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October 25, 2019

Hon. Selina Robinson
Minister of Municipal Affairs and Housing
Government of British Columbia
Room 310 Legislative Buildings
Victoria BC V8V 1X4

BY HAND

Dear Minister Robinson:

We are pleased to inform you that our two organizations have been working together for the past several months with our wide ranging discussions focused on the goal of making manufactured home living affordable and sustainable in the context of legislation.

On behalf of over 37,000 home owners and nearly 900 manufactured home community (MHC) owners, we are submitting the following recommendations for improvements to the *Manufactured Home Park Tenancy Act, Regulation*, and related policies. Both our Boards of Directors agree that implementation of these recommendations will strengthen our industry, enable MHC owners to operate viable businesses, and increase the confidence of home owners that their long term residences are secure and their rights protected.

In developing these recommendations, we have been guided by Premier Horgan's objective stated last April to modernize tenancy legislation, with the first step being the appointment of the Rental Housing Task Force. We believe our proposals support and are consistent with his objective and with the Task Force's report and recommendations.

1. Tenancy Agreement Assignments

Currently, home owners are permitted to assign their tenancy agreements upon sale of their homes. These assignments include the continuation of the current rent. In many cases, the tenancy agreements have been in place for several years, even decades. The rents are well below rents in the same MHC for newer tenancies, sometimes by over 50%. Additionally, the exteriors of the homes may have fallen into disrepair, negatively affecting not only their value, but also that of neighbouring homes and the MHC.

Recommendations:

1.a Upon assignment of a tenancy agreement, the rent for the site may be increased to the average rent within the MHC.

1.b When a home owner lists their home for sale, the MHC owner/manager must give the home owner in writing the current average rent based on all occupied sites within the MHC.

1.c The MHC owner can require reasonable repairs be done to the exterior of a home offered for sale; but cannot require anything be added to the home, such as a pitched roof, new windows, or replacement of current siding with a different material.

2. Resident Selection

Currently, the Request for Consent to Assign a Manufactured Home Site Tenancy Agreement form (RTB-10) is silent on the MHC owner's right to interview a prospective home owner/tenant. This has been interpreted by some tenant advocates and real estate agents to mean the MHC owner does not have this right. This is opposite to the standard practice in every residential rental sector of ensuring a tenancy applicant is suitable for tenancy. No MHC owner or manager should be forced to accept new residents in the community without the opportunity to interview them prior to the sale of a home being completed.

An interview with prospective residents is equally critical to the current home owners in the MHC. It is axiomatic that residents will want new people moving into their community who are responsible home owners, can be expected to abide by park rules and be good neighbours.

The Director of the Residential Tenancy Branch has declined to add this requirement to the form, stating that it is not needed, as the form relates only to the sale of the home. With respect, this form relates to the assignment of a tenancy agreement and the future welfare of the MHC residents.

Recommendation:

2. As part of the due diligence responsibility essential to the selection of the "right" new residents is of equal importance to both current residents and MHC management, add a statement to Form RTB-10 that MHC management may require an interview of the prospective assignee prior to responding to a Request for Consent to Assign the Tenancy Agreement.

3. Proportional Amount of Rent Increases

Section 32(1) of the *Manufactured Home Park Tenancy Regulation* defines "proportional amount" as "the sum of the change in local government levies and the change in utility fees . . ."

"Change" can mean an increase or decrease; yet, almost every reference on the Notice of Rent Increase – Manufactured Home Site form (RTB-11) is to an increase, not a change, i.e. the clear implication is that only cost increases need to be included in a proportional amount, not cost decreases.

MHC owners/managers do not always include proportional amount increases in Notices of Rent Increase. Some pass through decreases (changes); others do not. Any change to the Regulation and consequent changes to the Notice of Rent Increase must retain the ability of MHC management to decide whether or not to pass through a proportional amount increase. However, where increases are being passed through, or have recently been passed through, a decrease must be also be factored in.

Recommendations:

3.a Revise Form RTB-11 to read "change" as referred to in the Regulation.

3.b Where no proportional amount increases have been included in Notices of Rent Increase for the three prior years, should there be a proportional amount decrease in the 12 months immediately preceding the issuance of a Notice of Rent Increase, the proportional amount decrease may be passed through, but is not required to be.

3.c Where proportional amount increases in any category have been included in a Notice of Rent Increase for any of the three prior years, should there be a proportional amount decrease in any category in the 12 months immediately preceding the issuance of a Notice of Rent Increase, the proportional amount decrease must be passed through.

3.d Revise Form RTB-11 to include recommendations 3.a and 3.b and to make clear when it is mandatory to include cost decreases in calculating proportional amounts.

4. Section 32(4) *Manufactured Home Park Tenancy Act*

This section currently states, "If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the park rule prevails to the extent of the inconsistency or conflict." As a tenancy agreement is a signed contract, its provisions should prevail over those in park rules.

Recommendation:

4. Amend S. 32(4) to read, “If a park rule established under this section is inconsistent or conflicts with a term in a tenancy agreement that was entered into before the rule was established, the tenancy agreement prevails to the extent of the inconsistency or conflict.”

