The Pacific Investment Corporation Limited

Suite 1490, 1075 West Georgia Street
PO Box 48266 BENTALL
Vancouver, BC V7X 1A1

Telephone: 604 566 8770

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Dear Mesdames/Sirs,

Please find enclosed feedback on various topics and/or concerns raised by tenants and tenants' rights organizations. I provide this feedback because the rental market is a balancing act between encouraging more landlords to enter the business and build rental stock and, on the other hand, tenants' rights. If the balance is tipped too far in the tenants' favour, the long-term effects for the rental market could be devastating.

Tenant Rights

Overreaching Comments

Ending a bad relationship – Almost every relationship can be ended; even the most important one, marriage. And every business has the right to choose who they have as clients. The one exception to both of these examples is that of landlords. Currently, landlords cannot end their relationship with a tenant unless the tenant agrees. Compensation and proper notice are reasonable requirements, but along with those things, landlords should have the right to choose their tenants and to end a tenant relationship (without cause). It is unreasonable to force a landlord to continue with a troubled tenant relationship for, in some cases years, where it is not positive or good business.

I want to address various suggestions made by tenants and tenant representatives which could prove disastrous for the GVRD's rental stock.

Fallacies –

- "Landlords are the Bad Guys". Landlords are not the bad guys in this era of skyrocketing rents. They provide a valuable and essential service to an ever-growing segment of our population who cannot afford to purchase a residence. We need to look after landlords to ensure that they continue to provide our communities with this service.
- "We should have regulations to cover every issue". The Residential Tenancy Act is already difficult for most tenants to understand. Making it more complicated should only be done when there is a significant gain. The RTB currently does a great job of determining "fair vs unfair". They don't need a specific rule to deal with the one-off occurrences. In addition, training and conflict will become costlier with more complexity. Don't burden the system with trying to fix a single bad apple.
- "Rent controls will solve the issues". The rental market is best served by having upstanding, long-term property owners. Either controlling or freezing rents will

eventually lead to apartment buildings being money losing investments for the current owners. No one holds on to a money losing investment, so the current owners will sell. The new owners these building will pass to are the owners who will do what it takes to earn a profit. Many of the issues outlined in various tenant comments are a direct result of the decline of the business case for apartment ownership.

- "Landlords have a good mechanism for recovering expense increases". It is not true that landlords have a proper mechanism for increasing rents based on costs. Some legislation did exist up until recently (under the RTA), but has since been eliminated by the BC government. Even when it existed, this legislation only addressed operating costs not total costs and, in many cases, unfairly denied legitimate increases based on the fact that the expenses were not specifically allowed for or the requirement that improvements affect specific units rather than the building in general.
- "Tenants should have the right to preserve their existing rents". This premise is almost always based on the previous falsehood. If landlords actually had a proper mechanism for recovering costs, then this right becomes a non-issue. It is precisely because landlords aren't keeping up with costs that they are increasing rents when they can. Tenants can't have both and tenant's rights organizations that suggest that simply jamming low rents down the throats of landlords is the solution are fooling themselves. A healthy rental market is the best long-term situation, not a short-term win at the expense of property owners.
- "Landlords have good and effective means of obtaining damages from tenants". Most landlords rarely recover damages from tenants. Tenants don't leave forwarding addresses; they often have no significant assets; the amount involved is usually small ($500-$3000); it's time consuming and expensive (lawyers' fees will easily exceed damages).

I mention these issues predominantly because tenant input swings back and forth when it's convenient. Landlords should be prohibited from increasing rents due to expenses. Rents should be frozen because landlords can recover expenses (through raising rents?). There is a basic lack of logic.

In addition to these overreaching comments, please find the following specific input on more focused topics:

The suggestion to re-implement vacancy control in BC by limiting rent increases to once every twelve months, regardless of whether there has been a change of tenant.
Some of the information on this point is either misleading or simply wrong. Landlords, in general, are not looking to gouge tenants and most landlords will go out of their way to hang on to and look after good tenants. However, landlords do need to make a return on their properties to cover the risk and costs of owning them. It is a balancing act where, in many cases, landlords are just trying to match increasing rents against increasing operating costs.

It is not true that landlords have a proper mechanism for increasing rents based on costs. Here are the narrow grounds for additional rent (which previously existed) under the RTA:

- The landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that could not have been foreseen under reasonable circumstances and will not recur within a time period that is reasonable for the repair or renovation.
- The landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property.
- The landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances.
- The landlord, as a tenant, has received an additional rent increase under this section for the same rental unit.

