



2019 ANNUAL REPORT  
Providing advocacy, education, community building



*"It is justice, not charity, that is wanting in the world."*

—MARY WOLLSTONECRAFT

## WHO WE ARE

**Together Against Poverty Society (TAPS)** is the largest anti-poverty organization on Vancouver Island. We have a positive impact on people's lives in ways that honour and promote human rights, justice, and a healthy, sustainable community. TAPS is a recognized leader and resource for citizens, community groups, and social agencies attempting to reduce poverty. Our education and advocacy services touch over 7,000 people per year – and we are not yet meeting the needs of all who approach us. We provide services to residents of the Greater Victoria area and adjacent municipalities including the Western Communities, Saanich Peninsula, and the Southern Gulf Islands.

TAPS was established and registered as a Society in 1989, receiving charitable tax status in 1994. TAPS is a non-profit society whose membership is open to individuals or groups concerned with the preservation of civil society, social justice, the eradication of poverty, as well as the continuing moral progress of those ideals.

## WHAT WE DO

- Advocacy services in the areas of income assistance, federal and provincial disability benefits, employment standards, tenancy, and income tax preparation. Our work includes providing information and giving summary advice, negotiation and/or representation to persons of no, low or fixed income;
- Training for low income persons and other interested community groups and organizations, which then enables them to advocate for themselves or for their members;
- Identifying, researching and addressing issues relating to poverty with particular emphasis on those that affect our local community and;
- Working in cooperation with other community groups and social service providers in advancing poverty issues.

**ON THE COVER:** *The TAPS staff celebrates our 30th anniversary on September 1, 2019. Photo by Lawrence Herzog.*

## President's Report 2019

**O**n behalf of the TAPS Board of Directors, it is my pleasure to share this Report for 2019. The TAPS Board is made up of a diverse group of dedicated volunteers, and we are all very proud to be able to make a contribution to this outstanding organization.

This year has brought some changes to TAPS that are serving to strengthen our capacity to make progress on our core commitments and programs. Most notably, this year we concluded our first Collective Agreement, with TAPS staff now belonging to CUPE Local 374. As a board, we are happy about the administrative clarity and increased solidarity with labour movements that we see developing as a result of the unionization process, and we thank all of the people who worked so hard not only to conclude the agreement, but to do so with a commitment to a genuinely respectful and collegial process.

We are also very excited to welcome our first staff lawyer, Daniel Jackson, whose work will contribute to the ability of TAPS to make systemic legal arguments, including through judicial review of government decisions, and we remain incredibly grateful to the staff and volunteers of TAPS, under the leadership of our Executive Director Douglas King, for the knowledge, professionalism, grace and dedication that they bring to their work.

We have also experienced some changes on the Board of Directors, welcoming some new members and saying goodbye to others. Some changes on the Board are prompted, in part, by our By-Laws requiring that Directors serve no more than six consecutive years at a time, and we feel that this rule



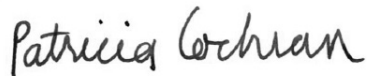
*The TAPS Board of Directors for 2019 at our AGM in November, 2018. From left to right: Jeff McEown, Sandra Angus-Vincent, Ryan Tonkin (Secretary), Catherine Boies Parker, Felicity Smith, Malcolm Sword, Bernice Kamano, Nathan Cartwright (Treasurer) and Patricia Cochran (President). Not pictured: Sarah Cunningham (Vice-President), Amy Baylis, and Linda Doctoroff.*

is serving its intended purpose, which is to challenge the Board to bring in new ideas, to broaden participation and to be reflective about what we need to do in order to make sure our governance processes are welcoming to everyone.

The values that are described in the TAPS constitution continue to be critical in our communities, and in our work to advance justice for those communities. TAPS' commitment to working with and for people living in poverty and in collaboration with other community groups and service providers are important values that we continue to work by. Our work is also characterized by the ongoing commitment to ensure that service to individual clients and systemic advocacy are both part of our anti-poverty work and continue to mutually inform each other.

As members of the Board of Directors, our work in 2019 has also been guided by the values in our constitution, and our commitment to building our capacity to support the work of TAPS. In this, we are guided by a Strategic Plan developed in 2017 that extends until the end of 2020. In 2019, Board fundraising work included a successful Tapas for TAPS event, and we thank all members, donors and foundation funders for their financial contributions. We have also taken steps to build our capacity to better serve Indigenous clients and communities and develop stronger relationships with Indigenous organizations. We currently have four working subcommittees: the Fundraising Committee, Indigenous Initiatives Committee, Nominating Committee, and the Executive Committee. These working committees reflect the means we have chosen to pursue the objectives in the Strategic Plan.

The Board of Directors always welcomes conversations with members and volunteers, so please do be in touch. We look forward to working as part of the TAPS community to meet the challenges of 2020.



