

# *Hey, that's not fair – or is it?*

## Human Rights in housing co-ops

November 29, 2021, 7:00 to 9 p.m.

Celia Chandler, Iler Campbell LLP

[cchandler@ilercampbell.com](mailto:cchandler@ilercampbell.com)



# Human Rights are Important



***"We need human rights.** Whether we like it or not, religious, ethnic and cultural diversity is part of our modern world – and increasingly, part of our national and community reality.*

***Human rights and the respect for every individual upon which they rest, offer the best hope for reconciling the conflicts this diversity is bound to generate.***

*If we are to **live together in peace and harmony** ...– we must find ways to accommodate each other."*

-- Right Honourable Beverley McLachlin,  
Former Chief Justice of Canada (2009)

# What does human rights mean in housing?

- human rights always considered
- co-op accommodates
- co-op seen as unfair
- people use human rights language – mean personal preferences
- accommodation details private
- board and staff need
  - education and
  - to promote human rights



**Education**

*Good for you,  
you're here!*

# Overview

1. Human Rights Legislation
2. Duty to Accommodate
  - Accommodation flowchart
  - Human Rights and behaviour flowchart
3. No harassment & discrimination –  
*Rouge Valley Decision*
4. Competing Human Rights
5. Human Rights Applications
6. Case Studies
7. Resources





# Legal information?



# Legal advice?

# Human Rights Legislation









Handwritten calendar for March 2017.

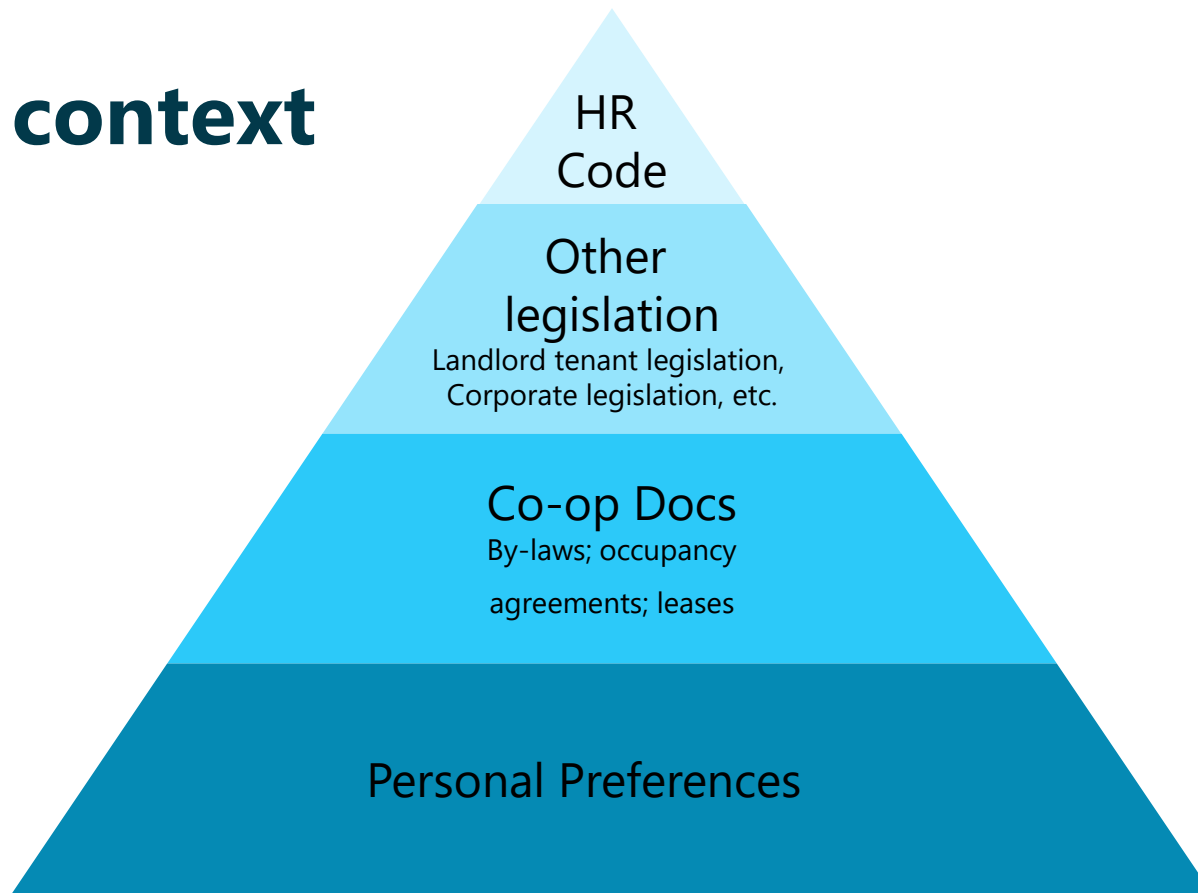
March				2017			
1	2	3	4	5	6	7	8
9	10	11	12	13	14	15	16
17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	

Handwritten notes on the calendar:

- March 1: Red horizontal bar.
- March 2: Blue horizontal bar.
- March 3: Green circle around the date.
- March 4: Blue horizontal bar.
- March 5: Blue horizontal bar.
- March 6: Blue horizontal bar.
- March 7: Blue horizontal bar.
- March 8: Blue horizontal bar.
- March 9: Blue horizontal bar.
- March 10: Blue horizontal bar.
- March 11: Blue horizontal bar.
- March 12: Blue horizontal bar.
- March 13: Blue horizontal bar.
- March 14: Blue horizontal bar.
- March 15: Blue horizontal bar.
- March 16: Blue horizontal bar.
- March 17: Blue horizontal bar.
- March 18: Blue horizontal bar.
- March 19: Blue horizontal bar.
- March 20: Blue horizontal bar.
- March 21: Blue horizontal bar.
- March 22: Blue horizontal bar.
- March 23: Blue horizontal bar.
- March 24: Blue horizontal bar.
- March 25: Blue horizontal bar.
- March 26: Blue horizontal bar.
- March 27: Blue horizontal bar.
- March 28: Blue horizontal bar.
- March 29: Blue horizontal bar.
- March 30: Blue horizontal bar.
- March 31: Blue horizontal bar.



