

# ACE NEWSLETTER

Advocacy Centre  
for the Elderly

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## 1984 ~ 2009

### CELEBRATING 25 YEARS OF ADVOCACY FOR LOW-INCOME SENIORS

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## FUNDING CUTS THREATEN LEGAL SERVICES

By: Paula Psyllakis,  
Chair, Board of Directors

Two concepts that define any democratic society are equality and freedom. These principles extend to the notion that all citizens are equal before the law. Thus, as a democratic society, our decision-makers have seen fit to establish a system whereby, in theory at least, all citizens have access to justice. This system, which includes clinics such as the Advocacy Centre for the Elderly (ACE), is essential to any society that believes all individuals, including the poor, disadvantaged and vulnerable, will have help when faced with legal issues.

ACE is funded by Legal Aid Ontario, whose mandate under the *Legal Aid Services Act* is to “promote access to justice throughout Ontario for low-income individuals by means of providing consistently high quality legal aid services in a cost-effective and efficient manner.” Without funding from Legal Aid Ontario, ACE could not continue to operate. On August 19, 2009, *The Globe and Mail* reported

that “the Ontario legal aid plan faces a staggering \$56-million budget shortfall,” leaving many, including the staff and Board of Directors at ACE, to worry about the future of the clinic system.

The Ministry of the Attorney General later announced that it was “increasing access to legal aid for Ontario families by investing an additional \$150 million over four years in Legal Aid Ontario.” Five legal aid advisory groups will be established to look at how this money can best support Ontarians seeking legal support. Each group will focus on one of the following areas: poverty law, family law, immigration and refugee issues, standard criminal cases and big criminal case management.

Thus, it is unclear how much, if any, money will be directed towards legal clinics. More importantly, this amount is insufficient to properly address the needs of a meaningful legal aid system.

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# RESTITUTION AS A REMEDY FOR FINANCIAL ABUSE

By: Graham Webb, Staff Litigation Lawyer



## MY MONEY AND HOUSE ARE GONE. CAN I GET THEM BACK?

Every year, ACE receives hundreds of complaints about the financial abuse of older adults. It seems there is no limit to the things that people will do to separate older adults from their money and property. While the nature of the financial abuse varies widely, an emerging trend is to remedy the financial abuse with a legal claim for “restitution.” However, restitution cannot be used as an effective remedy in all cases.

People should always be careful in managing their finances. We recommend that people obtain *independent* legal advice before signing legal documents or giving away property.

Real estate owned by an older adult is frequently the target of financial abuse. Older generations can be house-rich but cash-poor. The unencumbered title to the home that an older adult has occupied for decades may be his or her only significant asset with a value of several hundred thousand dollars. Many scenarios can arise causing an older adult to part with the value of his or her real property. For example, a close family member or other trusted person induces the older adult to sign over title to real estate, without the older person receiving

anything of value in return. At other times, the older adult is persuaded to sell his or her home and then transfer the proceeds of sale to someone else, frequently based on the promise that the older adult can live with the recipient free of charge for the rest of his or her life. These scenarios often do not work out very well for the older adult, who can find him or herself homeless when disagreements arise and relationships break down.

Pension incomes are another source of financial abuse. An older adult may allow another person to use his or her pension income without a proper accounting. Sometimes, the use of the pension incomes can be a bona fide sharing of living expenses. In other instances, there is no legitimate basis for an individual to appropriate the pension incomes of an older adult, and the loss of pension incomes is actually conversion or theft.

Bank accounts or other investments are also frequent sources of difficulties. The ways in which older adults can be separated from money and investments are countless. Common situations include the following:

- The older adult voluntarily transfers money to a family member or other trusted person, fully expecting that the money will eventually be repaid but it is not;
- The older adult feels that the circumstances of the transfer are less than voluntary and that he or she has no viable option but to hand over money or investments to someone else who wants them; and
- The older adult has absolutely no knowledge that money or valuable property has been transferred at all, and only discovers the transfer long after the fact.

Financial abuse also occurs where another person obtains credit in the name of an older adult without his or her knowledge or voluntary consent. The

unauthorized use of another person's credit cards is an example of this type of financial abuse. ACE often hears about credit cards being obtained in the name of an older adult without his or her knowledge. As well, older adults may be pressured to obtain bank loans, lines of credit and mortgages on their homes. Although they do not receive a penny of the money loaned, they are later called on to repay the debt.

Personal property (e.g., automobiles, furniture, household effects, purses, wallets, cash and identification) are frequently taken without the older adult's permission when there is an unexpected event, such as hospitalization, or a change in living residence to a retirement home or long-term care home. These transfers of personal property can also be considered financial abuse.

Regardless of the form of financial abuse, the legal principle of "restitution" is often the basis of a legal action. Restitution is a "cause of action" (claim) that gives a person the legal right to a remedy if he or she can provide evidence that the essential elements of restitution are satisfied.

There are three essential elements of a claim for restitution. They are:

1. The claimant (the person seeking compensation) must have been deprived of some kind of money or property interest;
2. The defendant must be enriched in a way that corresponds to the claimant's deprivation; and
3. There must be an absence of "juristic cause" for the deprivation and corresponding enrichment.

"Juristic cause" simply means a condition or event that gives legal authority for the transfer of money or property. For example, "donative intent" (the intent to give a gift) is one juristic cause that provides a defence to a claim for restitution. If an older adult gives away money or property, fully intending that it should belong to someone else, then it is considered to be a gift that the older adult cannot later recover. However, the Supreme Court of Canada has found that even with the transfer of property between close family members, it cannot always be presumed that the transfer was a gift. In cases where there is a "presumption of advancement" (no presumption that the transfer was a gift), the burden of proof is on the recipient of money or property to prove on a balance of probabilities that it was always intended to be a gift.

Another example of a juristic cause could be the sharing of common expenses, such as when pension payments are used to share rent and living expenses. The repayment of a debt owed by an older adult to the recipient of property could also form a juristic cause that would provide a defence to a restitution claim. However, again, the burden of proof would lie on the defendant to prove that a debt had existed in the first place. There are many other examples of juristic cause that would overcome a claim for restitution but the juristic cause itself must be proven with evidence in every case.

Restitution is widely available in all levels of court. Restitution is frequently the most easily litigated, accessible and valuable remedy to the financial abuse of older adults.

Like most other legal claims, an action for restitution must be started within two years from the time that person discovered the fact that he or she had been financially abused. This two-year limitation rule is contained in the *Limitations Act*, which took effect on January 1, 2004. Older claims, which were discovered on or before December 31, 2003, are subject to a six-year limitation period, but the window for prosecuting those claims is quickly drawing to a close.

