

Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolution 34/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the impact of **Akelius Canada's business model on the right to housing of tenants in Akelius' apartment blocks in Toronto and Montréal, which illustrates the negative impact of financialization of housing in Canada.**

According to the information received:

Akelius Canada is a subsidiary of the Swedish multi-national corporation Akelius, which owns apartments in both Toronto and Montréal and rents these out in order to generate profits, which are eventually passed through to three Bahamian registered foundations. Akelius Canada is generating vast sums of money from its property holdings and has increased the number of properties it owns in Canada from 2,823 at the end of 2014, to 7,366 at the end of 2019.¹ Over this period, it has seen yearly increases in both the rental incomes generated from its business activities, and the average residential rents that its tenants pay.²

Akelius Canada's business model is highly dependent on a process of acquisition, renovation and re-rental. The company purchases apartment blocks in Toronto and Montréal and subsequently commences renovations on empty flats and communal areas, despite no substantial work generally being regarded as required by tenants. Having completed these renovations, Akelius Canada then either informs existing tenants it intends to raise their rents, or finds new tenants for the newly renovated apartments, charging them higher rents as a result of the modernisation works, often using modernisation work as a mechanism for increasing rents above pre-determined regulatory rent caps. This model is evidently designed primarily to increase the profits of Akelius Canada, and is seen in most, if not all, of the cities which Akelius operates in around the world.

¹ Akelius, year to end-2019 report, 27 online at: <https://mb.cision.com/Main/3302/3025691/1186841.pdf>; Akelius, Annual Report 2018, 97, online at: <https://mb.cision.com/Main/3302/2798336/1033090.pdf>

² Akelius, year to end-2019 report, 27 online at: <https://mb.cision.com/Main/3302/3025691/1186841.pdf>; Akelius, Annual Report 2018, 97, online at: <https://mb.cision.com/Main/3302/2798336/1033090.pdf>

However, such activities have come at a significant cost to tenants' enjoyment of their human rights, with a number of highly publicised examples of Akelius Canada putting profit before tenant's right to housing being evident.

In Toronto, Ontario, residents in the Parkdale area of the city have, for a number of years, been complaining about the lack of affordability generated by Akelius Canada's management of their buildings, wherein the company, having purchased apartments, will seek to drive up rents in order to increase profits, utilising loopholes within the provincial rent cap to do so. In particular, residents have stated that, having purchased their apartment building, Akelius Canada will commence substantial renovations to communal areas and then apply to the Landlord and Tenant Board to increase the rents of its tenants above the Ontario rent cap, which allows landlords to increase rents above the cap where they can show they have spent significant sums on modernisation works. This has led to some tenants being served with back-to-back rent increases,³ sometimes up to 5 times greater than the provincial guidelines would normally allow.⁴ In 2014, it was noted that 10 per cent of all of the applications made to the Toronto Landlord and Tenant Board for above guideline rent increases came from Akelius Canada, with such applications being made for more than a third of its properties in Toronto.⁵ This is purported to be a far higher percentage than any other landlord locally. Little evidence is present which highlights that Akelius Canada has reflected on, or sought to mitigate, the impact that this might have on affordability for tenants, many of whom have suggested that they feel they are being pushed out of the area by the higher rents. It should be noted that many tenants will self-evict due to the unaffordability of their unit prior to being issued with a formal eviction notice, for fear of having their rental history tarnished.

Other tenants have highlighted the impact that Akelius Canada's profitmaking model has had on the habitability of their homes. Numerous accounts from tenants and tenant groups have noted that, once they purchase apartment buildings, Akelius Canada will remove building superintendents, replacing them with a phone line, halt or reduce maintenance on individual apartments, and limit basic services such as garbage removal. At the same time, the substantial renovation works which the company inevitably commences causes significant disruption to tenants lives and living conditions, leading many to feel they can no longer remain in their homes. In Montréal, Québec, for example, Akelius Canada commenced renovation work on 12 vacated units in a 42-unit apartment block. The work, which started in 2018, was intended to modernize the apartments concerned so as to enable them to be re-leased for higher rents, and thus generate greater profits for Akelius Canada. However, the works that were undertaken have caused significant problems for the tenants who live in the block, diminishing the

³ 'Parkdale residents protest back-to-back rent increases by Akelius' (23rd March 2015) CBC, online at: <https://www.cbc.ca/news/canada/toronto/parkdale-residents-protest-back-to-back-rent-increases-by-akelius-1.3005265>

⁴ Ben Spurr, 'New rent monster' (31st July 2014) Now Toronto, online at: <https://nowtoronto.com/news/new-rent-monster/>

⁵ *ibid*

habitability of their homes to such an extent that many have felt compelled to leave. Tenants have put forward numerous complaints, including that Akelius Canada turned off the building's plumbing system so that it could be repaired due to complaints of leaks, leaving residents with no heating to enable them to stay warm. Whilst Akelius Canada has claimed to have provided all tenants with electric heaters from the day in which the heating was turned off, tenants have refuted this, with one reporting that a heater had only been given to them nine days after the loss of the central heating, following numerous calls and the sending of a legal letter. Even with these heaters, tenants reported that the power usage from them meant that should they operate any large electronics at the same time that they had the heater running, their apartment's fuse would blow, leading them to lose power.