**PATRICIA COCHRAN**

*President*

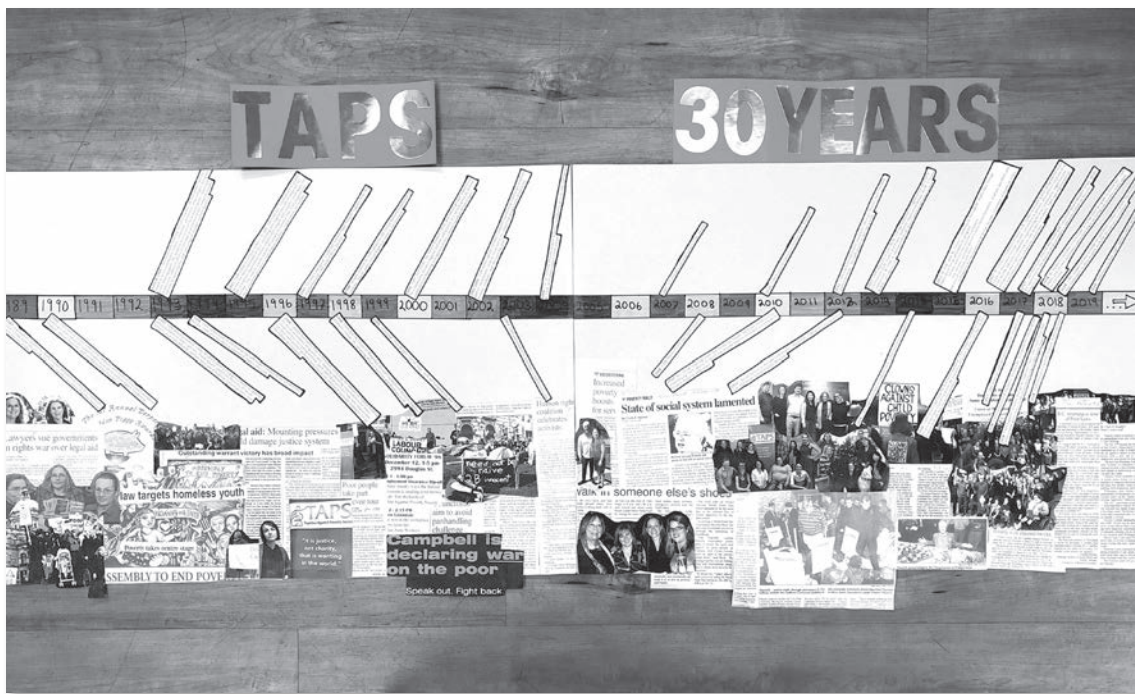
*Board of Directors*

## Executive Director's Report

This year certainly felt like a year of transition into the next phase of TAPS' long history. While TAPS turned 30 years-old in September, and we remain deeply connected to our roots, this year also brought us some exciting firsts. The first year in our new office at 828 View Street, our first year under the TAPS Collective Agreement, and the first time that TAPS was able to hire a full-time staff lawyer to support our legal advocates and program coordinators.

And while our home on View Street has been a fantastic upgrade, it certainly didn't take us long to fill the new and expanded office space. The staff lawyer position, made possible through a grant from the Law Foundation, joins increased staffing to our Income Assistance and Tenancy programs, which would not have been possible without the ongoing support of our monthly and one-time donors. With TAPS reaching a record high 12 staff members, it also became clear that our infrastructure needed to grow as well. That's why this fall we hired Thea McDonagh to take on the responsibility of being our Director of Advocacy, a role designed to assist the Executive Director in organizing the ever increasing individual casework, public legal education, and systemic advocacy we pride ourselves on.

And if you joined us for our 30th Anniversary celebration in September you would have seen there is a lot for us to be proud of. The timeline we created, which shows some of the highlights in our work, is proof positive that TAPS has been one of the fiercest fighters of poverty in Greater Victoria over the years. As we prepare for work in the next decade, we know we are very fortunate to have the strength of our history and the indelible reputation TAPS has cultivated supporting our work.



*A timeline of TAPS' work over the last 30 years, starting in September of 1989.*

As you read through this report you will see some great examples of how TAPS continues to fight for the dignity of all regardless of income, as well as some of the important successes we have had over the year. I don't think it is an exaggeration to say that the work of our staff and their clients has brought about real change, and I hope you will agree with me when I say that our programs have become an essential service to our community.

I'm sure the years ahead will bring new and unexpected challenges, and we still dream of a time when a decrease in the amount of people living on the margins of our society will also lead to a decrease in the demand for our services, but for the time being we will continue to do the best we can to help every person that walks through our doors, and will ensure that their voice is not lost as we continue the fight for meaningful systemic change.



**DOUGLAS KING**  
*Executive Director*



*Staff, volunteers, donors, and community partners gathered this fall to celebrate TAPS' 30th birthday.*

## Supervising Lawyer's Report

**A**nother busy year at TAPS. I am now in my 8th year as legal supervisor, providing legal advice, supervision and training to the TAPS Advocates to support them in representing individual clients. That representation, provided by TAPS' skilled and committed staff, continues to serve as an excellent example of the effectiveness of using well trained, specialist legal advocates to address critical issues facing people living in poverty where no other legal representation is available. Their work, done with professionalism and compassion, is the embodiment of the Access to Justice movement.

The Advocates' experience also puts them in a position of being able to provide knowledgeable advice on government policies and proposed legislation and participate on community and provincial committees and consultations based on their sound understanding of the relevant legislation.

TAPS continues to be highly respected in the social justice and the downtown service provider communities. Whenever I mention I work at TAPS, I am invariably told a story about a person who was referred to TAPS and got the advice they needed. And even if that person wished the advice could have been different, they report feeling heard and treated with respect.



**LISA COWAN**

*Barrister and Solicitor*



*TAPS Supervising Lawyer Lisa Cowan (far left) is joined by staff at the 50th anniversary celebration for the Law Foundation of BC.*

# TAPS Staff Lawyer Report

DANIEL JACKSON

## PROJECT DESCRIPTION:

The TAPS Staff Lawyer provides legal representation to clients and advocates on Vancouver Island who have exhausted their administrative remedies in the areas of tenancy, employment standards, income assistance, and disability.

## OBJECTIVES

- Support TAPS advocates, and advocates across Vancouver Island, with legal issues and higher level cases that arise through the provision of legal advocacy services.
- Provide reliable, high quality legal services to low-income clients at tribunal, provincial court, and supreme court levels.
- Consult with advocates regarding tribunal appearances which may lead to judicial reviews, and conduct judicial reviews when necessary.
- Identify and pursue, in consultation with other lawyers working in this area, opportunities for strategic litigation in order to advance the objectives of other TAPS project areas.

### CASE TRENDS

In the short time this position has been active, it has already become apparent that the staff lawyer has an important role to play in defending our clients from the procedural burdens faced by successful clients. Better resourced landlords and employers have shown that they are willing to engage in legal processes simply to delay and eventually exhaust clients into accepting less than their lawful entitlements. Similar actors appear to be willing to act contrary to the law, anticipating that no one will hold them to account. While the tools to do so remain limited, having a lawyer available to engage on this kind of case is one part of ensuring our clients rights are adequately protected.

### CASE PROFILE

Kalem is a recipient of income assistance, who applied for a persons with disability (PWD) designation. Kalem was denied at first instance, and at reconsideration. At this point, Kalem came to TAPS for assistance. Advocate Jennifer Matthews worked with Kalem to prepare an Employment & Assistance Appeals Tribunal case, including written and oral submissions, and an updated letter from Kalem's physician clearly articulating his conditions and restrictions. The Tribunal denied Kalem's appeal.

The Tribunal is empowered only to review a prior decision, and can therefore only accept evidence that is "in support" of evidence that was before the previous decision maker. The tribunal heard arguments from Jennifer regarding the admissibility of the letter from Kalem's doctor; because the letter didn't add any diagnoses, and largely affirmed what Kalem had already told the Ministry, Jennifer argued that it fell within the "in support" exception to the bar on new evidence.



