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regarding sued Richmond lessees and the need for B.C. legislation

The courts have essentially found that a 99-year lease confers benefits to lessees in a way that shorter-term leases do not, while the lessor does not see tangible benefit (despite that landlords earned full freehold value for the leases when they were sold in the 1970s).

But not yet addressed by the courts is the diminishing value of 99-year leases starting around the 60 year mark of the lease. In say, 30 years, when landlords seek to recover large-scale capital repairs to their buildings, courts will be confronted with a new issue: whether the landlords are unjustly enriched by charging all the costs of capital repairs to lessees since the landlords benefit by an effectively new building paid for by lessees which can profitably be resold, while lessees hold an asset worth less than the value of the costs charged back to them.

Current litigation involves leases that occupy the grey mid-term of the leases as courts interpret them in favour of landlords. That should change in coming decades. This cross-over of relative benefits is something that legislation CAN and SHOULD address before future lessees engage again in costly litigation. One simple legislative option is that when 20 years remain on these leases, they are become subject to the Residential Tenancy Act.

Whatever the case, our legislators ought soon to recognize the manner in which these leases will become profoundly unfair to leaseholders as they pass the cross-over point in relative benefits. In the meantime basic and simple fixes to address power imbalances include requiring landlords to detailed disclosure of costs, outlawing landlords from recovering litigation costs from lessees win or lose, and requiring landlords to work with leasehold representative organizations.

~Hugh Trenchard