

## **Shifting Sands**

### ***Landowner Transparency Act – More Taxes, Less Privacy***

*Shifting Sands is a series by [Claire Immega](#), lawyer at [Singleton Reynolds](#), reporting on legal and political issues that impact apartment building owners.*

In a recent [White Paper](#), the NDP government tabled a proposed piece of legislation called the *Landowner Transparency Act* ("Act"), which has a huge impact on the privacy interests of apartment building owners, as well as possible significant tax implications. Submissions to the government closed on September 19, 2018. Keep an eye out for the outcome of the submissions and for the inevitable legislation that ensues.

The proposed Act would, in effect, force individuals who own real estate through corporations, trusts, limited partnerships or other legal arrangements to disclose their beneficial interests to the government, which in turn would disclose that information on a publicly searchable database. Any member of the public would be able to, for a fee, search that database to learn the names and cities, provinces, or other countries of residence of all the people who hold at least 25% of the beneficial interest in any piece of real estate.

The Act also requires disclosure of any change to the beneficial owners (for example, through a share sale or the change in the beneficiaries of a bare trust).

The government says that the Act will help stop money laundering and tax evasion. However, it could also have huge impacts on the businesses of legitimate owners of residential rental real estate, and exposes building owners to privacy concerns.

#### **Privacy Issues**

The use of vehicles such as corporations, trusts, and limited partnership have facilitated anonymous ownership of land in British Columbia for the last 150 years. Many people consider their real estate investments to be a personal matter, similar to their bank account balances, and do not relish the idea of any member of the public, government, or media being able to search their property interests in an online database.

#### **Taxation Issues**

Currently, property transfer tax is only payable if the registered owner of real estate changes during a transfer. Experts agree, however, that the proposed Act is likely a precursor to the taxation of transfers of beneficial interests in land. At the present moment, a share sale, partnership unit sale, or sale through a bare trust does not trigger property transfer tax (although such transactions might incur other kinds of taxes – talk to your lawyer or tax advisors).

Mark Goodman of the Goodman Report says "We are concerned about additional taxes on residential real estate causing a cooling effect on the development of new rental housing and investment in existing rental stock in British Columbia, where rental housing is in already short supply."

In the current legal climate, apartment building owners should carefully monitor changes to existing laws and speak to their professional advisors about how to manage additional obligations imposed by new legislation and regulations.

Please feel free to contact Mark Goodman or Claire Immega of Singleton Reynolds discuss these issues.

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