In its decision, the Tribunal stated it accepted Jennifer's arguments, considered the letter, but found that the Minister's decision was reasonable based on the evidence before it at the time. The Tribunal did not address the content of the letter.

TAPS staff lawyer Daniel Jackson reviewed this decision and determined that this likely constituted a fatal error. Having agreed that the letter was admissible according to the Tribunal's evidentiary rules, the Tribunal had to at least consider the evidence in the letter in rendering its decision. Admitting and ignoring the letter was not an option. Daniel filed for a judicial review of the decision at the Supreme Court of BC.

After some negotiation, all parties agreed to proceed by way of settlement. Kalem received a PWD designation effective from the date of his Reconsideration denial. The ability for Daniel and Jennifer to discuss the manner in which this case was to be argued at EAAT allowed Jennifer to position it perfectly for an appeal, in the event that the anticipated issues with the new evidence were the basis for a denial. Without our new staff lawyer Kalem would have been out of options, and we would have been dependent on trying to convince one of the legal non-profits from Vancouver, or a private bar lawyer, to take his case, which is always a difficult thing to do. By having the staff lawyer here at TAPS we will be able to push a vital legal matter like Kalem's out of the tribunal system and into the court system, sending a strong statement to our clients that TAPS will be here to support them through all available legal processes.



*TAPS staff lawyer Daniel Jackson (right) and TAPS Executive Director Douglas King (left) don their suits for an appearance in small claims court on behalf of one of our clients.*

## Volunteer Coordinator's Report

TAPS relies on the hard work and dedication of its 50 or so volunteers, who do everything from helping people prepare their tax returns to disability advocacy to front desk reception to helping with mailouts. People volunteer at TAPS for many reasons—to join the fight against poverty, to be involved in the community, to help others. Our volunteers are people who have experienced poverty firsthand, people with a commitment to social justice, students, retirees, and people with disabilities. Some have specific skills they want to use, such as writing or drawing; some come to gain skills and experience—in legal advocacy or office reception, for example. Many simply want to be involved in an organization that helps people.

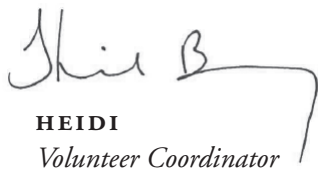
Our volunteers help us with such things as mail outs and photocopying jobs. We have a volunteer who makes sure we are stocked up on pamphlets from other organizations, and various guides for

people applying for or on income benefits from the Ministry of Social Development and Poverty Reduction. Volunteers on the newsletter team produce artwork, proofread, and prepare the mail out. We also benefit from the help of volunteers from the Garth Homer Society who deliver the newsletters to organizations around Victoria.

TAPS has an all-volunteer front desk reception. We generally need to have about 14 to 16 front desk volunteers on our roster—10 volunteers with permanent shifts and 4 to 6 volunteers who can fill in when any of the regular volunteers is away. As the number of staff members increases, and the areas of

advocacy TAPS works in expand, the role of the front desk reception becomes more complicated, and more difficult to learn. As the front desk role requires an ever higher skill level, the pool of people who can manage it shrinks. On top of that, over the past year, several of our long-term volunteers have left to take on full-time employment or to move out of Victoria. The result is that this year we have had a lot of shifts that staff have had to cover—at least one, but sometimes more than one, per week. We are working to find a solution, and will try out several options. One thing we are looking at is doing a trial where we have a staff person working at the front desk alongside the front desk volunteer to answer questions and take the more complicated calls. We will also look at other ways to support the front desk volunteers, like through newer technology and updated referral lists.

We continue to have three volunteer appreciation events, or at least three events that are at least partly about volunteer appreciation, per year: the spring Chinese food lunch, the summer barbecue and the holiday dinner, all well attended.

  
**HEIDI**  
 Volunteer Coordinator



*APS staff and volunteers gather for the annual volunteer appreciation holiday dinner held at the James Bay New Horizons Centre.*

# Income Assistance Legal Advocacy Project

DANIEL JACKSON, JENNIFER MATTHEWS, THEA MCDONAGH,  
MEGAN BILLINGS, MADYSON POWELL

## PROJECT DESCRIPTION

TAPS' Income Assistance Legal Advocacy Project provides legal advocacy services to people who have been economically disenfranchised by our political and economic systems and institutions, and are accessing entitlements from the Ministry of Social Development & Poverty Reduction (MSDPR).

854  
clients  
served

## OBJECTIVES

- Ensure people receiving provincial income and disability assistance have full knowledge of their legal entitlements and responsibilities, and receive the benefits they are entitled to.
- Provide reliable, high quality legal advocacy services that include basic information and advice, support during MSDPR investigations, and representation through MSDPR appeal processes.
- Provide public legal education presentations which expand community knowledge of the benefits available to people through MSDPR programs, systemic barriers to accessing these benefits, and potential remedies.
- Drive system reforms to improve peoples' experience with and access to MSDPR through legal advocacy work and direct consultation, as well as mobilization and collaboration with community organizations.

## CASE TRENDS

### The Rewards of Relationship Building

During this reporting period, TAPS IA legal advocates have continued to foster strong working relationships and build clearer lines of communication with Ministry staff at various levels, with the goal of creating better outcomes for our clients. We have achieved free-flowing communication with Ministry staff in the Reconsideration Unit, the Policy division, local supervisors, and with our local Community Regional Service Quality (CRSQ) representatives. This improved, direct line of communication with various Ministry staff has enabled us to get quicker and more successful resolutions for our clients.

Twice throughout this reporting period, TAPS IA legal advocates met with Molly Harrington, Assistant Deputy Minister (ADM) of Research, Innovation and Policy; Cary Chiu, the Executive Director of Policy; and other Ministry staff. TAPS staff drafted law reform recommendations with regard to: the Persons with Persistent Multiple Barriers (PPMB) application, earnings exemptions, the moving supplement, compliance reviews, access to identification supplement, the definition of spouse, the impacts of warrants on eligibility, and PWD applications.

Many of our recommendations were adopted and came into effect on July 1, 2019. Further suggestions are reflected in Bill 35 – 2019, which proposes to amend the *Employment & Assistance Act* and the *Employment & Assistance for People with Disabilities Act Act*. We have been informed that incoming regulatory amendments will capture much of the balance of our suggestions.

