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ISSUE 147

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## The Death of a Tenant in BC (and What It Means)

LEILA GEGGIE HURST, TAPS STAFF LAWYER



The death of a loved one is always a complex and challenging time; in addition to grief, friends and family members are often confronted with many complicated legal and logistical tasks. If that loved one was a tenant, some of those questions may concern their tenancy.

Sometimes, landlords pressure family members to remove a deceased tenant's belongings and vacate the rental property immediately after a tenant's death. It's important to know that you don't necessarily have to rush this process. When a tenant passes away, their tenancy does not immediately come to an end. Instead, responsibility for the tenancy is transferred to the tenant's estate; the administrator or executor of that estate is then responsible for the obligations of the tenancy, including handling rent payments and ending the tenancy in accordance with the Residential Tenancy Act (RTA).

In this article, I'll address two common scenarios and frequently asked questions to help you better understand what happens in BC after a tenant passes away.

ARTICLE CONTINUES ON NEXT PAGE

## WHERE TO FIND US

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*The TAPS office is located on the traditional, ancestral, and unceded territory of the lək'wəḡən People known today as the Songhees and Esquimalt Nations.*

***Scenario 1: My father passed away two days ago. His landlord is now demanding that I remove all my father's belongings and vacate the apartment by the end of the week, or they'll throw out his things. Can they do that?***

No, generally a landlord cannot force you to empty a deceased tenant's apartment within such a short timeframe. Nor can they simply dispose of the tenant's belongings. The tenancy, and its corresponding legal rights and obligations, continue until legally ended by either the landlord or the executor/administrator of your father's estate. That includes RTA provisions preventing the landlord from removing the tenant's belongings unless they are abandoned, and provisions obligating the landlord to store the belongings for a prescribed period of time even if they have been abandoned. If you are the administrator or executor of your father's estate, you can discuss the tenancy's termination with the landlord and agree on a timeline that works for you.

***Scenario 2: My sister passed away last week, and I'm the executor of her estate. Can I move into her apartment?***

You cannot move into your sister's apartment without obtaining permission from the landlord, even if you are the executor of her estate and hold the responsibilities associated with her tenancy. As the executor, you have the option to request that the landlord assigns the tenancy to you. If the landlord agrees in writing, you can then take over the tenancy and move into the apartment. However, as executor you do not automatically gain the right to live in the apartment, even if you are responsible for the tenancy. It's crucial to follow the proper procedures and obtain the landlord's consent before occupying the rental unit.

***In summary...***

In both scenarios above, it's important to remember that tenant rights and responsibilities continue after a tenant's passing. The executor or administrator of the tenant's estate assumes these responsibilities, including the obligation to pay rent and adhere to the Residential Tenancy Act. While this sounds straightforward, in practice the intersection of tenancy and estate law can be confusing, with lots of grey areas. It can be particularly difficult to navigate if a loved one dies without a will, and their estate has no administrator or executor.

Regardless of the specific scenario, when a tenant dies landlords and family members alike are often unsure of how to proceed. If you need assistance or advice handling a tenancy when a loved one dies, you can contact TAPS. Dealing with a loved one's passing is already a difficult process, and understanding the tenancy's status – or having the support of an advocate in dealing with a landlord – can hopefully ease some stress during this challenging time.



**Taproot welcomes articles, stories, and poetry from readers.**

Submit your writing by email to [community@tapsbc.ca](mailto:community@tapsbc.ca),  
by mail to 828 View St. Victoria BC, V8W 1K2,  
or by dropping off your submission in person!

# In Solidarity with SRO Tenants

## The fight for vacancy control in Vancouver SROs continues

EMMA WHITE, VACANCY CONTROL CAMPAIGNER

As any BC renter can attest, finding affordable housing in today's market is about as easy as finding a needle in a haystack. For starters, BC only regulates rent increases within existing tenancies – if you leave, there's no limit on how much your landlord can increase the rent for the next person, which contributes to the extreme cost of rent and puts all tenants at increased risk of eviction. More and more, tenants and tenant advocates are seeing the devastating effects the state of our rental market is having on communities and are calling for meaningful change. Our campaign, *Vacancy Control Now*, is calling on the Province of BC to regulate between-tenancies rent increases to help preserve affordability and create more stability for tenants. But what do we do when the Province refuses to listen?