# HR in context



**Education**



- Applies to the co-op as a housing provider and an employer
- Protected grounds under the *Human Rights Code*

# Protected grounds

- race
- ancestry
- place of origin
- colour
- ethnic origin
- citizenship
- creed (*i.e religion*)
- sex
- sexual orientation
- age
- marital status
- family status
- **disability**
- gender identity
- gender expression
- the receipt of public assistance (housing only)
- record of offences (employment only)

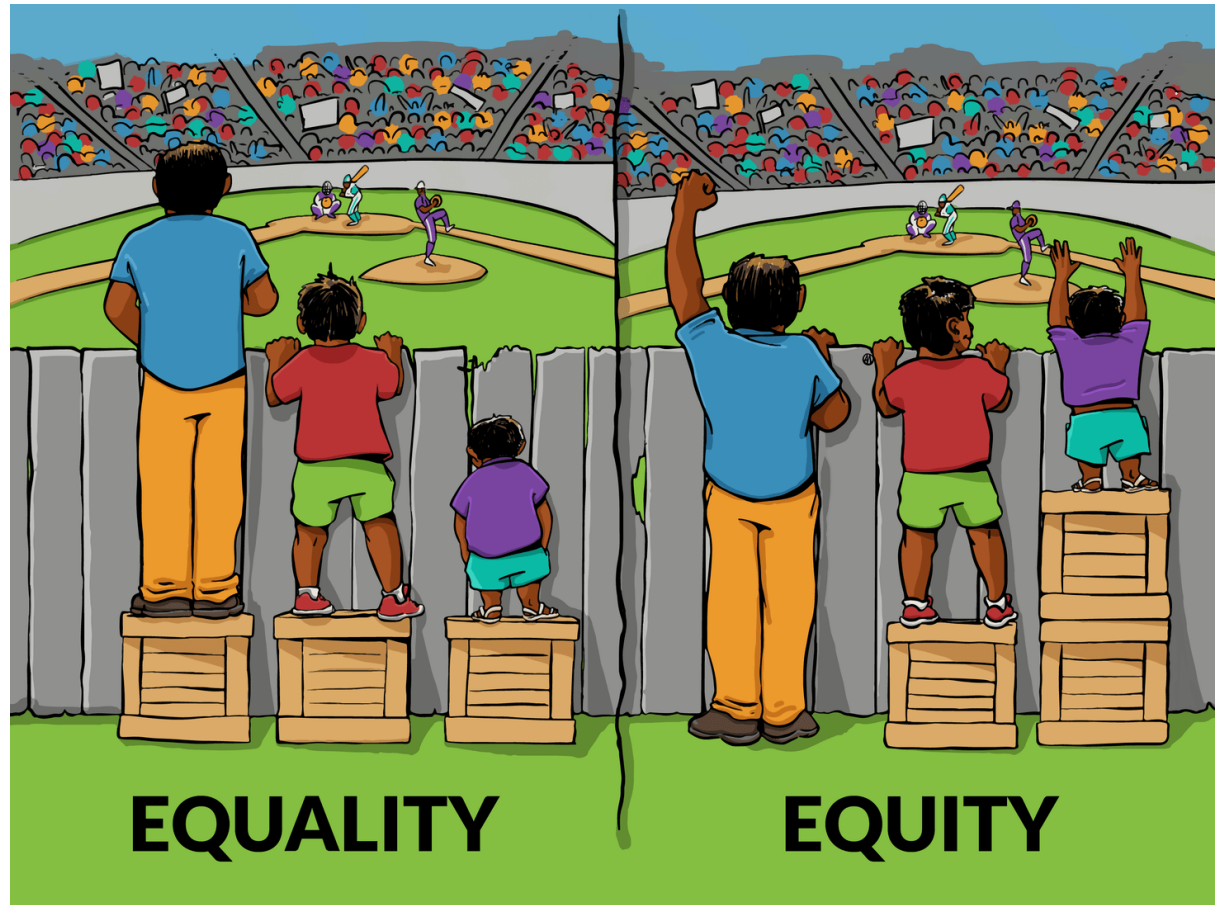
# Duty to accommodate

# What is accommodation?

Providing something for one resident that others do not get so that the resident needing accommodation has a similar housing experience as other residents have.



# Like this



# Principles for Accommodation

- respect for dignity
- no set formula - consult
- be responsible and willing - explore solutions
- comply voluntarily
- **undue hardship**

# Undue Hardship

*Very high threshold*

Two things to consider:

1. cost (including external sources of funding),
2. health and safety

# Undue Hardship

*Very high threshold*

Two things to consider:

1. cost (including external sources of funding),
2. health and safety

# Nothing else.

# Undue Hardship

## *Other considerations?*

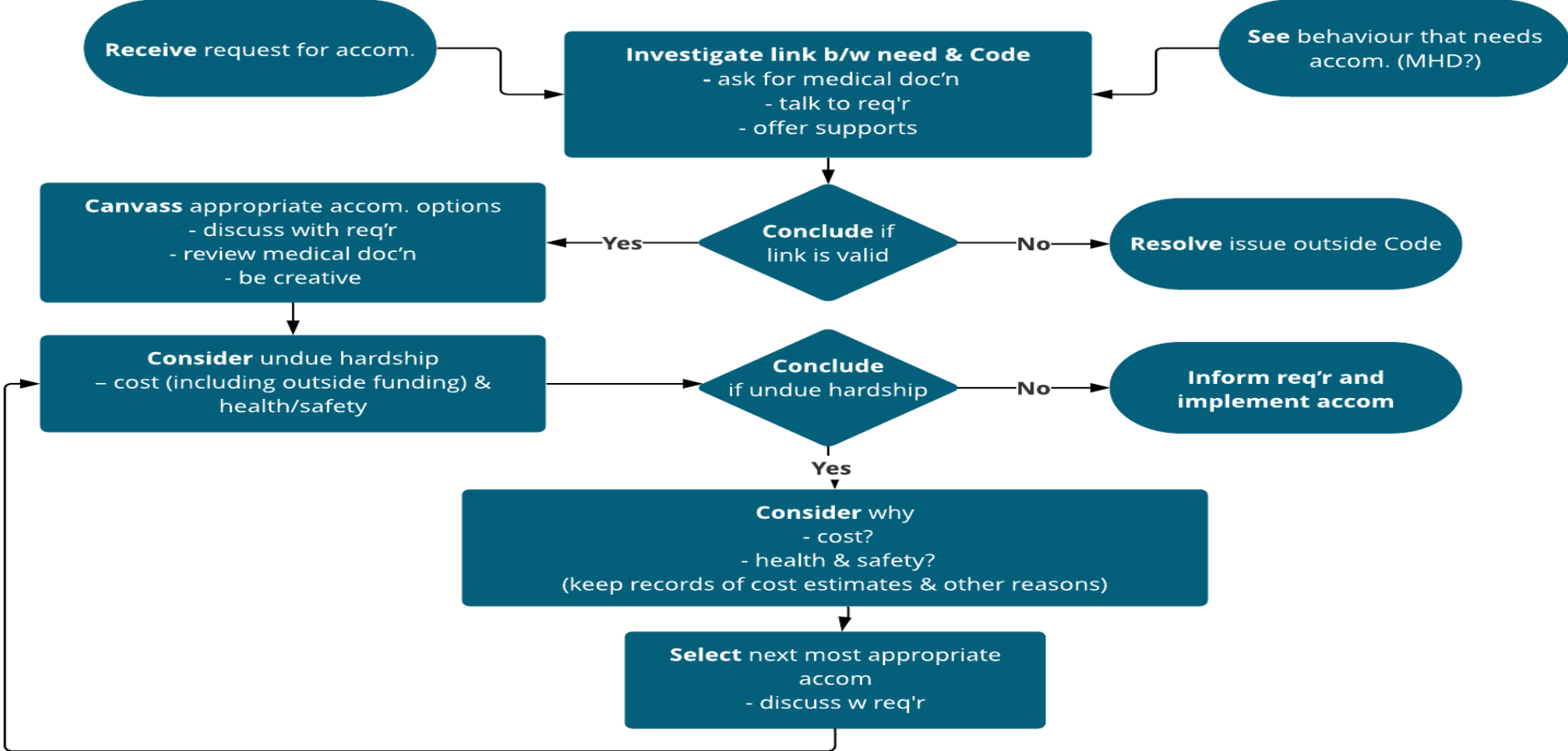
- “knew building was inaccessible”
- tenant preferences
- “that’s not fair”
- business interests
- inconvenience

# Undue Hardship

## *Other considerations?*

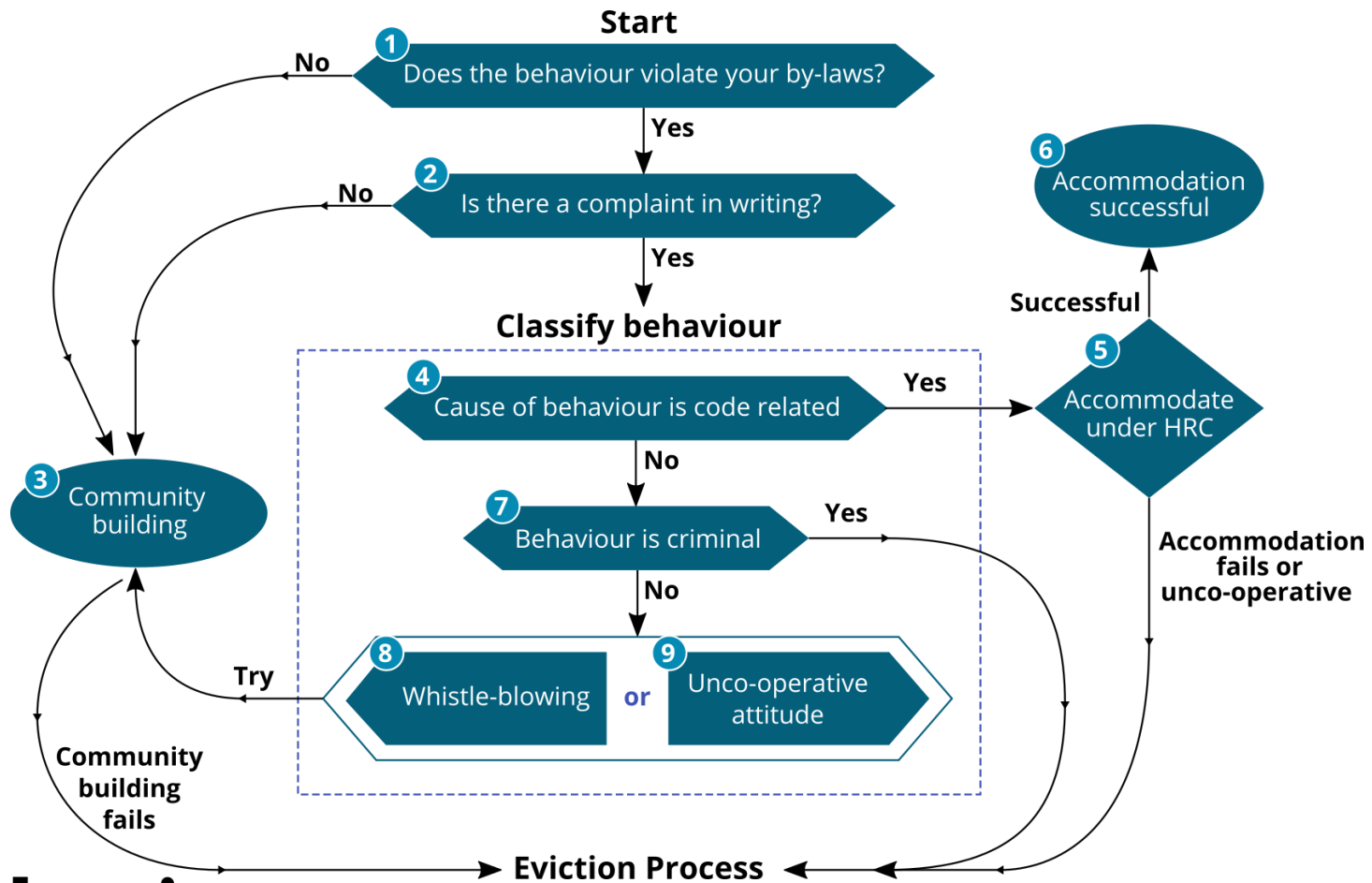
- “knew building was inaccessible”
- tenant preference
- “that’s not fair”
- business interests
- inconvenience

