
March 30, 2021

BULLETIN

RESIDENTIAL RENTAL TENURE ZONING BYLAW UPHeld BY BC SUPREME COURT

In reasons released March 30, 2021, indexed as *V.I.T. Estates Ltd. v. New Westminster (City)*, 2021 BCSC 573, Mr. Justice Saunders of the BC Supreme Court upheld a City Bylaw (the first of a kind) limiting the occupancy of the units in six residential buildings to “residential rental tenure”. The effect of the Bylaw is that, so long as those units were occupied as rental units prior to the passage of the Bylaw, they must maintain that form of occupancy pursuant to a tenancy agreement. In other words, they cannot be owner-occupied.

The corporate owners of the buildings in question argued that the residential rental tenure zoning power did not allow the City to apply this type of zoning to strata units, which they argued were protected by non-conforming tenure. Mr. Justice Saunders disagreed, finding that the statute was clear in authorizing the City to apply residential rental tenure zoning to strata units. Nothing in the statutory scheme, the Court found, was indicative of any special protection for rented strata units, as opposed to rented units in a non-stratified or “purpose-built rental” building.

This decision comes at a welcome time for local governments looking to preserve rental stock in their communities and brings some clarity to the authority in section 481.1 of the *Local Government Act* - the relatively new residential rental tenure zoning power.

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