

A Rights-Based Approach To Housing with Leilani Farha

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SPEAKERS

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Greg Lindsay 00:00

Hello, and welcome to threesixtyCITY by NewCities, a podcast delving into the future of urban life. I'm your host, Greg Lindsay. Like across much of the developed world, housing prices in Canada has skyrocketed over the course of the pandemic, the standard home now costs nearly twice as much as the United States. To tackle the mounting affordability crisis, the Canadian government will spend \$10 billion over the next five years on a new housing package that also includes policies such as a two year ban on sales to foreign buyers, in an attempt to cool the housing market. However, critics argue the measures fail to address the root causes of housing inequity and the realities of the financialization of housing, and Canada's rising housing costs. Today, we're joined by Leilani Farha, who is the Global Director of Make the Shift and former UN special Rapporteur to discuss the importance of a human rights based housing strategy and how cities and governments can better ensure adequate and affordable housing for all. Thanks for joining us.

Leilani Farha 01:17

Thanks for having me here.

Greg Lindsay 01:18

As a starting point, I would love your impressions on the Canadian budget. It's a particularly interesting time given that they're more progressive coalition partner, NDP, and this is for listeners who are perhaps not as familiar with the intricacies of Canadian parliamentary politics. But the Trudeau Government recently won re election, they are now joined in partnership by NDP, which has sort of given them not quite a blank check, but carte blanche in setting this.

And so here comes the Trudeau Government with this package, and this housing budget to attempt to rein in the financialization of housing, which ran unchecked over the last two years. So I'm curious, can this government be the cure as well as the disease?



That's so well put, never thought of it that way. Yeah, so there's a way in which, the \$10 billion price tag of the budget with respect to housing could really "wow" people. Ten billion bucks sounds like a lot in a not very long period of time, 10 years, or even five years for some of the allocations. I have to admit, I wasn't one of the ones who was wowed. And I don't think this is a budget that is trying to address financialization of housing. I'm not sure what this budget is trying to address, to be honest. I think they claim at the very outset that the problem in Canada is housing supply or a lack of housing supply. And while I think there's some truth to the assertion, they didn't quite get it right. So we're insofar as there's a supply issue, I don't think it's a general supply issue. I think it's a supply for very particular groups of people, particularly low income people or people living in poverty. And they actually make that admission themselves in the budget, because they have this one provision that hasn't got a lot of attention. But they make this one provision of \$450 million, which is to be allocated in \$500 increments to tenants who are struggling to pay their rent, basically. So if you divide 450 million by \$500, I think you end up with 950,000. So does that suggest then that we have 950,000 low income households who are struggling? Yes, it does. And I'm not sure the budget actually adequately addresses that group at all, let alone people living in homelessness. We can get into whether it addresses financialization, and whether that was its intention. But I guess if I had to summarize my opinion, I'd like to take a big step back and just say they didn't do the structural work that is necessary to solve the housing crisis in this country.

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Greg Lindsay 04:16

Well, that raises the obvious question, then what is the structural work that's needed to address the housing crisis in this country? Because my other question before you raised that was going to be, who is this budget for? And who are these questions addressed for because obviously, if you look at the United States rhetoric, there it's coming from the Democrats in power that say the American economy is in a stronger place than it was before the pandemic and there's lots of news about household balance sheets being better because, of course, people save as opposed to consume. This sort of middle class position here that really we need to help people buy more homes in this middle class housing. Is that the right constituency for this? I mean, obviously, I would expect from your experience not and so I'm curious, like how so we change those questions or change that framing?

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Leilani Farha 04:58

Yeah, and I do think you're right that with this budget 2022 in Canada, it was really focused on potential homebuyers and the construction industry. I went through some of the provisions, and there were so many that would support the construction industry through renovations, through new builds, incentivizing set secondary suites, but for family members and tax credits in this way. So really feeding into the construction industry, and really feeding into first time homebuyers and homebuyers. And that is exactly what I meant, Greg, when I said they didn't