The IA project is pleased to see many of our precise recommendations reflected in policy and legislative change in a relatively short amount of time. We believe this demonstrates the relationship and communication with the Ministry that we have worked hard to cultivate, and wouldn't have been possible without the knowledge we gain daily from our clients when we represent them in conflicts with the MSDPR.

TAPS IA legal advocates have also focused our strategic efforts through involvement in the Employment and Assistance Appeal Tribunal (EAAT) Stakeholders Consultation process, and believe that this has contributed to recent changes to the tribunal. It is our experience that the EAAT has begun to rescind more Ministry decisions due to principles of administrative fairness, and we are hopeful that this trend will continue. Advocates across the province have long been discouraged with the outcomes at the EAAT, but now partly due to the new Chair and our work with her, we feel the Tribunal is once again a venue worth pursuing. The proposed legislative changes in January will also include a provision greatly broadening the scope of evidence that can be put before the Tribunal, significantly altering its potential usefulness to clients denied benefits at earlier stages.

#### CASE PROFILE

Olivia is a recipient of PWD assistance. She has several diagnoses including fibromyalgia, lupus, Sjogren's syndrome, PTSD, generalized anxiety disorder, and major depressive disorder. She was also diagnosed with severe obstructive sleep apnea (OSA) in May 2018. Unfortunately, she is highly intolerant to CPAP therapy, as it exacerbates symptoms of dry mouth associated with Sjogren's disease, causing her to wake up choking.

Olivia meets all eligibility criteria for equipment to treat severe OSA under Ministry regulations, but is unable to use a positive airway pressure device (i.e. CPAP machine) because of a pre-existing medical condition. Her physician instead prescribed a mandibular repositioning device (MRD), considered to be the only alternative treatment of OSA regularly available in Canada.

Olivia applied to the Ministry for coverage of an MRD but was denied at the initial adjudication and reconsideration. In both decisions, the adjudicators found that the EAPWD Regulation does not authorize coverage for this type of device, and that the only treatment for OSA available under s. 3.9 is a positive pressure device, such as a CPAP. Olivia lives on a fixed income of CPP and PWD assistance, and is unable to afford the device without Ministry assistance.

TAPS advocate Jennifer Matthews assessed the potential for a successful EAAT appeal of this case, but determined that the Ministry had not erred in their denial. Instead, she presented this case to contacts in the Ministry's Research, Innovation and Policy division, Assistant Deputy Minister's office, whom the team had recently connected with regarding various policy reforms. Jennifer requested a review and possible amendments to the Regulation and accompanying

policies, and also requested that the Policy division intervene in this case and provide instructions that Olivia be approved for a MRD. While the Ministry initially took the position that any intervention from their division would have to come in the form of reform to the policy as a whole (which requires budgetary approval), Jennifer was eventually able to advocate for an immediate exception for Olivia. The Ministry funded the creation of a custom MRD for her, and is continuing to explore re-drafting the regulation and policy.

This case illustrates the importance of ongoing open dialogue with Ministry staff; there are many Ministry denials that are reasonable in law, but lead to absurd and unfair results. While we primarily liaise with the ADM's office regarding law reform, those contacts can be helpful in immediately assisting clients who would otherwise fall through the many cracks in the medical benefits regime provided by the Ministry.



*Income Assistance Legal Advocates Megan Billings (left), Madyson Powell (centre), and Thea McDonagh (right), prepare for a meeting with staff from the Ministry of Social Development and Poverty Reduction in December of 2019.*

# Tenant Legal Advocacy Project

YUKA KUROKAWA, EMILY ROGERS, MEGAN BILLINGS,  
DANIEL JACKSON, DANIEL LINTAMAN, ISABELLE DEHLER-HYDE,  
HANNAH MANG-WOOLEY, KAITLYN HAIT

## PROJECT DESCRIPTION

The TAPS Tenant Legal Advocacy Project (TLAP) aims to enhance access to justice by providing unique legal advocacy services to the tenant community of Greater Victoria and the surrounding region.

834  
clients  
served

## OBJECTIVES

- Provide legal information and advice to low-income and vulnerable tenants regarding their rights and responsibilities under the *British Columbia Residential Tenancy Act (RTA)* and the *Manufactured Home Park Tenancy Act (MHPTA)*.
- Engage in negotiation on behalf of tenants with their landlords toward the resolution of disputes.
- Represent tenants at Residential Tenancy Branch (RTB) Dispute Resolution hearings
- Assist tenants with navigating the complex residential tenancy system.
- Provide engaging and informative public workshops for tenants and other stakeholders regarding tenancy issues, rights and responsibilities.
- Advocate for systemic change by acting as tenancy and housing consultants to local stakeholders and engaging in policy initiatives.

## CASE TRENDS

### Major Files

TAPS Tenant Advocates continue to see an upward trend in the number of building-wide issues that we handle in our casework. Some of the building-wide issues addressed by the Project this year include: long-winded and disruptive renovations, displacement due to demolition, building fires, and illegal rent increases. Major file work has required the Tenant Advocates to work effectively as a team to provide compassionate and efficient services. This has involved organizing and facilitating tenant meetings, communicating legal information and advice to large groups, drafting legal documentation, handling large quantities of evidence and other legal paperwork, negotiating settlements with landlords, and representing tenants in Residential Tenancy Branch dispute resolution hearings. The largest major file handled by the Project this year involved representing 55 tenants who sought compensation from their developer landlord, Starlight Investments, following years of disruptive renovations to their buildings. The Project continues to develop and hone best practices in respect to handling these major files.

### Tenants in Social Housing

The TAPS Tenant Advocacy Project has experienced a significant increase in demand from clients living in non-profit housing this year. We are increasingly receiving calls from tenants who report service and repair issues in subsidized housing such as water leaks and mold. We have also noticed an increase in the number of tenants calling with eviction notices from their subsidized housing providers, with issues ranging from small amounts of rental arrears to alleged use of substances. The driving factors behind this emerging trend have yet to be determined. It is possible that tenants in social housing are becoming increasingly aware of the services TAPS provides and that the spike in demand for service is not indicative of an increase of tenancy problems in social housing, but we continue to see the housing crisis appear in ways we would not have expected, and it has become abundantly clear that there are not enough properly funded and properly supported housing units available in Victoria, which is placing tremendous strain on the whole system. Regardless, it is incumbent upon all landlords to provide housing that is dignified, appropriate and accessible. We are eager to understand how we can support the reversal of this trend, as with the current state of high rent and low vacancy an increase in evictions from social housing will almost certainly lead to a corresponding increase in the amount of homeless individuals living in our city.

