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## BC Rental Housing Task Force Recommendations Analysis

### Summary

The 2018 Rental Housing Task Force (RHTF) was meant to “advise on how to improve security and fairness for renters and rental housing providers throughout the province.” However, from its outset the consultation process did not take into account the inherent power imbalances between landlords and renters. As a result, rather than improving fairness most of the recommendations put forward risk further tipping the scales in landlords’ favour.

In May of 2018, the VTU submitted 50 recommendations to the RHTF to change the BC Residential Tenancy Act. However, fewer than 12 of the VTU’s recommendations were addressed, and an even smaller number have been formulated in a way that its authors consider to be adequate. Unfortunately the RHTF appears to have lost sight of the fact that the housing crisis is a crisis for renters, not for landlords; the recommendations place more priority on a landlord’s “right” to the maximum possible profit than improving security of tenure for tenants.

Vacancy control, a policy that would prevent limitless rent increases between tenancies, was the number one recommendation made by tenant advocates to combat renovictions. Without a policy to remove the profit motive for renovictions, landlords will continue to displace tenants under improper motives. Under the RHTF’s approach, recommendation 1 to **end renovictions** is directly contradicted by the failure to recommend **real vacancy control** at recommendation 10.

The report laments that the Residential Tenancy Act has not undergone a comprehensive review for many years, but its proposed changes to the act and the Residential Tenancy Branch processes will not result in meaningful change for tenants. Unless we reverse the burden of the eviction process to create a *just cause* mechanism, landlords will continue to harass tenants with repeat illegal and frivolous notices. Likewise, if the recommendations for increased penalties and enforcement are not handled with great care, we risk giving landlords even greater licence to apply pressure on low income renters.

Lastly, the recommendation of a publicly funded rent subsidy makes the RHTF position very clear: landlords and developers can continue to drive rent increases, entrenching the household debts of people in poverty and at risk of homelessness, and taxpayers will continue to pick up the bill.

### ***Recommendation 1: Stop renovictions***

The term *renoviction* refers to the practice of evicting tenants where renovations are planned to a building. A landlord can serve a four month notice to end tenancy if it wishes to assert that the works are so significant that they require vacant possession.

These types of notices are rarely issued with a good faith motive to substantially improve the building. Rather they are more commonly used as a method for landlords to evict tenants, make cosmetic upgrades to their suites, and attract new tenants at significantly higher rental rates. They are a method for landlords to extract maximum profit from a rental building at the expense of low and fixed income tenants with few housing options. As such, renovictions usually happen when a building has been recently sold and its existing tenants pay rents lower than market rate for the area.

The RHTF's recommendation to *stop renovictions* rings hollow given its refusal to recommend vacancy control: A form of rent control which ties rent increases to the building and not the tenant. Without vacancy control, landlords will continue to utilize loopholes in the law, forcing renters from their homes for the sole purpose of extracting more rental income from a building. To truly stop renovictions, the province must take bold steps to remove this incentive from landlords and developers.

Far from taking a forceful approach, the RHTF's solution to stopping renovictions is simply to restate existing law. The BC Supreme Court has created precedent which provides tenants with the option to accommodate renovations to their buildings and suites, as reflected in the RTB Policy Guidelines. Despite existing protections, landlords still regularly attempt to remove tenants who are willing to accommodate works and are often successful. A codification of existing law will serve no purpose when landlords are prepared to break the law without consequence.

The RHTF suggests amending the *Act* to place limits on a tenant's right to accommodate renovations, and to legitimize renovictions sought under particular circumstances (major, long-term renovations). The problem with this is that currently, landlords frequently exaggerate the duration, scale, and safety risks associated with renovations when pressuring tenants into signing buyout agreements and in their arguments to the RTB. In other words, by attempting to *codify renovictions*, the RHTF reinforces them, rather than implementing meaningful policy to disincentivize landlords from this abusive behaviour.

The proposed changes to the *Act* undermine the protections afforded to tenants by the BC Supreme Court and ultimately put more tenants at risk of renoviction.

***Recommendation 2: Work with local governments to develop tenant compensation and relocation guidelines in the case of demolition of purpose built rental to reduce dislocation and homelessness of affected tenants.***

In its second recommendation, the RHTF suggests to only to reduce, *and not prevent*, dislocation and homelessness of tenants affected by demolition of purpose built rental. The provincial government must strengthen its commitment to ending practices of displacement and take drastic action to end homelessness in British Columbia. By failing to increase compensation for tenants evicted for redevelopment, the RHTF has set no meaningful or enforceable floor from which these municipal policies are to be developed.