NOVEMBER 7 2023: SRO TENANTS AND TENANT ACTIVISTS GATHER ON STEPS OF THE COURTHOUSE FOR PRESS CONFERENCE

One example of tenant organizing efforts aimed at creating positive change on a local scale can be seen in Vancouver: in 2021, Vancouver City Council passed a bylaw that implemented vacancy control in Single Resident Occupancy (SRO) buildings. SRO housing is a type of rental where someone rents a room, often in a converted hotel, and shares a bathroom (and sometimes kitchen) with other tenants. The Downtown Eastside (DTES) in Vancouver is one place with a high percentage of folks who rely on SRO housing. But, in recent years, many SROs have been rebranded by landlords and developers as “luxury microsuites,” displacing SRO tenants and pricing them out of their community as a result. The initial success of the bylaw was regarded as a big accomplishment for tenants and activists in the DTES, including the DTES SRO Collaborative (SRO-C), who have been working to preserve affordable housing in the DTES for decades. Predictably, though, SRO owners don't like this bylaw, as it makes it much harder for them to make money, which is why in April 2022, two landlords challenged the bylaw in court. In August 2022, the BC Supreme Court (BCSC) ruled in favour of the landlords, quashing the bylaw.

On November 7th 2023, SRO tenants and interveners (including TAPS and allied Vancouver organizations, DTES SRO-C, CLAS, and TRAC) took to the Court of Appeal to try and win it back. In the hearing, one of the City's lawyers stated that they believe the BCSC decided not to uphold the bylaw at least in part due to a misunderstanding of its exact function: while the landlords' counsel argued that the City does not have the power to regulate rents because tenancies are provincially regulated, the *Residential Tenancy Act* only speaks to rent increases within existing tenancies, not between tenancies and therefore, the City maintains, no conflict exists.

It could be many months before we find out the final decision of this case but the outcome, if successful, has the potential to have positive ripple effects across the province. Not only would this help to further legitimize vacancy control as a valid policy response to housing inaffordability and tenant instability, but it would also create precedent for local governments to enact measures that can address their communities' most pressing needs. TAPS stands in solidarity with SRO tenants in Vancouver and will continue advocating for better conditions for all tenants and people experiencing poverty across BC.

**To learn more about our campaign, *Vacancy Control Now*, visit [tapsbc.ca/vcnw](https://tapsbc.ca/vcnw) or follow us on social media @tapsbc!**

# What's New at TAPS?

As we brace ourselves for the winter season, we have some key updates and information to share with you.

We are in the midst of a great many staffing changes. First and foremost, Emily Rogers Loveday, our incredible Director of Operations, has officially gone on parental leave. This will be the longest period of time in a decade that TAPS has been without Emily's wonderful advocacy and leadership skills. We wish Emily a joyful time away with her family. Antonia Mah, our most senior Tenant Advocate, has stepped in to support the management team as the interim Director of Operations in Emily's absence.

Sydney Lazina, our Front Desk Coordinator, has also departed for a parental leave. Over the last year, Sydney has been a huge support to our front desk volunteers, and staff. In only a short time, Sydney has helped us implement changes to make our volunteer recruitment practices more accessible, and racially-equitable, and this will continue to be an ongoing project for the organization. We wish Sydney and her family all the best during her time away. We are currently in the process of recruiting Sydney's replacement, who will be introduced in the next Taproot issue.

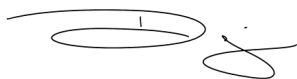
After a brief hiatus, our tax project is back up and running with a new Tax Coordinator, Siobhan Harvey. Siobhan joins us from her previous role as Scheduling Coordinator for the Victoria Cool Aid Society. Siobhan has several years' experience serving low-income folks in our downtown community, and we are excited about the skills she brings to this position. We know our tax project will be in good hands come the next tax season.

We are also thrilled to report that our new TAPS Nanaimo office is furnished, has functional internet, and will soon be ready for in-person client appointments. The Nanaimo office currently consists of Don McConnell, a part-time Disability Advocate, and Harriet Manson, a part-time Income Assistance Advocate, along with Kalila Wilkinson our supervising lawyer and Director of Nanaimo Operations. We are recruiting a full-time Tenant Advocate to join the Nanaimo team and plan to open for new tenancy intakes in the very near future.

TAPS is undeniably enjoying another season of growth. Not only are we getting our Nanaimo operations off the ground, but our Victoria office gained a tenancy team member in September. This means that between both Victoria and Nanaimo, we will have four permanent, full-time advocates working on our tenancy team, in addition to articling and practicum students who join us throughout the year. We recognize that BC is facing a housing crisis and our tenant advocates provide essential services to help prevent evictions and ensure tenants can exercise their rights. As the largest provider of anti-poverty advocacy on the Island, it is an honour to expand our services in this area.

