

August 30, 2024

The Honourable David Eby, KC
Premier of British Columbia

The Honourable Ravi Kahlon
Minister of Housing

Dear Premier and Minister,

Thank you for the opportunity to lead an engagement process with British Columbians who are living in housing subject to long-term leasehold contracts. Over the past number of years, I have heard from many people living in this form of housing who have expressed concerns about their rights and protections. The challenges they face are complex and I am hopeful that the results of this engagement process will help Government to improve the long-term stability and affordability of this housing type.

The engagement process has now concluded. I am thankful to the individuals who participated for being generous with their time and forthcoming with their views. I know from my work over the years how community-minded this group of residents are, and this was reflected in the high rate of participation throughout this process. I am also appreciative of the Ministry of Housing staff for their support and professionalism throughout the engagement process.

As you are aware, long-term residential leases have existed in BC since the 1970s. Under these arrangements, individuals enter into private lease agreements with a building owner to acquire the right to occupy a unit in a building for a length of time greater than 20 years. Approximately 2,500 units of housing throughout British Columbia are currently under a long-term leasehold contract.

Long-term leaseholds are established by private contract between the building owner and tenants and fall outside of the statutory framework of the *Residential Tenancy Act* (RTA). As such, leaseholders are not afforded the same rights and protections as tenants who are covered by the provisions of the RTA, or strata unit owners who fall under the *Strata*

Property Act. Many leaseholders have expressed that as a result, they find themselves in difficult situations.

I launched the engagement process in May of this year with a province-wide survey to better understand leaseholder concerns and perspectives. The survey was open for five weeks and yielded over 400 complete responses. In June, I also held two in-person engagement sessions in Victoria and the West End of Vancouver, where the majority of leasehold buildings are concentrated.

The majority of respondents to this engagement identified as seniors and of low- or fixed-income. As such, they are particularly vulnerable to increases in housing costs and at risk of housing instability. Several respondents indicated that the issues they have experienced with their leasehold have led to financial hardship. In some cases, respondents indicated that other residents have been forced to sell due to unaffordable levies. Others indicated they feel threatened with eviction if they are unable to meet onerous payment obligations on time or for minor breaches of the landlord's rules.

Throughout the engagement, respondents advised me of their considerable anxiety about a range of issues, and the associated impact on their well-being and enjoyment of their homes. While a detailed overview of leaseholders' concerns and priorities are outlined in the attached **Appendix**, common areas of concern included:

- **Costs.** Respondents expressed serious concerns about escalating monthly costs and special assessments that are being charged on short notice.
- **Building management.** Respondents expressed concern about a lack of transparency in how maintenance and repair contracts are being awarded to third parties and how these and other costs are being passed along to them.
- **Building governance.** Respondents expressed concern about a lack of a mechanism for them to collectively represent their interests and be consulted in decision-making about their homes (i.e., similar to the role of a strata council or co-op housing board).
- **Legal costs.** Respondents cited significant concerns about mounting legal costs and a lack of an alternative to the courts to resolve disputes that arise between leaseholders and leasehold landlords.

The existing long-term leasehold buildings in B.C. contribute to the diversity of housing options available in the province. However, leaseholders were clear that the existing regulatory framework is not effectively serving their interests. I strongly recommend that Government explore measures to improve protections for long-term leaseholders. As a

starting point, I would suggest that Government consider the measures that have been recommended by leaseholders, as outlined in the attached **Appendix**.

Thank you again for the opportunity to carry out this important work.

Regards,

A handwritten signature in blue ink, appearing to read 'S. Herbert', with a long horizontal flourish extending to the right.

Spencer Chandra Herbert
MLA, Vancouver – West End
Premier's Liaison for Renters

APPENDIX

Purpose

In 2023, the Premier requested that MLA Spencer Chandra Herbert, the Premier's Liaison for Renters, engage with long-term leaseholders in order to better understand the challenges they face and to provide an opportunity for them to express new concerns. This Appendix provides a summary of the responses received throughout the engagement along with the demographic information shared by participants.

Background

Although there is no public registry of long-term residential leasehold buildings in B.C., there are an estimated 2,500 long-term leasehold units within approximately 20 buildings. These are located primarily in municipalities in the Lower Mainland and the Capital Region, with the greatest concentration in Victoria and the West End of Vancouver.