do the structural work that was necessary, because when I look at this budget what I see them doing is saying: our system is actually okay, our housing system is okay, we just need to throw some more money at it and some more tax breaks. Like as if the problem has been a lack of money or tax incentives. And I'm not sure that's the right diagnosis of the problem. In fact, the opposite. I think that if you look at how we're doing in terms of housing supply, we're not totally off the mark with other OECD countries. In fact, we're kind of meeting those averages. Stats Canada recently said that if you just look at population growth, and new builds, you'll find that new builds have kept a pace generally with population growth, except in the Atlantic provinces. So we all know that that doesn't mean there is available housing for people, we know that there isn't because we know there's 1.3 million vacant homes in Canada, one of the highest rates in the world. We know that what's being built is being purchased by investors. A huge number of investors have invaded the market, particularly in the last two years. And we know everything's unaffordable, you said it at the top. So what's available isn't for the people who are most in need, and that structural change that would be necessary wasn't there. As I said, they just decided, I think we're doing okay, let's just throw some money at it and some new policies. I think it was a missed opportunity. Just before the pandemic struck, I had the opportunity to visit New Zealand. I was the UN Special Rapporteur on the right to housing at the time, it was my final country visit. And one of the things that I found so fascinating there was the Prime Minister herself realized that they had put forward a national housing strategy that was ineffective. And she basically required that it be repealed, and that a new strategy be put in place, one that would better address the very troubled housing market and housing system that New Zealand had, and still has. And when she was reelected, she really put in place some real structural reform. For example, she made it a requirement that the central bank for New Zealand has to look at interest rates and setting monetary policy in a way that addresses housing crises. That's obviously a really important aspect to all of this. And in fact, what I think we will find in Canada is that the Bank of Canada's move to increase interest rates is going to have the biggest effect on housing in the country, way more than budget 22. Some people are saying that it's going to have a negative effect, I think it may ultimately have a good effect. But in any event, Canada missed the opportunity, even with this coalition government, to do a reset to say, you know what, we are in a major crisis, and the pandemic has made it worse, not better. Let's take a whole new kick at the can. They didn't do it. And so we see the same old, same old. Money is going to the same kinds of ideas as before and not really tackling some of the big actors that I think are having an influence on the market here.

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Greg Lindsay 09:35

Well, I would love to get into some of those actors, obviously, you mentioned the investors who've hoarded during the pandemic. Could we talk more broadly about what happened during the pandemic across the OECD, because it's not just Canada or the United States. Charts I've seen for example, shows 17 countries had huge spikes in cost of housing, for example. You mentioned the Bank of Canada interest rate. Early in the pandemic, the United States and the Federal Reserve led the way in basically dumping trillions of dollars into the US markets to prevent panic and market rout. Which of course, then led to the surge in equities, now inflation, and backlash effects against that. Was there another way possible? Have you seen in your visits other ways of doing this that don't rely on basically injecting more hot money into the housing markets? And also that constituency that homeowners represent, that goes back 50 years, of that silent middle class whose expectation that their homes will rise in value forever forms really the bedrock arguably of Western democratic politics like that hegemony there. Is there a way to get them to unclench around that to allow different approaches to housing? It strikes me that's the nudge.

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Leilani Farha 10:43

Well, I mean, that's where the human rights approach comes in for sure. Recognizing that housing is a fundamental human right, a basic need, and for good reason. And the pandemic expose that because it is a place of well being, it's very much tied to one's health, mental and physical, and in the face of a deadly pandemic, it is sometimes the frontline defense. And so if governments took seriously this idea that housing is a human right, we would have had in place a whole bunch of fiscal policies, tenant protections, a whole infrastructure to protect housing from an influx of cash into the economy. And so it's not for me to say whether banks should have done what they did with this quantitative easing, which is what you're talking about putting tons and tons of money into the economy. It's not for me to say, I'm but a lowly human rights lawyer here. But it is for me to say, I knew as soon as the pandemic struck, and I saw quantitative easing happening, even though I'm just a lowly lawyer, I knew right away, this is going to have a very bad impact on those markets where housing plays a fundamental role in the economy. Canada is one of them. And that's what I meant about, we could have done a big reset with the budget, because what the budget does is it just underscores the fact that housing plays a huge role in our economy in an unhealthy way, actually, and we need to start undoing that. And so what does that look like? Well, that looks like a whole bunch of protections around housing, so preventing investors from investing in housing as a commodity, as I always say, park, grow, hide, and leverage capital. There's another way to view housing. So there needed to be a whole bunch of protections on that side to keep that from happening. If you look at what Singapore did, very recently, they decided there was too much, double, triple, quadruple, et cetera, investment in housing, people were buying up too much housing. So they just have started to slap on really high taxes to inhibit that kind of activity. That's one example of something that could have been done. And then I think Canada as a country would need to look at a whole other way of developing our economy. Again, this is way outside my bandwidth. But like, I don't know more in research and development. If you look at what happened to us at the beginning of the pandemic, well, what industry do we not have here? We don't have research and development in the pharmaceutical industry, right? We don't even have the capacity to do that. I'm not saying that's the be all end all area we want our economy to grow in. There's lots of other areas that our economy could grow in, and there's even cottage industry that isn't being developed here. So I sort of think, okay, the budget was in a moment when that reset could have happened, even if it was just an understanding that we need to make incremental changes away from using housing, housing construction, and people paying rent to drive the economy, which is the case at hand, right? It's very scary if you think about an economy that's driven by investment in housing, because that's not productive. That's not considered productive. I mean, yes, the construction industry might be a productive industry, because people are employed, but just the pure investment in housing, what's productive about that? I purchased something that already exists. That's just a financial transaction, and there is nothing productive about financial transactions. I don't want to live in a country where the economy is based on that.

