



Mr. Spencer Chandra Herbert
 Chair, Rental Housing Task Force
 Government of British Columbia
 Legislative Buildings
 Victoria BC

May 22, 2018

BY EMAIL

Dear Mr. Chandra Herbert:

RE: Submission to the Rental Housing Task Force
By the Manufactured Home Park Owners Alliance of BC

The Manufactured Home Park Owners Alliance of BC - and its two predecessor organizations - has been serving, educating, and representing owners and managers of manufactured home park communities (MHCs) since 1995. Approximately 40% of BC's MHCs belong to our organization.

Manufactured Home Communities are Different!

Ranging in size from a few sites in rural areas to over 400 sites in the lower mainland, MHCs provide a unique affordable home ownership alternative in these times of rapidly escalating home ownership costs. Everyone knows a new two bedroom home costs from \$400,000 to over \$1 million, depending on location. Most don't know that an equivalent new 140 m² manufactured home can be placed on a site for \$150,000 to \$250,000. Add to that site rental averaging about \$450 across BC and manufactured home living offers a significant affordable housing alternative – and arguably a more desirable lifestyle than will be found in many neighbourhoods. Most important is that MHC residents own their homes and take pride in their community.

Providing a housing alternative for approximately 60,000 BC households - about 10% of the BC residential rental industry - manufactured home communities are very different from rental apartment buildings. These differences are fundamental, as can be seen in the following table:

	Manufactured Home Communities	Apartment Buildings
Ownership	Own their homes; rent their sites	Rent their homes
Tenure	Decades	2 to 3 years on average
Relationship with management	Personal	Impersonal
Relationships with other residents	Open; everyone knows everyone	Closed; few residents know each other
Residents' property interest	Home ownership = interest and care for overall property	Transient nature = little interest in overall property
Owner's interest	Care for residents	Care for property
Legislation	<i>Manufactured Home Park Tenancy Act</i>	<i>Residential Tenancy Act</i>

As would be expected, these differences also lead to challenges different from those encountered in fixed buildings. Among these are aging infrastructure and the difficulties often resulting from the unique ability of home owners to sell their homes and transfer their tenancy agreements to the purchasers, often without MHC management being able to meet with the purchasers – the prospective residents of the community.

A significant difference is how the lengthy tenure of residents leads to more downward pressure on rents while major expenses, such as insurance and property taxes, escalate annually at rates exceeding inflation. With an average turnover of two to three years, apartment owners have frequent opportunities to adjust rents to offset these increases. Not only do MHC owners have infrequent opportunities to do so, but also they are subject to the legislated assignment of tenancy agreements - with no rent increase - that does not occur in apartment buildings.

We submit it is critically important that the Rental Housing Task Force acknowledge and understand these fundamental differences in considering the top three priorities of our industry and developing recommendations for changes to the *Manufactured Home Park Tenancy Act* and *Regulation*.

You asked for our industry's top three priorities. Our Board of Directors, all of whose members own or manage MHCs, has identified the following as the three most important changes that would enable MHCs to continue to provide stable, secure, and affordable housing to their residents.

Priority #1 – Retain the 2% base in the Allowable Rent Increase formula

With the introduction of the first *Manufactured Home Park Tenancy Act* January 1, 2004, came a legislated formula for maximum allowable annual rent increases. This formula consists of two components: a base annual increase of 2% of current rent, plus an inflation factor drawn from the increase in the Canada Consumer Price Index (CPI) from August to July of the previous year. Parenthetically, the “basket” that makes up the CPI is based on typical household consumption; thus it bears no resemblance to the “basket” that makes up the operational costs of a typical MHC.

It is more important to understand the rationale for establishing the 2% annual base increase. Its purpose and intent are to guarantee that MHC owners can ensure they have ongoing sufficient funding – unrelated to inflation – to keep their communities well maintained, secure, and desirable. The 2% base is not intended to go toward major expenses; it is intended to provide the legislated ability to recover the costs of lesser renovations and repairs, such as improving landscaping, or replacing the floor in a club house.

MHC owners rely on the availability of this 2% base to ensure they will be able to fund minor maintenance on an ongoing basis. Also, knowing this base increase will be available in the future allows for planning to accumulate these amounts over a few years to carry out projects, the costs of which might otherwise have to be recovered through an additional rent increase application, adding to the Residential Tenancy Branch workload, and altering the “smoothing” effect on residents of an annual minimal rent increase of 2% to a one time rent increase of several times that amount. Today, 2% equals an average rent increase of about \$8 to \$10 a month.

Recommendation: Retain the 2% base increase in the allowable annual rent increase formula.

Priority #2 – Remove the inequitable and imbalanced assignment provisions

Both the *Manufactured Home Park Tenancy Act* and the *Residential Tenancy Act* have the reputation of being the most balanced tenancy legislation in Canada. One significant exception to this balance is the difference between landlord/resident rights relative to the assignment of a tenancy agreement in an apartment building compared to an MHC.

Section 34 of the *Residential Tenancy Act* reads:

Assignment and subletting

- 34** (1) Unless the landlord consents in writing, a resident must not assign a tenancy agreement or sublet a rental unit.
- (2) If a fixed term tenancy agreement has 6 months or more remaining in the term, the landlord must not unreasonably withhold the consent required under subsection (1).