A long-term residential lease is sometimes known as a 99-year lease. Through a private contract, an individual purchases from the owners of a building the right to occupy a premise for a long-term, fixed period (more than 20 years, and usually 99 years on first purchase). Leaseholders are able to sell their interest to a subsequent purchaser, who acquires the right to occupy the premise for the remaining lease term.

Leaseholds are managed through private contract between the building owner and the resident. They are not covered by either the *Residential Tenancy Act* or the *Strata Property Act*.

In 2023, the Ministry of Housing collaborated with the BC Financial Services Authority (BCFSA) to expand public awareness about long-term residential leaseholds to better inform and educate the public and realtors on the risks and realities of leasehold home ownership. These measures included enhancing the information available on BCFSA's website and including information on long-term leaseholds in professional development courses and sessions.

Engagement Process

In-Person Engagements

Two in-person engagement sessions were held on June 14, 2024 (Vancouver) and June 18, 2024 (Victoria). These locations were chosen in order to maximize participation and convenience for leaseholders as Victoria and the West End of Vancouver are known to have the highest number of leasehold units.

Information about the sessions was made available on the GovTogether and Ministry of Housing websites beginning on May 27, 2024. The Ministry of Housing also advised stakeholders of the sessions by mailing a letter to every multi-unit building in the postal codes where Government was aware of a long-term leasehold building. Additionally, individuals who had sent correspondence to the Ministry of Housing regarding long-term leaseholds within the last 2 years were provided information by letter or email.

The events were attended by 244 leaseholders – 169 in Vancouver and 65 in Victoria. Session participants were placed into groups to discuss previously identified¹ and new concerns. Groups were asked to rank their concerns in order of priority. They were also prompted to discuss the issues, their relative priority, and potential solutions.

Province-Wide Survey

A province-wide survey was made available on the GovTogether website from May 27 to July 2, 2024. It was available online and, on request, in hard copy. Information about the survey was provided by the same methods as the in-person events.

654 surveys were started, and 421 surveys were completed. The data from the 233 incomplete surveys have been excluded from the summary findings due to the respondents not having provided final consent to collect the information.

Survey participants were asked to rank the same list of previously identified concerns as provided at the in-person events in order of priority, to provide additional information (if applicable), and identify any additional concerns not listed. Participants were also asked to provide suggestions for possible solutions to their concerns.

It is anticipated that many survey participants also attended an in-person session. The purpose of employing two separate methods was to obtain both individual feedback and collaborative group feedback – due to this difference, the data obtained through the two different methods have been reported separately.

During the engagement period, Government also received additional email feedback, which has been incorporated into the written feedback discussion below.