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Greg Lindsay 14:44

Absolutely. It is fascinating and I would love to return in a moment about the notion that the Canadian economy is stagnating under housing. To your point there about R&D investment like housing has become a have total drag on the overall growth of the Canadian economy in a way that isn't in the United States one. But first, I want to touch upon the provision in the budget to

ban sales for two years to foreign buyers. And I'm curious, your take one. If only listeners could see you roll your eyes. This has been of course a major talking point of the Liberal government, and I'm curious whether that is soft racism in a way. But also at the same time, the Trudeau Government has also set the highest immigration targets, which still could be higher. I'm an immigrant to Canada myself, I'm a believer that given its relative climate resilience that Canada could absorb more migrants, whether there's an argument to be had there that Canada needs to massively increase home construction to start thinking about that, but then at the same time, there seems to be the xenophobic impulse to prevent foreign buyers. So I'm curious, is that just window dressing to distract our attention from somewhere else? Or should Canada have a combined housing immigration strategy, perhaps, or what direction should they go in?



I definitely think there should be a combined immigration housing strategy. I mean, that's just so obvious and refugee, as we absorb refugees. That was one of the things when the Syrian refugees were invited in, it was like these folks are going to live where after the first year of being supported? And then many of them would have to receive social assistance and they're going to live where and afford what? And the same obviously will go for Ukrainians who are being invited in and Afghans being invited in. So definitely there. And that's refugees, let alone immigration itself. So yes, I agree with that. I rolled my eyes on the ban on foreign buyers for several reasons. First of all, foreign purchases, and I'm putting that in quotes, represents about 5% of our market in Canada, so pretty small amount. And when I've asked national level government to pay much closer attention to for example, real estate investment trusts, for listeners, if they don't know, is just a financial vehicle to purchase mostly multifamily buildings, so apartment buildings. It's just a trust, like any other trust, except it gets preferential tax treatment in at least 40 countries around the world. When I ask federal government look, these REITS are having a really negative effect on rental accommodation in Canada driving rents up, maybe you should take a look at that. They turn to me, and they say, it's a small percentage of the market, 20%, we don't need to deal with that. Let's study it, right. And that's what they did in the budget. I don't have a problem with studying it. But don't tell me it's a small percentage of the market, and therefore we can't act when you're then turning to 5% of the market and saying we're gonna ban it for two years. That's one, two, what really makes me laugh is it shows a naivety about the whole business of housing. And, the folks engaged in this investing in housing are very clever. And it's a machine. It's not just like someone sitting in some foreign country saying, oh, I want to I want to own property in Canada. I mean, there are teams of lawyers, teams of real estate agents, working to figure out how to get around domestic laws to enable people, corporations, and entities to purchase. Okay, so no foreign buyers. So you suddenly look like a domestic buyer. And there's lots of ways to dress up a foreign buyer to look like a domestic buyer. And also, if you follow capital and capital flows. Capital flows globally now, and so this idea of national versus international money to me just makes me laugh. Anyway, there was a real naivety there, and I think the potential for it to seem racist should have been enough for them not to do it, in my opinion. And the fact that it's such a small percentage of the market. I don't think that's going to have any impact, to be honest. And they missed the opportunity to do what British Columbia did for example, which is to put a foreign buyers tax in place. Now, that's an interesting move. Why? Because it generates revenue. And that revenue could then go right back into affordable housing, which is what BC is doing. If I understand BC correctly, they started at 15%, and then they increased it to 20%. And I think it has had some impact. And I know that for example, other countries use foreign buyers taxes as well. So that's my take on that.

