

## EQUALITY IMPACT Backgrounder

October 21, 2011



*This Equality Impact Backgrounder is a description of the possible or actual gendered impact of the legislation. While it may raise possible breaches of the Charter worth further research and consideration, it is not an application of the Charter or Charter jurisprudence – rather, it is the application of Gender-Based Analysis and international Gender Development tools created and applied around the world.*

### Name of Legislation

*Residential Tenancy Act, S.B.C. 2002, c. 78, section 32 [Landlord obligations to repair and maintain], Part 3 sections 40-43 [Rent Increases], and section 49 [End of Tenancy for Landlord's use]*

#### **Section 32: Landlord obligations to repair and maintain**

The *Residential Tenancy Act* (RTA) requires landlords to maintain their rental property in a state of repair that complies with the health, safety and housing standards required by law and, having regard to the age, character and location of the rental unit, makes the unit suitable for occupation by a tenant. Tenants also have responsibilities to maintain reasonable health, cleanliness and sanitary standards in the rental unit and must not cause damage; however, tenants are not responsible for reasonable wear and tear.

#### **Sections 41-43: Rent Increases**

Generally, landlords may only increase the rent on a unit once per year, and only up to an amount set by the Residential Tenancy Regulations, unless the tenant agrees in writing to a higher amount. The Regulations set the allowable annual rent increase at the rate of inflation plus two percent. However, subsection 43(3) of the RTA allows a landlord to apply to the Residential Tenancy Branch (RTB) to increase rents above the prescribed amount. The circumstances in which a landlord can apply for an additional rent increase are set out in s. 23(1) of the Regulations. The Regulations say that a landlord can apply for an additional rent increase if the rent for the unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as the rental unit in question. Other allowable reasons for increasing rents beyond the prescribed amounts will not be dealt with in this Backgrounder.

Importantly, in BC these rent control provisions apply only to the tenant, and not to the unit. This means that once one tenant moves out and a new tenant moves in, the new tenant can be charged any rate of

rent; the new rate of rent is not subject to the inflation plus two percent rule, which applies only within existing tenancies.

#### **Section 49: End of Tenancy for Landlord's Use**

Landlords may evict tenants if they or a family member want to use the rental unit themselves, or if they have sold the unit to a new owner.

Landlords may also evict tenants if they wish to undertake renovations in the rental unit. Subparagraph 49(6)(b) of the RTA allows a landlord to end a tenancy if the landlord intends in good faith to renovate or repair the rental unit in a manner that requires the rental unit to be vacant. For an eviction to be legal under this section, the landlord must have all the necessary permits and approvals required by law for the renovations prior to ending the tenancy. Landlords must provide at least two months' notice before the end of tenancy takes effect, and must compensate the tenant in the amount of one month's rent (s. 51(1)).

BC's RTA does not contain a "right of return" for tenants evicted for the purpose of renovations in their unit. Ontario, for example, provides tenants who are evicted to allow for renovations of their rental unit a "right of first refusal" to reoccupy the unit once the renovations are completed. In addition, in Ontario a landlord cannot increase the tenant's rent in the renovated unit beyond what would otherwise have been lawful if there had been no interruption to the tenancy.<sup>1</sup>

### **West Coast LEAF's interest in the Act**

West Coast LEAF's mission is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education. West Coast LEAF is interested not just in what the law says, but also how it is impacting the lives of women and vulnerable groups in BC. The Equality Impact Assessment tool we have developed allows us to research and analyze the gendered dimensions of legislation to uncover potential differential impacts on identified vulnerable groups, providing the informational basis for recommendations and law reform initiatives within the respective areas.

The *Residential Tenancy Act* governs the relationship between landlords and tenants. Women are disproportionately represented among the population of people who rent, as opposed to own, their homes. There is a great deal of media interest and community advocacy around tenancy and rental housing issues; with this background, West Coast LEAF hopes to contribute its expertise in applying a gender lens to these important issues.

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<sup>1</sup> *Residential Tenancies Act*, S.O. 2006, c. 17 s. 53.

## Date of Legislation

This Act was passed in 2002. It replaced the *Residential Tenancy Act*, R.S.B.C. 1996, c. 406.

## Purpose and History of Legislation

BC's *Residential Tenancy Act* (RTA) applies to tenancy agreements, rental units, and residential properties. It sets out the rights and responsibilities of landlords and tenants in a residential tenancy context. The RTA does not apply to commercial tenancies, emergency and transitional housing, community care and assisted living facilities, public or private hospitals, accommodation owned or operated by an education institution (eg: dorms), accommodation where the tenant shares bathroom or kitchen facilities with the owner, vacation rentals, co-ops or correctional institutions.