### Bad Faith Evictions

As a positive case trend, the Tenancy Project seems to be seeing less eviction notices in which landlords are serving bad faith eviction notices for renovation and landlord use of property. In the past few years, this had been a concerning upward trend, particularly in light of the housing crisis, and landlords' ability to take advantage of a competitive market. Recently, the Residential Tenancy Branch implemented several policies aimed at reducing bad faith notices, including a Right to First Refusal policy, as well as greater financial compensation for tenants if they can prove that their former landlord did not fulfill the stated intentions of an eviction notice. In addition, the issue of bad faith notices has been an increasingly common topic in public discourse, which may be holding landlords more accountable for their actions, as well as making tenants more aware of their rights and their options to dispute suspected bad faith intentions. The Project continues to advocate for both local and provincial-level housing policies aimed at mitigating unwarranted evictions.

#### CASE PROFILE

Although there has been a decrease in the number of bad faith eviction notices, it is still a major area of vulnerability for tenants, as demonstrated by the case of Liam.

Liam is a single father who works hard to make ends meet for himself and his teenage son. They lived in the same basement suite for ten years, and even though it was a bit smaller than they would have liked, they were grateful to have a safe and affordable home. Unfortunately, the home was sold in early 2018 and the new landlords said they needed to increase the rent by \$250. Even



*The Starlight building on Michigan Avenue is covered for renovations.*

though Liam understood that this increase was entirely illegal, he wanted to be on good terms with his landlords and was afraid of getting evicted, so he agreed to the increase. Two months later, the landlord knocked on the door again, this time with an eviction notice in hand. The landlord said that they needed to reclaim the basement for themselves and handed Liam a “Two Month Notice to End Tenancy for Landlord use of Property”. Liam didn’t know he could fight the eviction, so he moved out as directed. Liam and his son have been couch surfing for the last 11 months.

Six months ago, Liam’s friend sent him an ad for a basement suite from UsedVictoria. It was Liam’s former home, now renting for twice what Liam had been paying. The suite had undergone extensive cosmetic renovations. Liam’s friend told him to contact TAPS to see if there was anything he could do to hold his landlord accountable for lying. Liam met with a tenancy advocate and learned that the penalty for evicting a tenant in bad faith is now twelve months’ rent, thanks to recent changes to the law. Liam’s advocate applied for Dispute Resolution through the Residential Tenancy Branch on his behalf and represented him at the hearing. The arbitrator ultimately agreed that Liam’s landlord had broken the law by illegally evicting him, and Liam was awarded almost \$12,000 in compensation. The impact of this eviction and resulting homelessness on Liam’s physical and mental health is profound, and money can only go so far in providing redress for what happened. That said, Liam feels vindicated by the RTB decision and is newly hopeful about his future.



*Scaffolding under the tarp at the building on 435 Michigan St., where tenants reported a wide variety of health problems and disturbances due to a years-long renovation project.*



# Employment Standards Legal Advocacy Project (ESLAP)

STEPHEN PORTMAN AND ISABELLE DEHLER-HYDE

## PROJECT DESCRIPTION

ESLAP provides legal advice and representation to low-income, non-union workers whose rights under the *BC Employment Standards Act* have been violated and increases public awareness about workers' rights through public legal education presentations. ESLAP also engages in systemic advocacy to improve the rights of workers.

The bulk of the project's capacity goes to supporting workers going through the Employment Standards Branch complaint process. This work involves helping workers identify which sections of the Act have been violated, calculating any owed wages, approaching their employers on their behalf, preparing workers for mediation, and providing legal representation through the arbitration and appeal processes.

Our public legal education efforts are focused on providing accessible information to those most vulnerable to exploitation in the labour market: youth, Indigenous Peoples, and newcomers. Our systemic advocacy is focused on enhancing entitlements and enforcement mechanisms in the *Employment Standards Act*.

## OBJECTIVES

- To educate workers about their basic employment rights
- To help workers access their employment rights through the Employment Standards Branch complaint process
- To advance legislation in the interest of growing worker power
- To increase worker access to the collective strength and protections of a union

## UPDATES AND ACTIVITIES 2018/2019:

This year was a busy one for ESLAP. In addition to getting wins for workers on a case-by-case basis, ESLAP continued using worker-driven experiences of injustice to advocate for systemic change. Over the past year, ESLAP advocates completed three separate submissions to the provincial government on proposed changes to the Act, enforcement of the Act, and on the BC Employment Standards Review conducted by BC Law Institute.

ESLAP was instrumental, in collaboration with the BC Federation of Labour, BC Employment Standards Coalition, and BC Government Employees Union (BCGEU) in advocating for substantial reforms to the Act. ESLAP advocates met with the Minister of Labour, Harry Bains, to review the proposed legislation before it was tabled in the legislature. This year saw some big wins with the passing of the Employment Standards Amendment Act, which included many of our

recommendations such as eliminating the “self-help kit”, increasing protections for child workers, increasing the wage recovery period, and ensuring that gratuities go to the worker and not the boss.

ESLAP staff continued their advocacy for enhancing the enforcement provisions of the Act. Last year, a Freedom of Information request brought to light the fact that over \$15 million in wages determined by the Branch to be owed to workers went uncollected between 2013 and 2017 alone.

ESLAP collaborated with the BC Fed to create a video highlighting this issue as well as arranged and attended meetings between workers affected by the lack of enforcement of the Act and the Minister of Labour.

Over the last year, we facilitated five public education workshops on workers’ rights to community groups such as Spectrum Secondary School, Beacon Community Services, Retail Action Network, and GT Hiring.

ESLAP also organized and hosted the inaugural Worker’s Justice Cup at Langford Lanes: TAPS’ second main annual fundraiser. The Worker’s Justice Cup provides labour organizations and individuals the opportunity to provide financial support to ESLAP while also getting a fun-filled evening of bowling. Our inaugural event sold out and raised a few thousand dollars and we have hopes that this year’s event will be even more of a success. Congrats to IBEW 230 members who won, blowing the competition out of the water.

