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Policy against Workplace Harassment, Discrimination, Reprisals and Violence

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1 Introduction and Scope

1.1 MHI is committed to providing safe and supportive workplaces in which the diversity, dignity and perspectives of each employee are valued and respected. In particular, MHI is committed to the prevention of harassment, discrimination, reprisals and violence in its workplaces. In instances where harassment, discrimination, reprisals or violence occur in an MHI environment, MHI is committed to responding in a fair and just manner and to remediating as necessary.

1.2 MHI operates within the legal framework created by any and all applicable laws and policies, be they federal, provincial or municipal. See Appendix A for a summary of relevant federal legislation and Appendix B for a summary of relevant provincial legislation.

1.3 The purpose of this policy therefore is to:

- Set out MHI's expectations and standards of behavior for a respectful, safe, and supportive environment;
- Define behaviours that may be offensive, problematic or prohibited by either law or by this policy;
- Clarify roles and responsibilities with respect to interpersonal behaviour in the MHI environment;
- Outline measures to prevent and address prohibited behaviour, including harassment, discrimination, reprisals and violence; and
- Address MHI's obligations under applicable legislation governing landlords and tenants, occupational health and safety, human rights and criminal offences.

1.4 This policy applies as follows:

- to MHI employees, including full-time, part-time, temporary, probationary, and casual employees;
- to all activities that take place involving an employee while that employee is carrying out business for MHI whether the business takes place on properties owned or managed by MHI or at other locations;
- to communications to or from an MHI employee by telephone, cell phone, email, text message, or other electronic instant messaging platforms as well as by regular mail or paper message where the communication may be connected to the workplace or have an impact on the workplace or working relationships, whether the computer, phone, or other electronic device used to make the communication is a personal or corporate-issued device.



2 Workplace Violence

2.1 Staff safety is paramount at MHI. Any acts of violence or threats of violence will not be tolerated.

2.2 An employee may refuse to work if the employee has reason to believe that violence is likely to occur, and that reporting to work may place himself/herself in danger.

2.3 Threats of violence and acts of violence are the purview of the police of jurisdiction. An immediate call to 911 is in order in these circumstances.

3 Reporting Procedures

Incidents of harassment or discrimination should be reported to the supervisor in a timely manner.

3.1 If possible, the instigator should be immediately informed that their behavior is causing discomfort and that it should stop.

3.2 The supervisor is required to document the event or occurrence, including names of the principals, dates, times, locations, the names of witnesses, and a summary of what happened. Photos can be included to clarify the report.

3.3 The supervisor is required to take steps to ensure that the behavior stops immediately, and that the instigator understands the seriousness of the allegations. If the behavior continues or is repeated, the supervisor will make a report to the designated staff.

4 Investigations

All reports of incidents made to the designated staff will be investigated thoroughly in a fair and timely manner.

4.1 Workers' and tenants' privacy will be respected as much as possible; see further below under Privacy (section 6).

4.2 Interviews will be conducted regarding persons making reports of incidents, persons allegedly causing incidents, and any witnesses to an incident.

4.3 All employees have a responsibility to cooperate in the investigation.



4.4 The investigation will involve:

1. collecting all pertinent information from those reporting the incident;
2. informing the accuser of the details, and obtaining their response;
3. interviewing witnesses;
4. determining whether, on the evidence, the incident did, or did not, take place; and
5. recommending appropriate remedies, penalties, or other action.

5 Corrective action

5 If sufficient evidence is found to substantiate that the reported incident occurred or that the legislation enforced by this policy was contravened, the designated staff will consider corrective action. Possible corrective actions may include:

1. an apology from the person causing the incident to those affected by it with a promise not to repeat the action;
2. transfer or relocation of one party to another location;
3. mandatory counseling;
4. suspension with or without pay for a period of time;
5. termination of employment; or

5.2 If no evidence is found to substantiate a reported incident and those who reported it are found to be malevolent or frivolous, disciplinary action may be brought against them.

6 Privacy

6.1 The MHI Board of Directors, the designated staff, all workers and all tenants are responsible for respecting the confidentiality of anyone involved in an incident covered by this policy.