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Greg Lindsay 19:55

All right, before we get to solutions, I want to ask one more question about the problem. And I'm curious what are some of the most malignant developments that happened during the pandemic? One that I want to bring up is the rise of single family rentals as a category. Of course, that started during the global financial crisis in the States, financial entities buying tens of thousands of homes out of foreclosure and turning them into an asset class. Now in the States there's entire construction of custom built neighborhoods that are designed as this. I bring this up because the problem always with the financialization of housing was that it was a way for individuals and families to financialized themselves. Again, as an American, this American dream of the way to building intergenerational wealth was through housing. But it appears that that's being short circuited now by the rise of some of these institutional investors. Has that come to Canada? If so, what is the end game for Canadians, Americans, and other countries in the OECD as this becomes the next great asset class?

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Leilani Farha 20:49

I'm so very happy that you raise that. That point goes to actually a slightly broader point as well. Let me just put this here. So the idea that supply is going to solve a housing crisis completely negates or doesn't take into consideration the fact that anything that is being built can be purchased by an investor. And that's what you're saying. The idea that single family homes that might be built for first time homebuyers, for young families, or just for families generally, are being gobbled up by investors and financialized seems to have passed by policymakers. And, I've witnessed this in Ireland, for example, one of the most financialized markets in the world. People would be surprised to know they have a terrible housing market there. And just to bring it to life for people, there's a community just outside of Dublin called Maynooth, I think 750 single family homes were built for first time homebuyers. It's a nice community because it's just a 40 minute drive or commute to Dublin itself. So you know, well situated. The first 35 homes were purchased by individual families, all of the other homes were purchased by an institutional investor, and converted into rentals at very high rents. And we are starting to see that in Canada. In fact, I wrote an op-ed about it a while ago in The Globe and Mail. There was an investment company with a fairly sloshy fund, saying that that's what their intention was to do go across Canada and buy up single family homes and convert them into rentals, and put in secondary suites so that they could have dual rentals on one single property. And the government's reaction to that in this country has been, well, that's actually providing rental accommodation for people in need. And it's like, okay, wait a second. First of all, these are not cheap rentals, like this is not affordable rentals for those in need. Second of all, it is keeping out certain groups of people who could potentially afford a home and live in a house with all of the security that comes with that. And the reason that's important in this country is because we do not have good tenant protections. Renting in Canada is not a good thing. It's not that people don't want to rent, it's that there aren't enough protections in the rental market to make people feel relaxed. Oh, like this is a long term option, right? I'm actually witnessing my 86 year old father whose building was just purchased, I believe, by a real estate investment trust. And he's now watching his rent escalate. He's on a fixed income, he's 86, and he wanted to live his last years in this apartment, and he's not sure how he's gonna manage. Until we make rentals actually viable for people in this country in a long term basis, we have to recognize that homeownership is something that people still want.

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Greg Lindsay 24:03

Well, I'm curious, where do we find the proper scale for intervention for this? Obviously, as UN Special Rapporteur, you had fairly wide remit to travel the world and look for solutions, obviously, now at Make the Shift, you're trying to implement this. It's too much to ask you or any one person to figure how to solve this. But I am curious if you've got any closer to where is the appropriate scale of interventions? We've talked about global investment funds, central banks, I mean, some of this is so huge and so amorphous to an individual point of intervention that how do we intervene in this? A lot of the solutions that get discussed at the city-level are things I do love, like community land trusts and others that are attempting to just simply draw walls around capital. But, can they keep it out forever? I'm curious about what your conversations have been like with cities or with other policymakers about how do you make the shift so to speak?

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Leilani Farha 24:51

Yeah, and then it's super tough. Whenever I get asked about solutions, very few people say, I know this is too tall an order to ask of you, so thank you for saying that, Greg, because it is. But I will say this, I think if decision makers at any level, whether it's municipal government or provincial, or national, if they used the human right to housing to guide decisions, whether that's which taxes to impose, how to allocate budgets, all of that. If every decision taken was intended to move forward the human right to housing, and ensure no harm to the human right to housing, that would put us in a totally different ballgame. And, Canada's so well poised to do this, that's why I expected more from the budget. Because we have national legislation, the National Housing Strategy Act, which says that the federal government's housing policy is to recognize that housing is a fundamental human right. That means that when doing a budget, every decision taken there should have been to move forward the human right to housing. And now they might argue with me, well, we did that, but I'm not sure that they actually did any human rights analysis here. For example, one of the things that is required of governments is to use the maximum resources available to that government to move forward the human right to housing. So the non taxation of real estate investment trusts, for example, is an area that governments at least need to look at. Did the federal government even look at that? No, of course not. And there are political reasons that they didn't do that. But that doesn't wash with the human rights approach. So I mean, what I've said to governments around the world is that every government, at any level, every order of government needs to establish a rights based housing strategy. And that doesn't mean just looking narrowly at housing, it requires looking at finance, looking at how you treat Airbnb, looking at how you treat vacant homes, looking at how you treat monetary policy, fiscal policy, it's a big thing. And that's why it's too tall a task for just me. You know, it is a big thing. I keep saying that in this country, I think we need a table. And everyone rolls their eyes when I say that, because it's like, oh do we really need more talk? But I don't see the right people talking to each other, to be honest. I think we need a table with different orders of government, Indigenous representation, Indigenous governments, as well as other stakeholders, including the private sector, to have the big conversation. And to say, what would a reset look like in this country that's rights-based?