When Minister Rich Coleman introduced the proposed RTA in 2002, he described its purpose as being to modernize the existing RTA and put it into plain language that everyone could understand.<sup>2</sup> The new RTA was an attempt to strike a fair balance between the rights and obligations of landlords and tenants, and provide for a clearer understanding of those rights and obligations by both parties. It was hoped that this in turn would help improve relations between landlords and tenants and reduce the number of disputes, thus reducing the number of dispute resolution hearings.

Minister Coleman also expressed his hope that the proposed Act would encourage private sector investment in rental housing by allowing for yearly rent increases based on a set percentage added to the consumer price index. In contrast to the previous RTA, the 2002 Act does not require landlords to justify every rent increase they wish to impose. Rather, landlords are entitled to increase rent every year by an amount set in the Regulations. Currently landlords may raise rents by the rate of inflation plus 2% every year.

## Category of Legislation

This legislation relates to issues of poverty and the alleviation of poverty.

The RTA also sets out how a component of the justice system, an administrative tribunal called the Residential Tenancy Branch, functions.

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<sup>2</sup> British Columbia, Legislative Assembly, *Official Report of debates of the Legislative Assembly (Hansard)*, Vol. 9 No. 12 (30 October 2002) at 4170.

There is also an environmental component to the legislation insofar as where people live and the conditions in which they live has an impact on the environment.

### Resources attached to legislation

Housing falls into the portfolio of the Ministry of Energy and Mines. As the Minister is responsible for housing, the Ministry's portfolio includes provincial housing and homeless policy, residential tenancy information and dispute resolution, strata property regulation, building and technical safety policy and standards development, and housing services delivered through the British Columbia Housing Management Commission.<sup>3</sup>

The Ministry provides landlords and tenants with information on their rights and responsibilities under the *Residential Tenancy Act*, and also assists landlords and tenants to resolve concerns, providing both formal and informal dispute resolution services. Clients contacted the Ministry more than 284,000 times in 2010/11 by telephone, e-mail or in-person at one of its three offices, and the number of website visits grew to 1.4 million, a 16 per cent increase over the previous year. In the same time period, the Ministry processed approximately 22,000 applications for dispute resolution.<sup>4</sup>

The budget estimates allocated to the Residential Tenancy Branch's operations were \$7.4 million in 2009/10, and \$7.431 million in 2010/11.<sup>5</sup>

Residential Tenancy Branch offices have been eliminated around the province due to government cutbacks, including branches in Surrey, Kelowna, Vancouver and Nanaimo. In a 2006 report conducted by Pivot Legal Society, tenants reported 2-3 hour waits at residential tenancy branch offices for small tasks such as filing applications, and tenants are often turned away due to lack of capacity and long wait times.<sup>6</sup>

### Who is responsible for implementing the legislation?

The RTA regulates the relationship between landlords and tenants. It sets down the rights and

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<sup>3</sup> Ministry of Energy and Mines and Minister Responsible for Housing, *2010/11 Annual Service Plan Report*.

<sup>4</sup> *Ibid.*

<sup>5</sup> BC Budget Estimates for Fiscal Year ending March 31, 2011, online:  
<[http://www.bcbudget.gov.bc.ca/2010/estimates/2010\\_Estimates.pdf](http://www.bcbudget.gov.bc.ca/2010/estimates/2010_Estimates.pdf)>.

<sup>6</sup> David Eby and Christopher Misura, *Cracks in the Foundation: Solving the housing crisis in Canada's poorest neighbourhood* (Pivot Legal Society, 2006), online:  
<<http://www.pivotlegal.org/sites/pivotlegal.org/files/CracksinFoundation.pdf>>.

responsibilities of each party in a tenancy relationship.

Disputes arising out of a tenancy relationship are adjudicated by the Residential Tenancy Branch (RTB), an administrative tribunal with exclusive jurisdiction to determine these types of matters. Under the authority of the RTA, dispute resolution officers (DROs) are appointed to help parties resolve their disputes without a hearing or to conduct hearings and make an impartial and binding decision.

No government official has the power to change or overturn a DRO's decision. If the landlord or the tenant believes that the DRO made an error of law or was biased in making his or her decision, they can ask the Supreme Court of BC to judicially review the decision. If the Court agrees that an error has been made, they can order the RTB to schedule a new hearing with a different DRO.

### Vulnerable groups identified

West Coast LEAF identified two groups as being particularly vulnerable to the identified provisions of the RTA: 1) seniors, particularly senior women, and 2) single mothers.