6.2 Nevertheless, confidentiality cannot be absolutely guaranteed due to investigation requirements.

6.3 All documents related to an incident, including the written-report, witness statements, investigation notes and reports, and documents related to those affected by the incident will be maintained by the designated staff, separate from personnel files.

6.4 *Disclosure of Potential Misbehavior:* Subject to overriding privacy laws, MHI will provide information to an employee related to any risks of violence from a person with a history of violent behaviour if the employee can be expected to encounter that person during the course of his or her



work or while in or near MHI property, and if there is a risk of violence likely to expose him or her to physical injury. Disclosure of personal information will be limited to that information which is reasonably necessary.

6.5 The Board, the designated staff, and supervisory staff must exercise sound judgment and care at all times to avoid unauthorized or improper disclosures of confidential information.

7 Authorities and Accountabilities

7.1 Everyone connected with MHI is expected to uphold this policy and to work together to prevent violence, harassment, discrimination or reprisals against MHI's tenants and workers.

7.2 MHI as a corporation, charity, landlord, employer and provider of services to persons in need is responsible under the applicable legislation for taking appropriate action to remedy any reported incidents.

7.3 The Board, the designated staff and supervisors must exercise good judgment and care at all times to avoid unauthorized or improper disclosures of confidential information.

8 Supporting Program of Risk Assessment, Education and Reporting

8.1 *Risk assessment:* Every effort must be made to identify possible sources of violence, harassment, discrimination and reprisals and to implement procedures to control the risks of same for staff. To do this, MHI will use a risk assessment methodology developed under Ontario's workplace safety legislation. This methodology is designed for employers to assess the risks of "workplace violence", but adapted to also cover harassment, discrimination and reprisals. See Appendix D.

8.1.1 Once the risk assessment is complete, MHI must advise its workers of the results, either through their health and safety committee if there are 20 workers or more, or through their health and safety representative if there are 6 workers or more; or in a direct communication to all staff if there is no committee or representative.

8.1.2 MHI must reassess the risks as often as is necessary, and at least annually, in order to protect employees.



8.2 *Education and Assistance*—will be provided to all employees as a preventative measure to inform everyone about the nature of violence, harassment, discrimination and reprisals, the right to be free of them, and about MHI’s policy and procedures.

8.2.1 Assistance will include the creation and implementation of individual safety plans to protect employees from known situations where the threat of violence may be present.

8.3 *Policy Review Schedule*: This MHI policy will be reviewed as often as necessary, but at least annually.

8.3.1 The review will include the involvement of both employer and worker representatives.

8.4 *Annual Reporting*: In the event that there is a year in which the number of incidents exceeds two (2), the Executive Director of MHI will prepare an annual report to the Board President which will include the number of incidents reported and the resolution, mediation, and dispositions made under this policy. The Board President will present his/her report including the report received from the Executive Director to the Board of Directors, together with any recommendations with respect to matters contained in the report.



Appendix A

Summary of Canadian legislation against criminal harassment, threats, intimidation and mischief; and allowing revocation of registered charity status when charities are involved in crime or other activities contrary to public policy

Criminal Code, RSC 1985 c C-46 as amended: This legislation defines all sorts of crimes that can be committed in Canada or by Canadians and how those who commit them are to be accused, tried and punished—including many crimes of violence or threatened violence. When crimes of this or any other kind are observed or reported on MHI property or involve MHI tenants or staff, they **should be reported to the police by calling 911**. All these crimes cannot be catalogued here but note the following key examples:

- s **264(1), (2)**—**Criminal harassment**: These provisions make it a crime to do things in ways that make others reasonably fear for their safety, such as repeatedly following or communicating with them, besetting or watching their dwellings or workplaces, or engaging in threatening conduct towards them or their families.
- s **264.1(1)**—**Uttering threats**: Specifically, threats to cause death or bodily harm or to damage property.
- s **423**—**Intimidation**: Using violence, threats, threatening conduct, following, besetting, watching, stealing tools or blocking highways, to try to compel others to do or not do something.
- s **430(1)(c), (d)**—**Mischief**: Willfully obstructing, interrupting or interfering with the lawful use, enjoyment or operation of property.

Income Tax Act, RSC 1985 5th Supp c 1 as amended: This legislation extends tax privileges to and imposes duties on registered charities and their donors under many rules.

