

## **Part 7 — Assignment and Sublease**

### **Definitions**

**42** In this Part:

"**assign**" means to assign a home owner's tenancy agreement to a purchaser under section 28 (1) of the Act [*assignment and subletting*];

"**home owner**" means an owner of a manufactured home who rents a manufactured home site from a park owner;

"**purchaser**" means a person who has purchased a home owner's manufactured home;

"**sublet**" means to sublet the manufactured home site on which the home owner's manufactured home is situated to a subtenant under section 28 (1) of the Act.

### **Providing tenancy agreement and rules**

**43** Before requesting the landlord's consent to an assignment or a sublease, a home owner must provide a copy of

(a) any part of the tenancy agreement that is in writing, and any rules in writing and applicable to the tenancy agreement, to a proposed purchaser, and

(b) any rules and any part of the tenancy agreement that are in writing and applicable to the sublease, to a proposed subtenant.

### **Written request for consent to assign or sublet**

**44** (1) Sections 45 [*response within 10 days*] and 46 [*deemed consent*] apply to a home owner's request for consent to assign or sublet only if the home owner requests the consent of the landlord of the park to assign or sublet in writing in the form approved by the director.

(2) The home owner must serve the request on the landlord

(a) in accordance with section 81 of the Act [*service of documents*], and

(b) within sufficient time prior to the effective date of the proposed assignment or sublease to allow the landlord to respond under section 45 (1) (c) [*response within 10 days*].

(3) The written request under subsection (1) must be signed by the home owner and must provide all of the following information:

(a) the name and address of the home owner making the request;

(b) the name and address of the landlord or landlord's agent;

(c) the proposed effective date for the assignment or sublease;

(d) the name of the proposed purchaser or subtenant;

(e) the current address of the proposed purchaser or subtenant, the length of time the proposed purchaser or subtenant has lived at that address and the name and telephone number of the landlord, if any, for that address;

- (f) if the length of time at the address provided under paragraph (e) is less than 2 years, the previous address of the proposed purchaser or subtenant, the length of time the proposed purchaser or subtenant has lived at that address and the name and telephone number of the landlord, if any, for that address;
- (g) the names and telephone numbers of two personal references for the proposed purchaser or subtenant;
- (h) the signed consent of the proposed purchaser or subtenant authorizing the landlord to contact the other landlords whose names are provided under paragraphs (e) and (f) and the personal references provided under paragraph (g) for the purpose of verifying or obtaining information relevant to the request to assign or sublet;
- (i) if the manufactured home site is in a park in which every manufactured home site is reserved for rental to a tenant who has reached 55 years of age or to 2 or more tenants, at least one of whom has reached 55 years of age, as set out in section 10 (2) (b) (i) of the *Human Rights Code* [permitted age requirements], the date of birth of the proposed purchaser or subtenant who meets the age requirement and proof of that person's age;
- (j) if the request is for consent to sublet, a statement that the home owner has complied with section 50 (2) [*effect of sublease*];
- (k) if the request is for consent to assign,
  - (i) the current monthly rent for the manufactured home site,
  - (ii) the effective date of the most recent legal rent increase,
  - (iii) the proposed purchaser's signed consent authorizing the landlord to obtain a credit report on the proposed purchaser,
  - (iv) the proposed purchaser's signed statement that he or she has been informed of and agrees to comply with
    - (A) the tenancy agreement, and
    - (B) the applicable rules,
  - (v) a copy of
    - (A) any part of the tenancy agreement that is in writing, and
    - (B) any of the rules that are in written form and that apply to the tenancy of the home owner, and
  - (vi) a copy of any outstanding orders or notices given under the Act respecting the manufactured home park site;
- (l) any additional information required by the form approved by the director referred to in subsection (1).

### **Response within 10 days**

- 45 (1)** The landlord of the park must provide the home owner with a written response to a request under section 44 [*written request*]
- (a) in the form approved by the director,
  - (b) in accordance with section 81 of the Act [*service of documents*], and
  - (c) promptly, and in any case so that the home owner receives the response in accordance with section 83 of the Act [*deemed receipt*] within 10 days of the landlord's receipt of the request.