#### 1) Seniors

Seniors have been a growing part of Canada's population for decades. Between 1981 and 2005, the number of Canadians aged 75 to 84 more than doubled, increasing from 695,000 to 1.5 million, and their share of the total population rose from 2.8% to 4.6%.<sup>7</sup> 13.8% of BC's population – over half a million people – are aged 65 or over, and population projections predict that the percentage of seniors in BC will increase by 8.3 percentage points over the next 15 years.<sup>8</sup> Vancouver's population of seniors has also increased, and it is anticipated that by 2036, seniors will represent one-fifth of the total Metro Vancouver population.<sup>9</sup> More than one quarter of seniors are immigrants to Canada.<sup>10</sup>

Most seniors are women, and this is especially so in older age groups. In 2005, women accounted for almost 75% of persons aged 90 or older, and accounted for 52% of persons aged 65-69. Women's longer life expectancy explains their over-representation in older age groups. In Metro Vancouver there are twice as many women as men over the age of 80.<sup>11</sup>

The issue of appropriate housing for seniors is an important one. Supportive housing and care facilities, as well as accessible and affordable health care, are vital to ensuring that seniors can live with safety and dignity. These issues are particularly important for senior women who, because they tend to live longer than men, report a greater number of chronic health conditions and health needs in their last years of

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<sup>7</sup> *A Portrait of Seniors in Canada* (Statistics Canada, 2006) at 13.

<sup>8</sup> *Ibid* at 14.

<sup>9</sup> Social Policy Group, Social Development Department, City of Vancouver, *Seniors in Vancouver*, (City of Vancouver: October 2010) at 7, online:  
<[http://vancouver.ca/commsvcs/socialplanning/initiatives/seniors/pdf/Seniors\\_Backgrounder.pdf](http://vancouver.ca/commsvcs/socialplanning/initiatives/seniors/pdf/Seniors_Backgrounder.pdf)>.

<sup>10</sup> *Ibid* at 3.

<sup>11</sup> *Ibid* at 7.

life. While acknowledging the importance of these issues, this Backgrounder restricts its focus to seniors who rent their homes in the private market, and whose tenancies are subject to the provisions of the RTA.

### *Income*

In Canada, the incidence of low income among seniors is highest in BC and Quebec. Incidence of poverty is higher in Vancouver than elsewhere in the province; in 2006, 16.5% of Vancouver seniors (about 12,000 people) reported before-tax incomes below the Low Income Cut Off (\$20,718 for a single person), while BC-wide the average was 13.8%.<sup>12</sup> Nineteen percent of Metro Vancouver seniors lived in poverty in 2007, up 3% since 2000.<sup>13</sup> The incidence of poverty is highest for seniors who have recently immigrated, Aboriginal seniors, and seniors who live in Downtown, Grandview-Woodland, Strathcona and the Downtown Eastside.<sup>14</sup>

Aboriginal elders are more likely than any other seniors to be living in poverty, and in this population as well, women are particularly vulnerable. In the years 1996-2001, the median income for male Aboriginal elders-seniors was \$16,046 and for females it was \$13,185.<sup>15</sup>

Seniors who are recent immigrants represent a small proportion of the total seniors' population, but they are far more likely to be low income than Canadian-born seniors or immigrants who arrived decades ago. Senior women are particularly vulnerable to poverty; among female immigrants aged 65 or over who came to Canada after 1990, 71% were low income, compared to 42% of Canadian-born senior women living alone.<sup>16</sup>

Many seniors, and especially women, rely on government income assistance to meet their basic needs. Over 95% of seniors receive income through Old Age Security (OAS), the Guaranteed Income Supplement (GIS) or Spouses Allowance (SPA).<sup>17</sup> As of January 2009, a senior who has no other pension and receives the maximum available Old Age Security and Guaranteed Income Supplement has an income of \$1,170/month.<sup>18</sup> While the percentage of seniors who rely heavily on OAS/GIS has decreased over the years, the income gap between men and women has remained constant.<sup>19</sup> Immigrant seniors often do not qualify for full assistance amounts, leading to incomes well below the amounts available to Canadian-born seniors.

### *Housing and Homelessness*

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<sup>12</sup> City of Vancouver Seniors Factsheet (October 2010), online: <[http://vancouver.ca/commsvcs/socialplanning/initiatives/seniors/pdf/Seniors\\_Factsheet.pdf](http://vancouver.ca/commsvcs/socialplanning/initiatives/seniors/pdf/Seniors_Factsheet.pdf)>.

<sup>13</sup> Vancouver Foundation, *Vital Signs for Metro Vancouver* (2007).

<sup>14</sup> *Seniors in Vancouver*, supra note 9, at 3.

<sup>15</sup> *A Portrait of Seniors in Canada*, supra note 7, at 238.

<sup>16</sup> *Ibid* at 281.

<sup>17</sup> *Seniors in Vancouver*, supra note 9, at 3.

<sup>18</sup> City of Vancouver Seniors Factsheet, supra note 12.

<sup>19</sup> *Seniors in Vancouver*, supra note 9, at 3.