- Para **168(1)(b)** empowers the Minister of National Revenue (*i.e.*, the Canada Revenue Agency or CRA) to revoke registration if a charity “ceases to comply with the requirements of this Act”.
- One main requirement is that an organization must be “constituted and operated exclusively for charitable purposes”. The courts have interpreted this as invoking how the courts themselves have defined charitable purposes in the common law during centuries of case-law jurisprudence.
- In particular, one of the common law’s rules on this states that an organization with a purpose that is either illegal, that is “contrary to the law”, in this context mainly meaning criminal in nature, or “contrary to public policy”, meaning that even if the purpose is not illegal the courts still treat it with as much disfavor as if it was—cannot be for public benefit and therefore cannot be charitable.



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- What this means is that if CRA, during an audit for example, finds that a charity is involved in crime or other forms of misconduct contrary to or violating applicable legislation—such as
- harassment, discrimination and other bad behaviours described in this policy—or condoning any such crime or misconduct, CRA can and will revoke its registration.
- The consequences of revocation are quite draconian. The revoked charity will have to give away all its assets to another charity or pay a revocation tax amounting to the same. In effect, the charity is destroyed.
- Following and enforcing this policy is thus critical to MHI's existence.



Appendix B

Summary of Ontario legislation against harassment, discrimination, reprisals and violence affecting residential tenants and workers

Human Rights Code, RSO 1990 c H.19 as amended,

- **PART I FREEDOM FROM DISCRIMINATION**

- **Services**

1 Every person has a right to equal treatment with respect to services, goods and facilities, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

- **Accommodation**

2 (1) Every person has a right to equal treatment with respect to the occupancy of accommodation, without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

- **Harassment in accommodation**

(2) Every person who occupies accommodation has a right to freedom from harassment by the landlord or agent of the landlord or by an occupant of the same building because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, marital status, family status, disability or the receipt of public assistance.

- **Contracts**

3 Every person having legal capacity has a right to contract on equal terms without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability.

[s 4 inapplicable]

- **Employment**

5 (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

- **Harassment in employment**

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sexual orientation, gender identity, gender expression, age, record of offences, marital status, family status or disability.

[s 6 inapplicable]



- **Sexual harassment**

- **Harassment because of sex in accommodation**

- 7 (1) Every person who occupies accommodation has a right to freedom from harassment because of sex, sexual orientation, gender identity or gender expression by the landlord or agent of the landlord or by an occupant of the same building.

- **Harassment because of sex in workplaces**

- (2) Every person who is an employee has a right to freedom from harassment in the workplace because of sex, sexual orientation, gender identity or gender expression by his or her employer or agent of the employer or by another employee.

- **Sexual solicitation by a person in position to confer benefit, etc.**

- (3) Every person has a right to be free from, (a) a sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome; or (b) a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the person.

- **Reprisals**

- 8 Every person has a right to claim and enforce his or her rights under this Act, to institute and participate in proceedings under this Act and to refuse to infringe a right of another person under this Act, without reprisal or threat of reprisal for so doing.

- **Infringement prohibited**

- 9 No person shall infringe or do, directly or indirectly, anything that infringes a right under this Part.

Occupational Health and Safety Act, RSO 1990 c O.1 as amended

- **Definitions**

- 1 (1) In this Act, [. . .]

- “supervisor” means a person who has charge of a workplace or authority over a worker;

- “worker” means any of the following, [. . .]:

- 1. A person who performs work or supplies services for monetary compensation.

- [items 2 to 5 inapplicable or repealed]

- “workplace” means any land, premises, location or thing at, upon, in or near which a worker works;

- “workplace harassment” means, (a) engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome, or (b) workplace sexual harassment;



“workplace sexual harassment” means, (a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or (b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome;

“workplace violence” means, (a) the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker, (b) an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker, (c) a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

- **PART VI REPRISALS BY EMPLOYER PROHIBITED**

- **No discipline, dismissal, etc., by employer**

50 (1) No employer or person acting on behalf of an employer shall,

- (a) dismiss or threaten to dismiss a worker;
- (b) discipline or suspend or threaten to discipline or suspend a worker;
- (c) impose any penalty upon a worker; or
- (d) intimidate or coerce a worker,

because the worker has acted in compliance with this Act or the regulations or an order made thereunder, has sought the enforcement of this Act or the regulations or has given evidence in a proceeding in respect of the enforcement of this Act or the regulations or in an inquest under the *Coroners Act*.