In working with municipalities the province must acknowledge housing security as a human right, superseding a landlord's motive of ever-increasing profit margins. Any new guidelines must recognize the imbalanced relationship between landlord and tenant, and address the real and often devastating effects that eviction has on a person's health and wellbeing. Landlords regularly prey on vulnerable renters by pressuring them into accepting buyouts before they have a full view of their options. The consent of the tenant can be obtained by fraudulent means, after which is almost impossible for them to rescind. Clearer guidance on tenant compensation is therefore welcomed if implemented in a way that actually protects tenants from these predatory tactics.

Unfortunately, the RHTF only recommends the implementation of such policies where buildings are demolished, which counts for only a small fraction of total evictions. With the City of Vancouver now looking into extending its *Tenant Relocation and Protection Plan* to all types of rentals, this recommendation is in fact even less ambitious than what has already been achieved at a municipal level.

***Recommendation 3: Set a clear timeline for a tenant's decision on the use of a right of first refusal.***

The current right of first refusal provisions are deeply inadequate for protecting tenants at risk of renoviction. Without mandating a tenant's return at the same rent, the right of first refusal offers no security for low or fixed income tenants who cannot afford a significant rent hike following completion of works. Any amendments to these provisions are of little use to tenants until they require a landlord to maintain the tenancy at the same rate of rent.

It is common practice for landlords to inflate or exaggerate the duration of renovations during renoviction proceedings to avoid their obligations under the *Act*. In *Allman v Amacon Property Management*, the BC Court of Appeal established that a landlord is not necessarily entitled to the most convenient or economical means of performing renovations. So, setting a *clear timeline* must come with a strengthened requirement for landlords to undertake work by the least disruptive means to allow tenants to remain in their suites or on site wherever possible. Without this requirement, landlords will continue to use these gaps and loopholes to their advantage.

It is crucial that any changes to the *Act* are implemented carefully to avoid weakening existing tenant protections.

***Recommendation 4: Implement a B.C.-wide rent bank system for low-income people.***

The *rent bank system* proposed by the RHTF functions as a publicly funded, debt-driven rent subsidy. It is a loan-based stop gap solution to the housing crisis that ultimately redirects *public funds* to ensure the profitability of private landlords and should be rejected.

Non-mortgage household debts in Vancouver and BC already exceed the national average, and adding yet another layer of finance and debt-driven solutions to the housing crisis will only exacerbate it.

One time interest free loans for tenants to make timely rent payments do not prevent homelessness, but instead delay it, dragging low income households further into a cycle of poverty. That British Columbians are struggling to pay rent is due to the fact that working tenants are spending large percentages (35% and above) of their income on rent. What is needed is not an emergency loan system to cover a one-time cost per tenant, but a systemic approach that stabilizes security of tenure and increases the purchasing power of tenants. Vacancy control is the only means to control rental costs rather than an unnecessary subsidy for landlords that would ultimately have an inflationary effect on rents. A better use of resources would be to cap rental costs with vacancy control and then directly aid low income renters, much like the RentAssist program in Manitoba.

The expansion of the rent bank system ultimately does not offer meaningful relief when no changes are proposed to the extremely punitive provisions around non-payment of rent. Tenants in financial difficulty have only 5 days to come up with their rent, or they are deemed to have accepted an end to their tenancy. Their landlord can then proceed with the Direct Request procedure to obtain an order of possession, a process which does not even require the participation of the tenant. Lengthening the late payment period and abolishing the unaccountable Direct Request procedure would have a beneficial effect at no public cost.

***Recommendation 5: Strengthen enforcement of the law, including implementing a clear process for making, investigating and reporting administrative penalty complaints.***

Because the RHTF has taken an even-handed approach that treats both tenants and landlords as equal parties in a relationship, this recommendation only reinforces the power and resource imbalances between them. Increased penalties and enforcement are welcomed, but only if they are implemented in a way that does not prejudice tenants.

Landlords often have access to more resources, and regularly retain counsel to navigate the RTB process. This is not the case for the majority of tenants, especially those of lower incomes. While increased consequences for breach of the law could be a positive development if implemented correctly, any changes must acknowledge that a landlord's temporary loss of income is not equivalent to a tenant's loss of their home. Ultimately,

tenants are much more likely to fall prey to “*strengthened*” administrative penalties through no fault of their own.