Low income is one important factor that contributes to an increased risk of homelessness. A report of the Greater Vancouver Regional Steering Committee on Homelessness found that in 2001 there were almost 10,000 people aged 55-64 and an additional 12,755 people aged 65+ in Metro Vancouver who were at risk of homelessness, or 12% of the total seniors population.<sup>20</sup> Being at risk of homelessness means living in an inadequate dwelling and/or spending at least 50% of household income on shelter. Fortunately, the number of seniors recorded as homeless in the 2008 Metro Vancouver homeless count was quite small; of the 2,500 people found on the streets or in shelters, only 32 were over the age of 65.<sup>21</sup>

Only 68% of seniors aged 65-74 in the City of Vancouver own their homes.<sup>22</sup> The City has a much higher proportion of renters than in Metro Vancouver as a whole, and a much higher proportion than the national average.<sup>23</sup> Unattached seniors are less likely to own their homes; just over half (53%) of female seniors in Canada who live alone own their own homes, compared to 56% of unattached senior men.<sup>24</sup> In 2003, 72% of unattached women aged 65 and over who rented were considered to have housing affordability problems, compared to 58% of men.<sup>25</sup> Individuals who rent may also be more vulnerable to cost of living increases and downloading of services such as health care.<sup>26</sup>

Seniors over the age of 60 may be eligible for assistance under the Shelter Aid for Elderly Renters program, a provincial initiative that provides assistance with monthly rent payments in private market rental units for seniors who pay more than 30% of their gross monthly income towards rent.<sup>27</sup> To qualify seniors must meet citizenship requirements and must have lived in BC for the full 12 months preceding their application.

Low income affects people's health, their mobility, and their ability to participate in their communities. Seniors who have low incomes and rent their homes are even more likely to face significant limitations than homeowners.<sup>28</sup> This is particularly so in an expensive rental market like Vancouver's, where the average rent for a one bedroom apartment as of October 2008 was \$936, and the average for a studio was \$798.<sup>29</sup>

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<sup>20</sup> *Seniors in Vancouver*, supra note 9, at 10.

<sup>21</sup> Still on our Streets: Results of the 2008 Metro Vancouver Homeless Count, online:

<<http://www.metrovancouver.org/planning/homelessness/ResourcesPage/HomelessCountReport2008Feb12.pdf>>

<sup>22</sup> City of Vancouver Seniors Factsheet

<sup>23</sup> *Seniors in Vancouver*, supra note 9, at 10.

<sup>24</sup> Statistics Canada, Women in Canada: A gender-based statistical report, 5<sup>th</sup> edition, 2006, at 145, online:

<<http://www.statcan.gc.ca/pub/89-503-x/89-503-x2005001-eng.pdf>>.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Seniors in Vancouver*, supra note 9, at 12.

<sup>27</sup> See BC Housing, Shelter Aid for Elderly Renters, online:

<[http://www.bchousing.org/Options/Rental\\_market/SAFER](http://www.bchousing.org/Options/Rental_market/SAFER)>.

<sup>28</sup> *Seniors in Vancouver*, supra note 9, at 12.

<sup>29</sup> *Ibid.*

## 2) Single Mothers

Over one in four families with children BC are led by a lone parent, and the vast majority - 80% - are led by single mothers.<sup>30</sup> Lone parenthood is even more common among Aboriginal families; in many urban areas of Canada the proportion of all Aboriginal households headed by a lone parent is double that of non-Aboriginals.<sup>31</sup> According to 2006 census data, there were 71,250 single-mother families and 16,870 single-father families living in the Vancouver metropolitan area, representing more than 15 per cent of families.

### *Income*

Families headed by single mothers are among the most vulnerable groups in Canadian society; they are more likely to be the poorest of the poor and one of the groups at the highest risk of persistent poverty.<sup>32</sup> The median total income of single mothers in Vancouver in 2005 was \$27,700, down from \$29,000 the previous year.<sup>33</sup> The median total income for male single parents in Vancouver, on the other hand, went up from \$41,900 to \$45,500 over the same period. The incidence of low income for female lone-parent families is more than three times as high as that of two-parent families with children.<sup>34</sup>

Poverty rates for single mothers are even higher when they are disaggregated by age and race. Seventy-three percent of Aboriginal single mothers lived below the poverty line in 1996, and 74% of single mothers under the age of 15 were living below the poverty line in 2001.<sup>35</sup>

When compared with men, women's involvement in paid work is more often characterized by low-waged, non-unionized, part-time work with access to little or no employer-provided benefits, and is further hampered by a lack of access to affordable childcare. Given these structural and institutional barriers to women's participation in the paid labour force, social assistance is an essential option for some single mothers. However, social assistance for single mothers in BC has undergone dramatic cuts over the past decade. A lone parent who is categorized as employable is expected to work when their youngest child reaches the age of three,<sup>36</sup> rather than seven as was previously the case; support allowances for food and other necessities were reduced; family shelter allowances were cut; emergency

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<sup>30</sup> Statistics Canada 2006, Census families in private households by family structure and presence of children, by province and territory (2006 Census), online: < <http://www40.statcan.gc.ca/l01/cst01/famil54c-eng.htm>>.

