A SUBMISSION TO THE GOVERNMENT OF ONTARIO'S COMMITTEE OF JUSTICE REGARDING CLAIMS ABOUT NEGLIGENCE IN RESPONDING TO THE COVID 19 PANDEMIC

My name is Mervyn Russell and I am a retired clergy person with over 50 years of work experience in England, Scotland, the USA, Canada and St.Vincent and the Grenadines. I live in Oakville.

The crisis we are facing in Ontario as regards responding to the COVID 19 pandemic has its basic causes in the policies made by the Progressive Conservative government led by Mike Harris. Harris and his colleagues significantly moved the focus of government from the public goood to busines profitability. This new direction required smaller government, fewer regulations, less taxes and greater authoritarian government decision making.

What happened to long term care is a classic example of this approach. The increasing need for long term care, which was filling hospital beds, was not responded to by an expansion of public health care under OHIP . Instead millions of public tax dollars were made available as grants to entrepreneurs to build private for profit, long term care homes, a business which would always have a steady stream of clients. To make sure that Long Term Care Homes were profitable for investors, mainly part-tine staff were employed, at poor wages and without benefits. The accommodation of the homes was designed to house the largest number of residents to the amount of floor space, with the result that many residents were in multi-occupancy rooms.

The policies were moderated somewhat by the McGuinty and Wynne governments, but, in the main, they continued with the policies of the preceding Progressive Conservatives.

The present Progressive Conservative government came in under the slogan 'Ontario is open for business' It re-energised the Harris agenda: personal and corporate tax cuts; budget cuts to government services, of which health is the largest; cuts to regulation and inspection; privatisation of public services; greater authoritarian centralised government control.

As regards Pubic Health its budget was to be cut by 30%. Public Health Units were to be decreased from 39 to 13. In person inspections of long term care homes were curtailed. Despite recommendations from the Wetlaufer Inquiry about the inadequacy of staffing in Long Term Care Homes, there was no attempt at recruiting more staff, no enlargement of training courses, no improvement in pay and benefits, no increase in full-time jobs, no increased hours for providing care to residents. In fact, at the request of the private-for -profit owners, the Provincial Government passed the Emergency Care Act that allowed Long Term Care Homes to employ less-trained staff and not to be required to have at least one Registered Nurse on duty 24/7.

It was a disaster waiting to happen. When it did the Provincial Government was slow to act, which is not surprising since there are four decision bodies involved: the Provincial Cabinet, the Ministry of Health, Ontario Health, which is the privatisation directorate, and Public Health, which seemingly is the weakest of the four and led by the almost invisible Dr David Williams. Response to the pandemic was politicised from the start. The government, on principle, was loath to interfere with private business, which, it considers, always knows best. It was also opposed, on principle, to spending large amounts of money on public services. Public Health was not in charge of policy direction and Dr, David Williams, is, in any case, a very cautious person. There was not a requirement of complete

testing of all residents and staff until July. Protective clothing was generally unavailable for front line staff. Some put on cut out garbage bags. Part time staff carried infection from one home to another. In person public health inspections were curtailed. Infected and uninfected residents continued to sleep and eat in the same rooms. Seriously ill residents were not transferred to hospital. Staff levels dropped because of infection, fear and burn out. The disaster happened.

As a result over1,800 Long Term Care Home residents died in the first wave, some by infection, some from starvation, some from general lack of care and some from the loss of the will to live. This is the highest figure per capita of any region in the developed world. By far, the majority of these deaths occurred in private-for-profit homes. The Provincial Government did little to help, which is a major failure of a government's first responsibility, which is the protection of the lives of its citizens, particularly the most frail and needy. It took a daming report from a team of emergency militatry medics to spur the provuncial government into greater action.

We are now entering the second wave of the pandemic. Despite having had from March through September to ensure that Long Term Care Homes are fully prepared for the second wave, nothing, as yet, has actually happened. Not surprisingly, there is a bigger staff shortage than there was at the beginning of the first wave. Partly this is because staff can now only work at one home, but there has been no effort, by the government or the home owners, to make more full time jobs with improved pay and benefits, training opportuities and more time to attend to the care of the residents.

There has been no recruitment drive. Protective clothing, including N95 masks, are still in short supply. There is still no increase in training and supervision of infection control. British Columbia and Quebec have put most of these measures in place months ago and have released the necessary money to make them happen. It is only in the last week that Ontario pledged extra funding for staffing and for protective gear. Even though it is inadequate, it will take several months for this money to actually bring about any changes in the homes themselves.

It is because of the sequence of events that I have outlined that I am in favour of Long Term Care Homes and the Provincial Government both being open to law suits on the basis of negligence in their responsibilities for the health and life of Long Term Care Home residents during the first wave of the the COVID19 Pandemic. I consider it significant that once survivor residents and survivors of residents took action to bring Class Action Suits against Long Term Care Homes and the Provincial Government, the government, in response to the Ontario Long Term Care Association and their insurers, raised the bar of proof from 'negligence' to 'gross negligence' as regards Long Term Care Homes and their employees, and excluded the Provincial Government entirely from any claims of negligence as regards its responses to COVID 19 in Long Term Care Homes. These changes are beneficial to the well resourced and protected Long Term Care Home business and the government, but not to some of the most frail elderly of our society and their grieving relatives. Protecting the health and life of its citizens is the first responsibility of any government and of those directly responsible for their care, not the protection of businesses and their profits.

I hope there will be no interference by the government of the reporting of these hearings so that the public may know how the private for profit Long Term Care industry and the Provincial government fatally failed over 2,000 of the most frail citizens and residents of Ontario
This must never, never, happen again.
Mervyn Russell