The equivalent section in the *Manufactured Home Park Tenancy Act* reads:

Assignment and subletting

- 28** (1) A resident may assign a tenancy agreement or sublet a manufactured home site only if one of the following applies:
- (a) the resident has obtained the prior written consent of the landlord to the assignment or sublease, or is deemed to have obtained that consent, in accordance with the regulations;
 - (b) the resident has obtained an order of the director authorizing the assignment or sublease;
 - (c) the tenancy agreement authorizes the assignment or sublease.
- (2) A landlord may withhold consent to assign a tenancy agreement or sublet a resident's interest in a manufactured home site only in the circumstances prescribed in the regulations.

The regulations are lengthy and detailed. However, their essence is:

- The home owner (seller) must apply on a government form to assign the tenancy agreement.
- The MHC owner/manager must respond in writing to the request within ten days. Failure to do so results in the assignment being automatically approved.
- The MHC owner/manager must have a prescribed reason to deny the request.
- When the tenancy agreement is assigned, all its terms, including the current rent amount, are transferred without change to the new resident (purchaser).

In short, an apartment building owner/manager can deny a request to assign a tenancy agreement, (a) without reason if the tenancy agreement is month to month, or for a fixed term with less than six months remaining in the term, or (b) “not unreasonably” if for a fixed term with more than six months remaining. There are no such distinctions under the *Manufactured Home Park Tenancy Act*. Whether the tenancy agreement is month to month or fixed term (virtually all MHC tenancy agreements are month to month), the MHC owner/manager must have a prescribed reason to deny a request to assign a tenancy agreement.

Further, the required application form requesting assignment does not permit MHC owners/managers to interview prospective purchasers/residents. Unless they find a prescribed reason for withholding consent, based solely on the information provided in the applications, the

assignments must be authorized and the purchasers become new residents sight unseen! This could not happen under the *Residential Tenancy Act*.

Finally, if the assignment occurs, the current rent remains unchanged, subject only to future allowable rent increases. Given the difference in typical tenures between apartment buildings and MHCs, if the tenancy agreement for a specific site is repeatedly assigned, the rent could never be increased between tenancies, creating the inequitable situation of continually falling further and further behind rents for new tenancies. Essentially, allowable increases in MHCs are tied to the site, rather than to the tenancy, the opposite of the situation in apartment buildings.

Recommendations:

1. **Provide the same criteria in the *Manufactured Home Park Tenancy Act* for considering requests to assign tenancy agreements as exists in the *Residential Tenancy Act*.**
2. **Failing the acceptance of #1, where a request to assign is accepted by the MHC owner/manager, upon assignment, allow the site rent to increase to the average site rent within the MHC.**
3. **In considering any request for assignment, prescribe in the regulation that the MHC owner/manager must be given the opportunity to interview the prospective resident.**

Priority #3 – Reinstate the ability to apply for an additional rent increase where rents are significantly below comparable rents in the geographic area.

Prior to its repeal (from both Acts) in December 2017, S. 33(1)(a) of the *Manufactured Home Park Tenancy Regulation* allowed MHC owners to apply for an additional rent increase in the following situation:

“after the rent increase allowed under section 32 [annual rent increase]. The rent for the manufactured home site is significantly lower than the rent payable for other manufactured home sites that are similar to, and in the same geographic area as, the manufactured home site;”

In contrast to the situation where unethical fixed building landlords could force large rent increases at the end a fixed term, must vacate tenancy, obtaining an additional rent increase under the above circumstances required an order from a Residential Tenancy Branch arbitrator; thus whether the increase was or was not justifiable was always a decision made by an impartial, professional third party.

Again the fundamental difference in tenures between MHCs and apartment buildings must be recognized. Even if the allowable rent increase is given annually, over a period of years the rents will inevitably fall below average market rents, primarily for the reasons noted above. This can result in situations where there is not sufficient annual cash flow to allow an MHC owner to continue to operate.

Consider one real example in a small north eastern community. The owner of the MHC had long since paid off the mortgage for the community, and had not raised rents for several years. The average current rent is \$165 a month! The owner decided to retire and in mid 2017 sold the community to a young man whose objective was to operate and expand the community. His economic analysis included the fact that he could apply to increase the rents based on the above

regulation. Subsequent to his purchasing the MHC, this section was repealed. He is now facing personal bankruptcy, which will also undoubtedly mean the park must close.

Should this provision be restored, it is impossible for it to be abused, as an arbitrator must consider all evidence not only of comparable rents, but also of factors including the relative locations of the communities considered, the area of home sites, amenities and general conditions in the parks, and find they clearly demonstrate a significant difference, before allowing an increase.

In addition to correcting the above situation, restoring this provision is very important in the context of current MHCs continuing to operate, as many owners are family corporations or individuals who developed their communities decades ago, and now wish to enjoy retirement. Further, there is a critical need for government to encourage the development of new MHCs. Based on a survey of our members, the vacancy rate throughout BC is one site for every two parks!

Recommendation: Reinstate Section 33(1)(a) of the *Manufactured Home Park Tenancy Regulation*.

The implementation of these three recommendations will undoubtedly increase both the ability of community owners to continue to provide secure, stable, affordable housing alternatives for those wishing to reside in a manufactured home community, implementation will also indirectly encourage expansion of current communities where possible and the critically needed development of new communities.

Our President, Margo Mallicoat, and I look forward to our meeting with you, Mr. Olsen, and Ms. Leonard. Further I am available to the task force at any point in the future, should you wish further information or assistance. We appreciate the opportunity to make this submission.

Sincerely,

Al Kemp,
Executive Director

cc: The Board of Directors, the Manufactured Home Park Owners Alliance of BC

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