Survey Participant Demographics

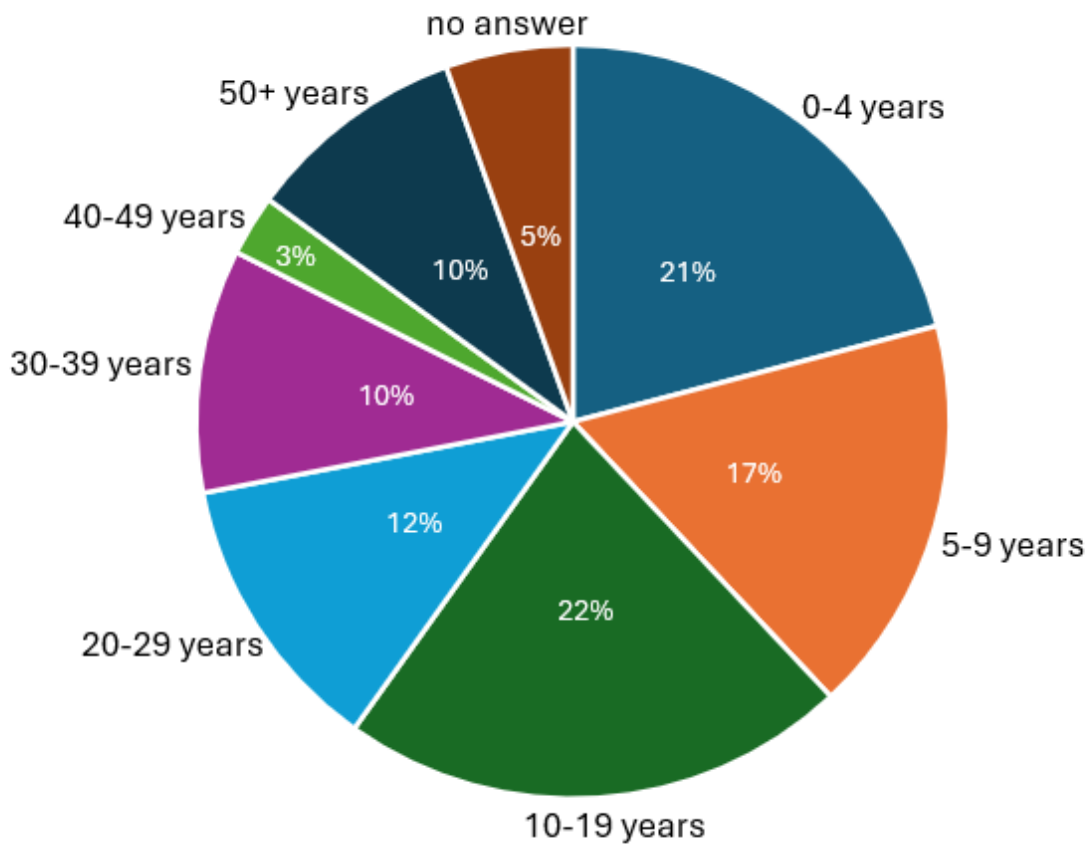
Participant demographic information is summarized in the figures and table below. While a significant number of survey respondents have been in their units for long period of time, a

¹ See Figure 3 for list of previously identified concerns

majority (60%) said they had been in their current unit for less than 20 years. A third of these (21%) indicated they had lived in their current leasehold for only 4 years or less.

Many respondents identified as being of below-average income, with nearly half (47%) of respondents indicating annual household income of less than \$50,000, while only 2% were in the top income category (\$175,000 or more).² A considerable proportion of respondents identified as being seniors: over half (58%) identified as retired and/or receiving a pension.

Figure 1. Length of time in current long-term leasehold³



² Additionally, 27% of respondents self-identified as “low income”.

³ Rounded to nearest 1%.