We look forward to a meaningful new year as we continue to advocate for social and economic justice. Thank you for being an integral part of our TAPS community!

Until next year,



DOUGLAS KING  
EXECUTIVE DIRECTOR



ANTONIA MAH  
INTERIM DIRECTOR OF OPERATIONS



# Getting Ready for Tax Season

SIOBHÁN HARVEY, TAX PROGRAM COORDINATOR

Tax season is almost upon us! Does filing your personal income taxes feel overwhelming? The skilled volunteers of TAPS' Volunteer Tax Project are here to help. We reached out to the coordinator of the tax program for a quick Q & A to answer some common questions:

## **Why should I file my taxes?**

Filing your taxes is the easiest way to access income-tested supports like the GST credit, the B.C. Low Income Climate Action Tax Credit, the Child Tax Benefit, the Guaranteed Income Supplement (GIS) for seniors, and much more. Filing your taxes also gives you a way to prove your income, which can help you access subsidizing housing, childcare subsidy, and other community programs such as the LIFE pass. You might also be entitled to a tax refund or have uncashed GST cheques waiting for you!

## **How can TAPS help me with my taxes?**

We are happy to offer free income tax preparation services for up to the last 4 years of taxes (2023, 2022, 2021, 2020) for anyone who has a simple tax return and a modest income!

## **What is a "simple" tax return, and what kind of income is considered "modest"?**

Your tax return is simple UNLESS you fall under any of the following categories: self-employed; have business or rental income and expenses; have capital gains or losses; have filed for bankruptcy; or are completing a tax return for a deceased person. A modest annual income is defined by CRA as one which is up to \$35,000 for a single person, or \$45,000 for couples and single parents (add \$2,500 per dependent).

## **When can I file my 2023 taxes with TAPS?**

TAPS is accepting tax packages starting early March! Your T slips should be available by the end of February, so keep your eyes on the mailbox or online CRA account. No T Slips? Come see us, we can help!

## **Do I need an appointment to file my taxes?**

You don't need an appointment as our tax services are available by drop off only. Beginning in early March, you can stop by our office at 828 View Street during open hours Mon/Tues or Thurs/Fri between 9:30-12:00 and 1:00-4:00. During tax season (February-May) our goal is to have your taxes filed within 2-3 weeks of drop off.

## **I need more than 4 years of taxes filed; can you help me?**

TAPS is happy to help you file up to ten years of taxes outside of tax season! Come back in June and ask how we can help you file taxes for 2014-2019.

## **I can't make it into the office, can you help me?**

Thanks to our partnership with Disability Alliance BC's Tax AID program, TAPS is able to offer extra supports for individuals with disabilities who are receiving PWD or PPMB benefits. If you need extra support to get your taxes filed, please contact us at [tax@tapsbc.ca](mailto:tax@tapsbc.ca) or call our front desk at 250-361-3521.

## New Staff Spotlight



**Siobhán**  
(they/she)

TAX COORDINATOR

### **Where did you grow up?**

Comox, BC

### **One album you'll never get sick of?**

The Mountain Goats' *Tallahassee*

### **What are you watching right now?**

True Blood

### **Best part about your new job?**

I really like hearing from people when they get unexpected money from the CRA that will help them out. The CRA doesn't make it super obvious when people will get money back and it's always nice to see.

# Put Your Trust in a TFSA

CAITLIN WRIGHT, INCOME ASSISTANCE LEGAL ADVOCATE

In our last issue of Taproot, we discussed what can happen when a person receiving provincial disability benefits (PWD) from the Ministry of Social Development and Poverty Reduction (“the Ministry”) receives an inheritance. If a person on PWD is at-risk of being over their \$100,000 asset limit, using a trust or Registered Disability Savings Plan (RDSP) remain great options to transfer excess funds and maintain your ongoing PWD benefits. However, the reality of accessing a trust or RDSP is not as easy as it sounds.

First, in order to open an RDSP at a participating bank you must be approved for the Disability Tax Credit, which requires a medical professional to fill out a lengthy application form. Given B.C.'s massive shortfall of doctors and other health professionals, this could mean long wait-times for folks to find someone willing and able to fill out the application, as well as waiting up to 12 weeks for Canada Revenue Services to make their decision.

Creating a trust, on the other hand, often requires hiring legal representation with associated costs, which may not always be worth it if your excess assets are only minimally (\$10,000 or less) over the asset limit.

