

Summary : 2018 Submission from AMHOA to government tenancy task force

BC faces an affordable housing crisis. This Tenancy Task Force provides a timely forum for new ideas on how to deal with the crisis. Our idea is an old one that needs renovation – splitting ownership of land and houses. If they didn't need to buy land more people could buy a house.

This submission has two purposes: to outline a framework in which this approach could work, and to look at why it doesn't work so well under the current Act. For the co-investor community approach to be effective new legislation is needed, designed from the ground up to support the co-investor concept. It must encourage investment in these communities and provide a framework for governance and rules conducive to good community life.

The goal is to attract land investors interested in the long term, not speculators. Long term investors need a stable investment environment in which they can recover the costs of infrastructure and operations, and a reasonable return on investment. Home investors need assurance that the community they invest in will be well run and well serviced, and that they will be in a position to ensure the landowner cannot devalue their investment.

The new framework must be based on equality, democracy, and cooperation: and the language needs to reflect that. It needs to balance the powers of both investor classes and ensure the community governments that replace "Park Committees" can function without disbandment. It also needs to provide "Standard Park Rules" that create a framework in which local laws can fit while addressing local needs.

In the current system homeowners are the residents and major investors in the community but an imbalance of power in favor of landowners creates problems in four major areas:

1. Loss of investment when land use rights are lost through eviction or park closing;
2. Loss of home value from park deterioration – physical, managerial or social;
3. No say in community governance despite being major investors and residents; and
4. Limited capacity to speak out due to uncertainty, complexity and fear of reprisals.

How can we address these problems?

Standard Land Use Agreement: The Act requires certain terms in all rental agreements but there is no legislated standard agreement. Instead there are many

agreements that are legally complex, confusing, and of uncertain legality. This greatly complicates the task of dispute resolution. The fix is one standard legislated plain language agreement.

Park Committees and Local Park Rules: The Act provides for Park Committees representing both investors – homeowner and landowner – to do basic park governance tasks such as rule making. Few are effective and most are disbanded. Once disbanded the landowner takes over sole power to make Park Rules, and those rules can override existing homeowner/landowner agreements. Most troubling, the landowner can assume this power by unilaterally disbanding the committee. We need a legislated set of Standard Park Rules immune to local machinations. And effective community governance requires something better than the Park Committee.

Rent Increases: The Act enables landowners to annually increase what homeowners pay for land use. The increase is the sum of three parts: inflation (based on CPI) + 2% + changes in local tax and utility charges. The apparent purpose of these annual increases is to ensure the land investor recovers the costs incurred in operation and the return of, and on, the capital committed to the project. But there is nothing to suggest this formula actually does that. The CPI is based on the cost of a basket of services over 65% of which have nothing to do with the kinds of costs incurred in park operations. The 2% is apparently to encourage investment in infrastructure upgrades, but can be pocketed without doing any upgrades. And the local levies add-on becomes part of base rent, compounded and used as starting point for future add-ons. This has no relation to the kind of cost recovery expected by investors in other low risk venture like utilities.

Assignment and Sublet: The current Act gives the landowner power to significantly reduce the value of the homeowner's investment by interfering with the sale and rental of the house. Homeowners forced to temporarily move for some reason, must leave the house sitting empty, pay the monthly rental, and pay another rental for their temporary home. That is a loss of earning on an asset similar to what the landowner would face if homeowners were not required to pay land rent when they were absent. There needs to be a balance.

Relations with Municipal Governments: Many "Parks" are located in or near municipalities most of which are unsure about the application of their rules and services in the Park. This needs legislative clarification.

Eviction for Cause: Homeowners evicted for whatever reason are often forced out without time to relocate. Their property may also be seized. This whole process needs to be reviewed from the perspective of making the punishment fit the crime.

Compensation for Forced Moves: Homeowners may be forced out of a Park because of a sale of the land or of a government expropriation. In such situations the principle must be full compensation for the loss incurred. It should not be possible for a land investor to make money by taking it from those who in good faith invested in homes on that land. No money should flow to the landowner until the innocent third parties – the homeowners – are fully compensated.

Dispute Resolution System: The Act enables landowner and homeowners to take disputes to the director for resolution. This is a traumatic experience for those who are elderly, unfamiliar with bureaucratic practices, unable to retain professional help, and unsure of their rights. As a result landowner abuses may go unchallenged. The director's office should include a tenant's advocate with a role, similar to the Farmer's Advocate, of helping unsophisticated people get a fair deal in a dispute with someone better equipped to manage the complexities.

The co-investor model has potential, if the problems in its current manifestation under the Manufactured Home Parks Tenancy Act can be addressed. Another model worth review is the Resident Owned Communities model in wide use in the United States. This approach enables the government to provide essential resources so that the homeowners in a "Manufactured Home Park" can buy the land and hold it as a cooperative, thereby significantly reducing their rent while also eliminating the landowner/homeowner conflict problems. I

It will not be easy to make the transition from the current structure for split land and house ownership. There are a great many details that need to be worked out, and doing that needs expertise and participation by both landowners and homeowner. The best way forward is for the Task Force to call for creation of a working group to take on this challenge