Figure 2. Annual Household Income before taxes⁴

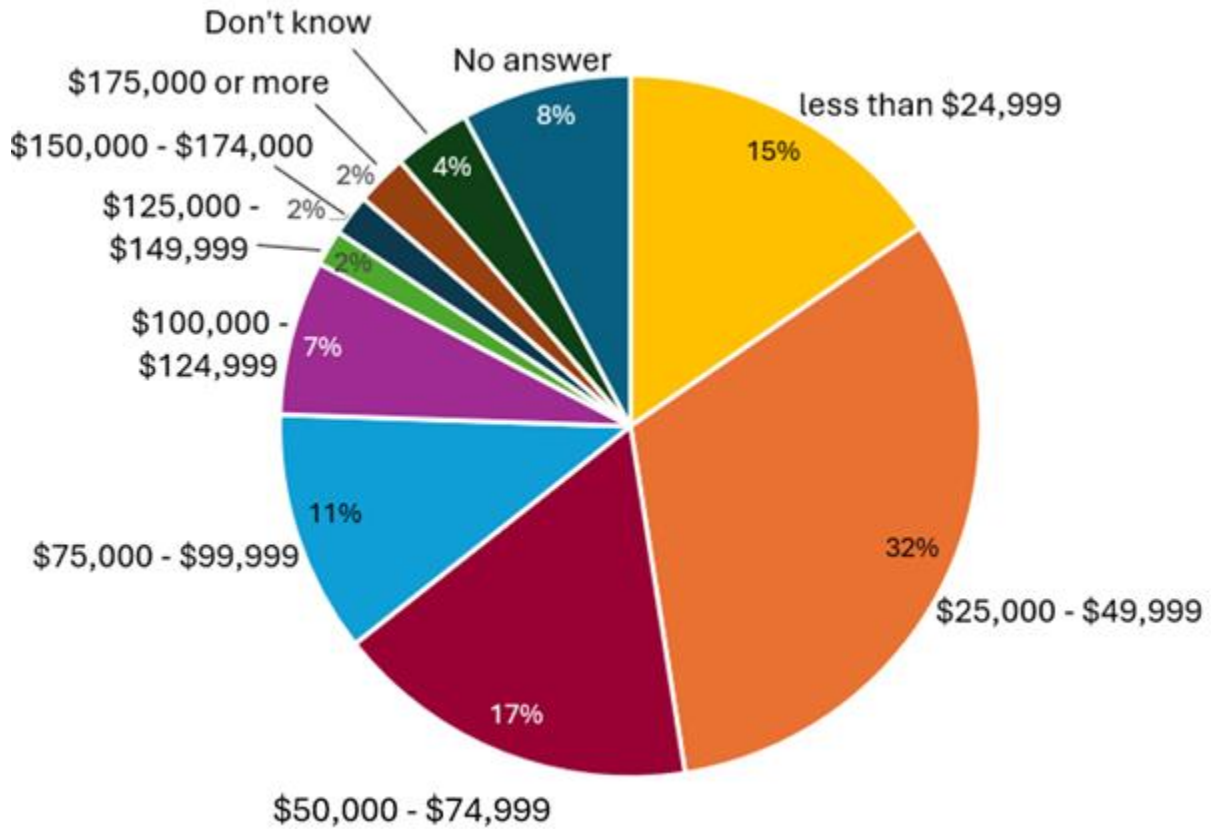


Table 1. Identity Groups

Group	% of Respondents Identifying ⁵
Retired and/or receiving a pension	58
Low-income	27
2SLGBTQI+	13
Person of colour	11
English as additional language	11
Person with a disability	10
Indigenous	1
None of the above	12

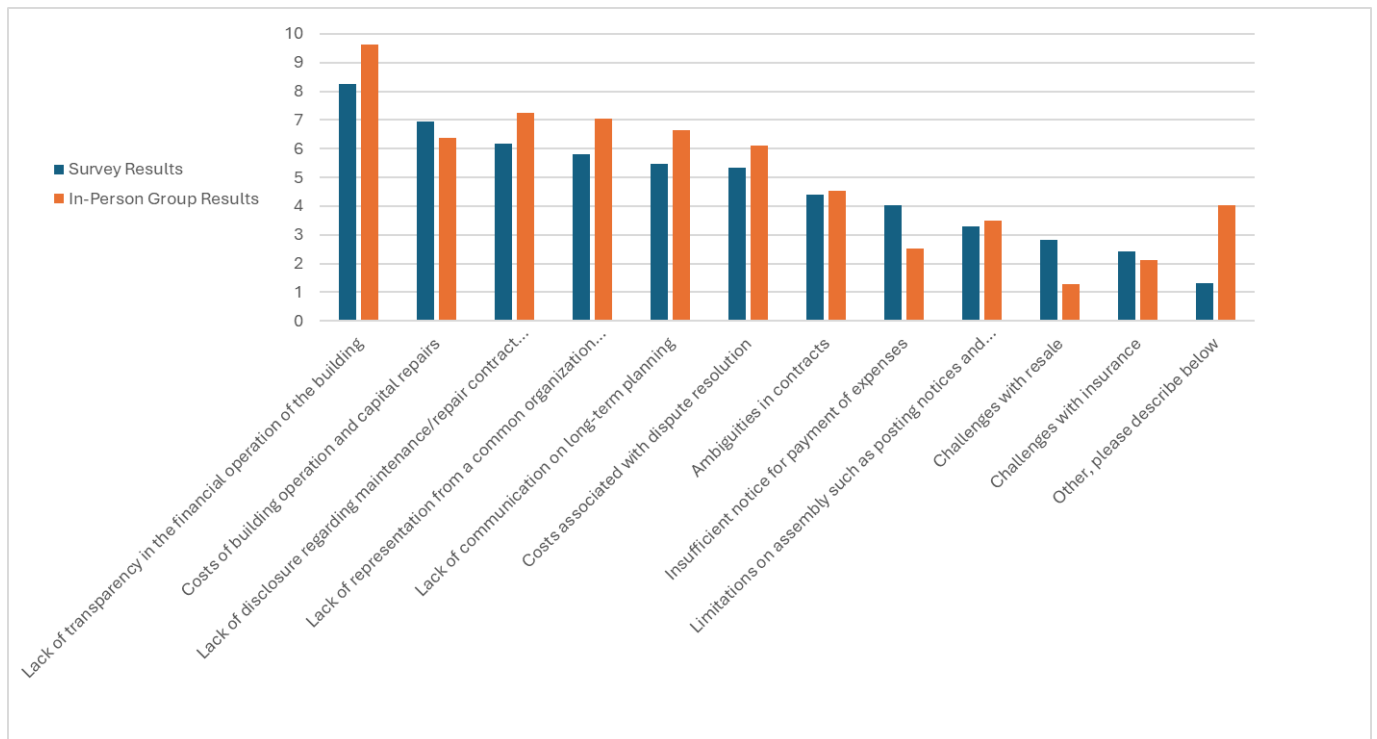
⁴ Rounded to nearest 1%.