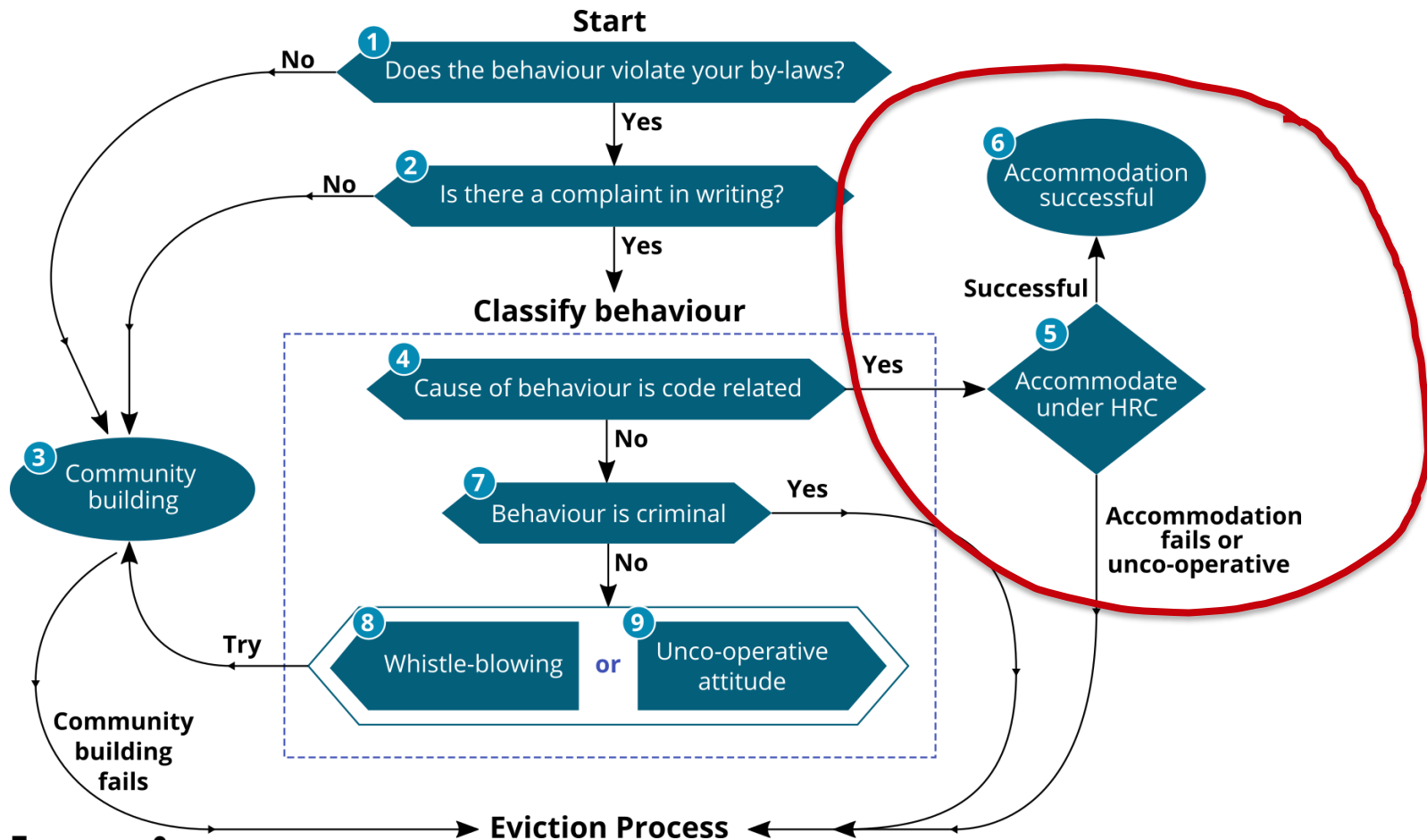
# Accommodation Flowchart





# Human Rights and Behaviour Flowchart





# No Harassment & Discrimination

*Rouge Valley* Decision

# What was happening at the Co-op?



## *Examples from Para 4 of decision*

COME SEE THE INBREEDS AND RETARTS IN 406

COME SEE THE FAT SLOB PIGS IN 202

COME SEE THE DUMBFUCK HICKS IN 408

COME SEE THE DRUNK IN 608

COME SEE THE CUNT AND THE CRIPPEL IN 502

COME SEE THE CRIPPEL FREAK IN 705

COME SEE THE OLD WHORE IN 1008

COME SEE THE OLD DRUNK IN 506

COME SEE THE FAT OLD WHORE IN 905