***Recommendation 6: Strengthen penalties for breaking the law, including refusal of service for outstanding administrative penalties.***

The “refusal of service” provision from s.59(5)(b) of the *Act* means that a person who owes money to the province due to a fine from the RTB may be stopped from accessing the RTB’s services. Access to these services is required for tenants to assert their rights under the law.

Strengthening this provision is a backwards step and unfairly targets low income renters and those who are otherwise unable to pay penalty fines, preventing them from applying for dispute resolution to fight illegal evictions. Refusal of service for outstanding administrative penalties runs contra to established principles of procedural fairness and should be repealed, not strengthened.

***Recommendation 7: Investigate ways to provide affordable access to bailiff services in smaller and more remote communities.***

Resources for tenants and landlords in remote communities is an ongoing problem. Tenants are also at a disadvantage in rural areas that lack a dedicated Residential Tenancy Branch office or affordable advocacy services.

For landlords, there is already a *reliable and efficient procedure for evicting problematic tenants* provided by the RTA. Given that BC’s housing crisis is primarily a *crisis for renters*, it is disappointing that the RHTF chose to focus its recommendations on the procedures that remove people from their homes. In general, access to bailiff services should remain challenging - this protects tenants by disincentivizing landlords from their inappropriate use.

***Recommendation 8: Investigate other options to increase the repayment rate for damages, non-payment of rent and other storage costs if ordered by the residential tenancy branch.***

The RHTF points out that the current inability of the RTB to enforce monetary orders when landlords or tenants are owed compensation undermines its own effectiveness. The recommendation places a strong emphasis on penalties and fines as an “effective deterrent”, but what it fails to recognize is that the broader crisis of non-payment of rent is rooted in the current unprecedented levels of rent-burden in BC tenant households. The vast majority of tenants who fail to pay rent do so as a result of stagnant wages amid the high cost of living, and most are one paycheck away from the inability to pay. Any policy that will strengthen enforcement must take this precarity and the resource inequality between tenants and landlords into account.

The report merely says to “investigate options” to strengthen enforcement, and offers little to no suggestions on what kinds of enforcement options would be appropriate. In not addressing this head on, the RHTF misses a crucial opportunity to assert protections for

lower income tenants from regressive policies such as using credit reports as ‘deterrents’. They are the most common penalty mechanism for tenants in many other jurisdictions, and only entrench the cycle of poverty, debt, and discrimination in the housing market. In particular, they are well known to target lower income and racialized renters - an outcome that directly contradicts federal and provincial policy on housing strategy around vulnerability.

***Recommendation 9: Increase the availability of currently empty strata housing by eliminating a strata corporation’s ability to ban owners from renting their own strata units.***

While making more strata units available to rent will produce some additional supply, these units will not be accessible to those at greatest risk during this housing crisis. The province must prioritize the supply of genuinely affordable units that are attainable for low and fixed income renters.

***Recommendation 10: Maintain rent tied to the renter, not the unit.***

The RHTF’s refusal to recommend vacancy control is the biggest disappointment from this report. Vacancy control ties rent increases to the building instead of each tenant, removing the incentive for landlords to initiate bad faith evictions of all kinds. It was offered as the number one solution for ending renovictions by the numerous housing and poverty advocacy groups such as the VTU, Community Legal Assistance Society, and the BC Poverty Reduction Coalition.

The need to upgrade BC’s aging rental stock has been used as a rationale here. Without adequate protections in place, Vancouver is going to lose what remains of its affordable rental housing stock through the process of renovictions, and the increased profitability of these buildings will be borne on the backs of low-income renters evicted for improvements they should have had the benefit of in the first instance. Here the RHTF has favoured the profits of landlords over the fundamental needs of everyday renters. It has demonstrated its unwillingness to take the necessary steps to maintain housing security for low and fixed income renters.

The RHTF’s priorities are further demonstrated by its recommendation to streamline the permitting process. This recommendation is concerning given that tenant groups have requested a greater level of involvement in the permitting process where tenants are to be displaced. To simplify and streamline the permitting process is at odds with the kind of meaningful consultation required with tenants who are at risk of losing their homes.