Most landlords could probably exist (ourselves included) under a system that had a legislated rent increase PLUS the ability to add an additional increase for rising costs AS LONG AS the list was fair. This means expenses considered need to include operating expenses including taxes, amortization of the replacement of capital items, expenses brought on by upgrades due to increased regulations, increasing financing costs and unforeseen expenses (water intrusion, earthquake, fire, etc.).

I will say in advance that the idea of cost recovery I have mentioned won't be acceptable. It won't work because tenants, in the end, want increases of less than 2% (or better 0%) and operating costs are simply rising faster than that. In addition, for this system to be fair it cannot include a cap (which is included in many proposals) and which is a clear attempt to suggest a system of allowing landlords to recover costs, but then trying to artificially ignore the reality of costs.

As a current example, for Vancouver city, taxes are up this year by 3.9% (for the second year in a row); Hydro rates are up 3%; gas rates are flat (after an 80% increase in 2016); garbage rates are up 3%; and wages are up 13.5%. In this environment, it is not possible to deliver anything less than a 3.5 to 4% rent increase. Further, the suggestion of freezing rents would be an unfair and destructive burden on landlords, who are not responsible for any of these rising costs.

If tenants point to large rent increases in between tenants, it is simply property owners using the only mechanism they have to make up the difference between the legislated allowable rent increases and the much larger rising rate of costs. This conclusion is supported by research the Vancouver Tenants Union itself has quoted from *Lazzarin, "Rent Control and Rent Decontrol in British Columbia: A Case Study of the Vancouver Rental Market, 1974 to 1989"*, which concludes:

> "*that it is much too simple to blame one government policy-rent control—for the problems of the urban rental sector. It is clear that the problems are deep-rooted and that a combination of many macro-economic factors such as high and unstable inflation and interest rates, and the general economic climate can have a greater impact than the regulatory framework on the rental sector."*

So, the study echoes the idea that rent controls are neither effective nor ineffective at stabilizing and nurturing the rental sector and they cannot, as has been suggested, be considered a solution to the current rental shortage and the symptoms of that shortage, increasing rents.

All this flawed logic is packaged up in the concept of *Vacancy Controls* which:

- Will not reduce property owners' incentive to increase rents whenever they can to match rising costs. Simply trying to prohibit rent increases won't fix any of the underlying causes and therefore, the behaviour.
- Will increase RTB cases as landlords annually petition the RTB for additional rent increases to match costs and tenants try to oppose increases in the hope that they may escape them.
- Will not decrease evictions based on employment or owner use.
- Lastly, there is a passing suggestion that rent controls did not affect the construction of additional rental units from 1974 to 1984. This is actually true, as the rate was virtually zero, so going lower is tough. Rent controls helped create a situation where no new rental units were built in Vancouver for almost 20 years!*

  *See *Rent Control: A Popular Paradox--Evidence on the Economic Effects of Rent Control* by The Fraser Institute

The suggestion to require automatic dispute resolution hearings for all evictions.
As a landlord, our experience by far, is that a majority of evictions are for non-payment of rent, a situation which does not benefit from arbitration. To support this and to further increase time for more important issues, the RTB has introduced an online process for evictions for non-payment of rent and abandonment of suites. This system (which includes much stronger protection for tenants around service) is great next step.

Because the remaining balance of evictions represents a small fraction of the total number (based on our own percentages), I would posit that the additional suggested bureaucracy will only lead to longer wait times and be of less benefit to tenants.

To address specific concerns and misinformation:

- Eviction notices are currently required to clearly state the reason for evictions. We don't think improvement is required.
- Service (providing notice) standards are currently quite high and were just improved. They don't need to be changed for a few isolated abuses.
- Evidence submissions are meant to create a balance between giving the parties time to review and not dragging arbitration dates too far into the future. A longer evidence review period means a slower process. We don't believe the system will benefit from change.
- Reviewing evidence which also includes verbal submissions at the time of submission (rather than waiting for the hearing) causes the hearing to be held twice and doubles the work which will lead to longer wait times. We believe a change will be detrimental.
- Mandatory hearings will clog the system with routine evictions, which stand undisputed on the basis of evidence. Non-payment is non-payment. We don't believe a change would be positive.