BETTER THAN THE CIRCUS

EVERY NIGHT IN ROUGE VALLEY PARK

FREE SHOW



# What did the Co-op do?



# What did the complainants do?





# What did the HERTO say?

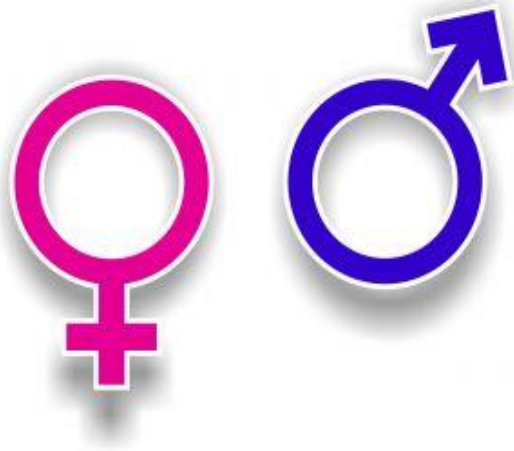


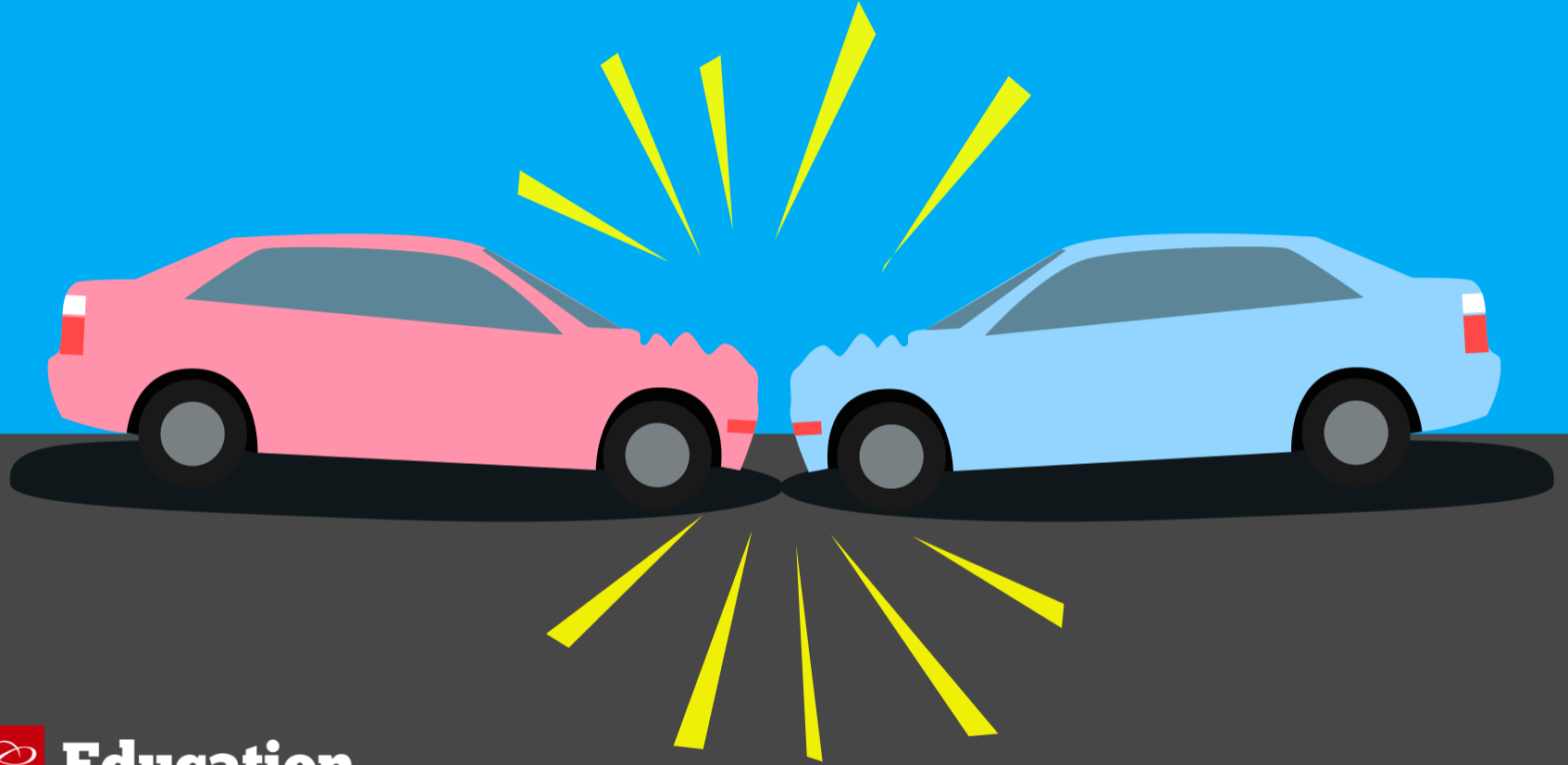


# PET BREAK



# Competing Human Rights





# Human Rights Applications

# Human Rights System

## Human Rights Commission

public policy role  
great resources

## Human Rights Legal Support Centre

free legal support to  
(some) applicants

## Human Rights Tribunal

receives/adjudicates  
applications (aka  
complaints)