***Recommendation 11: Work with local governments to develop, implement and enforce short-term rental rules to better protect long-term rental stock.***

In an effort to disincentivize the operation of unauthorized short-term rentals in strata buildings, the province recently increased the maximum allowable fines from \$200 per week

to \$1000 per day. Despite this, the exploitation of loopholes and limited enforcement has allowed this practice to continue.

If not effectively curtailed, the practice of short-term rentals will continue to chip away at the availability of secure housing for long-term renters. More robust measures protecting the rental market from short-term rentals would therefore be welcomed if properly enforced.

***Recommendation 12: Make the residential tenancy branch more responsive, accessible and proactive with more opportunities to learn from and educate landlords and renters on their rights and responsibilities.***

The VTU, along with numerous other tenant advocacy and poverty reduction organizations, suggested a raft of significant changes to the RTB process during the consultation period. Key aspects of these recommendations included requiring automatic dispute resolution hearings for all evictions, mechanisms for gathering eviction data, substantive improvements to arbitrator recruitment and training procedures, and a significantly expanded role for information officers to provide much needed outreach on legal education for tenants and landlords. Very few of these recommendations are found in the RHTF report.

Tenants are still required to contest eviction notices - even those which are unsupported with evidence - within short timelines or be deemed to have accepted an end to their tenancies. No further discretion is proposed to expand the restrictive dispute timelines in the *Act*. While this recommendation suggests some general improvements to the efficiency of the RTB process, these changes will be of little help to tenants if the underlying processes are not substantially reformed.

***Recommendation 13: Improve fairness and consistency of the residential tenancy branch dispute resolution hearings process by recording all hearings.***

While a positive development, this does not go far enough to tackle the deep-rooted issues with the RTB process. A number of important VTU recommendations went ignored in this regard. These included a provision for interpretation services for non-English speakers, increased accountability for RTB decision-makers, improvements to online filing, and better training for RTB arbitrators.

While this recommendation is offered as a safeguard against arbitrator error, no recommendation is made to improve the qualifications or standard of the arbitrators themselves. This should be the logical next step towards improving the fairness and legitimacy of the RTB process.

***Recommendation 14: Improve procedural fairness by expanding review considerations to include more grounds for review.***

Expansion of the grounds for review is of limited value when the timeline for filing a review remains at 3 days from the time of the initial decision. The current deadlines offer tenants insufficient time to seek advice on the grounds of review, and provide unrealistic timelines for

counsel to prepare an adequate filing. Expanded grounds are therefore welcomed if implemented alongside an extended time limit for filing.

***Recommendation 15: Require landlords who are filing for eviction for cause, or for renovation, to provide all evidence with any eviction notice to the affected tenants.***

In its submission to the RHTF the VTU suggested a complete reversal of the burden of initiating eviction proceedings. Under such a system, landlords would be required to apply for dispute resolution with the RTB and schedule a hearing *before* issuing an eviction notice. The RTB could screen and keep records of all evictions served to insure that unlawful or frivolous notices do not end up in arbitration..

The RHTF has instead chosen to recommend a minor change to the process of serving evidence, which in isolation does little to improve procedural fairness. Simply reversing the timelines for serving evidence does not prevent landlords from serving unlawful notices, nor does it insure that a landlord's evidence is complete and legitimate. The onus remains on the tenant to challenge a notice regardless of its validity, and to counter the landlord's claims which can be poorly evidenced.

Renovations should really be a matter of tenant accommodation rather than requiring an eviction. The RHTF should have explored opportunities and incentives for parties to resolve issues outside of the RTB process. Despite imposing no cost on the RTB and appearing high on the list of solutions offered by renters, the RHTF decided not to recommend such a system.

***Recommendation 16: If repairs are needed to maintain a rental home and the landlord is refusing to make them in a timely way, have the residential tenancy branch proactively reduce the rent of affected tenants until the repairs are completed.***

RTB Arbitrators routinely award rent reductions to be applied until such time that repairs are completed. A meaningful recommendation would have included improvements to the emergency repair procedure, which has often led to tenants going uncompensated for paying out of pocket as a result of maintenance emergencies in their suites.

***Recommendation 17: Allow email as a form of notice of service between landlord and tenants.***

This is a positive step towards making the RTB's services more accessible, particularly to those in remote areas. The RTB must, however, include measures to ensure that tenants without regular access to the internet or email platforms are not prejudiced by this change. It is also unclear if important legal notices such as rent increases or eviction notices will be permitted to be served by email.

