

Inside this issue:

The Election and Poverty	2
TAPS' New Outreach Legal Advocate	3
CPP-Disability Appeals	3
Tapas for TAPS—Thank You	4

ROOMER HAS IT: YOU'RE AN OCCUPANT

By Yuka Kurokawa

In Victoria's tight and increasingly unaffordable rental market, many people find that their only option is to move into a space in someone else's home. While TAPS is only able to help people who are tenants under the *Residential Tenancy Act (Act)*, and most people in these circumstances are not legally tenants, we do get a lot of questions about these types of rental situations. In the following dialogue, we explore some of the questions that come up.

I've been having a hard time finding an apartment in Victoria that I can afford. A

friend of mine has told me I can move into her apartment and rent her spare room. Does my friend need to get permission from her landlord or can I just move in?



Your friend's tenancy agreement might restrict the number of occupants that can reside in the unit, or it might state that prior permission from the landlord is required before an occupant can move in. Depending on the terms set out in the

tenancy agreement, her landlord may have the right to refuse permission. Therefore, it is a good idea for your friend to talk to her landlord about these plans and to get proper permission if it is required.

What happens if I move in and my friend has not got her landlord's permission?

Your friend may be in breach of her tenancy agreement, which could be grounds for her landlord to give her an eviction notice. If your friend gets an eviction notice and believes that she has not breached the terms

(See Occupant, page 5)

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THE ELECTION AND POVERTY

This most recent election has concluded with lasting uncertainty. It is difficult to write with a clear forecast as to how the results will impact people living in poverty and how we as an organization, as part of our community, can effect much needed and long overdue progress.

Despite the uncertainty, there is certainly some room for optimism in a change of government. The past 16 years have marked a steady erosion of our shared social safety net through stagnant

welfare and disability rates, a punishing culture of denial and inaccessibility within the Ministry of Social Development and Social Innovation, disinvestment in social housing, erosion of worker protections with the lowest minimum wage in Canada, and ineffective enforcement of residential tenancy laws that have disproportionately favored landlords while perpetuating housing insecurity and ultimately homelessness.

The two parties that have now agreed to work together to support a minority government have acknowledged that a poverty reduction plan is a good place to start undoing the last 16 years. We are the last province in Canada without one.

Both parties have committed to an immediate increase in welfare and disability rates. Both parties have committed to new investment in housing and the strengthening of tenant protections in the *Residential Tenancy Act*. Both parties have committed to re-imagining the province's approach to mental health and addictions. Both parties have committed to a substantial increase in the

TAX CLINIC

**At TAPS
Every Thursday
9 to 11
and
1 to 4
First come,
first served.**

**Note:
No tax clinic June 29.
Tax clinic closed for August.**

FEDERAL DISABILITY ADVOCACY PROJECT

TAPS' Federal Disability Advocacy Project can provide information on CPP-Disability, the Disability Tax Credit and the Registered Disability Savings Plan. If you would like to speak with an advocate about any of these benefits, or would like help applying, contact Caitlin or Daniel at TAPS at 250-361-3521.

minimum wage. While these commitments in and of themselves will not end poverty in BC, they represent an understanding that change is needed. This is a distinctly different approach from the one we have witnessed over the past many years.

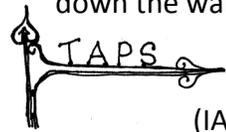
In order to effect the kind of change that is needed in this province, our small but mighty organization will have to renew and reinvigorate our work to address meaningful systemic change. Legislatures alone will not be the place to achieve this work. Whoever sits in power, we at TAPS will continue our work at the street level as we move toward a just province for all.

*Stephen Portman,
Advocacy Lead*

TAPS' NEW OUTREACH LEGAL ADVOCATE

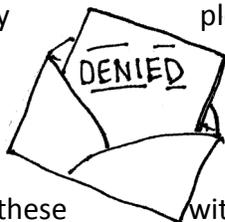
There's a new position at TAPS—Outreach Legal Advocate—and we welcome Khalela Bell to TAPS in that role. Khalela will be out in the community, helping people who are homeless break down the walls that make income assistance (IA) so hard to access for many of those who need it most. Khalela will help people apply for IA, Persons with Persistent Multiple Barriers, and Persons With Disabilities, as well as other benefits available through the Ministry of Social

Development and Social Innovation. Khalela brings with her a passion for working with people with diverse backgrounds, grassroots community organizing, and fighting poverty as a systemic issue. Growing up in Athens, Georgia, where a third of the population lives below the poverty line, she witnessed the impact of politics and stigma on the daily life and health of marginalized folks. Khalela looks forward to working with Victoria's vibrant, creative street community. ■



CPP-DISABILITY APPEALS

TAPS is once again providing appeal representation to individuals for both Canada Pension Plan Disability (CPP-D) and the Disability Tax Credit (DTC). The process for appealing a denial decision for either of these programs can be lengthy and complex; you don't have to go through it alone. If you want to have either your CPP-Disability or Disability



Tax Credit decision re-examined and would like free appeal representation, please contact our front desk at 250-361-3521. We thank the Action Committee of People with Disabilities (ACPD) for providing appeal representation on an ongoing basis to members of our community, particularly over the last several months.