**Education**



# Timeline *(pre-COVID)*

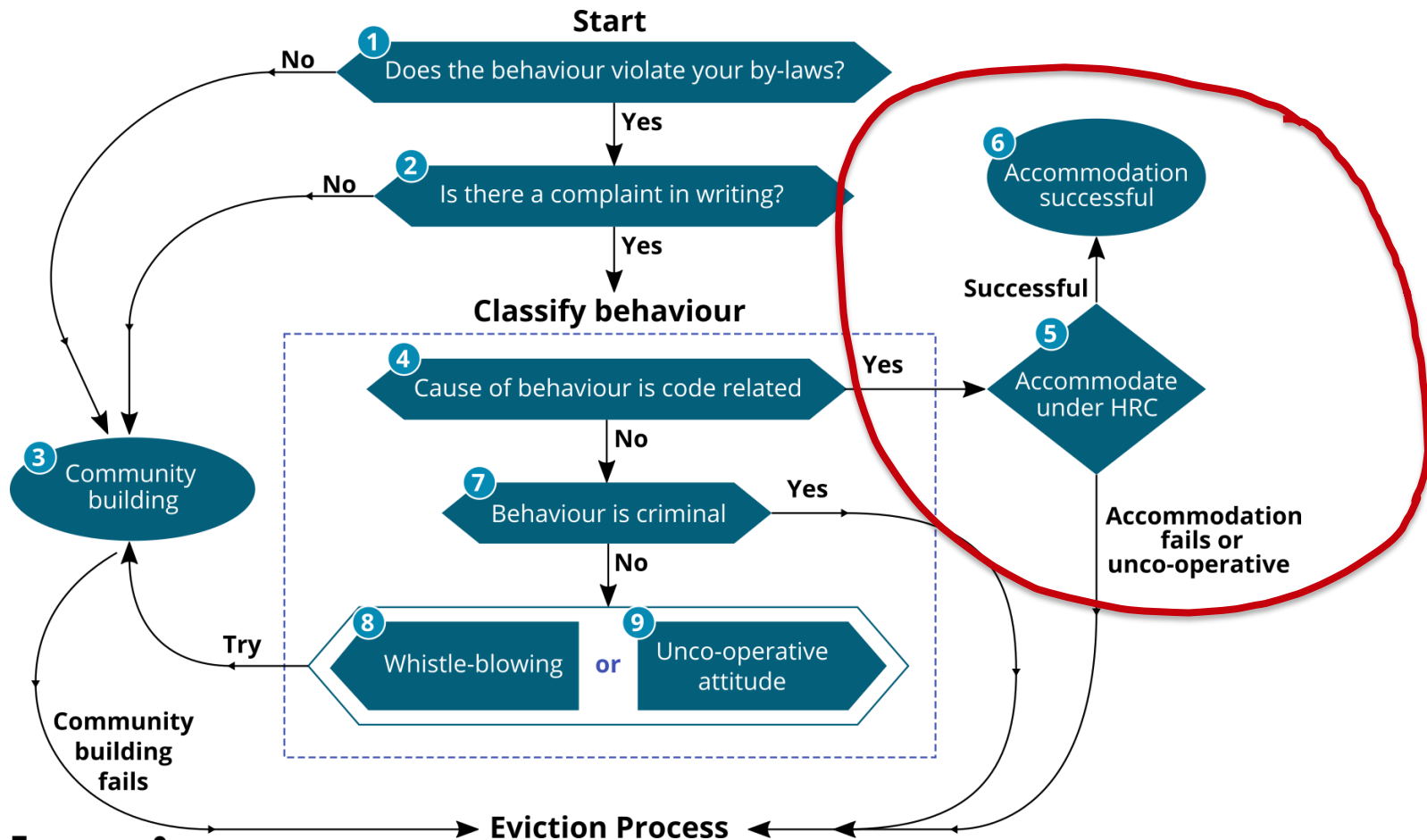
- Stage 1 Application *(within one year of event complained of)*
- Stage 2 Response *(35 days from application)*
- Stage 3 Mediation Preparation *(4 wks before mediation)*
- Stage 4 Mediation *(6 mos from Application)*
- (Stage 5 Hearing) *(12 mos from Application)*

# Case Studies

# Case Study 1



- Beatrice is a senior member who has become isolated since her husband died
- during unit inspection co-op finds B's unit filled with boxes and a bug issue
- B won't let co-op in for full inspection
- Board issues NTA for nuisance, decides to evict
- at CMH, son says his mom has mental health issues causing hoarding



# Clutter Image Rating Scales



1



2



3



4



5



6



7



8



9

*Image from:*

[HoardingConnectionCC.org/  
Hoarding\\_cir.pdf](http://HoardingConnectionCC.org/Hoarding_cir.pdf)