The most difficult thing for an older adult to overcome can be his or her own actions. Real estate, money and other valuable property that is freely given away is a gift and cannot be recovered. Legal documents that are signed are usually intended to mean what they say. Older adults who give away property or sign legal documents without being careful may find that restitution is not available because a gift is a gift, and other legal arrangements that are signed or freely and voluntarily entered into may form a valid basis for the transfer of property to another person. One should always be careful and judicious in how property transactions are handled to avoid being financially abused by others. It is almost always advisable to obtain some independent legal advice before making any significant financial transactions.

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1 See, for example, *Ferguson (Estate of) v. Mew* (2009), 96 O.R. (3d) 65 at 74 (C.A.).

2 See *Pecore v. Pecore*, [2007] 1 S.C.R. 795.

# SPONSORED IMMIGRANTS: ISSUES OF ADMISSION AND FEES IN ONTARIO LONG-TERM CARE HOMES<sup>1</sup>

By: Jane E. Meadus, Institutional Advocate & Staff Lawyer

## BACKGROUND<sup>2</sup>

Our office frequently gets calls regarding admission of sponsored immigrants into long-term care. We may hear from the sponsor or a health care provider wanting to clarify what happens when a sponsored immigrant with no income needs to go into a long-term care home.

In Ontario, long-term care homes are defined as nursing homes, charitable homes for the aged and municipal homes for the aged. Applications for these homes are made through the local Community Care Access Centre, which determines eligibility. The Community Care Access Centre also maintains the waiting lists and makes bed offers for long-term care homes.

Residents of long-term care homes are only required to pay for accommodation. The government pays the cost of providing nursing, personal care and food, as well as programs and support services. Rate reductions are available to residents in basic accommodation but there are no reductions for residents in semi-private or private accommodation. Homes are, however, able to designate private or semi-private accommodation as basic in order to fill the room, at which point the person can apply for a rate reduction.<sup>3</sup>

In order to be eligible for admission to a long-term care home, the potential resident must have a valid Ontario health card. Certain immigrants on Minister's Permits are not entitled to health care in Canada. If a person's legal status in Ontario is such that they are not eligible for an Ontario health card, they cannot be admitted to long-term care, even if they are unable to return to their country of origin. The applicant must also meet other eligibility criteria (e.g., the need for assistance with activities of daily living).<sup>4</sup>

## ADMISSION OF SPONSORED IMMIGRANTS TO LONG-TERM CARE HOMES

Sponsored immigrants may apply to long-term care if they meet the eligibility requirements. There

are no financial criteria – income or asset testing is not part of the eligibility process for admission to long-term care.

While lack of income is not a legal bar to the eligibility process, in reality, the potential resident may find that this is a problem. Applicants are often told that they will not be accepted until they can “prove” that they can pay the home's fees or they have been financially “tested” by the home. In the case of seniors under a sponsorship agreement, the sponsor may be advised that he or she is required to pay the fees. While this is not technically true (the parties to the sponsorship agreement are the sponsor and the federal government, not the home or the province), the sponsor may end up paying because of other financial obligations. This will be discussed further below.

## PROVINCIAL SUPPORT PLANS

In the past, sponsored immigrants were not eligible for Ontario Works (OW) or Ontario Disability Support Plan (ODSP) payments unless the sponsor broke the sponsorship agreement. If benefits were granted, OW or ODSP usually reduced the amount

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1 This article replaces the paper entitled *Admission of Sponsored Immigrants into Long-Term Care* which was previously available from ACE.

2 This article is based upon the present legislation: the *Charitable Institutions Act*, the *Homes for the Aged and Rest Homes Act* and the *Nursing Homes Act*. At the time of publication, the *Long-Term Care Homes Act, 2007*, had been passed but not yet proclaimed. As the draft regulations contain references to sponsored immigrants, the rules regarding admission and payment may change once the new law is in force.

3 There is no rate reduction for someone requesting admission to preferred (semi-private or private) accommodation. Residents can be admitted to preferred accommodation at a basic rate by the home if they wish to designate the room as such. In rare instances, the extra fees for preferred accommodation may be subsidized by the Ministry of Health and Long-Term Care High Intensity Needs Fund Program where this type of care is required for medical or other reasons.

4 The eligibility criteria are not discussed in this paper. More information about the criteria for a nursing home, for example, can be found in s.130 of *Nursing Homes Act*, R.R.O. Reg. 832.



of the benefits given to the sponsored immigrant. However, after a number of court challenges, the legislation was amended to allow sponsored immigrants to receive provincial support without penalty.

Presently, sponsored immigrants may apply for OW or ODSP benefits based on their income. If eligible, OW or ODSP payments will be granted in full. The major change is that the *Immigration and Refugee Protection Act* now allows the provincial government to take legal action against the sponsor to recover any government payments made to the sponsored immigrant. Income tax refunds can also

be seized to repay these expenditures. Another consequence is that the person will not be able to sponsor anyone else until all the monies owed to the province are repaid.

ACE believes that this legislative change has had, and will continue to have, a drastic effect on long-term care applications for sponsored immigrants.

### **PAYMENT OF FEES IN LONG-TERM CARE**

When a sponsored immigrant requires long-term care, an application will be made by themselves or someone on their behalf. As previously indicated, lack of finances is not a barrier to admission as long-term care is an important component of our health care system. However, there is a requirement that the resident pay an accommodation fee, as set by the Ministry of Health and Long-Term Care.<sup>5</sup> It is this requirement that becomes a problem for sponsored immigrants and their sponsors.

### **APPLYING FOR A RATE REDUCTION**

Residents in basic accommodation are entitled to apply for a rate reduction, based upon their income.<sup>6</sup>

Many sponsored immigrants receive very little or no pension income from their home country. They will generally not qualify for Old Age Security and Guaranteed Income Supplement benefits until they have been a permanent resident in Canada for ten years.<sup>7</sup>

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5 *Charitable Institutions Act*, s. 9.4, *Homes for the Aged and Rest Homes Act*, s. 30.2 and *Nursing Homes Act*, s. 21.1.

6 There is no rate reduction for someone requesting admission to preferred (semi-private or private) accommodation. Residents can be admitted to preferred accommodation at a basic rate by the home if they wish to designate the room as such. In rare instances, the extra fees for preferred accommodation may be subsidized by the Ministry of Health and Long-Term Care where this type of care is required for medical or other reasons.

7 Canada has international social security agreements with a number of countries that offer similar pension programs. Social security agreements help people receive the benefits to which they are entitled. People who have lived or worked in another country may be eligible for social security benefits, either from that country or from Canada, even if they have not lived in Canada for ten years.