Appendix C

Explanation and examples

C.1 The following explanations and examples are intended to assist employees in understanding terms referenced in this policy.

C.2 These explanations and examples may not be identical to the legal language contained in the applicable legislation. In case of conflict, the legislation summarized in Appendices A, B and C (as interpreted by the appropriate tribunals and courts) prevails.

C.3 **Discrimination**—This is normally understood as actions or behaviours that result in unfavourable treatment or which have a negative impact on an individual or group because of one or more of the prohibited grounds listed in the human rights legislation.

C.3.1 Discrimination may be intentional or unintentional. It may involve direct actions that are outright discriminatory, or it may involve rules, practices or procedures that appear neutral, but still nevertheless disadvantage certain groups of people.

C.3.2 Examples could include:

- Excluding an employee from workplace activities
- Refusing to work with another employee
- Denial of hiring, promotion, work assignment, career development or training
- Failing or refusing to accommodate short of undue hardship
- Denial of services to any individual or group of individuals.

C.4 **Harassment**—This is normally understood as engaging in offensive, hurtful, upsetting, or embarrassing comment or conduct that a person knows, or ought reasonably to know, is unwelcome. This includes sexual harassment dealt with in para D.4.6 below.

C.4.1 The fact that a person does not explicitly object to harassing behaviour, or appears to be going along with it, does not mean the behaviour is welcomed, consented to, or is not harassing.

C.4.2 Harassment usually involves more than one incident or a pattern of behaviour, but a single incident may be sufficiently serious, offensive or harmful to constitute harassment.



C.4.3 Harassment may be:

- *Personal*—directed at an individual (or at individuals) but not based on any prohibited ground listed in the human rights legislation; or
- *Code-based*—based on one or more of the prohibited grounds listed in the human rights legislation, in which case it is also a form of discrimination. These prohibited grounds include one or more of the following:
 - race
 - ancestry
 - place of origin
 - colour
 - ethnic origin
 - citizenship
 - creed (religion, including atheism)
 - sex (includes pregnancy and breast feeding)
 - sexual orientation
 - gender identity
 - gender expression
 - age
 - record of offences (criminal conviction for a provincial offence or for an offence for which a pardon has been received)
 - marital status (includes married, single, widowed, divorced, separated, living together in a conjugal relationship outside of marriage, whether in a same-sex or opposite sex relationship)
 - family status (such as being in a parent-child relationship)
 - disability (includes mental, physical, developmental, or learning disabilities)
 - association or relationship with a person identified by one of the listed grounds
 - perception that one of the listed grounds applies, whether or not it actually does

C.4.4 Examples of personal harassment could include:

- Angry shouting/yelling
- Abusive or violent language
- Physical, verbal, or e-mail threats or intimidation
- Aggressive behaviours (e.g. slamming doors, throwing objects)
- Targeting individual(s) in humiliating practical jokes
- Excluding, shunning, or impeding work performance
- Negative blogging or cyber bullying
- Retaliation, bullying, or sabotaging



- Unreasonable criticism or demands
- Insults or name calling
- Public humiliation
- Communicating via any means (*e.g.* verbal, electronic mail, voice mail, print, social media posts, or radio) that is demeaning, insulting, humiliating, or mocking.

C.4.5 Examples of Code-based harassment could include (if based on one or more of the prohibited grounds):

- Insulting, offensive, humiliating or mocking remarks, gestures, jokes, slurs, or innuendos
- Name calling, including using derogatory or offensive terms or language
- Refusing to work or interact with an employee
- Attaining, viewing, retaining, or distributing insulting, derogatory, or offensive information from the internet or other sources
- Vandalism of an individual's property
- Interference with a person's ability to perform their work responsibilities
- Offensive, derogatory, insulting, or demeaning communication via any means (*e.g.* verbal, electronic mail, voice mail, print, social media posts, or radio)
- Displaying pictures, graffiti or other materials that are derogatory or offensive.