- Landlords rarely kick out good tenants over a late payment. It just isn't good business. This is echoed at the RTB, where it takes a pattern of late paying to result in an eviction. At the same time, tenants need to be responsible and pay rent on the 1st. Landlords should not have to warn tenants to pay on time or wait longer for the rent payment they are due. Many landlords routinely end up out a month's rent, because it takes almost 30 days to evict a non-paying tenant.
- Good landlords communicate. It's just good business. Time is valuable. Why would a landlord waste time on an eviction which can be resolved with a conversation? The suggestion that a majority of landlords do otherwise is simply not true.

No change is needed.

The suggestion to fund tenants' purchases of existing rental units.
Municipalities, including the city of Vancouver, have worked hard to preserve existing purpose-built rentals. They have prohibited "strata conversions", "long term leases" and "co-op strategies", which break up buildings into individual ownership.

There are clear reasons for this:

- Large buildings are easier to regulate (chasing individual owners is difficult).
- Large buildings create more stable rental units (individually owned units come on and off the market at random).
- Large building owners can more easily execute improvements to health and safety.
- Large purpose-built rental buildings provide long-term rental accommodations.

Any proposal to fund tenant purchases of existing rental stock (thereby creating individual ownership) will gut the existing rental resources available to tenants. Additionally, lending tenants money where they cannot obtain or afford a commercial loan is just creating a larger political issue.

Any change would hurt the current rental market.

The suggestion to implement a temporary rent freeze.
A rent freeze is the most corrosive action the government could take at this stage. It will result in:

- Investors will develop alternate types of buildings, choosing condominiums, industrial or retail over residential. Remember, investors have a choice and we want them to choose to build more rentals.
- Current projects will get cancelled or shelved indefinitely.
- Owners will reduce maintenance to offset rising costs and fixed revenues. The quality of housing stock will decline.
- A middle layer of landlords will develop. We have already seen a rise of tenants who re-rent either their whole suite or part of their suite (under the table) for full market. Frozen rents will only speed the process making "key money" an everyday occurrence

(in New York, realtors routinely accept finder's fees for low rent apartments). New tenants will shortly be paying market, just split between two landlords.

Any change would hurt the health of the long-term rental market.

The suggestion to end renovictions.
Renovictions are an excellent example of where the system is not working. They should not exist. What landlord with a building full of good tenants at market rental rates would not want those tenants back after a building renewal? Renovations are an unpleasant fact. The existing rental stock is aging, upkeep is required, and renovations cannot always be done with the building tenanted. Often, it is cheaper and safer to do upgrades with the building empty.

Without changes to allow for reasonable and steady rent increases (which actually match rising operating costs), a requirement to preserve tenancies at existing rents would halt all repairs to existing rental units. Landlords are already under pressure to make their businesses work, preventing them from recovering the expenses of upkeep would be disastrous for both landlords and tenants. The real solution to renovictions is to address the out of control costs for purpose-built rentals and to increase the rental stock to improve choices for tenants.

Tenants groups suggest a landlord is entitled to market rent at the end of renovations and that the appropriate mechanism through which landlords are supposed to be compensated for their costs is through an application for an additional rent increase, which allows for an assessment of whether the work is actually done, how much money was spent, and what a fair and proportionate rent increase might be. The problem is that any system suggested to date has worked hard to ignore numerous costs, tends to pick and choose the work recognized, and limits rent increases to an artificial %.

Change needs to be undertaken through cost controls and additional rental stock.

The suggestion to increase enforceable penalties for fraudulent evictions.
A majority of these evictions happen in the "private sector rental market", i.e. landlords of condominiums being rented out. This is not a problem in the larger market of purpose-built rentals and as such does not need to be addressed. The problem can be minimized further by supplying more purpose-built rentals to the market.

No change is necessary.

The suggestion to enable the explicit recognition of tenant organizations and prohibition of landlord retaliation for joining, organizing, or taking legal action with such a group.
The tenancy relationship exists between the landlord and the tenant. Currently, the tenants have the right to assistance, should they want it, with both tenant issues and the RTB. It is unreasonable, however, to require the landlord to deal with someone other than the tenant or to prevent the landlord from having access to the tenant. We already have cases where tenants, in order to avoid being held responsible for how their behaviour affects other tenants, are trying to allege harassment and trying to insist that they not be required to communicate

with a building manager. Communicating with the tenant and understanding their issues is the key to avoiding conflict and we need to avoid any impairment of that.

No change is supported.