⁵ Rounded to nearest 1%.

Leaseholder Priorities

Survey participants and in-person session groups were asked to rank each issue in order of priority. The chart below shows the average score for each issue from both the survey and the in-person sessions. Scores closer to 10 were the most pressing for respondents and scores closer to 1 were a lower priority.

Figure 3. Leaseholder Priorities⁶.



⁶ Each response was given a score from 0 – 12, with 12 corresponding to rank 1, 11 corresponding to rank 2, and so on. Likewise, a score of 1 corresponded to rank 12, and a score of 0 corresponded to no ranking given. The total scores for each issue were then averaged. For example, issue A (Transparency) had an average score of 8.26 in the surveys and 9.64 in the group sessions, making this the highest-scoring issue in both data sets.

Discussion

The following discussion is based on the feedback received throughout the engagement process and includes a summary of participants' additional commentary, related concerns, and suggested solutions to the previously identified concerns⁷. Many of these concerns are interrelated and participants advised that solutions to one or a few of the listed problems could not be found without addressing several of them simultaneously. Participants expressed frustration with a general lack of legal protections for leaseholders, and the perceived unfairness compared with the protections and rights of tenants under the *Residential Tenancy Act* or strata owners under the *Strata Property Act*.

On a personal level, many participants expressed feelings of fear and powerlessness over their living situation and decisions that affect their lives. The stress and anxiety of unexpected costs, threats of eviction, and lack of information and certainty has taken a mental and physical toll on individuals and has strained their personal relationships. Many respondents advised that they feel trapped financially and that others have profited from their vulnerability.

Lack of transparency in the financial operation of the building

Overview

Lack of transparency was the top priority, ranking #1 for 38% of survey respondents. This related to a lack of transparency generally with respect to costs for building maintenance, repair, and management.

Participants noted that they do not receive financial statements, breakdowns of operating and capital expenses, or details about required repair and maintenance work (such as engineering or depreciation reports). In many cases, monthly fees and special assessments have increased dramatically without explanation. In some buildings, legal fees have escalated from a few thousand dollars a year to many hundreds of thousands in recent years.

There was particular concern regarding transparency around legal fees which are charged back to leaseholders as operating costs. Leaseholders indicated a strong belief that much of the legal fees relate to matters that are being improperly charged back to leaseholders, such as use of lawyers for routine communications, litigation with third parties caused by negligence of the landlord, and legal matters unrelated to the building.

⁷ See Figure 3

Actions Proposed by Participants

Suggestions from participants to address these issues included mandating a requirement to justify certain expenses, such as production of detailed financial statements.

Participants expressed a desire for impartial verification of expenses and/or robust audit requirements, including detailed breakdowns of large line items on the building financial statements, such as “legal fees”.

Costs of building operation and capital repairs

Overview

Participants expressed a general dissatisfaction with overall building costs and reported a sense that these costs are escalating unreasonably.

Some participants felt that the practice of charging leaseholders *any* capital costs under leasehold agreements is unfair as the leaseholders do not own the building and do not necessarily derive much of the benefit. For example, leaseholders noted that they may be required to pay the entire cost of replacing the roof in one lump sum despite only having a couple of years left on their lease term. However, more leaseholders advised that while it may be reasonable for the landlord to charge back capital *maintenance* and *repair* costs, this often includes costs for capital *improvements* which should not be charged back under leasehold agreements.