TAPS STAFF

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Executive Director

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Outreach Legal Advocate

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Employment Standards
Legal Advocate

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Income Assistance Legal
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Taproot is published bi-monthly. Newsletter artists: Mitch Lindsay Joan Stiebel

BIG THANK YOU TO ALL THOSE WHO SUPPORTED TAPAS FOR TAPS!!!!

Thanks so much to all those who attended, sponsored, and contributed to TAPS' Annual Fundraiser, Tapas for TAPS! It was because of all of us, working TOGETHER, that we were able to make it such a special evening—raising more funds for TAPS than ever!!!! Thank you!!!!

We would like to extend a special shout out and expression of gratitude to Andrew Moffat and the staff at the Heron Rock Bistro, who for the sixth year in a row gave so generously to support our small but mighty organization. Thank you so much.

On behalf of TAPS' board, staff and volunteers, I want to thank the businesses on this page for their generous contributions.

*Kelly Newhook,
Executive Director*

Abigail's Hotel
Barb's Fish and Chips
Bean Around the World
Belfry Theatre
Bespoke Design
Bliss Boutique Spa
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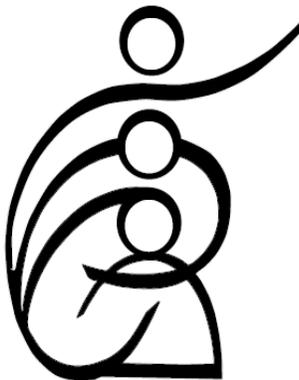
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V2V Vacations
Veneto Lounge
Victory Barber and Brand
Vintage West Wine Marketing Inc.
Who Did Your Hair?
Willows Gallery
Yalla
Zambri's

TAPS' SILENT WITNESS PROGRAM

Many of our clients find that appointments with the Ministry of Social Development and Social Innovation (MSDSI) can be stressful. Some find that having another person at their appointment lessens their stress and helps the appointment proceed smoothly. At TAPS, we have volunteer silent witnesses who can accompany individuals to ministry appointments. If you would like to be connected with a silent witness, call TAPS at 250-361-3521.

Check TAPS out on
facebook



(Cont'd from Occupant, page 1)

of her tenancy agreement, she can dispute the issue at a Residential Tenancy Branch dispute resolution hearing.

Can my friend's landlord take back permission for me to rent my friend's room once he or she has given permission and I have moved in?

No, the landlord cannot rescind permission once it is already given. However, your friend should note that the permission she has obtained may only apply to you, and she may have to get additional permissions if she wants to have anyone else move in.

If I do move in, will my friend be my landlord or will her landlord be my landlord?

If you move into your friend's apartment as an occupant, you do not have a landlord-tenant relationship with either your friend or your friend's landlord. You would not be considered a tenant (even if you have a written contract with your friend) and you would not have rights or responsibilities under the *Act*.

I've also seen some ads online where people are renting out their spare room. If the person I end up renting a room from is not a friend,

would I be considered a tenant then?

The same rules and procedures in respect to occupants apply whether the person you are renting from is a friend or someone unknown to you.

I've been looking at some other ads online where the person is renting out a room in their house or condo.

What happens if the person whose place I move into owns their residence? Would I have rights as a tenant in that case?

The *Act* excludes living arrangements where a person is renting a room and shares common facilities with the owner of the property. This means that if you move into a house and share bathroom or kitchen facilities with the owner of the house, you would be considered an occupant.

How is this situation different from someone who lives in a room in a rooming house?

The key factor is whether or not you share a bathroom or kitchen with the owner of the house or condo. When a number of people rent rooms in a single house and they each have separate tenancy agreements with the owner, and the owner does not live

(See Occupant, page 6)

BECOME A MONTHLY TAPS DONOR!

With your support, individuals and families living in poverty in our region will have access to critical legal advocacy and educational services. TAPS' services are unique in their design and delivery and offer knowledge, empowerment and, in many cases, a new sense of hope.

Select a monthly amount that's affordable to you, and TAPS will automatically deduct it from your checking account each month. You'll never have to write a check, buy a stamp or find an envelope again!

Monthly donors receive the following benefits:

- Updates on TAPS programs
- Annual tax receipt for all your donations during the year
- Taproot delivered to your e-mail.

See the monthly donor form on page 8 of this newsletter.

VOLUNTEER AT TAPS!