Sponsored immigrants frequently live with their sponsor, and while the sponsor agreed to care for them, the sponsor usually never considered the possibility of long-term care during the sponsorship. Often, parents are sponsored to come to Canada when they are healthy. The issue of long-term care tends to arise only after they arrive and a catastrophic incident occurs, such as a stroke or a diagnosis of dementia. It is at this point that the sponsor discovers that the fee for long-term care (\$1,614.21 per month for basic accommodation)<sup>8</sup> is far more than they had ever considered having to pay for their parents' care.

Rate reductions are available in long-term care. However, even with the rate reduction, the lowest possible rate is \$1,050.29.<sup>9</sup> Only an exceptional circumstances reduction can bring this down any

farther and in the case of a sponsored immigrant, they are unlikely to be able to qualify for this additional reduction.

To receive the exceptional circumstances reduction, the resident must have applied for "all benefits, entitlements, supplements, or other financial assistance that may be available, including those available from the Government of Canada, the government of any province or territory in Canada, any municipal government in Canada and any foreign country."<sup>10</sup> The result is that the person cannot have their rate lowered any more unless they apply for either OW or ODSP benefits. If they apply and are granted these benefits, the rate will be reduced to the amount allowed under ODSP, which is less than \$1,050.29. However, this impacts the sponsor in the following ways:

- The sponsor will be billed for the provincial support and potentially sued in the event of non-payment;
- Income tax refunds will be seized from the sponsor to repay the debt; and
- The sponsor will be unable to sponsor anyone else until the debt is paid in full.

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8 *Nursing Homes Act*, R.R.O. 1990, Reg. 832, Table 3.

9 Ministry of Health and Long-Term Care, *Application for Reduction in Long-Term Care Home Accommodation Fees – Worksheet*, 2009.

10 Ministry of Health and Long-Term Care, *Application for Reduction in Long-Term Care Home Accommodation Fees – Exceptional Circumstances*.

## WHAT HAPPENS IF THE PERSON DOES NOT APPLY FOR OW OR ODSP

As previously mentioned, once a person is admitted to long-term care, they are required to pay an accommodation fee in accordance with the legislation. If the resident has no income, and their sponsor does not want to pay this fee on their behalf, the only option is to apply to OW or ODSP. Because they are in a long-term care home, they are almost certain to qualify for OW, and eventually ODSP.

Mentally capable individuals can apply for OW or ODSP although nobody can force them to do so. If they refuse to complete the application, and therefore continue to have no income, they will incur a debt to the long-term care home. It is important to note that a person cannot be discharged from the home for non-payment, since the home is part of our health care system and the resident continues to be entitled to receive the health care services offered in the home.

If the resident does not pay the fee, the home can sue them for the debt. Given that the person is unlikely to have any assets or income, this would not be a viable option for the home.

If the person is mentally incapable to make the application, another person will have to apply on their behalf. In many cases, the sponsor will be reluctant, and may even refuse, to make the application due to the potential negative consequences.

Instead, a representative of the long-term care home (e.g., social worker) may contact OW or ODSP on behalf of the resident to have an application completed. A representative of OW or ODSP will then attend at the home to collect the necessary information about the resident. In most cases, the application is granted and the benefits are directed to the home to pay for the accommodation of the resident. The rate is based upon the quantity received from OW or ODSP, with some money allocated for the "comfort allowance" (a small amount intended to pay for the resident's incidental or personal expenses).

## DISCUSSION

There are a number of issues which arise when sponsored immigrants with no income consider moving into long-term care. Some of these issues are discussed below.

## A) SPONSORS AS DECISION-MAKERS

If the sponsored immigrant is incapable of making decisions about placement to a long-term care home, it is very common for the sponsor to be their substitute decision-maker. This can put the sponsor in a conflict of interest position. As the substitute decision-maker, it is their responsibility to make the decision about placement. However, the sponsor may be worried about the consequences of placement on themselves personally, with little or no regard for the sponsored immigrant. We have seen many situations where the sponsor has decided against placement because they do not want to, or are unable to pay the fees, and do not want to become indebted if the sponsored immigrant is granted benefits from OW or ODSP.

If older adults who need long-term care are not being admitted to long-term care homes, it may result in dangerous situations. For example, seniors may be locked indoors to prevent them from wandering or left alone with little or no assistance. In other instances, older adults may receive inadequate care because the type of support required from the caregiver is too much for that person to handle. The fact that individuals are eligible for long-term care means that they can no longer be cared for at home in the community.

It is clear that substitute decision-makers are obligated to make decisions in the best interests of the senior, not themselves. Placement decisions are governed by the *Health Care Consent Act*, which prescribes the following principles for giving or refusing consent to placement:

- 42(1) A person who gives or refuses consent on an incapable person's behalf to his or her admission to a care facility shall do so in accordance with the following principles:
1. If the person knows of a wish applicable to the circumstances that the incapable person expressed while capable and after attaining 16 years of age, the person shall give or refuse consent in accordance with the wish.
  2. If the person does not know of a wish applicable to the circumstances that the incapable person expressed while capable and after attaining 16 years of age, or if it is impossible to comply with the wish, the person shall act in the incapable person's best interests.

- (2) In deciding what the incapable person's best interests are, the person who gives or refuses consent on his or her behalf shall take into consideration,
- (a) the values and beliefs that the person knows the incapable person held when capable and believes he or she would still act on if capable;
  - (b) any wishes expressed by the incapable person with respect to admission to a care facility that are not required to be followed under paragraph 1 of subsection (1); and
  - (c) the following factors:
    1. Whether admission to the care facility is likely to,
      - i. improve the quality of the incapable person's life,
      - ii. prevent the quality of the incapable person's life from deteriorating, or
      - iii. reduce the extent to which, or the rate at which, the quality of the incapable person's life is likely to deteriorate.
    2. Whether the quality of the incapable person's life is likely to improve, remain the same or deteriorate without admission to the care facility.
    3. Whether the benefit the incapable person is expected to obtain from admission to the care facility outweighs the risk of negative consequences to him or her.
    4. Whether a course of action that is less restrictive than admission to the care facility is available and is appropriate in the circumstances.

If the substitute decision-maker decides not to consent to placement due to monetary concerns, they are not complying with their legal requirements. At this point, the Community Care Access Centre should make an application to the Consent and Capacity Board under section 54 of the *Health Care Consent Act* (usually referred to as a "Form G" application) to determine whether or not the substitute decision-maker is making placement decisions in compliance with the law. If, for example, the substitute decision-maker is refusing placement because they will become indebted to ODSP for payments, the Board will likely order

them to consent to the placement as it is in the best interests of the person. If the substitute decision-maker does not consent, the Public Guardian and Trustee will become the new substitute decision-maker and consent to the placement.