Other leaseholder concerns with building costs included unwanted or unnecessary expenses due to poor planning by the building owner (e.g., window cleaning more often than required, and compounding costs of repairing issues that were not properly addressed in a timely manner).

Participants noted that the increased monthly fees and frequent special assessments make their housing unaffordable. Respondents reported that some residents had been forced to sell due to unaffordable fees. Others felt that their housing situation is precarious and that they will likely be facing eviction if they are unable to afford to pay the next levy in full and on time.

Actions Proposed by Participants

Leaseholders suggested increasing fairness by ensuring that the costs of capital *improvement* are not borne by leaseholders and that allowable capital *maintenance* costs (e.g., elevator or roof replacement) are amortized over their useful life in accordance with generally-accepted accounting principles, and apportioned to tenants accordingly.

Leaseholders also suggested capping monthly fee increases (similar to rent increases under the *Residential Tenancy Act*) and capping annual special assessment amounts. Other suggestions included making public financing or other assistance (e.g., government-administered subsidies or low/no interest loans) available to those unable to afford the fees at the time they are imposed.

Lack of disclosure regarding maintenance/repair contract details

Overview

Participants were concerned about the lack of disclosure regarding how contracts for building management are awarded, whether quotes were obtained, reasons for cost overruns, and the identity of the chosen contractor. There were concerns over perceived landlord conflicts of interest (e.g., the building owner maintaining an inappropriate relationship with a contracting company for repair, maintenance, and building management) and the resulting incentives to drive up prices.

Actions Proposed by Participants

Participants suggested that there should be a requirement to obtain multiple quotes from arms' length contractors before engaging any particular contractor on major projects. Leaseholders also expressed a desire to be given access to these quotes as well as any engineering and / or similar reports in order to verify the necessity and reasonableness of various expenses.

Lack of representation from a common organization representing leaseholders

Overview

Participants expressed frustration with the lack of a mechanism to collectively represent their interests to the building owner and their inability to organize as a group or have any decision-making ability.

Actions Proposed by Participants

Participants expressed a desire for a mechanism allowing them to organize as a group and form a "leaseholders' association" to which they could elect representatives. Participants suggested that they be given rights to have mandatory meetings with the landlord/AGMs, and the right to vote or have input on decisions regarding the operation and management of the building, including long-term planning.

Lack of communication on long-term planning

Overview

Leaseholders were frustrated with the perceived lack of communication by the landlord regarding long-term planning, and their resulting inability to budget and plan for large expenses. Leaseholders expressed feeling a lack of control over their financial future and their living arrangements. Some respondents described poor maintenance of the building and failure by the building owners to perform necessary structural repairs.

Actions Proposed by Participants

Participants suggested that mandatory depreciation reports would be an effective way to make residents aware of upcoming maintenance issues, support leaseholder understanding of the long-term maintenance requirements of the building and help them plan for expenses.

Costs associated with dispute resolution

Overview

Participants expressed frustration with the cost and inaccessibility of dispute resolution due to the contractual requirement in the leases to resolve disputes through the BC Supreme Court, which is cost-prohibitive and impractical. Additionally, participants were frustrated with their responsibility to pay for the legal costs of the landlord in the event of a dispute, which disincentivizes them from seeking any redress in the event of any perceived unfair or unlawful landlord behaviour. Furthermore, leaseholders noted that landlords could use this financial leverage or the threat of eviction to quash any leaseholder complaints.

Actions Proposed by Participants

Suggestions from leaseholders included calls for a mandatory accessible, fair, and cost-effective dispute resolution mechanism, either via the Civil Resolution Tribunal or the Residential Tenancy Branch (resources which are available to strata owners and *Residential Tenancy Act* tenants, respectively), or through a new tribunal. Alongside this, participants expressed a desire for a mechanism that guarantees that landlords cannot pass the costs of dispute resolution through to leaseholders.

Ambiguities in contracts and unclear rule-making processes

Overview

Most of the leasehold contracts in B.C. were registered in the 1970s, and participants noted that the language is dated, difficult to read, and offers little to no protection for leaseholders' legal and financial interests. Many leaseholders expressed confusion over the legal nature of their interest in the property and a lack of clarity on their rights and obligations regarding lease termination (i.e., uncertainty regarding renewal, compensation, etc.) as well as responsibility for costs (e.g., a belief that property taxes should not be paid by leaseholders).