(2) If a landlord withholds his or her consent for the home owner to assign or sublet, the landlord's response must indicate

(a) the grounds under section 48 [*grounds for withholding consent*] on which he or she is withholding consent, and

(b) the source and nature of the information that supports those grounds.

(3) The landlord and home owner may agree in writing to extend the time for response under paragraph (1) (c) to a specific date.

### **Deemed consent if no response within 10 days**

**46** (1) The landlord's consent to a request under section 44 [*written request for consent*] is conclusively deemed to have been given and the home owner may assign or sublet to the proposed purchaser or subtenant identified in the written request if the home owner has not received the landlord's response

(a) by the end of the 10th day after the day the landlord received the home owner's request, or

(b) if the time for response has been extended under section 45 (3) [*agreement to extend*] to a specific date, by that date.

(2) The home owner is entitled to consider that consent is deemed to have been given under paragraph (1) (a) if he or she can demonstrate that the request on the landlord was served in accordance with section 81 of the Act [*service of documents*].

### **Request to assign or sublet that does not comply**

**47** (1) If a home owner's request for consent to assign or sublet does not comply with section 44 [*written request*], the landlord of the park must do one of the following:

(a) consent to the request;

(b) notify the home owner in writing that consent to the request is withheld on one or more of the grounds under section 48 [*withholding consent*];

(c) advise the home owner promptly that only a request for consent that complies with section 44 [*written request for consent*] will be considered.

(2) If the landlord withholds consent under subsection (1) (b), the landlord must indicate

(a) the grounds under section 48 on which he or she is withholding consent, and

(b) the source and nature of the information that supports those grounds.

### **Grounds for withholding consent to a request**

**48** For the purposes of section 28 (2) of the Act [*landlord's consent*], the landlord of the park may withhold consent to assign or sublet only for one or more of the following reasons:

(a) the request is for consent to assign, and

(i) the landlord, on the basis of relevant information, has reasonable grounds to conclude that the purchaser is unlikely to comply with the tenancy agreement or applicable rules, or

- (ii) the landlord, on the basis of credit information, has reasonable grounds to conclude that the proposed purchaser is unable or unlikely to pay the rent;
  - (b) the request is for consent to sublet and the landlord, on the basis of relevant information, has reasonable grounds to conclude that the proposed sublease is likely to result in a breach of the home owner's obligations under the tenancy agreement and rules;
  - (c) the request is for consent to sublet and the tenant has agreed in the tenancy agreement not to sublet;
  - (d) there is not at least one proposed purchaser or subtenant in a proposed assignment or sublease who meets the age requirement in a park where every manufactured home site is reserved for rental to a tenant who has reached 55 years of age or to 2 or more tenants, at least one of whom has reached 55 years of age, as set out in section 10 (2) (b) (i) of the *Human Rights Code*[permitted age requirements];
  - (e) the proposed purchaser or subtenant does not intend to reside in the manufactured home and
    - (i) intends to use the manufactured home for business purposes, or
    - (ii) has purchased more than one manufactured home in the landlord's manufactured home park;
  - (f) the tenancy agreement is a monthly tenancy and the manufactured home has been removed from the manufactured home site or destroyed;
  - (g) the landlord, as a result of being unable to contact one or more references provided under section 44 (3) (e),  
(f) or (g) [*required information*], has insufficient information to make a decision about the request, if the landlord
    - (i) promptly advised the home owner of his or her inability to contact one or more of those references, and
    - (ii) made every reasonable effort to contact those references and any references provided by the home owner in place of those references;
  - (h) the home owner owes the landlord arrears of rent or an amount due under an order of the director;
  - (i) the manufactured home does not comply with housing, health and safety standards required by law.
- [am. B.C. Reg. 234/2006, s. 9.]

### **Effect of assignment**

**49** (1) When a home owner assigns

- (a) the purchaser becomes the tenant and assumes the rights and obligations under the Act and the tenancy agreement, and
  - (b) the tenancy agreement continues on the same terms.
- (2) After an assignment takes effect, the former homeowner
- (a) is not liable for any breach of, or obligation under, the Act or the tenancy agreement relating to the period after the assignment,
  - (b) continues to be liable for any breach of, or obligation under, the Act or the tenancy agreement relating to the period before the assignment, and

(c) may enforce his or her rights as a tenant under the Act or the tenancy agreement relating to the period before the assignment.