**Education**

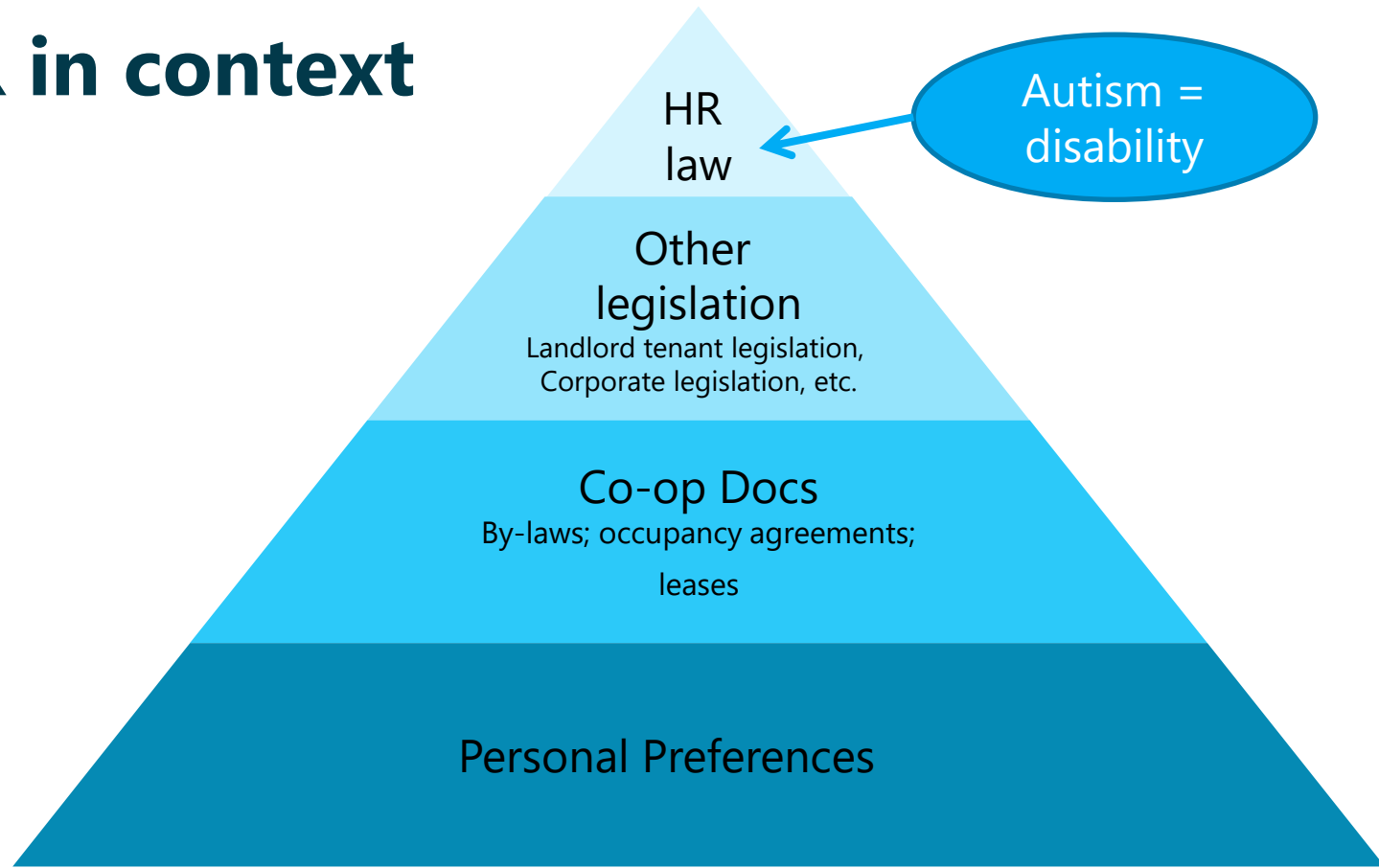
ABC

# Case study 2



- Birgitte, new member – “no pet” policy
- 10 year old Rita autistic – psychologist suggests dog to help socially
- Birgitte buys Rita Dagmar – quiet, gentle dog
- Members complain – not fair – want eviction

# HR in context



**Education**

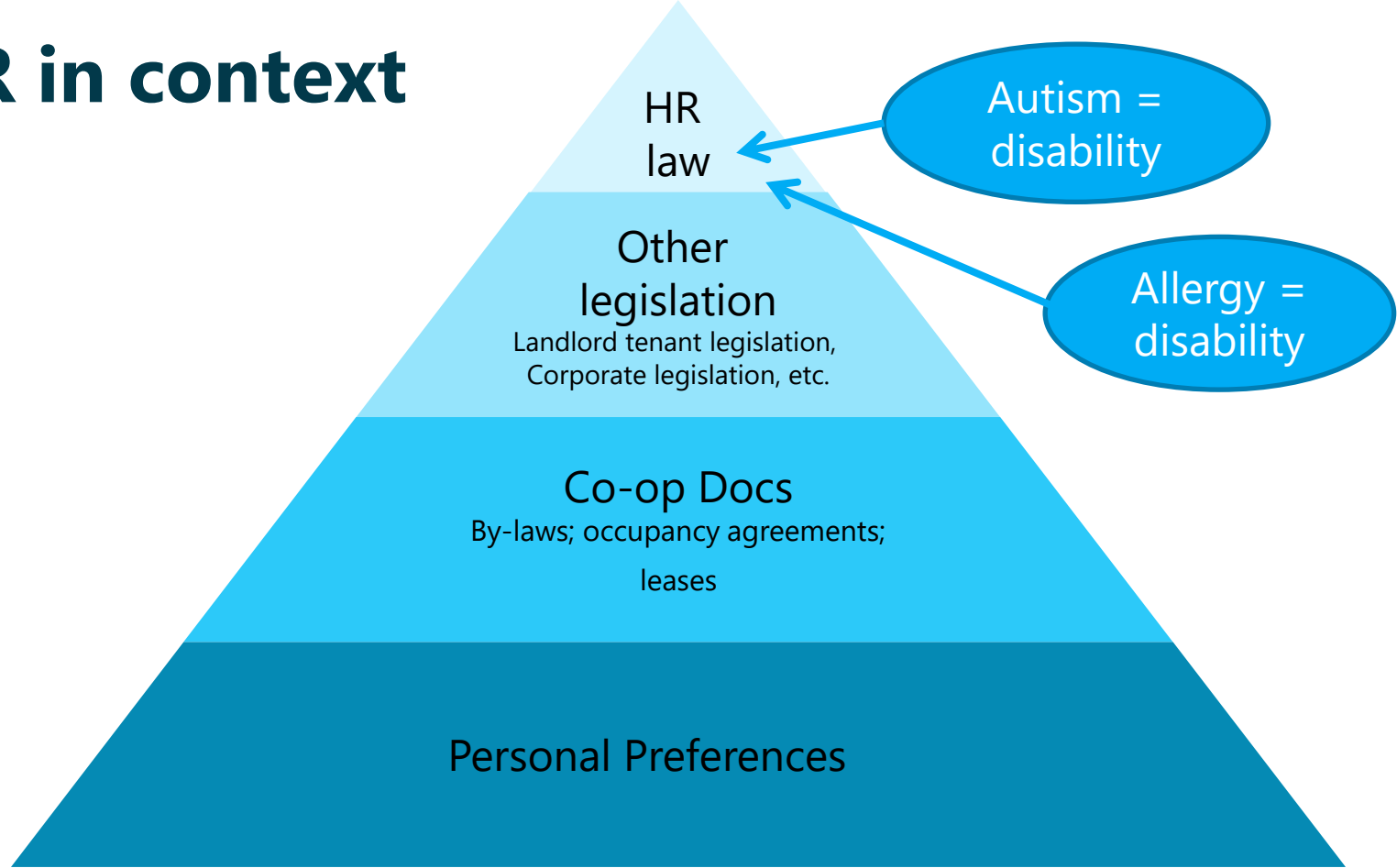
## Case Study 2 – continued



- Annabelle, Giselle and two kids apply for membership
- Annabelle – allergy to dogs
- Committee recommends no membership