Come and volunteer on our busy front desk—
a great way to participate in the fight against poverty!

Call Heidi
at 250-361-3521



(Cont'd from *Occupant*, page 5)

with them, they are considered tenants in common (tenants who live together but are not bound by the same terms). When a number of people rent rooms in a single house and they *share* kitchen or bathroom facilities with the owner of the house, who lives with them, they are considered occupants (with no legal rights under the *Act*).

What happens if my friend wants me to move out? Does she have to give me an eviction notice?

The *Act* does not apply to your living situation at all, and therefore you are not

Check us out at
www.tapsbc.ca

entitled to a specific amount of warning time if your friend wants you to move, and your friend does not have to give you any explanation for why she wants you to move. This also means that you cannot apply for dispute resolution through the Residential Tenancy Branch. However, if your friend does ask you to move out, you could try negotiating with her to come up with a reasonable move-out plan that works for both of you.

What happens if I pay the rent and the next day my friend asks me to leave? Do I have the right to get my rent money back?

Again, as an occupant, you do not have protections under the *Act*. This means that you do not have any specific residential tenancy rights or obligations. Any issues or disagreements that you come across in relation to your living arrangement cannot be resolved through the Residential Tenancy Branch. It might be possible for you to resolve your issue about rent money through other civil processes. Please contact TAPS for relevant referrals.

(See *Occupant*, page 7)

PERSONS WITH DISABILITIES

TAPS has advocates who can help you apply for Person With Disabilities status (PWD) through the Ministry of Social Development and Social Innovation. TAPS can also help you with an appeal if you have applied and been denied. Call us at 250-361-3521 for more information. If you are at the appeal stage, be sure to get in touch with us as soon as possible after receiving your letter of denial, and tell the receptionist you are calling about a disability appeal.

Follow us on twitter
@tapsbc

(Cont'd from Occupant, Page 6)

If I find another place to live, do I need to give a certain amount of notice?

No, there is no legislation that requires an occupant to provide a certain amount of notice to vacate. However, if you find another place to live

you may want to discuss this with your friend in order to come up with a reasonable plan that works for both of you.

I am concerned about not having legal rights under the Act. Are there any other options in terms of living arrangements with my friend?

If you want to have residential tenancy rights, you might want to talk to your friend and her landlord about the possibility of becoming a co-tenant or a tenant in common. A *co-tenancy* is when your friend's tenancy agreement is formally amended so that you are included as a tenant. In a co-tenancy you and your friend become roommates under the same agreement, and you are jointly responsible for the same terms and conditions. In a co-tenancy you would be legally responsible for damages caused by your friend, and vice versa.

Tenants in common are roommates who have separate tenancy agreements with the same landlord. This means that you would have a tenancy agreement with the landlord that is separate from your friend, and that you are solely accountable for fulfilling the terms of the agreement. In this situation,

if you were unable to pay your rent one month, you might get an eviction notice, but your friend would not.

Is there anything else I should know?

There are sometimes unique situations where an arbitrator with the Residential Tenancy Branch will consider an original tenant living in the rental unit with a third party to be a sublet. In this situation, a landlord-tenant relationship would exist and the third party would have rights and responsibilities under the Act. For more information about this, please speak to a TAPS tenancy advocate.

While we do get a lot of questions from people who are occupants, TAPS advocates are only able to provide legal advice to you if you are considered a tenant under the *Residential Tenancy Act*. Any situation not covered by the Act is unfortunately outside of our realm of expertise. If you are an occupant and you are unsure of who you can talk to about your rights, please contact TAPS for referrals. ■

TAPS

ABOUT TAPS

TAPS was established and registered as a society in 1989. We provide legal information and representation on issues relating to income assistance, provincial and federal disability benefits, residential tenancy, and employment standards to people in the Greater Victoria area. We also provide public legal education in these areas and on broader poverty issues.

You can reach us between 9:30 am and 4:30 pm, Monday to Friday, by phone at 250-361-3521 or in person at #302 - 895 Fort Street. The office is closed daily for lunch between noon and 1:00 pm and is closed to walk-in clients on Monday and Friday mornings.

TAPS IS FUNDED BY



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Thank You for Supporting TAPS' Legal Advocacy!

The best way to support TAPS is by becoming a monthly donor! Please submit this form and your voided cheque to: Together Against Poverty Society, #302 - 895 Fort Street, Victoria, BC, V8W 1H7

Date: _____

Please debit my bank account (attach VOID cheque):

\$10 \$25 \$35 \$50 \$100 Other amount \$_____ (please specify)

I would like this donation debit to be processed through my account on the 25th of each month.

Signature: _____

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Address: _____ Postal Code: _____

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This donation is made on behalf of: an individual a business

A tax receipt for your total monthly donations will be sent to you at the end of the calendar year.