To summarize, while the senior would eventually receive the care they require, the sponsor may end up having to pay the fee at the long-term care home or become indebted to the government because of the senior's reliance on public assistance. This could eventually result in sponsors refusing to seek any assistance from the health system. For instance, they may not bring their family member to a health care professional or obtain services from the Community Care Access Centre for fear that an application will be made for long-term care with the above-noted results. Obviously, this type of response could result in serious harm to the senior, as well as others. For example, if a person with severe dementia was left home alone during the day, they could inadvertently set fire to the house, walk into traffic or fall in the home. The possibilities are endless.

## **B) APPLICATION FOR OW OR ODSP**

As discussed, a person cannot be forced to apply for OW or ODSP benefits if they are mentally capable.

If the person is not mentally capable, it is not as clear. Presently, the home will contact OW or ODSP to arrange for a worker to take the application if the substitute decision-maker who is the sponsor refuses to make the application. This raises the following issues and questions:

1. Is the act of contacting OW or ODSP a breach of the *Personal Health Information Protection Act*? The long-term care home is a health information custodian and, as such, can only provide information about a resident in accordance with this law. There is no exemption in the legislation for the provision of information to OW or ODSP without consent. This is not an "emergency" situation as there is no risk of harm to the person as the home must provide food, shelter and care to the person, no matter whether they are paid or not. Thus, it is possible that contacting and providing information to OW or ODSP is a breach of the privacy legislation.



2. What if the sponsor is the also the attorney for an incapable person in a power of attorney for property? If so, can they cancel OW or ODSP payments? Can the sponsor withdraw an application made on behalf of the resident?
3. OW or ODSP have the ability to make payments directly to a landlord where the recipient has identified and demonstrated an inability to do so. This is called “pay direct.” Can the pay direct option be used to pay the long-term care fees of incapable sponsored immigrants? It would seem that the long-term care home, who would have initiated the application, is in a conflict of interest by asking for the pay direct option. We are aware of many cases where fees in long-term care are disputed for various reasons, including the calculation of deductions, extra fees and interest charges. If the pay direct option is utilized for an incapable person, who monitors the payments?
4. Can the long-term care home become a trustee for the benefits being paid? Both OW and ODSP allow for third parties to become trustees of the monies received by these programs. But, is it appropriate for the long-term care home to be the trustee? As the home is also the party which is claiming the debt, is this not a conflict of interest? Who monitors the trustee? Does the person meet the requirements for needing a trustee, given that they are at no risk of losing their home or running out of food? The ODSP policy directives regarding trustees states as follows:

After reviewing the situation, if ODSP staff are satisfied that the essential needs of the recipient and/or other members of the benefit unit are likely to go unmet without intervention, ODSP should discuss with the applicant/recipient the possibility of appointing a trustee to assist in managing the income support.<sup>11</sup>

It can be argued the recipient will not have

any unmet essential needs if the trustee is not appointed.

5. What is the role of the Public Guardian and Trustee? It is unlikely that Public Guardian and Trustee will become involved if they are contacted by the long-term care home because of a failure of a resident to pay. However, if there is no attorney for property, a capacity assessment could be conducted pursuant to the *Substitute Decisions Act*. If the person is found to be incapable, the Public Guardian and Trustee would automatically become the statutory guardian after receiving the certificate of incapacity. They would then seek out all types of income support, which could include both applications for OW or ODSP, as well as commencing a legal action against the sponsor themselves (where appropriate) for support payments. As the trustee of any monies, they would be obligated to manage the money in an appropriate manner.

## CONCLUSION

Issues pertaining to admission to long-term care and the payment of fees for sponsored immigrants are complex and rife with potential consequences. It is important to bear in mind that sponsored immigrants requiring long-term care are entitled to this care. As a result, sponsors may sometimes become indebted for OW or ODSP payments or non-payment of long-term care fees. Ultimately, the paramount consideration must be that the person is well cared for and safe.

Finally, ACE believes that part of the problem surrounding sponsored immigrants and long-term care is the ignorance of some sponsors to the realities of their responsibilities. When sponsoring aging parents, sponsors rarely consider what will happen if their healthy parents become ill and require care. This information should be provided to prospective sponsors and their parents at the time of application so they are more aware of the possible repercussions. Armed with this information, sponsors and their parents can make informed choices about their future.

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11. ODSP Income Support Directives, Directive 10.2, Trustees at [http://www.mcass.gov.on.ca/NR/MCFCS/ODSP/ISDIR/en/10\\_2.pdf](http://www.mcass.gov.on.ca/NR/MCFCS/ODSP/ISDIR/en/10_2.pdf).

# GOVERNMENT OF CANADA ELDER ABUSE INITIATIVES

By: Judith Wahl, Executive Director & Staff Lawyer

The Government of Canada's 2008 budget announced an investment of \$13.3 million over three years "to help raise awareness of issues surrounding elder abuse, along with providing seniors with appropriate assistance in dealing with it."

On June 15, 2009, the federal government launched a nationwide awareness campaign entitled *Elder Abuse - It's Time To Face The Reality*. Led by Human Resources and Social Development Canada, the objectives of the campaign are to:

- Raise public awareness of what constitutes elder abuse and that it carries serious consequences;
- Inform seniors that help is available and where to find it; and
- Inform Canadians of their role in helping to identify and report elder abuse.

The campaign includes television, internet and magazine advertisements. The television ads can be viewed at the Seniors Canada website – [www.seniors.gc.ca](http://www.seniors.gc.ca) – by clicking on the button "Elder Abuse - It's Time To Face The Reality." There will also be links to a number of brochures, fact sheets and papers associated with this awareness campaign.

## CANADIANS' AWARENESS ABOUT ELDER ABUSE

In 2008, Human Resources and Social Development Canada retained Environics Research Group Limited to carry out public opinion research, both quantitative and qualitative, on elder abuse.

The quantitative research was conducted by telephoning 3,001 Canadians over the age of 18, including 718 seniors aged 65 and older. The purpose of this research was to raise elder abuse



awareness among the general public, provide baseline data for tracking the issue in the future and to inform the development of the public awareness campaign. The qualitative research consisted of one-on-one interviews with front line professionals and community workers to explore their practice and experiences with seniors with respect to elder abuse, as well as their opinions on the role of government in preventing or stopping

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elder abuse. These individuals were also asked what they thought should be included in the federal government's public awareness campaign on elder abuse.

