



APPENDIX A(2)

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January 25, 2001

Councillor Michael Walker
Toronto City Hall
100 Queen Street West, Suite B26
Toronto, ON
M5H 2N2

RECEIVED

APR 04 2001

Dear Councillor Walker:

Re: Provincial legislation to roll back residential rents

You have asked for an opinion as to whether Provincial legislation to initiate a Province-wide or City-wide rent roll back would be legal and within the scope of Provincial powers.

The courts have considered the issue of whether the Province has the power to regulate residential rents on numerous occasions. However, there has been only one case, *A & L Investments Ltd. v. Ontario* ("A & L") in which the court addresses the issue of whether the Province's power to regulate residential rents includes the power to reduce rents. In that case, the Ontario Court of Appeal was considering a challenge to the *Residential Rent Regulation Amendment Act, 1991*, which retroactively invalidated rent increases, and had the effect of reducing the rents for the affected units.

In *A & L*, the Court of Appeal concluded that the reduction of rents was a valid exercise of provincial power. In reaching their conclusion, the court paid particular consideration to the issue of whether the rent reduction amounted to an expropriation of the landlord's property. On that issue, the court stated:

"...while the 1991 Act voids orders obtained by landlords and in that sense takes their property, that property is not transferred to the tenants. At most, the legislation creates economic advantages for tenants. The 1991 Act does not effect an expropriation but rather regulates in a way that affects both landlords and their tenants. The fact that the effect on landlords is said to be significant and, indeed, unusual in its retroactivity, cannot turn the legislation into an act of expropriation."

Further evidence of the Province's power to reduce rents may be found in the *Rent Control Act, 1992* (the "RCA"). The RCA, in effect from August 10, 1992 to June 17, 1998, provided for rent reductions where the landlord failed to adequately maintain the unit or common areas. The rent could also be reduced if the landlord's cost of operating the unit decreased, or if the landlord reduced or discontinued services and facilities provided to the

tenant. Under the *RCA*, the rent of a rental unit could be permanently reduced, or reduced for a specified period of time. The rent for the rental unit could also be frozen indefinitely, pending repairs to be completed by the landlord, or for a specific period of time, usually as a sanction for a contravention of the legislation.

Finally, the current rent regulation legislation, the *Tenant Protection Act, 1997* provides for an automatic rent reduction for the tenant where the landlord's municipal taxes are reduced by more than 2.5%.

In conclusion, as evidenced by the examples outlined above, the power to enact legislation to initiate a rent roll back is within the scope of Provincial powers.

I hope this information is helpful. If you have any further questions regarding this issue, please contact James Gorham at 392-8864.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Bench', written in a cursive style.

Mary Ellen Bench
Director, Municipal Law



CITY CLERK

COMMUNITY SERVICES COMMITTEE

REPORT No. 7

For Consideration by
The Council of the City of Toronto
on July 24, 2001

Clause		Page
①	<i>Hotel</i> Provincial Legislation for "Rent Roll Back"	1
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7/24/01 5:48:34 PM "Comm. Serv. 7(1) - rent roll back - clause as amended"
30 yea+8 nay, 2/3 maj, quorum

YES Altobello
YES Ashton
YES Augimeri
YES Berardinetti
YES Bussin
YES Cho
YES Chow
YES Di Giorgio
YES Fillion
YES Flint
YES Hall
YES Johnston
YES Jones
YES KorwinKuczynski
YES Layton
YES Li Preti
YES Lindsay Luby
YES Mihevc
YES Minnan-Wong
YES Moscoe
YES Nunziata
YES Pantalone
YES Pitfield
YES Prue
YES Rae
YES Shaw
YES Silva
YES Soknacki
YES Sutherland
YES Walker
NO Duguid
NO Feldman
NO Ford
NO Holyday
NO Kelly
NO Milczyn
NO Moeser
NO Ootes [Chair]