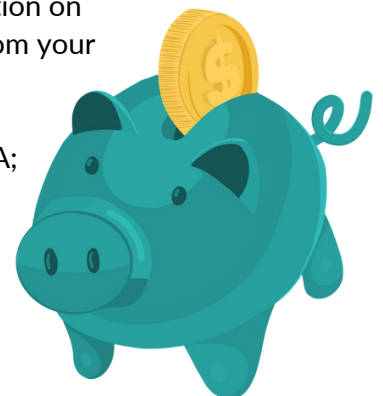
*Is there another option available to hold your excess assets and safeguard your PWD benefits, that would bypass a lengthy DTC application and adjudication process, or complicated and potentially costly legal representation to make a trust?*

Here enters the **Tax-Free Savings Account (TFSA)**. Over a decade ago, former TAPS legal advocate Stephen Portman worked alongside a Victoria lawyer, and discovered that certain TFSA accounts also held a declaration of trust, and importantly, that the Ministry recognized these TFSA's as a non-discretionary trust for the purposes of s. 12 of the Employment and Assistance for Persons with Disabilities Regulation (“Regs”). Then, as now, both Vancity and RBC offered a TFSA governed by a declaration of trust – it's possible that more institutions may now also offer these kinds of TFSA's, however it is best to check definitively with the institution in question. There are specific annual and potential cumulative TFSA contribution room limits to be aware of, so it's important to work with your financial institution to determine these parameters, and if a TFSA non-discretionary trust is the right fit for your excess assets.

The primary benefits to using a TFSA non-discretionary trust are that it shouldn't require costly legal representation and can be created with the financial institution directly, it may already be someone you have access to, and wouldn't require you to be eligible for the DTC tax credit. Under EAPWD Regs, a non-discretionary trust still allows the PWD client (as the trust's beneficiary) to have some decision-making power over disbursements of funds from the trust, and will exempt lifetime capital contributions up to \$200,000.

As with any other type of trust or RDSP, a TAPS Income Assistance advocate can assist you with reporting your TFSA non-discretionary trust to the Ministry, as well as provide more information on what items or services trust money can be spent on, without causing deductions from your PWD benefits.

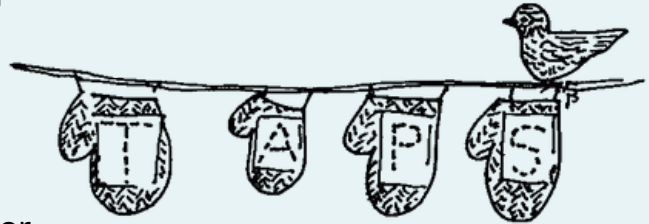
There are annual contribution limits to how much a person can contribute to a TFSA; if you are using a TFSA that you already have and made prior contributions to, first confirm that it's governed by a declaration of trust, then determine your annual contribution limit to make sure that there's enough room to transfer your excess assets.



## About TAPS

Together Against Poverty Society (TAPS) is the largest anti-poverty organization on Vancouver Island. Established in 1989, TAPS is a recognized leader and resource for citizens, community groups, and social agencies attempting to reduce poverty, serving over 7,000 residents of Greater Victoria, adjacent municipalities, and the Southern Gulf Islands each year... and we still cannot meet the needs of all who approach us.

At TAPS, we believe that the causes of poverty are in the social, economic and political institutions of our society – not the failings of the individual. Through legal advocacy and public education, we have a positive impact on people’s lives in ways that honour and promote human rights, justice, and a healthy, sustainable community. TAPS is a non-profit society whose membership is open to individuals or groups concerned with the preservation of civil society, social justice, the eradication of poverty, as well as the continuing moral progress of those ideals.



### become a DONOR

The simplest way to support TAPS with a financial donation is online at: [www.tapsbc.ca/donate](http://www.tapsbc.ca/donate)

Want your contribution to go farther? Consider becoming a **monthly donor!**

Physical donations can be mailed to or dropped off at:  
**828 View St.**

**Victoria BC, V8W 1K2**

If you'd like a charitable tax receipt, be sure to include your name, contact information, and mailing address!

### become a MEMBER

Please consider becoming a member of our organization to support the important work we do in the fight against poverty.

TAPS members can vote at our AGM and receive updates on our work throughout the year. There is no cost to membership.

To fill out a membership form, visit: [www.tapsbc.ca/taps-memership](http://www.tapsbc.ca/taps-memership) or swing by our office!

## OUR FUNDERS:



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