The Final Research Report called *Awareness and Perceptions of Canadians Toward Elder Abuse* is available on the Seniors Canada Website at [www.seniors.gc.ca](http://www.seniors.gc.ca). Some of the key findings include the following:

- Elder abuse has a very low profile among the public as a pressing problem for seniors (aged 65 or older). When asked about the most important problem facing seniors, elder abuse was mentioned by only 1% of Canadians. Health issues and illnesses were seen as the most important problems (43%), followed by insufficient income or income support (19%).
- 96% of Canadians think most abuse experienced by older adults is hidden or undetected.
- 22% of Canadians think a senior they know personally might be experiencing some form of abuse.
- 90% of Canadians feel the abuse experienced by an older person often gets worse over time.
- In terms of the highest priorities for governments concerning elder abuse, raising awareness among seniors about their right to live safely and securely was seen as the most important issue for 9 out of 10 Canadians (87%), followed by better enforcement of the existing laws dealing with abuse (80%), raising awareness among the public about elder abuse and how to recognize it (80%) and providing more information and resources to organizations that deal with seniors (80%).
- 67% of Canadians feel older women are more likely to be abused than older men.
- 12% of Canadians have sought out information about a situation or suspected situation of elder abuse or elder abuse in general.
- Almost 1 in 20 Canadians (5%) have searched the internet specifically for information about elder abuse issues.

## RESEARCH ABOUT ELDER ABUSE AWARENESS BY ACE

ACE wants to know what YOU think about elder abuse awareness. Your feedback in answering the following questions will help ACE in developing future work on elder abuse issues:

1. Have you seen the government's television ads about elder abuse? Have you read the elder abuse brochures and materials on the Seniors Canada website?
2. Do you think that these materials and ads meet the government's objectives as described earlier in this article?
3. What do you think about the Government of Canada's elder abuse awareness campaign?
4. What do you think should be done to raise awareness about elder abuse and to help people that have been affected by elder abuse?

Please send your comments by December 15, 2009 via email to [aceadvocacy@gmail.com](mailto:aceadvocacy@gmail.com) or regular mail to: Advocacy Centre for the Elderly – Elder Abuse Research, 2 Carlton Street, Suite 701, Toronto, Ontario, M5B 1J3.

## FUNDING CUTS THREATEN LEGAL SERVICES

*...continued from page 1*

ACE is committed to assisting older adults with legal issues. It is the only clinic of its kind in Ontario, and indeed until very recently, the only clinic dedicated to older adults in Canada. The lawyers at ACE offer general information, individual advocacy to clients and ongoing public legal education to the public, in addition to agitating for law reform. Without assistance from the staff at ACE, Ontario's low-income older adults would be forced to navigate a complex legal system without representation or advice.

ACE's 25th year of providing legal services to Ontario's low income seniors should be a time to celebrate our continued commitment to the legal well-being of older adults. Unfortunately, given the current economic crisis faced by our funder, it is now also a time for pause and reflection. One fact is certain: the Board of Directors, staff and lawyers at ACE will continue to advocate for a system where access to justice is not a privilege of the wealthy and powerful, but is available to all.

# ACCESS TO JUSTICE FOR OLDER ADULTS LIVING IN CONGREGATE SETTINGS

*By: Lisa Romano, Staff Lawyer*



The Law Commission of Ontario (LCO) is presently undertaking a multi-year project to develop a framework that can serve as a reference to improve the appropriate application of the law to older adults. The Advocacy Centre for the Elderly (ACE) is grateful to the LCO for having awarded us a grant to research one aspect of the law as it affects older adults, namely access to justice for older adults in congregate settings. Common features of an accessible justice system include: just results; fair treatment; reasonable cost; reasonable speed; capacity to be understood by its users; responsiveness to needs; certainty; effectiveness; adequate resources; and being well-organized.

The type of congregate setting where an older adult resides can make an immense difference in one's ability to access justice. ACE uses the phrase "congregate setting" to refer to those locations where older adults reside in a group setting – hospitals, retirement homes and long-term care homes – which have a health care component, where resources are shared (e.g., meals, rooms, programming) and where there is an inability to easily move to a different location.

The methodology for our project consisted of two main parts. First, we conducted a literature review to determine what legal mechanisms are available to older adults living in congregate settings in selected provinces (British Columbia, Alberta, Nova Scotia and Newfoundland) and countries (Wales, Australia and the United States of America). Second, we held a series of focus groups and consultations with stakeholders, including residents of both retirement homes and long-term care homes.

Based on our experiences serving clients for 25 years and our research for this project, it is ACE's opinion that Ontario's current legal structure is inadequate to meet the needs of older adults residing in congregate settings by failing to have their complaints heard and resolved in a timely and satisfactory manner. There are few oversights in the area of hospitals or retirement homes, thus making access to justice extremely difficult. While there are numerous legal protections in place for residents of long-term care homes, there are limited mechanisms available to effectively enforce these rights. Legislation containing residents' rights applicable to all three settings is often ignored, due to the

recurrent theme of “good law, bad practice.”

The failure to respect, protect and promote the rights of older people residing in congregate settings occurs, in ACE’s opinion, due to three primary factors: the power imbalance between older adults and service providers; the limited awareness of legal rights by both older adults and service providers; and ageism. To overcome these barriers, ACE developed and recommended the following model for access to justice:

1. Education about the applicable law is paramount to ensuring access to justice for adults residing in congregate settings. The enactment of legislation alone is insufficient: residents must be provided with the tools and assistance necessary to make it work. To this end, education of residents, families and service providers about residents’ rights is the first step.
2. Even if education is provided, residents in congregate settings often require assistance to implement their rights. We believe that the creation of an independent Health Care Commission, whose purpose is to provide both individual and systemic advocacy, is essential. Advocates would provide residents with the knowledge and support necessary to take their concerns to the appropriate entities. Further, the systemic advocacy function of the Health Care Commission would be a positive force in the health care system to ensure that the rights of all, including those who cannot speak for themselves, are heard.
3. The jurisdiction of the provincial Ombudsman should be expanded into the health care sector and specifically to long-term care homes and hospitals. With many thousands of residents living in congregate care which costs billions of public dollars, such oversight is important to ensure that the needs of the users are met in an appropriate fashion.
4. In some sectors, such as retirement homes, legislation is required to regulate the industry and to provide residents with the tools necessary to ensure they are receiving appropriate and adequate care.

The retirement home industry continues to grow and to provide more care to a larger segment of our population who are frailer and in poorer health.

5. In order for government to hear the voices of residents directly, as opposed to being filtered by representatives, there should be advisory councils whose composition includes residents of congregate settings. Residents must be consulted as they are the experts on the issues unique to where they live.
6. The law governing capacity should be amended to require health practitioners to provide more detailed information to persons found incapable respecting treatment and admission to long-term care.
7. The transparency of the compliance and enforcement regime in long-term care homes needs to be improved by strengthening the education, skill-sets and qualifications of compliance advisors, in addition to making inspection reports readily available to the public.
8. To encourage meritorious litigation, the laws pertaining to damages in the civil system should be changed to permit actions without proving damages in the traditional context and allowing the court to award general damages.

The goals of our recommendations are to ensure that residents in congregate care settings are able to access justice in a meaningful way. Although the present system has some positive attributes, it does not go far enough to ensure that justice is actually done.