Last, ESLAP staff continued to provide on the ground support for many unions and organizations in the collective struggle for social justice. We participated in direct action in solidarity with UNITE HERE Local 40 workers at the Victoria airport and MoveUP workers at the Westminster Savings Shaughnessy Branch. Staff collaborated with the Canadian Centre for Policy Alternatives on their latest research project on precarious work. We also collaborated with the BC Fed for their Workers Deserve Better campaign. We tabled at the BC Fed bi-annual convention, CUPE BC’s

annual convention, and the Victoria Labour Council’s Labour Day Picnic. Last, we attended the launch and press conference for changes to the Temporary Foreign Worker Protection Act in support of the Migrant Workers Centre.

#### CASE TRENDS

- 1) *Wage theft* – Wage theft continues to be a significant problem. Wage theft occurs when employers simply refuse to pay wages that they owe such as regular wages, overtime wages, statutory holiday pay, or vacation pay. This act of theft results in significant hardship to our clients and often requires the involvement of other advocacy staff to deal with emergency access to income assistance benefits and evictions.
- 2) *Lengthy wait times* – While wait times to access formal complaint resolution processes at the Employment Standards Branch have been a longstanding issue, wait times have become significantly worse over the last year. ESLAP clients have been waiting six months to even hear from the Branch after filing a complaint and Determination Hearings are typically being scheduled at least eight months after a worker has filed a complaint. The impact of these



*Employment Standards Legal Advocate Isabelle Dehler-Hyde is joined by MLA and Finance Minister Carole James at a workers rights event in Victoria.*

timelines on low-waged workers who have had wages stolen is profound.

- 3) *Migrant workers* – This year saw an increase of intakes with migrant workers on closed work permits experiencing exploitation in their workplace. These workers find themselves particularly vulnerable as their work visas only allow them to work for one specific employer, meaning they risk losing their ability to work legally in Canada if they make a complaint about their work conditions and are subsequently terminated. With the introduction of a federal application process to apply for an open work permit for abused workers, ESLAP has seen an increase in migrant workers accessing our services.

#### CASE PROFILE

Roger sought out assistance from ESLAP advocates after he was fired after working for a taxi company for five years. Roger wanted assistance because he knew that the company paid him, and many other workers, as an independent contractor to avoid many of their obligations under the Employment Standards Act. Seeing that this case had the potential to undermine their unlawful business model, Roger's former employment hired costly legal counsel for the entire process. ESLAP supported Roger with navigating the Employment Standards process by managing language barriers and providing free legal representation to increase his likelihood of success against a team of lawyers. We negotiated with the employer, helped file a Branch complaint, and advocated for him at a formal Mediation session.

Ultimately, a Determination Hearing was required to address the legal issues of failing to pay minimum wage, illegal deductions for business expenses, and unpaid wages for regular hours, overtime, statutory holidays, vacation pay, and severance pay. We won this case and Roger received a decision in his favour for over \$12,000 in unpaid wages. His employer was also fined \$3,500 for seven violations of the Act. ESLAP is proud of this case and is in the process of providing representation to another taxi driver from the same company.

161  
clients  
served



*Employment Standards Legal Advocate Stephen Portman and Eric Nordal from the Retail Action Network table at a job fair for prospective employees.*

# Volunteer Disability Advocacy Project

THEA MCDONAGH, CAITLIN WRIGHT

## PROJECT DESCRIPTION

The Volunteer Disability Advocacy Project (VDAP) provides legal advocacy and support to economically disenfranchised people who are applying for Persons with Disability (PWD) status with the Ministry of Social Development and Poverty Reduction.

## OBJECTIVES

- To assist people with disabilities to apply and qualify for provincial Persons with Disabilities (PWD) benefits.
- To provide representation and advice services to people applying for PWD benefits.
- To recruit, train and supervise a diverse network of volunteer advocates to support clients with the complex and lengthy PWD application process.
- To encourage individuals living with disabilities to become VDAP volunteers.
- To provide mentorship opportunities to volunteer advocates.
- To update and refine training materials and resources used by the VDAP volunteers.
- To provide ongoing training opportunities for volunteer advocates.
- To provide opportunities for public legal education on disability issues to the community.



*Caitlin Wright took over as our VDAP program coordinator in September of 2019 after Thea McDonagh started her new role as the TAPS Director of Advocacy.*

## CASE TRENDS

During the reporting period, the VDAP coordinator recruited, trained and supervised 31 new VDAP volunteers. With the addition of these new advocates, the VDAP project assisted 646 individuals in the Greater Victoria area to apply for PWD benefits. In addition to the face-to-face services offered by volunteers, the project also provides services to any VDAP clients whose applications are denied and wish to appeal. The VDAP coordinator represented 25 clients in appeals.

The VDAP coordinator was also successful in recruiting two medical practitioners to assist VDAP clients in completing PWD applications. This is the first time TAPS has been able to offer this service to clients and we are very excited about the implications it has for our clients. In particular, clients who do not have a family physician or whose physician may be unsupportive of their application, benefit from having access to these practitioners. Having a medical professional who is familiar with the application process and is willing to spend time getting to know clients and how they are impacted by their disabilities, is paramount to increasing their chances of success in the application.

### Volunteer Advocates

VDAP continues to attract interest from volunteers from diverse backgrounds such as students from the School of Social Work and Law School at the University of Victoria, social service providers who wish to expand their skills, and community members with lived experience.


This year, VDAP expanded its training opportunities for volunteer advocates by hosting a variety of community workshops. The goal was to increase the capacity and confidence of volunteer advocates to work with clients with mental health, substance-use, and issues of gender-based violence. Clients often share painful and private information regarding the nature of their disabilities and the support of a skilled and caring volunteer can make all the difference.

To meet this goal, VDAP hosted a workshop which focused on developing the awareness, skills, and knowledge to be able to respond to issues of suicide in our clients. We also hosted a Naloxone training for staff and volunteers and invited the University of Victoria's Anti-Violence Project to come to TAPS and discuss how best to support survivors of sexualized or gender-based violence.

These supplemental trainings were well attended and we look forward to providing further opportunities in the coming year. Our advocates show a great deal of dedication and compassion for the people they work with and VDAP is committed to building capacity in the project to address the complex issues that arise in our work with clients.

