

A time for fairness

As B.C. prepares to rewrite the Residential Tenancy Act, landlords offer advice on leveling the field

The current British Columbia Residential Tenancy Act was written more than a quarter of a century ago. Successive governments have patched and tinkered with the act, resulting in a confusing maze of cross-references, inconsistencies and ridiculous rules.

Poor legislation breeds inconsistent administration, particularly in arbitrators' decisions. I have seen situations where the same arbitrator, faced with almost identical circumstances, ruled one way in the morning and the opposite in the afternoon. More serious are the absence of accountability by arbitrators and their management, coupled with the removal by the NDP government in 1999 of virtually all grounds for appeal.

What our industry expects in a new act can be stated in three words: fairness, accountability and simplicity.

Fairness

Fairness means an act that recognizes both the rights and the responsibilities of owners and residents (terms we prefer to landlords and tenants). Too often the rights of residents are upheld to the extreme and the responsibilities of owners made more onerous. Fairness means an act that is contemporary, one that protects the rights of residents to privacy within their homes, provided they treat those homes, owners and other residents responsibly. Fairness means recognition of the rights of owners to protect both their property and the interests of other residents in preference to those few who choose to act irresponsibly or illegally.

Accountability

Accountability means an arbitration system containing significant checks and balances. It means effective management, training, hiring — and termination — of arbitrators, all of which are glaringly absent today. B.C.'s arbitration model should be the envy of the country: it is exclusive to residential rental issues; it is expedient (a hearing within a few weeks, sometimes days); it is informal (lawyers are normally not needed); it is inexpensive (a hearing costs the applicant \$50). Yet the administration of this model has cost it credibility with owners and residents alike.

Accountability means meaningful procedural rules for arbitrators, unlike the current rules, one of which states that their failure to follow the rules will have no consequences. It also means the reintroduction of meaningful grounds for appeal of an arbitrator's decision.

Accountability means responsive and trained staff in the **Residential Tenancy Offices** who understand their obligations to the owners and residents who seek their assistance. It means senior management who provide effective, contemporary and relevant leadership to their staffs.

Simplicity

Simplicity means an act that can be understood by the average person, without voluminous

"interpretation guidelines" — there are currently 85 pages of these. Simplicity means removing all the extraneous rules and regulations, such as the one that states a document put through a door's mail slot is legally served, but one put under the door is not. It means an act allowing owners and residents to enter into tenancy agreements that fit their circumstances, while at the same time protecting residents from those few unscrupulous owners who seek to ignore the law.

Simplicity means abolition of the rent review system (*de facto* rent controls), acknowledging that the marketplace will establish — and always has established — a balance between prices asked and prices paid.

Other issues

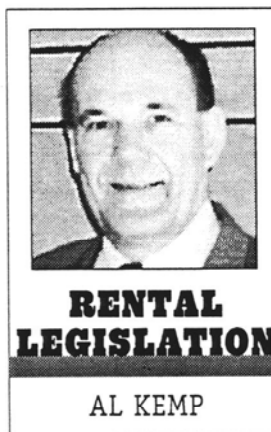
We applaud this government for inviting submissions from our industry, other stakeholders and the general public on changes needed to residential rental law. In response we wrote an almost new act, discussed it in detail with the government and made

several submissions on specific issues.

In addition to removing rent controls and overhauling the arbitration process, we seek these major changes:

Pets: A small, vocal lobby group contends that renters have a "right" to have pets, therefore the government must force all owners to accept pets. This group and their supporters ignore the rights of people with allergies or other health problems to live in an animal-free building or the rights of people who choose not to be exposed to animals. Our position is simple: allow owners to negotiate an additional security deposit for people with pets and more owners will find ways to accommodate them.

Illegal activities: B.C. is famous for its marijuana, most of it grown in rented premises that are ultimately damaged or destroyed. The current act prevents owners from inspecting their properties with less than one to four days notice. If a grow-op is discovered, the owner must give at least one month's notice to end the tenancy.



**RENTAL
LEGISLATION**

AL KEMP

A grow-op?
It can take three
months to evict

Even if an arbitrator upholds the eviction, the owner must often turn to courts and bailiffs to rid themselves of the criminals — all at the owner's expense, of course. In Ontario, an eviction for illegal activity can be achieved in 10 days; in B.C. it can take three months. Our position is simple: the government must stop condoning illegal activities in rented premises with legislation that supports the efforts of owners to prevent or rid themselves of criminals in their buildings.

Enforcement of the act: Residents who know the intricacies of the current act can forestall an eviction for three to four months, ultimately forcing the owner to hire a court-appointed bailiff to remove them and their possessions. The result is a cost of \$1,500 to \$3,000 to the owner plus the loss of two to four months' rent, because the resident used the system to live rent free until finally moved by the bailiff.

The attorney general and the solicitor general must cooperate to dramatically improve the system and reduce the costs of enforcement. We have submitted suggestions that would accomplish both, at no additional — even reduced — taxpayer expense.

Finally, there is the federal role in rental housing. Since 1972, the federal government has maintained tax regulations that discriminate against the industry and act as a disincentive to investment. A recent study estimated that a rental shortfall of approximately 45,000 units a year can be traced to federal government tax regulations on rental property owners and investors. Still the federal government has failed to take action, despite a looming rental crisis.

My view, perhaps optimistic, is that B.C.'s improved rental legislation, coming in 2003, will meet many of the industry's needs. Long term, we can only hope for more enlightened federal legislation. ♦

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