocally require prioritization of the most vulnerable and marginalized. In order to ensure the National Housing Strategy delivers on its promise to be a rights-based approach and is consistent with the available evidence of need.

In order adequately prioritize the homeless in the National Housing Strategy, the Canada Housing Benefit would need to be valued at rates able to ensure that no more than 50% of income is required for rent, a marker of deep deprivation and high-risk for homelessness. Furthermore, as chronic homeless makes up less than 15% of homeless in Canada⁵⁹, the National Housing Strategy target of reducing chronic homelessness by 50% progressively over 10 years is insufficient to meet Canada's minimum core obligations of the right to adequate housing, which includes an immediate obligation to end homeless.

Inner City Health Associates calls on the Government of Canada to ensure that those experiencing homelessness are clearly prioritized with respect to the National Housing Strategy, including the Canadian Housing Benefit, new housing construction and repair of existing housing stock. Inner City Health Associates further calls on the Government of Canada to develop a National Strategy to End Homelessness as a key pillar of a rights-based approach to the National Housing Strategy.

18. The international right to adequate housing requires that adequate health and health care requirements be equitably met, with prioritization of the most vulnerable and marginalized. As health and health care are defined in international law as the right to the highest attainable standard of physical and mental health and includes a requirement of adequate housing and shelter, the right to adequate housing and health are inseparable.

⁵⁷Gaetz, S., Barr, C., Friesen, A., Harris, B., Hill, C., Kovacs-Burns, K., Pauly, B., Pearce, A., Turner, A., and A. Marsolais. (2017) Canadian Definition of Homelessness. Available at: <http://homelesshub.ca/sites/default/files/COHhomelessdefinition.pdf> [Accessed May 22, 2018]

⁵⁸ Thistle, J. (2017). Definition of Indigenous Homelessness in Canada. Available at: <http://homelesshub.ca/sites/default/files/COHhomelessdefinition.pdf> [Accessed May 22, 2018]

⁵⁹ See note 37

Inner City Health Associates calls upon the Government of Canada to ensure that adequate health and health care are explicitly included within the National Housing Strategy and to ensure that health care services for the homeless in shelters, sleeping on the street, or requiring supportive housing are mandated by provincial or municipal governments and providers receiving Federal funds as part of the National Housing Strategy and other Federal health and social services funding.

19. The international right to health for Indigenous Peoples explicitly includes stipulations requiring self-determination in the provision of health care. As housing rights are reciprocally tied to the realization of the right to the highest attainable standard of physical and mental health for everyone, including Indigenous Peoples, and the latter cannot be meaningfully self-determining without including self-determination in housing:

Inner City Health Associates calls on the Government of Canada to respect, protect and fulfill the its obligations in relation to the right of Indigenous Peoples to self-determination within housing and health care systems with equitable funding that is based on need. Such recognition should be consistent with inherent Aboriginal rights, treaty rights, self-government agreements and comprehensive land claims agreements, the International Covenant on Economic Social and Cultural Rights and the UN Declaration on the Rights of Indigenous Peoples.