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Greg Lindsay 27:43

Well, as a final question there, I'm curious when you say, bring the private stakeholders to the

table, how do we square that circle? In the United States right now, various cities like St. Paul, Minnesota, is considering it. I believe Minneapolis has passed it. Boston is considering rent controls. What I'm trying to say here is there are various discussions about reimplementing rent control. Classical economics would say, I think the famous joke is like only bombing will destroy a city faster. And places that have tried to implement that are explore inclusionary zoning, have seen housing starts fall to which centrist economists would say, you took away the incentive to profit. Left wing critics would argue that it's basically a capital strike, that they're not getting the rate of return that they want. So how do we square that? I mean, without going full socialist, or without degrowth, or some of the more radical political agendas? Is there a way to square this within the current political economic system of a centrist Trudeau Government?

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Leilani Farha 28:35

I think it's so interesting, this idea that rent control would just ruin the housing stock. For those who don't know, the argument is, if you impose rent control, then landlords won't do upkeep to buildings because they need that income flow and increasing rents to do capital improvements, etc. So here's the thing, if governments were strong, and I'm not talking socialist government, I'm just talking like regular government was just strong and said look, to all of those in the business of housing, you need to know that you're actually operating in an area that is a human right. And as a result, you have certain obligations and certain business practices that you have to adhere to. And if you don't like those business practices, and you don't want to adhere to them, then you better get out of this business, because this business is a human rights area. So we're going to impose rent control or vacancy decontrol as well because people really can't afford rents to increase because incomes are not increasing at the same rate. I mean, that's one of the problems in Canada, right? There's a complete disconnect between housing costs and what people actually earn. Complete disconnect right now. So, if the government said that to those in the business, I would be interested to see who takes pride in being in that business, and recognizes that their profits might take place over a much longer period of time. But that they are helping to contribute to this human right to housing and to human wellbeing. And I think that what might happen is some of the old guard might leave the business, or might not want to pass it on to the next generation. But I believe there is a generation out there that are part of the housing crisis, who might very well like to get into the business of housing in a different way. And in a way that's rights compliant. This is something we have not tried. We have not tried to impose rent control and say, if you let your buildings fall decrepid then you will be fined or you will suffer some consequences, because you'll be violating the right to housing. The right to housing includes adequacy standards. So I feel like governments haven't been bold enough to push that to say, okay, then get out of the business of housing if you don't want to play by human rights rules.

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Greg Lindsay 31:11

Alright, well we're nearly out of time. But as a last question then, what is your next step in actually convening around that table and who do you hope to convene there? And yeah, how do you see advancing the conversation in Canada over the course of this next budget and the Trudeau Government for the next few years?

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Leilani Farha 31:25

I mean, my work is actually more international at this point. On June 2, I believe, let's knock on wood, I'm releasing a set of human rights directives on the financialization of housing. They go to that issue of how do we tame finance and keep it at bay, in order to ensure that people can still afford housing. So I'm hoping that those directive start conversations a new and a fresh in this quasi post pandemic period, when so many cities are really struggling with this housing crisis. So hopefully, it will engage both governments, investors, and advocates because that's who the directors are aimed at, those three audiences. I'm launching them at the European Parliament, actually, just because I have the opportunity to be there. Not that they're focused on Europe, but they do, of course, apply to Europe, where they've seen something like a 700% increase in investor owned housing in the 10-15 years. So maybe I can help at least continue the conversation.

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Greg Lindsay 32:34

Well, wonderful. Thank you so much for joining us today. We'll eagerly await the release of those directives. And hopefully have you back on soon to discuss the impacts when that actually does happen. So thank you so much again for joining us, and thanks as always to our listeners. We'll be back soon with another episode of threesixtyCITY. Until then, take care.