## CASE PROFILE

Naomi came to TAPS seeking assistance when her PWD application was denied by the Ministry of Social Development and Poverty Reduction (the Ministry). Naomi applied for PWD due to the impacts of multiple physical and mental health impairments including, a substance use disorder, depression, anxiety, and chronic back pain resulting from a herniated disc. Her mental health impairments are the result of an extensive trauma history and she is in the early stages of recovery from addiction.



646  
clients  
served

Naomi had applied for PWD with assistance from her family physician of 10 years and a Registered Social Worker. Naomi had not accessed TAPS' VDAP program, but did receive some help from another community organization. After coming to TAPS, Naomi received assistance with her Request for Reconsideration from the VDAP coordinator. Unfortunately, her physician was unable to provide any additional information and her request was denied citing inadequate information to establish four out of five legislated criteria for PWD.

Naomi submitted a Notice of Appeal to the Employment and Assistance Appeal Tribunal (EAAT) in the hope of finding a medical practitioner that could provide information that supported her eligibility for PWD benefits. Although her physician was unwilling, Naomi did receive a referral to a Nurse Practitioner who had experience working with people with complex mental health impairments. The nurse spent considerable time with Naomi and provided a letter outlining her symptoms, restrictions and the help she required.

The VDAP Coordinator supported Naomi in her appeal at the EAAT, introducing new evidence from the nurse practitioner to support her application. During the hearing the tribunal members were persuaded by our arguments, and rescinded the Ministry's decision to deny Naomi PWD benefits. This was an exciting decision for TAPS as, historically, it has been challenging to have additional evidence accepted by the tribunal. Even when the EAAT admitted evidence, it was often given little consideration or weight. We feel this decision reflects a change at the EAAT, and we are hopeful that this change will result in a more just experience for clients who are forced to bring appeals in the future.

# Federal Disability Legal Advocacy Project

DANIEL JACKSON & CAITLIN WRIGHT

## PROJECT DESCRIPTION

TAPS' Federal Disability Legal Advocacy Project provides legal advocacy services to people, primarily those who are unable to sustain full-time employment, who are appealing federal government decisions regarding their Canada Pension Plan Disability and the Disability Tax Credit eligibility.

## OBJECTIVES

- Ensure people seeking federal disability assistance have full knowledge of their legal entitlements and responsibilities, and receive the benefits they are entitled to.
- Provide reliable, high quality legal advocacy services, including basic information, assisting clients in pursuing their entitlements and interacting with the medical community, and representing clients in reconsiderations and before appeal tribunals.
- Provide public legal education presentations to enhance knowledge of available benefits, and the best strategies for accessing those benefits.

At the beginning of September, 2019, it was decided that core components of the FDAP project would be absorbed into other TAPS advocacy projects. After discussions with other local agencies like the Disability Resource Centre, who specialize CPP-D Recovery applications, we are now referring these cases out in the agreement that TAPS can focus on areas where we specialize, like CPP-D reconsiderations, which will now be handled by our Income Assistance legal advocates. Appeals before the Social Security Tribunal will be transferred to our new Staff Lawyer, Daniel Jackson, with an opportunity for Income Assistance advocates to gradually train to conduct these appeals. One of the primary goals of merging these core components of FDAP with the Income Assistance Advocacy Project is to centralize all reconsideration and appeal work for both provincial and federal disability benefits within one advocacy project. By referring all work on initial CPP-D and CPP-D Recovery applications to other local agencies, TAPS is able to focus on the work more challenging reconsideration and appeal level decisions, where we can add the greatest value for our clients.

## CASE TRENDS

### CPP-D Recovery Process

FDAP continued to expend considerable resources assisting clients who are receiving PWD assistance and are forced to apply for CPP-D by the provincial Ministry of Social Development and Poverty Reduction (MSDPR) as part of their efforts to ensure their mandate as the 'payor of last



193  
clients  
served

resort' is maintained. These applications do not benefit clients, and amount, at best, to assisting the province in transferring money from the federal government. Nonetheless, this is often a very high-stress and time-pressured situation for clients, as their provincial assistance depends on their fast and thorough completion of the CPP-D application process. In happier news, the federal government recently revamped their application for clients already on provincial assistance to remove the need to have a physician sign off on the forms, which will speed this process for many people.

### **Disability Tax Credit Re-application Denials**

Disability Tax Credit (DTC) applications are typically approved on a 10-year basis. For clients who live with life-long disabilities and restrictions, it appears to have been common practice for the CRA to have routinely approved re-applications with minimal supporting evidence. In the last 18 months, though, FDAP advocates have seen many re-applications denied. While the process is no different than an initial application, the repercussions and timelines are much more punishing.

The Disability Tax Credit enables recipients to open a Registered Disability Savings Plan, and for people under 49, this can be a very powerful investment vehicle, providing large amount of government grants for every personal contribution. Unfortunately, these grants are subject to a 10-year hold before they can be accessed. If DTC eligibility is lost, there is a brief window during which clients can attempt to re-establish eligibility through appeal or reapplication, or be forced to close their RDSP, and therefore lose any grants that were secured less than 10 years ago.

### **Long delays in CPP-D Adjudications, Reconsiderations and Appeals**

While TAPS no longer assists clients with initial applications for Canada Pension Plan Disability (CPP-D) benefits, we provide full representation for both reconsiderations and appeals before the Social Security Tribunal (SST). Over the last year, lengthy delays and long-wait times for adjudication has become the norm, with little to no recourse for clients to petition Employment and Social Development Canada to provide more reasonable processing times. At times clients have been waiting 6-7 months for a reconsideration decision, on top of already waiting 6-9 months for the decision on their initial application.

For clients working their way through the SST, the average time from submission of appeal request to hearing has been 13 months, with an additional lag of several months until clients receive any benefits in the event of a successful hearing.

### **CASE PROFILE**

Curtis first came to TAPS in May 2017 for assistance with a CPP-D application. Over the next several months, Curtis worked his way through the application and reconsideration processes, without success. In January 2018, with the assistance of advocate Daniel Jackson, Curtis filed for an appeal to the Social Security Tribunal. The hearing occurred in May of 2019.

The two primary barriers to Curtis' application were an Occupational Therapist (OT) report stating that he could likely pursue some form of sedentary work, and a lack of work attempts that met that description. While the CPP legislation makes applications that do not include modified work attempts more challenging, this is not a complete bar to approval. The OT report was based on very limited contact time with Curtis; when the details of that relationship were laid out, the SST gave the report little weight, as appropriate.