<sup>31</sup> Statistics Canada 2005, Aboriginal people living in metropolitan areas, online: < <http://www.statcan.gc.ca/daily-quotidien/050623/dq050623b-eng.htm>>.

<sup>32</sup> Gwen Brodsky, Melina Buckley, Shelagh Day and Margot Young, "Human Rights Denied: Single mothers on social assistance in British Columbia" (Poverty and Human Rights Centre: 2005), online: <<http://www.westcoastleaf.org/userfiles/file/HumanRightsDenied.pdf>>.

<sup>33</sup> Charlie Smith, "Mothers under siege" *Georgia Straight* (7 June 2007).

<sup>34</sup> Statistics Canada, "Single Parent Families" online: <<http://www.statcan.gc.ca/survey-enquete/household-menages/3889i-eng.htm>>.

<sup>35</sup> Brodsky et al., supra note 32 at 16.

<sup>36</sup> Ministry of Social Development, Time Limits Fact Sheet, online: <<http://www.hsd.gov.bc.ca/factsheets/2004/timelimits.htm>>.

grants were capped; and provisions allowing women to keep a small portion of any employment income or child support payments they received were abolished.<sup>37</sup>

A single mother with two children is entitled to \$375 in social assistance and \$660 for shelter.<sup>38</sup> Yet the average monthly rental rate for a one bedroom apartment in BC is \$864, and for a two bedroom it is \$1,015.<sup>39</sup> Vancouver's rents are even higher; the city's average rents are the highest in the country.<sup>40</sup> Parents with incomes less than \$35,000 and at least one dependent child may be entitled to access the provincial Rental Assistance Program (RAP); however, they must have been employed at some point over the last year.<sup>41</sup> The RAP offers a maximum grant of about \$700/month depending on family size, though the average grant is much lower.<sup>42</sup> Families must apply for the grants; they are not automatically extended to qualifying families.

### *Housing and Homelessness*

Single mothers are far less likely to own their own homes than either single fathers or married mothers. In 2003, 80% of women who were partners in a husband-wife family lived in an owner-occupied home, compared with just 45% of female lone parents. In contrast, 66% of male lone parents are homeowners.<sup>43</sup>

Single mothers who rent their homes are particularly vulnerable to housing insecurity; 42% of renter families headed by female lone parents had housing affordability problems in 2003.<sup>44</sup>

Both lone mothers and service providers identify the lack of safe affordable housing as the most critical issue affecting single parent families.<sup>45</sup> Low income women and women on social assistance are often forced to live in substandard housing in unsafe neighbourhoods because they cannot afford anything better. Poor housing conditions put women and their children at risk of health problems, including the psychological traumas associated with housing insecurity.<sup>46</sup>

Discrimination also creates barriers to single mothers' ability to access housing. Recent research out of

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<sup>37</sup> Penny Gurstein and Michael Goldberg, "Precarious and Vulnerable: Lone mothers in income assistance" Social Planning and Research Council (December 2008), online: <[www.sparc.bc.ca/resources-and-publications/doc/284/raw](http://www.sparc.bc.ca/resources-and-publications/doc/284/raw)>.

<sup>38</sup> BC Employment and Assistance Rate Tables (June 2007).

<sup>39</sup> Canada Mortgage and Housing Corporation, Rental Market Report, British Columbia Highlights, (Spring 2011), online: <[http://www.cmhc-schl.gc.ca/odpub/esub/64487/64487\\_2011\\_B01.pdf?fr=1319146033500](http://www.cmhc-schl.gc.ca/odpub/esub/64487/64487_2011_B01.pdf?fr=1319146033500)>.

<sup>40</sup> Major Canadian City Monthly Rental Rate and Vacancy Summary, April 2011, online: <<http://www.buyric.com/news/2011/06/major-canadian-city-monthly-rental-rate-and-vacancy-summary-april-2011-230/>>.

<sup>41</sup> See BC Housing Rental Assistance Program, online: <[http://www.bchousing.org/Options/Rental\\_market/RAP](http://www.bchousing.org/Options/Rental_market/RAP)>.

<sup>42</sup> Seth Klein and Lorraine Copas, "Unpacking the housing numbers: How much new social housing is BC building?" (CCPA: September 2010), online: <<http://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2010/09/CCPA-BC-SPARC-Unpacking-Housing-Numbers.pdf>>.

<sup>43</sup> Women in Canada, *supra* note 24, at 145.

<sup>44</sup> *Ibid.*

<sup>45</sup> Gurstein et al., *supra* note 37, at 9.