# HR in context

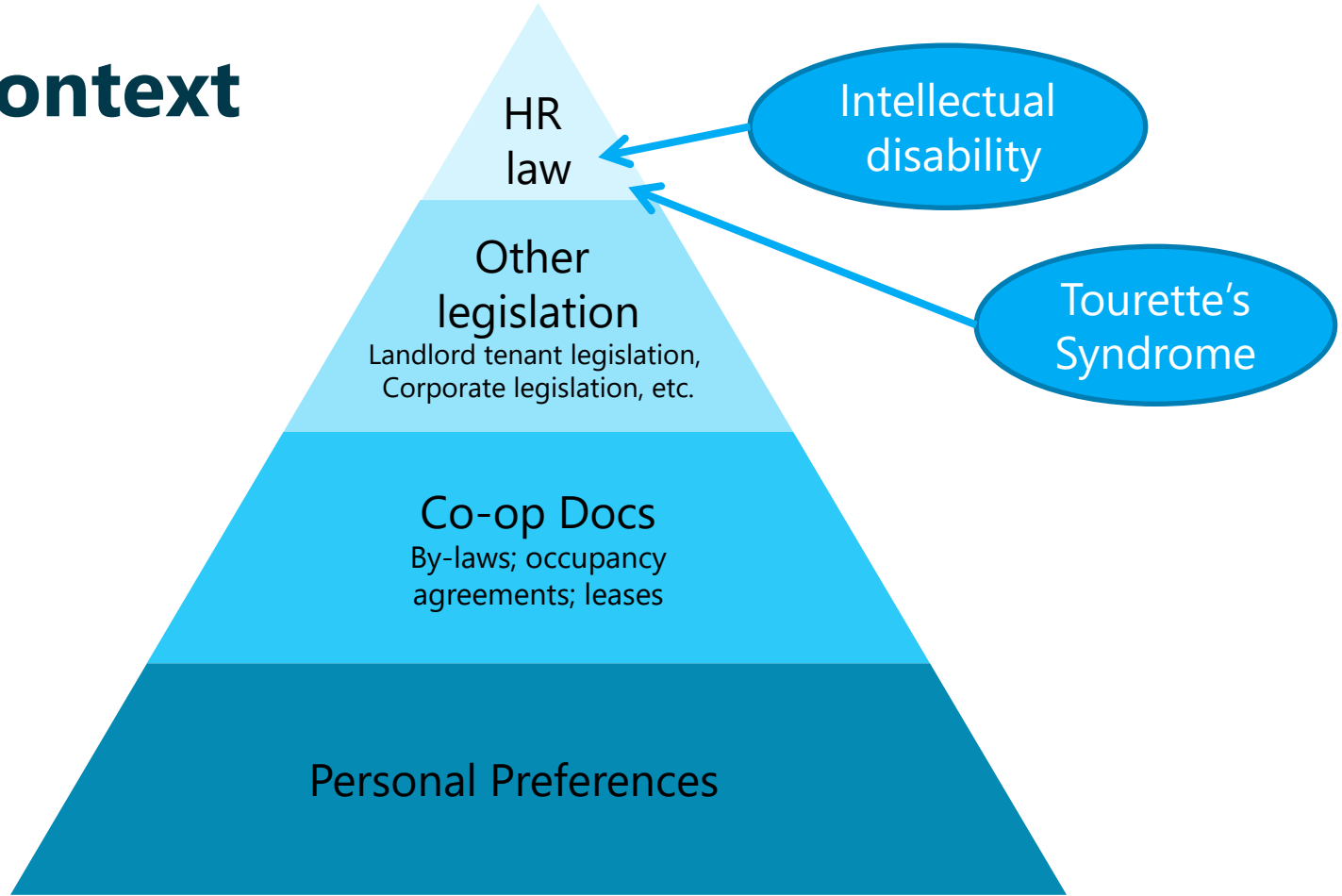


# Case study 3



- Marta -- intellectual disability
- Joseph makes fun of Marta in the hallways
- provider catches Joseph posting offensive notices
- Lockable notice board, commitment to HR, mini-training on HR at member meeting
- Lawyer consults with provider on settlement options before eviction hearing
- Joseph says he has Tourette's

# HR in context



**Education**

# Resources

- Ontario Human Rights Commission [www.ohrc.on.ca](http://www.ohrc.on.ca)
  - <http://www.ohrc.on.ca/en/policy-human-rights-and-rental-housing>
  - <http://www.ohrc.on.ca/en/policy-competing-human-rights>
- Centre for Equality Rights in Accommodation: [equalityrights.org/cera](http://equalityrights.org/cera)
  - *environmental sensitivities webinar*
- CHF <http://www.chfcanada.coop/eng/pages2007/home.asp>
- Your lawyer
- Our blog: [ilercampbell.com](http://ilercampbell.com)
  - *medical notes* <https://ilercampbell.com/blog/2017/02/what-medical-documentation-should-you-accept-when-asked-to-accommodate-a-disability/>

**Questions –**  
you likely have some!



# Things to take away with you:

1. rights issues arise all the time in housing
2. human right vs personal preference
3. use available resources
4. Document, document, document...
5. no hierarchy of rights
6. facts matter
7. respect all view points
8. act quickly before issues become problems
9. be creative and flexible
10. human rights protection is a good thing!