We are appreciative of the individuals and organizations that took the time to assist us with our project. In particular, ACE would like to extend a special thank you to the residents and their family members who met with us, as their input injects reality into our work and allows us to focus on the issues of most importance to those who call congregate settings “home.”

Copies of our report are now available on the websites of both ACE ([www.ancelaw.ca](http://www.ancelaw.ca)) and the LCO ([www.lco-cdo.org/en/olderadults.html](http://www.lco-cdo.org/en/olderadults.html)).

# ACE AND ELDER ABUSE: AWARENESS, PREVENTION, AND RESPONSE

By: Judith Wahl, Executive Director & Staff Lawyer



Issues related to elder abuse have been of key concern to ACE since its opening in 1984. ACE lawyers have provided legal advice and representation in court to many seniors who have been victims of abuse. These client matters have included cases involving physical abuse, emotional abuse, financial abuse, mortgage fraud and power of attorney abuse.

To help raise awareness and to assist seniors to find help with elder abuse, Community Legal Education Ontario and ACE wrote and produced the booklet *Elder Abuse: The Hidden Crime* in 1988. It has been updated several times and continues to be a popular publication. Along with other elder abuse materials, it can be found on the ACE website at [www.ancelaw.ca](http://www.ancelaw.ca).

ACE has given numerous public legal education sessions on elder abuse to seniors, their families and service providers. We have also presented at many local, provincial and national conferences on elder abuse. A few highlights of our work included the following:

- Representatives of ACE, Ryerson, and the federal government organized the First National Conference on Elder Abuse and Crime in 1990;
- ACE assisted the Ontario Seniors Secretariat and the Federal/ Provincial/ Territorial (F/P/T) Elder Abuse Working Group organize two national Elder Abuse Forums in Vancouver (2007) and Ottawa (2008); and
- ACE was involved in the Federal Expert Roundtable on Elder Abuse that met for discussions during World Elder Abuse Week in Ottawa in June 2008.

Examples of long-term elder abuse initiatives undertaken by ACE in collaboration with community and government partners include:

- A three year project on community networking funded by the Ontario Trillium Foundation;
- A multi-year association with LEAPS (Law Enforcement Agencies Protecting Seniors), the Ontario Provincial Police and the Ontario Police College that developed training programs on elder abuse response for police services in Ontario; and
- Since the mid 1990s, ACE staff have participated as instructors, in conjunction with the Toronto Police Service constable responsible for vulnerable persons issues, in presenting the elder abuse module to both police and civilians working with police.

Most recently, ACE has been acting as a consultant to an elder abuse project of the Native Women's Association of Canada. We are also involved with two projects related to the Federal Elder Abuse Initiative through Human Resources and Social Development Canada: consulting on an abuse and disability project and reviewing funding applications for elder abuse projects.

ACE is proud of its past work concerning the awareness and prevention of elder abuse. More importantly, we are looking forward to using our past experiences to support our work in the future to eliminate elder abuse.

# WHEN CAN OAS & CPP BENEFITS BE SUBJECT TO SEIZURE?

By: Rita Chrolavicius, Staff Lawyer



The *Old Age Security Act* and the *Canada Pension Plan Act* provide that Old Age Security (OAS) and Canada Pension Plan (CPP) benefits shall not be assigned, charged, attached, anticipated or given as security, and any transaction claiming to do so is void. In practical terms, this means that if you are successfully sued, OAS or CPP benefits cannot be taken from you to pay the court order.

The 1995 case of *Metropolitan Toronto (Municipality) v. O'Brien*<sup>1</sup> established that even if pensions are deposited into a bank account, third party creditors cannot garnishee the pension amounts in order to pay an outstanding judgment.<sup>2</sup>

However, in the following situations, your pension funds are not protected and can be seized.

## **1. Pension funds are deposited into an account with a financial institution to whom you owe money**

If you are behind in payments owing to your bank, it can seize any funds that you deposit into that bank, including pension funds. Most standard banking agreements contain provisions allowing the bank to “set off” any money that they receive from you against the money you owe to the bank. If you

are behind in payments owing to a bank by way of a credit card, mortgage or line of credit, you should be aware that the bank can seize any pension funds or other funds that you deposit into your bank account.

## **2. Support or maintenance arrears for children and/or spouses**

If you are behind in your support or maintenance payments, 50% of your pension income can be seized to pay these arrears. In Ontario, this is often done through the Family Responsibility Office. To stop this seizure of funds, you have to apply to court and explain why the court should make a new order reducing or eliminating the outstanding arrears.

## **3. Canada Revenue Agency**

The Canada Revenue Agency (CRA) has very broad powers to seize any of your tax return money in order to collect outstanding tax arrears. The CRA will simply send a letter to your bank or to the Income Security Programs (the office responsible for OAS and CPP benefits) to advise them how much of your pension or other money must be sent to the CRA for tax arrears. In practice, there is sometimes room for negotiating the amount that will be seized by the CRA.

## **4. Income Security Programs overpayments**

If Income Security Programs determines that they have paid you too much, even it is their mistake, they

*...continued on page 20 (back cover)*

1 (1995) 23 O.R. (3rd) 543. A copy of the case can be found at <http://www.canlii.org/en/on/onsc/doc/1995/1995canlii7053/1995canlii7053.pdf>.

2 For more information about the *O'Brien* case and garnishment, please refer to ACE's article entitled *CPP & OAS Benefits Exempt from Garnishment*.

# OFFENCES UNDER THE *RESIDENTIAL TENANCIES ACT*

By: Lisa Romano, Staff Lawyer

Do you know what to do or who to call if your rights are being violated under the *Residential Tenancies Act*? The purpose of this article is to provide some information about offences and how to report them.

The *Residential Tenancies Act* sets out the rules for most residential tenancies in Ontario, as well as some penalties for not abiding by the law. Residential tenancies include retirement homes, which are legally known as “care homes.”

There are a total of 38 offences contained within the *Residential Tenancies Act*. All of the offences that apply to rental units also apply to care homes. But, there are also five special offences that apply only to care homes, which are listed below:

- Interfering with the provision of additional care services by an external care provider to a tenant;
- Doing anything that prevents a tenant from obtaining additional care services from a person of their choice;
- Withholding or interfering with the reasonable supply of a vital service, including care services or food;
- Giving a notice of rent increase or a notice of increase for a charge without first giving the tenant a care information package (this package sets out important details about the kinds and costs of rental units available at the care home, the types and costs of care services packages, optional services and their costs, staffing requirements and the qualifications of staff); and
- Increasing the cost for providing a care service or meals to a tenant without giving 90 days notice of the increase.

Offences can be committed by any person, including landlords, tenants, superintendents, caretakers and property managers.