As with other SST cases, this hearing is the first opportunity for applicants to present their story in person. While this can be a barrier, it is also an excellent opportunity for a client to help an adjudicator understand their reality. Through strong direct evidence from Curtis and careful legal argument, the work attempt issue was overcome.

Curtis was approved effective April, 2017, and he will be entitled to a substantial backpay, in addition to ongoing benefits.




*TAPS advocates joined forces with Shar Saremi (far right) of the Disability Alliance of BC to present on federal disability issues at this year's provincial legal advocate training conference in Richmond.*

# TAPS' Tax Project

SHARIFA RIDDETT, ISABELLE DEHLER-HYDE

## PROJECT DESCRIPTION

TAPS provides free income tax preparation for low-income people through the Canada Revenue Agency's Community Volunteer Income Tax Project (CVITP) and Disability Alliance BC's (DABC) Tax AID Program. Each week throughout the year, the Tax Advocate and volunteers provide free, face-to-face income tax preparation for eligible individuals on a walk-in basis. Over the past year, TAPS has had up to ten volunteers working together to serve people in the Capital Regional District in response to a persistent demand. TAPS volunteers may prepare up to 10 years of income tax returns for clients who are in arrears with their tax filings. This is a much-needed service in our community as Canada Revenue Agency no longer provides counter service to clients, and other agencies that provide this service do not provide face-to-face service, do not provide service beyond April 30, or do not prepare previous years returns.



**1314**  
clients  
served

## OBJECTIVES

- Complete simple tax returns for low-income individuals in the Capital Regional District.
- Complete tax returns for PPMB and PWD recipients on Vancouver Island and the Gulf Islands.
- Assist clients with accessing additional tax credits and benefits such as the Child Tax Credit, Medical Services Plan Premium Assistance, and the Disability Tax Credit.
- Answer basic tax questions.
- Provide additional accommodations for Persons with Disabilities who experience barriers to accessing the weekly tax clinic.
- Make partnerships with other local agencies serving low-income people to offer clinics on an outreach basis.
- Promote the TAPS' Tax Project in the community.

## STATISTICS

During the year our volunteers saw 1314 clients and prepared 2044 tax returns, which generated over \$2.1 million in refunds and credits.

Over the past year, we saw a total of 309 clients on PWD and PPMB, and e-filed 487 returns. That represents a 20% increase from last year. The total benefits provided to these clients was \$380,571.

## CASE TRENDS

Since May, 2018, we have had the pleasure of joining the DABC Tax Aid team. TAPS already had a fulsome tax program providing services to all low-income people in the Capital Regional District; however, the expansion of the DABC program has allowed us to improve and expand our services to meet the needs of people living with disabilities. Our Tax Program Coordinator oversees the weekly tax clinic and the volunteers, and the Tax Coordinator provides additional tax support to clients on provincial disability assistance (PWD/PPMB). While the weekly tax clinic model allow volunteers to process many tax returns efficiently, it is not always accessible for all of our clients, especially those with mobility restrictions, unpredictable medical conditions, or who work on Thursdays. As such, the Tax Coordinator files tax returns for PWD/PPMB recipients with special accommodation requests. These tax returns are typically done during appointments outside of the tax clinic, dropped off, done over the phone, or by email. The Tax Coordinator also answers all phone calls related to tax matters and oversees complicated tax files. These changes were all made possible due to the additional funding from the DABC.

## CASE PROFILE

Gordon is an affable guy, with a disability, who struggled with reading and writing. He avoided filing his taxes because he was intimidated by “all of the paperwork” and he felt too embarrassed to ask for help. He also lived in a local shelter and found it difficult to keep track of all of his paperwork. One of Gordon’s friends had his taxes done at the TAPS tax clinic during the spring and had a good experience. Gordon was convinced to approach TAPS to see if we could help him. He sat with a tax preparer who took the time to help Gordon read and understand his income tax information. He had 10 years of taxes to file. In the end, Gordon received a large tax return. With the additional money he was able to set aside money for the damage deposit and first month’s rent for an apartment. He was also able to travel to Saskatchewan to visit family he hadn’t seen in many years.



*TAPS tax volunteers were among those taking in some sun at Stadacona Park for the annual TAPS' barbeque.*

## Public Legal Education

**An important aspect of TAPS mandate is to increase awareness and capacity in our community regarding the rights of people experiencing poverty. The following is a list of just some of the organizations and individuals TAPS Legal Advocates have presented to over the last year.**

- Vancouver Island Public Interest Research Group
- Community Social Planning Council
- Our Place, Project Connect
- Victoria Tenant Action Group
- VIHA Stabilization Unit
- Beacon Springboard to Success Program
- Victoria Immigrant and Refugee Centre Society
- The Law Centre
- Island Métis Family & Community Services Society
- British Columbia Aboriginal Network on Disability Society (BCANDS)
- CELÁSET (Moving Forward) Program – Eyē? Sqâ'lewen: The Centre for Indigenous Education & Community Connections at Camosun College in partnership with the Songhees and Pacquachin First Nations
- Worklink Employment Society
- Victoria Cool Aid Society – REES Office
- University of Victoria Faculty of Law
- University of Victoria Faculty of Social Work
- University of Victoria School of Nursing
- Society of Living Illicit Drug Users – “SOLID”
- Seniors entitlement Service
- Victoria Labour Council
- PEERS Victoria Resource Society

# 2018–2019 Board of Directors

## MEMBERS OF THE EXECUTIVE

**Patricia Cochran – President**

Assistant Professor, Faculty of Law, UVic

**Sarah Cunningham – Vice President**

Community Development Consultant

**Nathan Cartwright – Treasurer**

Accountant

**Ryan Tonkin – Secretary**

Lawyer

## MEMBERS-AT-LARGE

**Sandra Angus-Vincent**

Manager - Daily Dose Society

**Amy Bayliss**

Program Coordinator

**Cathie Boies Parker**

Lawyer

**Linda Doctoroff**

Retired Social Worker

**Bernice Kamano**

Aboriginal Outreach Worker

**Jeff McEown**

Retired Lawyer

**Felicity Smith**

Retired Organizer and Fundraiser

**Malcolm Sword**

Outreach Worker

TOGETHER AGAINST POVERTY SOCIETY  
GRATEFULLY ACKNOWLEDGES OUR FINANCIAL PARTNERS:



... and our many generous individual donors. *Thank you!*