<sup>46</sup> *Ibid.*

the University of British Columbia indicates that single mothers who reply to rental ads are significantly less likely to receive favourable responses from landlords than heterosexual couples.<sup>47</sup> Rental ads may also deter single mothers from applying by using language like “no children” or “perfect for working single or couple.” While these kinds of statements in rental ads are discriminatory and illegal,<sup>48</sup> it is common to see ads like this on free rental websites like craigslist and kijiji.<sup>49</sup>

The 2008 Metro Vancouver Homeless Count enumerated 619 homeless women experiencing on the day of the count, representing 27% of the total number of homeless; it was also found that the number of homeless women had increased faster than the number of homeless men since the 2005 count.<sup>50</sup> Almost half (45%) of the homeless women reported Aboriginal identity. Seven percent of the homeless women had their child or children with them. Homeless counts invariably result in an under-estimate of the extent of homelessness, particularly women’s homelessness. Women’s homelessness tends to be hidden, with women more likely to double up with friends or family, or resort to trading sex or housework for a bed for the night.

## Equality Impact Assessment

Nearly everyone with a low income is vulnerable to housing insecurity; low incomes and inadequate social assistance rates, combined with increasing gentrification and rapidly rising rents, combine to make accommodation in Vancouver and throughout the province increasingly unaffordable and unattainable for the poor. Women are more likely than men to experience poverty given their greater reliance on low-wage and part-time work and increased likelihood of their being single parents.

### Seniors

The relationship between poverty and women’s homelessness is particularly acute for older women. Because women’s work is typically in the service industry, part-time and poorly paid, with no pensions or

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<sup>47</sup> Natahnael Lauster and Adam Easterbrook, “No room for new families? A field experiment measuring rental discrimination against same-sex couples and single parents” (2011) 58(3) *Social Problems* 389.

<sup>48</sup> Section 10(1) of the *BC Human Rights Code* provides:

A person must not

(a) deny to a person or class of persons the right to occupy, as a tenant, space that is represented as being available for occupancy by a tenant, or

(b) discriminate against a person or class of persons regarding a term or condition of the tenancy of the space,

because of the race, colour, ancestry, place of origin, religion, marital status, family status, physical or mental disability, sex, sexual orientation, age or lawful source of income of that person or class of persons, or of any other person or class of persons.

<sup>49</sup> See Centre for Equality Rights in Accommodation, “Kijiji – stop promoting housing discrimination” online: <<http://www.equalityrights.org/cera/?p=1188>>.

<sup>50</sup> 2008 Homeless Count, *supra* note 21.

other benefits, older women may find themselves in financial straits, with housing insecurity and homelessness a real threat.<sup>51</sup> This is compounded by the stress and expense of age-related health problems.

Seniors, and senior women in particular, may be particularly vulnerable to the identified provisions of the RTA in a number of ways.

#### *Health, Safety and Suitability for Occupation*

Many low income seniors may end up living in unsafe and unhealthy accommodations because it is all they can afford.

A rental building's suitability for occupation may be different for seniors than for younger people, as seniors may be more likely to rely on certain features of the building, such as elevators. When an elevator breaks down it may cause inconvenience to able-bodied tenants, but may cause complete isolation to seniors and other individuals with restricted mobility who may find themselves unable to leave their apartments. While certain repairs may be undertaken by tenants themselves on an emergency basis if the landlord refuses to do the repairs him- or herself, elevator repairs are not included in the RTA's list of situations in which emergency repairs may be justified.<sup>52</sup>

The only way to enforce the health, safety, and livability standards set out in the RTA is through dispute resolution. This is a highly bureaucratic process that involves a number of forms, strict deadlines, and the production of comprehensive evidence to establish one's case. There is no legal aid for these types of cases. Without an advocate the process can be confusing and overwhelming.

In 2002, a number of residential tenancy offices around the province were closed. Today, a senior living in Vancouver's West End must travel to Burnaby to file their dispute resolution claim, and long waits are frequently reported, even for the simple process of filing a claim to initiate a dispute. Dispute resolutions are conducted over the telephone, which can be a significant barrier for seniors experiencing hearing loss. Applications for an in-person hearing must be made at the time that the claim is filed, and the applicant must produce evidence demonstrating why an in-person hearing is necessary. None of this is made explicit on the forms used for filing a claim.

#### *Rent Increases*

Seniors with low incomes, and those who rely on the fixed income provided by OAS/GIS, will be disproportionately adversely impacted by rent increases, particularly rent increases above the annual allowable rate prescribed by the Regulations.

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<sup>51</sup> "Inaction and Noncompliance: British Columbia's approach to women's inequality," Submission of the B.C. CEDAW Group to the United Nations Committee on the Elimination of Discrimination Against Women (September 2008), online: < <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CEDAWCanadaBC2008.pdf>>.

<sup>52</sup> Section 33 of the RTA defines "emergency repairs" to mean repairs made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; primary heating systems; damaged or defective locks; or electrical systems. See also s. 8(3) of the Regulation.