Residents have stated that they believe the conditions created by the renovation works were being used by Akelius Canada as a method of forcing them from their homes so as to allow their units to be renovated and re-let at higher rates so as to maximise the profitability of its investment.

Examples similar to the allegations above highlight the deeply detrimental impact of the financialization of housing, which leads to decision-making and housing provision which is devoid of consideration for the human right to housing, of which affordability based on household income is a key aspect, focusing instead on profit-making.

The lack of sufficient safeguards to prevent institutional investors from utilising peoples' homes to generate vast amounts of wealth has caused a detriment impact on vital facets of the right to adequate housing, including habitability and affordability. Investment in housing in Canada has disconnected housing from its core social purpose of providing people with a place to live in security and dignity.

While I do not wish to prejudge the accuracy of the information made available to me, I wish to express my concern for the effects of the financialization of housing in Canada, which has been facilitated, in part, by your Government's inaction and in particular by the ineffective legal and regulatory framework present within Canada which allows housing to be turned into a mere investment and vehicle for profitmaking. This is despite adequate housing being recognised in international law as a human right. I invite you to consider the concerns outlined in this letter, with a view to developing a human rights-based response to them.

The financialization of residential real estate undermines the enjoyment of the rights to non-discrimination, equality and housing. The business model associated with financialization demands short-term profits, meaning there is heightened pressure placed on purchasing affordable housing, or housing that is itself regarded as "undervalued" or in 'undervalued' areas, often those with rent guidelines or controls in place. This is often where the most vulnerable communities are located. The financialized housing model

necessitates securing the highest possible return on investment through the persistent extraction of profits through monthly rents, which results in the constant escalation of housing costs for tenants and a degradation in living conditions generated by renovations, which have been commenced for the primary purpose of pursuing profit. Turning housing into an investment thus leads to decision-making that is investor-driven rather than tenant centred. When the focus is on maximizing profits, housing becomes less affordable, less available, less secure, and less habitable. It can result in increased evictions or constructive displacement.

I use this opportunity to encourage Canada to recognize the impact of the financialization of housing on the enjoyment of the right to adequate housing and to take concerted legislative steps towards regulating Akelius and other actors and returning housing to its core function as a social good. Failure to do so can only be regarded as a retrogressive step, and accordingly puts the State at odds with its obligations under international human rights law.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide detailed information on any legislative measure, including with respect to tax laws, or laws governing companies that operate through tax havens or any other measure taken by the Government to prevent the negative human rights impact of the financialization of housing.
3. Please provide detailed information on any investigation undertaken on the business practices of Akelius Canada and their impact on the human right to housing of residents in buildings owned by the company.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I intend to publicly express my concerns about the human rights impact of Akelius' business practices in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issues in question.

Please note that a letter with a similar content has been sent to other countries concerned, and to Akelius Canada's parent company, Akelius Residential, highlighting its human rights obligations as a private actor to avoid any harm and to take positive steps to realize the right to housing.

Please accept, Excellency, the assurances of my highest consideration.

Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, I would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights to which Canada has been a party since 19 May 1976, and more specifically article 11.1 which states that "[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."

In addition, I would like to bring to your Government attention the UN Guiding Principles on Business and Human Rights, which remind States that they must protect against human rights abuse by business enterprises within their territory and/or jurisdiction. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to "prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication" (Guiding Principle 1). In addition, States should "enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights..." (Guiding Principle 3). In addition, according to the Guiding Principles, business entities also have an independent responsibility to respect human rights, including the right to adequate housing.

According to international human rights law, your Excellency's Government is required to take progressive measures, to the maximum of available resources, to ensure access to adequate housing for all without discrimination. To address the issue of financialization and its impact on the enjoyment of the right to housing, your Government must develop policies and laws that include a full range of taxation, regulatory and planning measures in order to re-establish housing as a human right, promote an inclusive housing system, prevent speculation and limit the extraction of profits at the expense of tenants. It is necessary, as well, to ensure that loopholes within rent control regulations do not incentivise institutional property investors commodifying housing by allowing above-guideline rent increases where they undertake, even when unnecessary, substantial renovations to properties. Achieving this will require a transformation of the relationship between your Government and the financial and private sectors, whereby human rights implementation becomes the overriding goal in all activities and processes. In this regard, we would draw to your attention to the Special Rapporteur's report on the financialization of housing (A/HRC/34/51).