5. Additional Rent Increase – Repairs or Renovations

S. 33(1) of the Regulation allows a landlord to apply for an additional rent increase (above the allowable rent increase) in three different circumstances. Probably 99% of those applications involve significant repairs or renovations; however, our recommendation is equally relevant to an application under any of the circumstances.

Often these applications are for a series of increases over several years to balance the need for the MHC owners to recover their costs while avoiding causing financial hardship for the home owners. In some cases, arbitrators award increases over a defined period; in others, the orders contain no end date. Further, if an additional rent increase is to be recovered over a number of years, there is a slight compounding factor as it would apply to both the current rents and future rents that are increased by the annual allowable amount.

Recommendations:

5.a Add to the Rules of Procedure that an additional rent increase granted under S. 33(1) of the Regulation be defined as a “recovery increase” and be separate from allowable rent increases.

5.b Add to the Rules of Procedure that a recovery increase must have a stated start and end date, following which it can no longer be collected.

6. Additional Rent Increase – Below Market Rents

Prior to its repeal, S.33(1)(a) of the Regulation allowed MHC owners to apply for an additional rent increase where the rent for specific sites was significantly lower than rents in comparable sites in the MHC and same geographic area. We understand the reason for repealing this provision in the *Residential Tenancy Regulation* was because of the extreme escalation of rents for fixed buildings in metropolitan areas; however, it was also repealed from the MHPT Regulation.

The value of this provision for MHCs was much different than for urban apartment buildings for these reasons:

- market rent amounts for most MHC sites are about 20% of the rent for comparably sized apartment units;
- the average turnover in apartment buildings is about 2.5 years, allowing the owners to increase the rent to market levels for new tenancies;
- the average turnover in MHCs is in the range of 25 to 35 years, during which periods, rents tend each year to fall slightly below market. The cumulative negative effect over that time period is significant.

According to the CMHC Rental Market Survey, October 2018, the average rent for a 2 bedroom apartment in Vancouver was \$1649. Unfortunately, CMHC doesn't provide any data on MHCs; however, in our experience, the average rent for a site accommodating a two bedroom manufactured home in BC is about \$450.

For a Vancouver apartment building owner, a rent \$100 below market is a difference of about 6%. For a typical MHC owner, a rent \$100 below market is a difference of about 22%. It is not uncommon for the lowest rents in a MHC to be 50% or less of the highest rents. We submit that restoring the ability to apply for an additional rent increase in these circumstances would have no upward effect on rents generally; further the decision on whether to grant a rent increase and if so, by what amount is always made by an impartial arbitrator.

Recommendations:

6.a Return S. 33(1)(a) to the *Manufactured Home Park Tenancy Regulation* as previously worded:

A landlord may apply under section 36(3) of the Act [*additional rent increase*] if one or more of the following apply:

- (a) After the rent increase allowed under section 36(1) [*annual rent increase*], the rent for the site is significantly lower than the rent payable for other sites that are similar to, and in the same geographic area as the site;

6.b Add to S. 33(1)(a) that an additional rent increase granted under this section may not exceed twenty-five per cent (25%) of the approved increase per year until the total amount of the approved additional rent increase is achieved.

7. Allowable Rent Increase Formula

Currently, the inflation rate used to calculate the allowable annual rent increase formula is the increase in the BC Consumer Price Index (CPI). The CPI is based on a so-called “basket of goods,” an estimate of the cost of living components for an average Canadian family, established by Statistics Canada. As such, it includes the cost increases for food, clothing, education, medical care, furniture, etc. None of these items are costs incurred to operate an MHC. In fact, over 91% of the items in the basket of goods relate directly to a family’s cost of living. Insurance is one of the few items relevant to both the operation of an MHC and a family’s cost of living.

Consequently, using the CPI as the inflation rate measurement means that the annual cost increases incurred by the owner of an MHC may be more or less than the CPI inflation rate.

Recommendation:

7. Working in conjunction with the Residential Tenancy Branch, the BCMHO, and the MHPOABC, StatisticsBC develop a “basket of goods” representing the costs of operating a manufactured home community that is used to establish the inflation rate for allowable rent increases pursuant to s. 32 of the *Manufactured Home Park Tenancy Regulation*.

We stress that each of these recommendations are unequivocally supported by both our organizations. We believe this is the first time a “landlords’ group” and a “tenants’ group” have made a joint submission to government for changes that they both recommend and that would improve either of the Tenancy Acts. Consequently, we look forward optimistically to our joint recommendations being implemented.

We would be pleased to meet with you and/or any of your staff or senior staff in the Residential Tenancy Branch to discuss our recommendations and/or provide any further information that may be required.

Sincerely,

John Melnyk
Director
BC Manufactured Home Owners

Al Kemp
Executive Director
Manufactured Home Park Owners Alliance of BC

pc: Premier John Horgan
The Board of Directors, BCMHO
The Board of Directors MHPOABC
Bruce Fogg, Office of the Premier
Kathy Elder, Executive Director, Residential Tenancy Branch