

---

August 10, 2022

**BULLETIN**

---

### **BC SUPREME COURT QUASHES VANCOUVER RENT CONTROL BYLAW**

The BC Supreme Court recently considered the City of Vancouver’s pioneering attempt to impose rent controls between tenancies by bylaw in single room accommodations in the City. Council passed these rent control Bylaws as part of its efforts to improve housing affordability and accessibility within the City, especially for low-income tenants. Two property owners challenged the Bylaws by arguing that the City did not have jurisdiction to pass such a regulation, given the existence of the provincial *Residential Tenancy Act* (“RTA”) scheme.

The City argued that since compliance with both the RTA and the Bylaws was possible, and the RTA did not specifically regulate in relation to inter-tenancy rent controls, the Bylaws should be considered a valid exercise of the City’s ability to regulate in relation to business. Given that the courts recently applied this dual compliance standard to uphold the City of New Westminster’s bylaws regarding renovations of residential tenants, it might have been expected that this position would prevail. However, the Court found that there was a fundamental difference between section 10(2) of the *Community Charter*, which provides that a municipal bylaw is not inconsistent with another enactment if a person who complies with the bylaw does not, by this, contravene the other enactment, and section 272(1)(f) of the *Vancouver Charter*, which allows the City to regulate “every person required to be licensed under this Part, except to the extent that the person is subject to regulation by some other Statute”.

The Court held that due to the difference in wording of the governing statutes, the Bylaws should be assessed on a pith and substance analysis, and that their dominant purpose was rent control in the context of residential tenancies. Since this area is already subject to regulation by the Province under the RTA, the Court found that the City was prohibited from legislating in the same area using its business licensing power, even if it was possible to comply with both legislative schemes.

Given that other BC municipalities are subject to the *Community Charter*, the specific effect of this ruling is limited. However, this decision serves as a warning that the courts remain willing to engage in a close and sometimes narrow examination of the exercise of the powers of municipalities in contexts involving overlapping jurisdiction.

***Elizabeth Anderson***