C.4.6 Sexual Harassment—is harassment based on sex, sexual orientation, gender identity, or gender expression and includes:

- Engaging in offensive, hurtful, upsetting, or embarrassing comment or conduct because of sex, sexual orientation, gender identity or gender expression that a person knows, or ought reasonably to know, is unwelcome;
- Making a sexual solicitation (*i.e.* request) or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement and the person knows or ought reasonably to know that the solicitation or advance is unwelcome; and
- Retaliating against or threatening to retaliate against an individual for the rejection of a sexual solicitation or advance where the retaliation or threat of retaliation is by a person in a position to confer, grant or deny a benefit or advancement to the individual.

C.4.7 Harassment does not include reasonable performance of management or supervisory functions, including:

- performance/probation reviews/appraisals
- performance management (including coaching, counselling, discipline)
- organizational changes/restructuring



- shift/vacation scheduling
- work direction
- work assignments/work location.
- occasional disagreements or personality conflicts between co-staff.
- stressful events encountered in the performance of legitimate duties.
- a single comment or action unless it is serious and has a lasting harmful effect.

C.5 **Reprisals**—are specifically prohibited under both human rights and workplace safety legislation. (See the relevant extracts shown in Appendix B for Ontario.)

C.5.1 Reprisals are, in effect, any form of harassment when done for one particular motivation, which is normally understood to be retaliation or revenge by or for management against a person (such as a worker) for:

- Raising a concern or making a complaint under applicable legislation (whether on their own behalf or on behalf of another)
- Participating or cooperating in an investigation or other complaint resolution process
- Associating with or assisting a person identified in the above bullets.

C.5.2 Examples of reprisal could include:

- Issuing discipline, changing work location or hours, demoting, denying advancement or promotional opportunities, or threatening to carry out such actions if done as an act of retaliation or revenge.
- Bullying, threats, or other intimidating behaviour.
- Making false allegations of workplace misconduct.
- Pressuring an individual to withdraw or change a complaint or witness statement.

C.6 **Disrespectful Behaviour**—Disrespectful behaviour may be simply unpleasant or it may constitute harassment. Due regard should be had towards those whose life experiences may include poverty, hardship, misfortune and even oppression and victimization and whose habits may be blunt and rude.

C.6.1 Examples could include:

- Teasing or joking that intimidates, embarrasses or humiliates
- Belittling and use of profanity
- Using sarcasm or a harsh tone
- Deliberately expressing or exhibiting disinterest when an employee is speaking
- Spreading gossip or rumours that damage one's reputation
- Condescending or patronizing behaviour



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- Actions that invade privacy or one’s personal workspace or rental unit
- Deliberately excluding someone from basic civilities (*e.g.*, not saying “good morning”), relevant work activities, or decision making.

C.6.2 But a line can be crossed. These behaviours could also constitute discrimination, if based on one or more of the prohibited grounds, or harassment, if they are repeated, occur in combination with other prohibited behaviours, or are severe.



Appendix D Workplace Risk Assessment Survey

The following questionnaire is to assist MHI in assessing the risk of violence, harassment, discrimination or reprisal. Responses to the questions are kept confidential and the respondent's identity is kept confidential. Respondents will be free from reprisal, and any investigations will be conducted using due process.

1. Are you directly aware of any **actual** violence, harassment, discrimination or reprisal situations that have occurred within the last year? Yes/No

If you answered yes, please describe the incident(s).

Are you directly aware of any **potential** violence, harassment, discrimination or reprisal situations that have occurred within the last year? Yes/No

If you answered yes, please describe the incident(s).

2. Have you ever been concerned for your personal safety while at work? Yes/No

If yes, please describe the situation(s).

3. Are you familiar with the procedures you should follow if confronted by anyone in a hostile manner? Yes/No

4. Are you familiar with MHI's *Policy against Harassment, Discrimination, Reprisals and Violence*? Yes/No

5. Has the subject of violence, harassment, discrimination or reprisals ever been covered during workers or tenants meetings that you have attended? Yes/No

6. Please rate the overall degree of risk you experience as a worker or veteran tenant of MHI.

(circle one) Low Risk Medium Risk High Risk

If you circled medium or high risk, please explain:
