Protecting the Rights of Student Renters

The 2018 BC Provincial Budget announcement committed $450 million towards student housing in B.C. This is an unprecedented step in addressing the immense housing shortage in B.C., and ensuring that students have access to affordable living accommodations. The Alma Mater Society of the University of British Columbia - Vancouver (AMS), Simon Fraser Student Society (SFSS), the University of Victoria Students’ Society (UVSS), and the Alliance of BC Students (ABCS), are pleased to see the government addressing one of the key issues affecting students in the province.

The Challenges and Gaps

The exemption of student housing from the BC Residential Tenancy Act (RTA) in 2002 left thousands of student tenants without rental rights. As a result, student housing contracts have become one-sided, lacking procedural fairness, and often ignore the rights of the tenant in favour of the institution. Student housing has become treated as university property, often overlooking the fact that they are also the homes of students living there. Examples of absent tenancy rights include the right to reasonable privacy in student residence, and the right to due process and an unbiased appeals process. These deficiencies are especially concerning in light of the significant power imbalance that currently exists between post-secondary institutions and its students - the institution holds ultimate control over the academic future and living arrangements of the students.

As this funding is allocated and dispersed to various B.C. post-secondary institutions for student housing capital projects, the province will see rapid urbanization on campuses. Currently there are approximately 14,200 students on waitlists across UBC, SFU, and UVic.¹ It is worth noting that the exponential growth of students seeking on-campus housing accommodations only increases as more builds are completed. For example, in 2013 UBC oversaw 8,200 beds with a waitlist of about 2,000 - 3,000 students.² Upon committing to create more student housing

¹ This is an estimate based on the number of applicants to UVic Student Housing against the number of beds available at UVic, and the cumulation of the waitlists at UBC and SFU.
² UBC Campus and Community Planning, Housing Action Plan 2: Student Housing.
spaces, UBC has delivered and now oversees about 11,000 beds by 2017. However, the UBC waitlist also grew into 6,200 students during the peak times. The rapid growth in demand for student housing will impose stress upon an institution’s operational capacity, and is indicative of the need for entrenched tenancy rights. Given that institutions with existing on-campus housing continue to face operational challenges, cases of mismanagement and abuse of student tenants will only continue to rise due to institutional shortcomings and inexperience. As such, addressing the absence of student tenancy rights is a time-sensitive issue.

**Approach**

Student Societies recognize that the RTA is not suitable to the nuanced housing structure run by post-secondary institutions, primarily because the RTA does not allow for the exclusive reservation of residences for students. Nevertheless, residents in student housing should still be afforded the same protections as their peers living off-campus or in market housing. Alternative action is therefore required to ensure equal protection under the law for students living in student housing.

The Alma Mater Society at UBC (AMS), in partnership with the University of Victoria Students Society (UVSS) and the Simon Fraser Student Society (SFSS), have developed nine recommendations to form the basis of a ministerial policy to protect student tenancy rights. The Alliance of BC Students (ABCS) has also extended their formal support. These organizations recommend the provincial government institute legal rights for those residing in student housing provided on behalf of academic institutions in B.C. By mandating a policy containing a set of minimum standards institutions must abide by, the government can align with its commitment to provide stronger rental protection for a shockingly marginalized population. These recommendations have the support of over 156,000 students residing in British Columbia who are eager to see change.

The nine recommendations for the minimum standards are designed to balance the need for student tenant rights with the administrative challenges that post-secondary institutions face as the operators of student housing. In principle, each recommendation is based on rights guaranteed by the RTA, and adapted to fit the unique structure and environment of student housing.

**This Student Housing Minimum Standards applies to:**

Living accommodation owned or operated, by an educational institution, or owned or operated on behalf of an education institution, and provided to that institution’s students or employees, as well as their families if applicable.
Recommendations of Minimum Standards for Institutional Housing:

1. **Residence contracts must explicitly list the rights of tenants, along with corresponding responsibilities of the tenant.**

   Residence contracts from major post-secondary institutions across British Columbia such as UBC and SFU do not list any explicit rights for students. The ACUHO-I best practices state “clear and thorough written terms between the resident and the institution that conveys mutual commitments”\(^3\) is a key ethical principle for college and university housing professionals.

   The University of Victoria’s 2016/2017 Residence contract currently lists 9 explicit rights and corresponding responsibilities. A brief example can be found below.

   - “You have the right to be safe here. You have the responsibility to conduct yourself in a way which doesn’t endanger yourself and others.
   - You have the right to expect fair and consistent service from Residence Services staff.
   - You have the responsibility to treat Residence Services staff with respect and to address any questions or inconsistencies through the appropriate channels.”\(^4\)

   We agree it is important for students to accept some responsibility for their experience in residence. However, it is equally important that post-secondary institutions recognize they have a responsibility to provide basic rights to student tenants who live in housing as landlords. Currently, there is an extreme emphasis on students to take responsibility (financial or otherwise) for anything that could happen in residence. Explicitly listed rights for students would distribute responsibilities reasonably and equitably between tenants and post-secondary institutions. The AMS, UVSS, SFSS, and ABCS believe that all students benefit from having clear, defined rights in their residence contracts. As such, we recommend the rights and corresponding responsibilities of students are explicitly listed in residence contracts.

2. **The residence contract must include an outline of a clear and specific process for students to report problems in residence.**

   While post-secondary institutions strive to promote healthy environments, problems inevitably arise in residence. As such, it is important students know exactly who they can report problems to and what to expect from the reporting process. Further, it should never be

\(^3\) ACUHO-I, *Standards and Ethical Principles for College and University Housing Professionals* (2015).

assumed this information is “currently is offered via both formal and informal mechanisms”.5 The relationship between a tenant and Residence Life staff can vary significantly based on their degree of involvement in the residence community. Even for residents who are heavily involved, current UBC, UVic, and SFU residence contracts do not outline a reporting process in situations where students experience conflict with Residence Advisors or other staff.

The AMS, UVSS, SFSS, and ABCS believe the outlay of a clear and specific process is in the best interest of all students. Accordingly, a neutral third party that students can report residence problems to, such as an Ombudsperson would be ideal. We recommend this process be outlined clearly in all residence contracts.

3. **Barring emergency or unforeseen circumstances, institutions must provide posted notice of entry at least 24 hours prior to said entry.** The notice must also include a window of time in which that entry will occur. That window of time can be no greater than 72 hours. Student Housing Administration may only enter rooms with less than 24 hours of notice in the event that there is an emergency, and entry is necessary to protect life and/or property.

Under Section 8 of the Canadian Charter of Rights and Freedoms, “everyone has the right to be secure against unreasonable search or seizure”6 An action is determined unreasonable on the basis that it violates the expectation of privacy that a reasonable individual would have. Therefore, all Canadians have the right to a reasonable expectation of privacy, with the expectation of privacy being highest in one’s home. For the tens of thousands of students who reside in on-campus student housing across BC, they are at home in their residence rooms.

Though rooms in residence are considered ‘home’ for students, they are not afforded the same right to a reasonable expectation of privacy. In the residence contracts of UBC, SFU and UVic, student housing reserves the right to enter any room at any time, for any reason—without notice. Though post-secondary institutions must be able to enter a student’s room in emergency situations such as a flood, fire, or serious medical emergency, this should not come at the expense of fundamental charter rights, which are promised to all Canadian citizens.

For this reason, we recommend that post-secondary institutions must provide posted notice of when a student can expect their room to be entered for maintenance or inspection purposes. We recommend a 24 - 72 hour time-frame because we recognize the wide range in

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5 UBC Student Housing & Hospitality Services, *Responses to AMS Contract Assessment* (2016).
student housing populations across campuses. What is possible for an on-campus residence of 1,000 students may not be possible with an on-campus population of 10,000 students.

The AMS, UVSS, SFSS, and ABCS believe that entry without notice should occur only in the case of emergency and entry is necessary to protect life or property. Therefore, we recommend that all residence contracts include ‘mandatory notice of entry’ provisions, including a 2-3 day window where maintenance workers will arrive.

4. Transfers between housing units are only permitted for reasons of safety, extended repairs, or as requested by a tenant. In the even that a room switch is initiated by the academic institution, the tenant should not be required to pay new residence or meal plan fees. This rule does not apply in cases where an individual’s conduct is the reason for the housing unit transfer.

In the majority of cases, when a student moves into a residence room, they do so with the expectation that they will live there for the duration of their contract. When the university decides to switch a student’s room for reasons of safety, or extended repairs such as renovations, this imposes major stress and inconvenience on students, regardless of the time of year or reason for the housing switch. Currently, UBC’s residence contract allows student housing to change accommodation type (residence area, floor, building, or different type of room or unit) for any reason, without notice.7

Housing contracts of UBC, SFU, and UVic require students living in residence to pay new residence or meal plan fees when undergoing a room switch. These costs are often more than the costs of their original unit, and contribute to unnecessary stress. Further, students must cover all necessary moving and storage costs out of pocket - even when the student did not want to move in the first place.

As such, the AMS, UVSS, SFSS, and ABCS recommend room switches are only done when absolutely necessary, such as reasons of safety, extended repairs, or as otherwise requested by a student. If a room switch is initiated by the university, the student should not be required to pay new residence or meal plan fees, and the cost of their current unit should be set as the maximum cost for the unit they are transferring into. However, we recognize that there are times where institutions need to transfer students to a different room as a result of their conduct. For example, a student may be transferred to a single unit if it becomes clear that the individual can no longer live with roommates. For this reason, we recommend that in cases where the room switch is as a result of an individual’s conduct, they are responsible for new residence plan or meal plan fees.

7 UBC SHHS, Residence Contract 2015/2016. One Term only and winter sessions (2015), s.1.09.
5. **All institutions must have an unbiased housing standards Appeals Process.**

The RTA affords protection and mediation for all tenants through the Residential Tenancy Board, which acts as a neutral third party. This ensures that both tenants and landlords receive fair and equal treatment throughout appeals and other processes. Unfortunately, the residents of student housing do not have access to an impartial decision maker, which means they do not have access to a fair appeals process.

For example, at UBC, “the Standards Appeal Officer is a SHHS senior administrator”. As an employee, this individual has a fiduciary responsibility to act in the best interests of UBC student housing. This renders the appeals officer unable to issue a fair appeal to any student because there is an inherent conflict of interest.

Given that residence standards are based off a community guidelines approach, the residence community should adjudicate appeals regarding residence conduct. The appeals process should involve a transparent committee group, comprised predominantly by students who live in residence with the option of adding faculty or staff. If a committee member has a conflict of interest, they can be removed from that particular hearing. It should be noted that UBC Okanagan and UVic already use student-led committees to appeal residence standards violations. For example, the UBCO Residence Standards Appeal Committee require that members have no relation to the student or the student housing administration. When resident security and safety is at risk, the appeals committee process can be expedited using a pre-designated university official, such as a Residence Life Manager.

6. **Institutionally initiated end of tenancy contract or eviction notices must be received at minimum with one month’s posted notice, regardless of the violation.** If a resident has not paid rent, the notice period is shortened to 10 days. The one month notice period can be waived by a pre-designated university official in situations where safety and wellbeing of residents is at risk. Even when the one month notice is waived, residents still have the right to appeal the eviction.

As mentioned above, vacating residence for any reason is an incredibly stressful process. In cases where a student is facing eviction, they also must worry about finding a new place to live in an extremely short period of time, further compounding the existing stress. Given the low vacancy rates across BC, new accommodations can be extremely difficult for students to find on a short timeline. The AMS, UVSS, SFSS and ABCS recommend that students must receive at minimum 1 month’s posted notice, regardless of the reason for eviction. We believe that one month is a reasonable time for students to find new accommodations, pack their things, and file an evictions appeal if they so choose.
Furthermore, we recommend there is a consistent standard applied to all evictions, documenting that a student has had at least three interactions with housing to discuss problematic behavior, and being given formal warnings. A resident may not be evicted if they have had less than three interactions with housing. Exceptions to this rule include cases where a resident has committed a criminal offence, such as theft, harassment, or assault, in which case one ‘interaction’ with housing is sufficient to warrant eviction.

The minimum notice period of one month may be waived in circumstances where resident safety and well-being is severely compromised. However, the offending resident must be moved into alternate housing provided by the educational institution for the 1 month period. This allows them a suitable amount of time to find a new accommodation, and appeal the decision if they choose.

7. The residence contract must outline what tenants can expect during a maintenance disruption, in addition to repair timelines. If residents believe that an outage has not been adequately addressed, they can file a complainant and request for compensation with the housing administration. If the institution does not approve of the above request, the decision can be appealed to the Appeals Committee.

In any residential building, maintenance and repairs may be required, which can inconvenience residents and result in outages of basic necessities. Examples include unfinished buildings subject to ongoing construction, a lack of hot water, a lack of laundry or waste disposal avenues, or no elevator access in a 16 storey building. Current UBC, SFU, and UVic residence contracts explicitly state no resident is entitled to compensation for any outage or deficiency. This is significant insofar that their counterparts living in market housing are entitled to compensation or special accommodations for the same issues. We recommend these institutions provide compensation in the case of significant inconvenience. We also recommend institutions disclose ongoing deficiencies in residence, such as significant construction projects, so residents can make an informed decision regarding which residence they may choose to move into.

The AMS, UVSS, SFSS, and ABCS recommend implementing or continuing the practice of submitting requests to housing. Moreover, we suggest this practice incorporate an appeals process. As such, any denied requests for compensation can be appealed to the housing standards appeals committee, in order to provide students with an unbiased and third party decision maker.

8. Rent increases imposed on continuing tenancies can be no more than that year’s inflation rate + 2%. Rent increases may only take place every 12 months.
Residents must receive three (3) whole month’s written notice of any rent increases. In the event of a proposed increase that is larger than the allowable rate, student housing administration must engage in student consultation, and submit a proposal to the BC Ministry of Advanced Education, Skills and Training. We recognize that rent increases must occasionally occur in order to continue to provide high and quality levels of service to students. However, we believe that rent increases should be strictly controlled and monitored for the benefit of students. UBC, SFU, and UVic residence contracts do not explicitly state how much rent will increase each year. Clearly stating these terms in a contract will provide transparency to students by informing the long-term financial commitment will be. By limiting the amounts and frequency of rent increases, we hope that housing costs exceed no more than 30% of the household income of a family or individual living in student housing.

Furthermore, we recommend that if a proposed rent increase that is larger than the allowable rate, institutions or housing providers must seek approval for this increase by the B.C. Ministry of Advanced Education, Skills and Training. Institutions must prove that they have exhausted other financing options, are in severe financial need of the additional revenue, and will run a deficit if they fail to increase rents. Rents should only be increased beyond the 2% tied to inflation if one of these conditions is satisfied. In the event that the increase that is larger than the allowable rate is approved by AEST, students will be given the option to terminate their contracts without penalty, within 30 days of the increase taking effect.

9. **Housing contracts must explicitly list a calendar date as to the start and the end of the tenancy agreement.** The contract end date must be at least 24 hours after the end of the official examination period as determined by the institution’s academic calendar. In the event that a student must stay past the contract end date, the University must provide explicit directions on how to temporarily extend the length of the contract.

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The UVic residence contract currently states that students must move out 24 hours after their last exam, where examination schedules are released mere weeks prior to the end of term and fluctuate based on courses the student is enrolled in. This rule imposes a harsh deadline on students, as many find it difficult to undertake the substantial task of packing up their rooms while simultaneously studying for their exams.

To ensure that no student is faced with such a task, the AMS, UVSS, ABCS, and SFSS recommend that universities list an explicit calendar date to indicate the start and end of the
tenancy agreement. This process is mutually beneficial, as the consistent timeline would also improve the operational efficiency of educational institutions during move out time.

Conclusions

Overall, these recommendations are designed to balance the need for student tenant rights with the administrative challenges that post-secondary institutions face as operators and landlords of student housing. In principle, each recommendation is based on rights guaranteed by the RTA, and adapted to fit the unique structure and environment of student housing. As the incredible student housing funding commitment is allocated over time to various B.C. institutions and colleges for student housing capital projects, BC will see rapid urbanization on campus grounds, and face exponential growth of students seeking on-campus housing accommodations, and eventually a large spike in night-time population. Given that even institutions with existing on-campus housing face significant operational challenges, these cases of mismanagement of student tenants will further rise based on institutional inexperience. As a result, addressing the absence of student tenancy rights is a time-sensitive issue, and it is important that all renters of on-campus student housing are afforded the same rights and protections that is given to renters across B.C.

The AMS, UVSS, SFSS, and ABCS recommend the BC Provincial Government to adopt the listed recommendations, and create a policy under the Ministry of Advanced Education, Skills and Training to protect student tenancy rights.