The suggestion to apply a "good faith" requirement to the entire RTA.
The Supreme Court of Canada has now recognized the duty of good faith inherent in all contractual performance. This extends to RTA matters and the RTB is capable of including bad faith in their decisions. No further burden of regulations is required.

No change is necessary.

The suggestion to add more assistance for tenants who are illegally locked out of their units.
The RTA clearly states that locking a tenant out of their premises is illegal. It even goes as far as to suggest that even after the landlord has prevailed at the RTB and obtained an order of possession, the locks can still not be changed. We agree with the tenants that there is frustration on both sides and that standards could be clearer. Where we disagree, is that there are widespread incidences of intentionally locking tenants out of their suites.

We would suggest:

- The current legislation be maintained for tenants in good standing. It is strong and clear.
- The standards for eviction be clarified including:
    - Possession orders be strengthened. A possession order should be exactly that, possession. The idea that a landlord needs to get a second possession order from a court is crazy and undermines the RTB. The RTB should be enough.
    - That standards around the landlord emptying the suite should be clearer. The landlord already has an obligation to properly store the ex-tenant's goods. Regulations should support the landlord's possession and allow the emptying of the suite by the landlord without the complication of courts or sheriffs.

No change is necessary.

The suggestion to add higher penalties for parties who ignore RTB orders.
Most Landlords follow RTB decisions. Additional legislation should not be proposed to address a very small number of bad apples.

No change is necessary.

The suggestion to eliminate filing fees and replace with an automatic $100 award to the successful party. RTB hearings are expensive and time consuming. We agree that frivolous hearings only clog up the system and delay legitimate matters. The idea of an alternate would be acceptable if both sides had some assurance they would be able to collect it. A promise to pay by a tenant is simply not practical or reliable.

Change should only be undertaken if practical.

The suggestion to add greater clarity and more protections for renters on multi-tenant rental agreements. Landlords carefully choose their tenants. This is for the benefit of everyone in the building. References to "multiple tenant situations" are often misleading, as they are more often a tenant and a roommate(s). Landlords have no wish to prevent tenants from having roommates, as in many cases it is how apartments can remain affordable. However, those roommates cannot simply become tenants because they move in to an apartment. Such a situation would result in apartments becoming revolving doors with little or no protection for the other tenants in the building. In addition, many of these situations don't end up being cheaper in the end, as apartments soon start changing hands for "key money", a monetary reward to the current tenant for possession of the unit.

Any change would not support the long-term health of the rental market.

The suggestion to Include "co-tenants" under the protection of the Act and normalize indeterminate tenancies. "Co-tenants" currently occupy a grey-area that creates uncertainty and insecurity for both tenants and landlords. The RTA should apply equally to all co-tenants of a residential unit (but not roommates).

We agree.

The suggestion that Section 68(1) of the *Act* should be repealed. There is no excuse for automatically amending an eviction notice that is not completed properly. The RTB already requires eviction orders to be properly filled out. Any current amendments to RTB filings of any kind are to make sure landlords and tenants are not frustrated by immaterial technical mistakes.

No change is required.

The suggestion that in-person hearings be required where requested.
The RTB has made great strides over the last 10 years to speed the process for resolving tenant issues and we applaud their efforts. Wait times for tenants have been substantially reduced and the system is working far better.

Telephone hearings support faster outcomes and better service for both tenants and landlords. The old system of in-person hearings in Burnaby created a disadvantage for many tenants who work and can't travel to an in-person hearing. Any suggestion that we should go back to the stone age of back logs, driven by in-person hearings, is a deplorable slight upon the hard work and improvements made by the RTB.

No action is required.

The suggestion to provide neutral experts where specialist testimony is essential to a fair outcome. This is simply impractical. Who would pay for these neutral experts? Further, the unmentioned accusation is that the experts provided by a party in a hearing are perjuring themselves. Most experts are professionals and should be treated as such.

No change is required.

The suggestion to expand and clarify grounds for emergency repairs.
This is a dangerous slippery slope. Many tenant comments have suggested that a broken dishwasher or an elevator should be an emergency repair, where a tenant could initiate repairs themselves without landlord permission. What happens when the cost of repairs becomes an issue? Some of these repairs could cause further damage to the building. Who would be responsible? Some of them are safety systems. What are the consequences? Sometimes there are insurance considerations. How will the tenant deal with those?

Tenants are simply not educated in or competent at the business of running an apartment building.