Since the Regulations came into force in 2004, allowable rent increases have been relatively predictable and have hovered around the 4% mark for much of the last decade. BC's old RTA allowed landlords to apply to increase rents by any amount, leading to large and unpredictable jumps and the frequent need to proceed through a dispute resolution process. However, yearly rent increases mean that every year, an increasing proportion of seniors' income is directed to rent; while this is a concern for all renters, for seniors on a fixed income it can be particularly problematic.

The RTA allows landlords to apply to increase rents beyond the annual allowable increase if the rent being charged is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit in question. Given the increasing gentrification occurring throughout Vancouver and other parts of the province, as well as the low vacancy rate and high demand for rental housing, this section of the RTA may open up the possibility of rents increasing much faster than the annual allowable rate in certain neighbourhoods.

In some areas, such as the West End of Vancouver, many rental buildings are owned by the same two or three companies. A company can therefore attempt to justify increasing rents in one of its buildings by pointing to the increased rents in another of its neighbouring buildings, resulting in a spiral of ever-increasing rents throughout its buildings and throughout the area.

Challenging these rent increases is burdensome and difficult for tenants. They must collect and produce evidence of the prevailing rents in similar units within their geographic area. This is not easy evidence to collect, particularly for seniors with decreased mobility.

#### *Evictions for Renovations*

For many of the same reasons described above, seniors, particularly low-income seniors, may be especially vulnerable to the sections of the RTA allowing landlords to evict tenants for the purpose of undertaking renovations to their suite.

Seniors may be more likely to have lived in their apartments for long periods of time. In a recent case involving tenants of a building located in Vancouver's West End, the duration of the tenancies affected ranged from 9 months to 48 years, and many of the building's tenants had lived in their apartments for over 30 years.<sup>53</sup> While the case does not specify whether these long-term tenants were seniors, it seems plausible to assume that many seniors have lived in the same apartment for many years.

Once one tenant has moved out and another tenant has moved in, the landlord can charge any amount of rent to that new tenant; the inflation plus two percent rule applies only to a given tenant, and not to the apartment unit. Landlords may see an incentive to evicting long-term tenants, whose rent can only be raised by the rate of inflation plus two percent, in order to bring in new, higher paying tenants.

Evicted seniors with low incomes are significantly restricted in their options for alternative accommodation. Seniors with mobility issues in particular rely on housing that is close to essential

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<sup>53</sup> *Clements v. Gordon Nelson Investments*, 2010 BCSC 31 at paras. 4 and 6.

services and amenities such as transit, shopping, doctors and pharmacists, community centres and libraries, among others. They may not be able to rent in buildings that lack elevators or accessible parking stalls. Like all low income renters, low income seniors wishing to remain in the private rental market in many parts of BC face high rents and low vacancy rates, further impeding their ability to access safe, quality and affordable housing.

### **Single Mothers**

Like low-income seniors, low-income single mothers may also be disproportionately disadvantaged by the operation of the identified sections of the RTA.

#### *Health, Safety and Suitability for Occupation*

Again, because of their low income and inadequate social assistance rates, single mothers may end up living in unhealthy and/or unsafe accommodations because it is all they can afford. Their own health and the health of their children may be compromised by these conditions.

The BC Non-Profit Housing Association and BC Society of Transition Houses have undertaken comprehensive research and analysis of the barriers to housing for women leaving violent relationships, and have detailed women's experiences of unacceptable and unsafe housing in the private rental market.<sup>54</sup> While inadequate standards were prevalent in rental accommodations across the province, one area in which poor standards were particularly prevalent was in Kitimat, where the existing housing stock is old and has been poorly maintained. Kitimat is an isolated community that revolves around a resource-based economy; in the current economic downturn the value of properties and demand for rental units has decreased to such an extent that there is no incentive for landlords to maintain, let alone improve the conditions of their buildings, and local authorities are failing to adequately regulate them.<sup>55</sup> Inadequate conditions women reported included mould, asbestos, lack of insulation, broken and unsealed windows, and going without a refrigerator, oven or bathtub for months at a time. These conditions increased the cost of heating and maintaining their homes, making affordability an even greater issue.<sup>56</sup> Women reported that landlords were unwilling to make repairs and were unaccountable for their disregard of the RTA. However, women also reported living in fear of losing even this unacceptable standard of housing, because homelessness or returning to abusive ex-partners were the only other options.

Single mothers must also confront the prospect of losing custody of their children due to the inadequacy of the housing available to them. Hazardous living conditions that may put a child's health at risk are often a consequence of mothers trying to house a family without adequate resources, yet are often considered by social workers as grounds for taking a child into care.<sup>57</sup>

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<sup>54</sup> Ponic, P. and Jategaonkar, N. (2010). *Surviving not Thriving: The systemic barriers to housing for women leaving violent relationships*. Vancouver, BC: BC non-Profit Housing Association.

<sup>55</sup> *Ibid* at 13-14.

<sup>56</sup> *Ibid*.