If you think an offence has been committed, you have three possible options:

1. Report the offence to the Investigation and Enforcement Unit of the Ministry of Municipal Affairs and Housing;
2. Apply to the Landlord and Tenant Board; or
3. Report the offence to the Investigation and Enforcement Unit and apply to the Landlord and Tenant Board.

Keep in mind that there are no fees to report an offence to the Investigation and Enforcement Unit although there are fees to apply to the Landlord and Tenant Board.

If the Investigation and Enforcement Unit is called, it must first determine if it has authority to deal with a problem. In other words, the Unit must decide whether there is a possibility that an offence has been committed. If the matter falls within the Investigation and Enforcement Unit’s mandate, it will then try to discuss the issue with the parties



involved and have the alleged offender comply with the *Residential Tenancies Act*. A letter is usually sent to the alleged offender explaining what needs to be done to correct the problem and the penalties for failing to do so. If the issue cannot be resolved, it may be referred to an investigator who will review the file and, if necessary, collect evidence. The investigator may decide to lay charges against the alleged offender if there are reasonable and probable grounds to believe an offence has been committed. Once charges are laid, the alleged offender will have a trial at the Ontario Court of Justice (Provincial Offences Court) before a Justice of the Peace. If the alleged offender is found guilty of an offence, the maximum fine for an individual is \$25,000 per count and \$100,000 per count for a corporation.

For example, if you are notified by the landlord at your care home that he or she wants to increase your rent but you never received a care information

package, you have certain legal rights. You could call the Investigation and Enforcement Unit to report this offence. The Unit would contact your landlord and explain that the notice of rent increase is null and void because you have not received a care information package. Or, you could file a Form 2 with the Landlord and Tenant Board to have the Board decide whether the landlord gave you a copy of the care information package. If the Board agrees with you, an order can be made for an “abatement” of rent. This means that you do not have to pay all or some portion of your rent.

For more information, the Investigation and Enforcement Unit can be contacted at (416) 585-7214 or 1-888-772-9277. Their website can also be visited at [www.mah.gov.on.ca/ieu](http://www.mah.gov.on.ca/ieu). The Landlord and Tenant Board can be reached at (416) 645-8080 or 1-888-332-3234. Their website is [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca).

## LONG-TERM CARE HOMES UPDATE: PROGRAM MANUAL NOW AVAILABLE ONLINE

*By: Judith Wahl, Executive Director & Staff Lawyer*

Do you live or do you have family or friends who live in a long-term care home in Ontario? If you answered yes, do you know that there are standards, policies and rules with which the homes must comply when providing care and services? They define the rights of residents and the standards that must be met by care providers.

In Ontario, there are three kinds of long-term care homes (nursing homes, municipal homes for the aged and charitable homes for the aged) and each is regulated by different legislation and regulations. A new statute, the *Long-Term Care Homes Act*, will replace all three pieces of legislation once it is proclaimed into force, probably in early 2010.

Until that time, the Long-Term Care Homes Program Manual applies to all homes. The Program Manual provides a practical explanation of the law and is the core text governing the operation of homes, containing policies, standards and norms. Examples of information contained within the Program Manual are details about the charges

that can and cannot be asked of residents, special funding programs, leaves of absences and standards for services provided by a home (e.g., nursing, social work, therapy, spiritual and religious services).

The Program Manual is now available to the public on the Ministry of Health and Long-Term Care’s website at [www.health.gov.on.ca/english/providers/pub/pub\\_menus/pub\\_ltc.html](http://www.health.gov.on.ca/english/providers/pub/pub_menus/pub_ltc.html).

The Program Manual will be in effect until the *Long-Term Care Homes Act* is in force. The new statute has been drafted to incorporate most of the standards directly into the legislation so that the regulatory requirements are more transparent and accessible.

In summary, if you want to understand how a long-term care home is expected to operate and the rights and responsibilities of residents, staff and operators, it is important to read the legislation, the accompanying regulations and the Program Manual. These resources will help you be a better advocate for family or friends living in a long-term care home.

# ELDER ABUSE: FAILING TO PROVIDE THE NECESSARIES OF LIFE TO OLDER ADULTS IS A CRIME

By: Lisa Romano, Staff Lawyer

Section 215 of the *Criminal Code of Canada* says an offence is committed if an individual fails to provide necessities of life to a person under his or her charge if that person is “unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and is unable to provide himself with the necessities of life.”

This means it is a crime if you do not provide necessities of life to someone in your care that cannot leave your care due to their age, illness or other impairment. Necessaries of life refer to those things necessary to preserve life, such as food, shelter, medical attention and protection from harm.

Under Canadian criminal law, there are two types of offences: summary conviction and indictable offences. Generally, indictable offences are more serious than summary conviction offences and have harsher sentences. A person found guilty of a summary conviction offence for failing to provide the necessities of life could be sentenced to imprisonment for a maximum of 18 months while a person found guilty of an indictable offence could be sentenced for up to five years of imprisonment.

This article will briefly review the five reported cases where individuals were convicted of failing to provide the necessities of life to older adults.

## **R. v. CHARTRAND<sup>1</sup>**

Earlier this year, a paid caregiver by the name of Daniel Chartrand was sentenced to 12 months in jail after endangering the life of the older adult, Harry Matthews, under his care. Although the caregiver was paid very generously, he squandered much of Mr. Matthew’s assets. Mr. Chartrand also failed to look after Mr. Matthews on a daily basis despite his declining health. The paramedics arrived at Mr. Matthew’s apartment after receiving a call from a neighbour to find him on his back lying in his own urine and feces. Mr. Matthews was not suffering any physical injuries but the emergency room doctor testified that the senior was living in a life threatening



situation. The judge ruled that Mr. Chartrand blatantly neglected and disregarded Mr. Matthew’s needs. As Mr. Chartrand was keenly aware of the senior’s needs, he knew or should have known that he was not meeting those needs and he was found guilty of failing to provide the necessities of life.

## **R. v. GRANT<sup>2</sup>**

Margaret Grant called 911 and reported that her 78-year-old mother, Kathleen Grant, was not feeling well. Paramedics found Mrs. Grant malnourished, dirty and seated in a chair covered in urine and feces. She had been sitting in the chair for such a long period of time that the chair had taken the form of her body. She was suffering from multiple ulcers, profound malnutrition, sepsis, extensive gangrene and hydration. Four days after being admitted to hospital, Mrs. Grant died. The daughter pleaded guilty and was sentenced to four years incarceration. The court found that the daughter seriously abused her position of trust in relation to her mother, in addition to benefiting financially from keeping her mother with her. Even though the daughter had limited mental capabilities, she knew or ought to have known that her mother required medical attention and the failure to provide her mother with the necessities of life contributed to her death.