Many participants were frustrated with the perception of the landlord's arbitrary rules or the frequent changes to the building rules, which often come at great cost and/or inconvenience to leaseholders (e.g., after being initially allowed to have dishwashers or air conditioning, but then later being forced to remove them). Leaseholders also expressed frustration with the inability to make minor changes without a lengthy permission/approval process (e.g., painting, changing a faucet) and a perception of unfairness due to the arbitrary enforcement of these rules. Many residents expressed the desire to be allowed to have pets.

Actions Proposed by Participants

Suggestions from leaseholders included the creation by Government of guidelines for interpreting standard lease clauses, clarifying what sorts of expenses can or cannot be charged to leaseholders, and the re-writing of the leases in plain, standardized language so that rights and obligations are clear.

Insufficient notice for payment of expenses

Overview

Participants complained of receiving little notice to pay special assessments, which can be tens of thousands of dollars. Many expressed that they live in fear of eviction due to a potential inability to pay an assessment on time, or for a minor breach of the lease terms.

Actions Proposed by Participants

Leaseholders expressed desire for a requirement for the building owner to maintain a contingency reserve fund and obtain regular depreciation reports, as is currently required of stratas. They noted that regular contributions to a contingency fund would reduce the need for special assessments, while depreciation reports would allow residents to infer the

sorts of capital expenditures that may be upcoming. Leaseholders also suggested that minimum notice periods of several months for payment of special assessments, or the ability to pay over an extended period of time, would make these expenses more manageable by allowing residents time to save or arrange financing.

Limitations on assembly such as posting notices and gathering in common areas

Overview

There were several complaints from participants of landlords prohibiting them from posting communications or gathering in common areas. Participants felt that since leaseholders pay common area expenses, it would be fair for leaseholders to have the use of those areas.

In some cases, it was noted that landlords have banned social functions, thus depriving seniors and those who live alone of the community connections that would keep them healthy and safe. Some leaseholders noted additional concerns about building security and safety which are exacerbated by the lack of community connections and obstacles to residents knowing their neighbours.

Actions Proposed by Participants

Leaseholders expressed a desire for the right to access a meeting space and to communicate with one another, including posting written communications in common areas.

Challenges with resale

Overview

Respondents expressed difficulties selling their leasehold interests. Some respondents feel that the landlord purposefully blocks sales to third parties (such as by stalling in delivering required documents) so that they can purchase the units back from those leaseholders at below-market value.

Many participants expressed worry about prospective purchasers having difficulty obtaining bank financing and the consequential reduction in the pool of potential buyers and effect on the marketability of their unit. It was noted that there is particular difficulty in securing financing with properties that have upcoming assessments.

Actions Proposed by Participants

Participants suggested guidelines to support and streamline the sale of leasehold units with prescribed timelines for document delivery that landlords would need to abide by. It was noted that more realtor education is needed on this type of housing tenure in order for those professionals to properly assist both buyers and sellers of leaseholder units. Some leaseholders noted that public financing assistance or the creation of a tailored bank financing model would help those trying to purchase leasehold units.

Challenges with insurance

Overview

Respondents indicated having challenges obtaining proper insurance coverage because brokers are unfamiliar with the leasehold structure. They identified difficulties with confirming adequate coverage because of an inability to see the policy or confirm the coverage held by the landlord. Residents noted that this creates significant uncertainty for them and that they worry about what will happen if the building is destroyed (for example, by fire) and whether they will be adequately compensated for the loss of their housing and investment.

Actions Proposed by Participants

Suggestions from participants included enhanced insurance broker education and assisting insurance providers to offer policies that cover long-term leaseholds.

Other

Overview

Participants described several other concerns in addition to the previously identified issues. These included building accessibility concerns (e.g., an absence of wheelchair ramps), building sustainability and environmental concerns, and building management concerns such as failing to refund the property tax Home Owner Grant to leaseholders.

Actions Proposed by Participants

Some participants suggested that Government could purchase these buildings to preserve them as a more affordable housing option or assist the leaseholders with purchasing the buildings themselves.

END.