<sup>57</sup> See Pivot Legal Society, *Broken Promises: Parents speak about B.C.'s Child Welfare System* (2006), online: <<http://www.pivotlegal.org/sites/pivotlegal.org/files/BrokenPromises.pdf>>.

### *Rent Increases*

With social assistance shelter rates at levels that do not approach the actual cost of housing and minimum wages that keep even full-time minimum wage earners well below the poverty line, low-income single mothers often cannot afford the rents they are being charged, much less respond to annual increases. When large proportions of low-income single mothers' incomes must go towards rent, they are forced to make impossible choices between other priorities, like paying bills or buying food. Lack of access to reliable transport and communication also make it difficult for women to find and maintain housing and employment, or to acquire basic amenities like groceries or healthcare, particularly in rural areas.<sup>58</sup>

### *Evictions for Renovations*

High rents, low vacancy rates, and inadequate incomes and social assistance rates make the prospect of an eviction especially terrifying for many single mothers.

The children of single mothers are also affected by housing insecurity and the prospect of a "renoviction." Evictions and moves, not to mention possible periods of homelessness and "sofa surfing," disrupt schoolwork, friendships and a child's sense of security and stability.

Like it is for seniors, challenging an eviction is an onerous process for single mothers. Mothers working in the paid labour force must take time away from their employment to file and pursue their claims, and finding affordable childcare is a challenge for all single mothers.

## **Does the legislation achieve its purpose?**

One of the purposes of the RTA outlined by the Housing Minister when the Act was proposed in 2002 was the stimulation of increased investment in rental housing. The federal government's disengagement from most housing responsibilities in the 1980s and 90s has resulted in provincial initiatives to fill this gap; however, annual allowable rent increases will not suffice to stimulate the investments needed in BC's dwindling rental housing stock.

The City of Vancouver has undertaken comprehensive research on the economics of purpose-built rental housing, and a detailed analysis of this research is beyond the scope of this Backgrounder.<sup>59</sup> However, most analysts agree that the federal government has a significant role to play in stimulating investment in rental housing, largely through the *Income Tax Act*, which is a matter of federal jurisdiction. Since the federal government's abolition of several tax provisions that provided favourable treatment to investors

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<sup>58</sup> Ponic and Jategaonkar, *supra* note 54, at 12.

<sup>59</sup> See the City of Vancouver Social Development Department's Housing Policy webpage for links to these research reports: <<http://vancouver.ca/commsvcs/housing/>>.

who invested in the creation of rental housing stock, these investments have largely dried up and affordable rental stock has dwindled.<sup>60</sup>

Another stated purpose of the 2002 RTA was to reduce conflicts between landlords and tenants by clarifying rights and responsibilities. While the new RTA is undoubtedly clearer and easier to understand than its predecessor, conflicts between landlords and tenants over “renovictions” and geographic area rent increases are frequent, particularly in Vancouver’s West End.<sup>61</sup>

### Suggestions for mitigating actions or law reform.

Tackling homelessness and housing insecurity requires commitment and investment from all three levels of government. The task cannot be left to the provincial government or the RTA. Reforms to the RTA will not be sufficient to address the varied and complex reasons for homelessness and housing insecurity experienced by seniors, single mothers and other vulnerable groups; however there are a number of reforms that should be explored for their potential to assist tenants:

- End “renovictions.” Implement a right of return for tenants whose suites must be vacated to allow for renovations, at the same rate of rent they were paying prior to the renovation.
- Remove the geographic area rent increase clause, which allows landlords to apply to increase rents above the annual allowable rent and has led to protracted litigation and hostile relations between landlords and tenants.
- The dispute resolution process also needs significant reform in order to better serve seniors, single mothers and other vulnerable groups. More, and more accessible, RTB offices, greater advocacy and assistance for tenants involved in disputes, and policies and procedures that assist vulnerable tenants to assert their rights are all important investments.

Homelessness and housing insecurity are intricately bound up with many other issues, including poverty, violence against women, discrimination, lack of affordable housing options, and lack of affordable childcare. These challenges require concerted and targeted policy responses from all levels of government and must include increases to social assistance rates and the minimum wage to reflect the actual cost of living; increased shelter allowances that reflect the actual costs of renting, with separate allowances for utilities; investments in childcare and transportation services; government investment in affordable housing; and tax reforms and other measures to stimulate private investment in rental

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<sup>60</sup> Centre for Equality Rights in Accommodation, *Women and Housing in Canada: Barriers to Equality* (Toronto: 2002), online: <<http://www.equalityrights.org/cera/docs/CERAWomenHous.htm>>.

<sup>61</sup> See e.g., Seafeld Apartments <<http://seafeldapartments.com/>>; Renters at Risk <<http://rentersatrisk.wordpress.com/>>; Emerald Terrace: <<http://members.shaw.ca/etresidents/>>.

housing.