### **R. v. NANFO<sup>3</sup>**

Mary Nanfo always lived with and relied on her parents. After the death of her father, she became the primary caregiver for her mother, Maria Nanfo. Mrs. Nanfo was obese, almost blind, incontinent, suffered heart attacks and had been diagnosed with dementia. Especially towards the end of Mrs. Nanfo's life, her daughter provided little care of any kind. The house was unsanitary: human feces covered the floor, walls and bedding while garbage was piled high. Despite her serious medical conditions, Mrs. Nanfo had not seen a doctor for years. The daughter frequently left the home for long periods of time, leaving her mother home alone. When Mrs. Nanfo eventually died of a heart attack, her daughter waited more than 24 hours after her death to call the police because she wanted to try to clean up the house. The court sentenced Ms. Nanfo to imprisonment for one year to be served as a conditional sentence in the community. The court arrived at this sentence because it felt Ms. Nanfo loved her mother "in her own way." The court found that Ms. Nanfo had a lifelong dependence on her parents which resulted in her being only marginally capable of looking after herself and unable to care for a senior with great care needs. As the situation grew worse, it had become harder for her to handle and the situation may have been aggravated by depression.

### **R. v. NOSEWORTHY<sup>4</sup>**

Donald Noseworthy lived with his 78-year-old mother in her home. She developed rapid onset Alzheimer's disease and became incontinent and progressively cognitively impaired. Mr. Noseworthy admitted to assaulting his mother due to her lack of communication skills and because she would soil herself. He also permitted his mother to live in filth and with horrible personal hygiene. The floor of almost every room in the house (except the one belonging to Mr. Noseworthy) was covered in urine and feces. He would not help her to eat although she ate little and required assistance. In the days before her death, he left her lying motionless and did not call 911 for fear that his abuse of his mother would be discovered. Mr. Noseworthy was convicted and sentenced to seven years imprisonment for manslaughter and two years imprisonment for failing to provide the necessities of life (to be served concurrently).

### **R. v. PETERSON<sup>5</sup>**

Dennis Peterson, his sister and 84-year-old father resided in the same building but the doors between the apartments were locked. Mr. Peterson lived on the second floor, the sister stayed on the third floor while the father stayed in the basement. The father's apartment and living conditions were not sanitary: he did not have a working kitchen or toilet; the apartment was full of cockroaches; the dirt floor was covered in dog feces; and both his clothes and person were unwashed. Police found the father lost on the street and advised his son about community agencies that could help look after his father but none were contacted. Two days after being released from the hospital because he collapsed, a gas company employee found Mr. Peterson and a dead dog in the house. Mr. Peterson was then admitted to a long-term care home. The court found that Mr. Peterson controlled his father's living conditions and personal care. He kept his father in an unsafe environment and chose not to make decisions that would ensure that his father would be provided with the necessities of life. Mr. Peterson was sentenced to six months imprisonment, two years probation and 100 hours of community service.

### **CONCLUSION**

Section 215 of the *Criminal Code* has been underutilized in the past to prosecute elder abuse. However, these recent cases indicate that this offence will be used more frequently in the future as police and Crown attorneys become more familiar with it. Educational programs will hopefully increase awareness of the crime, as well as the responsibilities that individuals and families have towards their elderly parents. ACE would also like to see the courts make sentences which truly reflect the seriousness of this crime.

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1. 2009 CanLII 20709 (ON S.C.).
  2. 2009 NBPC 17 (CanLII).
  3. 2008 ONCJ 313 (CanLII).
  4. 2007 CarswellOnt 9604 (Ont. S.C.J.).
  5. 2005 CanLII 37972 (ON C.A.).

## OAS & CPP BENEFITS

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can deduct money from your pension payments. In practice, the amount deducted from each pension cheque can be quite modest. It is possible to negotiate the amount that will be deducted by contacting the Income Security Programs.

### 5. Social assistance repayments

If you are eligible to receive OAS benefits, you will not normally be eligible to receive social assistance benefits from Ontario Works or the Ontario Disability Support Program. However, if you are not yet receiving pension benefits because your pension application has not been completed or your eligibility has not been determined, you may apply for and receive social assistance. Keep in mind that you may also be required to reimburse the money you receive from social assistance once you start receiving your pension benefits. The social assistance money is automatically deducted from any retroactive pension benefits paid to you. This prevents the double payment of both pension and social assistance benefits.

If you have any questions about deductions that have been made from your pension benefits, you should contact the Income Security Programs office at 1-800-277-9914. You should have your social insurance number and other identifying information ready when making inquiries.

# ACE 2009 AGM

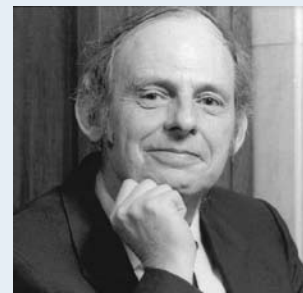
**DATE:** WEDNESDAY, NOVEMBER 25, 2009

**PLACE:** OAKHAM HOUSE  
63 GOULD STREET, TORONTO

**TIME:** 6:30 P.M.

**SPEAKER:** PROFESSOR MICHAEL TREBILCOCK

Please contact Tammy Gillard at (416) 598-2656 to register, for further details or to be added to our mailing list for future notices.



Michael Trebilcock is a well-known and highly respected Professor of Law and Economics at the University of Toronto. Professor Trebilcock recently wrote a report for the Ministry of the Attorney General entitled *Report of the Legal Aid Review 2008*.

## APPLICATION FOR MEMBERSHIP

Advocacy Centre for the Elderly\*

2 Carlton Street, Suite 701, Toronto, Ontario M5B 1J3 • Phone: 416-598-2656 • Fax: 416-598-7924

Please feel free to photocopy this page and send it to ACE to become a member!

Name (Individual/Corporate): _____		
Corporate Contact (if applicable): _____		
Address: _____	Apt.: _____	
City: _____	Postal Code: _____	
Telephone (Home): _____	Business: _____	Email: _____
MEMBERSHIP FEE (check one)	<input type="checkbox"/> Individual (\$10.00 enclosed)	<input type="checkbox"/> Corporate (\$25.00 enclosed)
In addition to my membership fee, a donation of \$ _____ is enclosed.**		

**Your membership is important.** If the fee presents financial difficulties, please feel free to join anyway.

Committee Membership: I am interested in seniors' issues and would consider membership on an ACE Committee. Yes  No

Membership Expiry Date: Annual General Meeting, Fall 2010.

By-Law No.1, 14.9 states: No owner or management official of a long term care facility, or employee of any organization representing long term care facilities shall be eligible to be elected to the Board of Directors of the Advocacy Centre for the Elderly.

\* ACE is incorporated as a non-profit corporation under the name "Holly Street Advocacy Centre for the Elderly Inc."

\*\* A tax receipt will be issued for donations over \$10.00.