The current system works fine in all but a few cases. No change is required.

The suggestion that mandatory compensation for evictions caused as a result of municipal orders. This is such a rare event that adding unnecessary legislation to the act is not required or helpful.

No change is required.

The suggestion to increase the grace period for late payment of rent from 5 days to 14 days.
Rarely will a Landlord evict a tenant for a single late rent payment. It is simply not good business. So, increasing the number of days in which to pay rent only accomplishes two things – it allows those tenants who make a habit of being irresponsible and paying late to continue the practice and it increases the penalty to landlords when a tenant doesn't pay. Repeated late payments should not be tolerated. It is disrespectful to the landlord who is the other party in a tenancy relationship.

Tenants complain when landlords are slow to act. Why is it ok for tenants, but not ok for landlords? Both parties need to honour the tenancy agreement. Increasing the notice period only creates more difficulty for tenants. Landlords who might be more forgiving will not be less so. Apartments rent on the first of the month. Currently, the notice period already makes it hard to evict a non-paying tenant and re-rent the suite by the 1st of the following month. With a longer late payment period, landlords will need to be more aggressive to prevent losing out on two months' rent, to the detriment of the tenant.

No change should be undertaken.

The suggestion to eliminate the express hearing process. To reiterate, the RTB has made great strides over the last 10 years to speed the process for resolving tenant issues. Wait times for tenants have been substantially reduced and the system is working far better.

No change should be supported.

The suggestion to eliminate security deposits. This change will only hurt tenants. Currently, landlords can take on tenants who are less financially secure with a deposit. If the deposit were eliminated, many landlords would have to decline high risk tenants because the chance of recovering damages after the fact is so slim. Also, rents would increase to allow a buffer for damages not covered by a deposit. The change sounds like a short-term win, but it will hurt tenants and undermine the market further for those who can least afford it.

Any change would be very damaging.

The suggestion for improved training for arbitrators. Again, the RTB has made great strides over the last 10 years and the system is working far better.

No change is necessary.

The suggestion to prohibit discrimination against tenants with pets. Many landlords find themselves stuck. They have no objection to small pets, but by allowing small pets they then are left explaining how they decided "how big is too big". It is often easier to simply say "no pets". Further, they can't collect the kind of damage deposit required to cover the effect of having a large dog scratch hardwood floors day in and day out. Many tenants believe it is somehow ok or their right to keep a 50 or 60 lb. dog in their small apartment. They believe it is unfair that they can't have whatever pet they choose, regardless of the health of the pet or other practical considerations.

No change should be supported.

The suggestion to prohibit discrimination against tenants with children. Tenants should not face eviction for having an unreasonable number of occupants in the unit where the additional occupant(s) are children. Every apartment is capable of housing a certain number of persons. Beyond this number, the apartment is subject to abnormal wear and tear. Other tenants are disturbed or disrupted. Landlords should be free to determine how many persons a particular apartment can reasonably support.

No change should be supported.

The suggestion for accountability for references (That landlords be forced to give good references). This change is aimed at a small number of landlords and would be better addressed at RTB in the individual cases. Further, it is impractical. Is the suggestion that the RTA require landlords to lie about tenant behaviour to subsequent landlords? Good tenants get good references; lousy tenants get lousy references. To do otherwise would be unethical and border on fraud.

No change should be supported.

The suggestion for protection for religious and spiritual practices. Religious freedom is protected under the Canadian Bill of Rights. Landlords in most cases uphold the law. The only exception to this is where a tenant is impairing the "right of quiet enjoyment" of other tenants or their safety. Burning things in an apartment can be an irritant to other tenants and a fire hazard. An individual's rights cannot trample the right of others. I think currently, landlords are doing a good job of finding a balance.

No change is required.

The suggestion for a simplified process for subletting. Subletting is already permitted under the RTA where reasonable and landlords are already prohibited from refusing unreasonably. No change is required. The larger problem is tenants who sublet for profit. This process degrades the rental market as families and low-income tenants can't compete with "mini-landlords" who are using the profits from subletting to outbid them. Subletting for a profit should be specifically prohibited in the Act and be grounds for immediate eviction.

No change should be supported.

The suggestion for protections for tenants upon sale of property. Section 49(5) of the *Act.* RTB Arbiters routinely include a test of good faith in all proceedings. New rules are redundant.

No change is required.

Respectfully submitted by:

The Pacific Investment Corporation

Brent Wolverton, CEO