***Recommendation 18: Speed up the return of damage deposits to tenants by allowing tenants to make a direct request to the Residential Tenancy Branch for the damage deposit where no damage has been found and reported by the landlord.***

The Canadian Payroll Association recently reported that almost half of Canadian workers are living paycheck to paycheck. The withholding a half month's rent can have significant detrimental impact on tenants' lives. There is no need to further expand the RTB's extremely problematic Direct Request procedure.

The VTU recommended simply eliminating damage deposits, as in Quebec. The collection of security deposits is redundant given that landlords can always apply to the RTB to retain all or part of a deposit. It is therefore an unnecessarily complex system which can result in significant loss for tenants when a landlord refuses to refund the deposit. It also lacks transparency as landlords can withhold deposits for arbitrary reasons without repercussions.

***Recommendation 19: Work with the insurance industry to see if rent guarantee insurance, and other improvements to insurance coverage, might be provided for landlords in B.C.***

Robust recovery options already exist for landlords in BC. This is in addition to other statutory guarantees on landlord profits, including the ability to apply to the RTB for additional rent increases where the landlord is facing a financial loss. In any case, the risk of non-payment of rent is minor and already dealt with by the *Act*.

Conversely, many tenants - particularly those living in collective homes - struggle to find tenant insurance policies they are eligible for. The province should explore possibilities to expand inexpensive tenant insurance policies available to tenants in BC.

From the quote in the report, it appears the cost of property insurance is intended to be shouldered by tenants. This would be wholly inappropriate given BC's already unaffordable housing market, and would legitimize the behaviour of some landlords who already make onerous requests of prospective tenants. A situation where tenants are expected or required to obtain insurance to cover any possible loss by the landlord is regressive and would only result in a higher cost of living for renters, additional barriers to stable housing, and further magnification of the already extreme power imbalance between landlords and prospective tenants.

***Recommendation 20: Undertake a review to simplify the regulations relating to a landlord's obligation to store abandoned personal property.***

There is no need to change the existing provisions around landlord storage of tenant property, the costs of which can already be passed along to the tenant. It is deeply disappointing to see this recommendation included when so little recourse exists for tenants who are illegally locked out of their unit, or have their possessions thrown away by a landlord.

***Recommendation 21: Ensure it is clear for all landlords and renters where to go to get help for all forms of residential tenancy.***

The RHTF points to difficulties faced by tenants with disputes in particular circumstances that are not covered by the *Act*, however does not clarify whether or where it would be advisable to extend the *Act*'s coverage.

This recommendation therefore does nothing to support the most vulnerable tenants in the province. Tenants in student housing, senior housing, or in co-tenant situations who are not covered by a lease remain unprotected by the *Act*.

***Recommendation 22: Address the specific needs of non-profit housing and supportive housing providers in the Residential Tenancy Act.***

In its submission to the RHTF, VTU emphasized that the current exception of “supportive housing” means that BC’s most vulnerable tenants have no functional rights under the *Act*. While this recommendation acknowledges this major gap, the lack of a tenant-centered approach to addressing supportive housing is concerning. We wonder if the RHTF heard from any tenants who live in supportive housing for their perspectives on the unique and specific dynamics therein. The institutional and paternalistic aspects of supportive housing have been long critiqued by tenants with lived experience of this model, in particular with respect to curfews, guest policies, and complaints procedures. The report’s mention of the “need to do wellness checks” is especially troubling without any language around rights to privacy and tenant autonomy in general. While the role of wellness checks for tenant safety, in particular as a preventative measure for fatal overdoses is a reality, any policy development around the unique needs of non-profit and supportive housing must be a tenant-centered process. Overall the language in this recommendation makes clear the RHTF did not make a concerted enough effort to incorporate knowledge from tenants with lived experience.

***Recommendation 23: Ensure Manufactured Home Park rules are clear and understandable. Clarify what occurs when park rules conflict with lease or contract rules.***

Currently, VTU does not work with tenants who fall under the *Manufactured Home Park Tenancy Act*, and is not in a position to comment substantively on this recommendation. We are aware that questions around land ownership of parks and rental parcels present serious challenges for tenants and subtenants in the face of ownership changes and rent increases. This recommendation is surely a step in the right direction, though the rights of tenants in precarious leasing schemes in manufactured home parks remains a major gap in both policy and organizing.