



will be required by foreign authorities. If the child is travelling with one parent, the consent letter authorizing travel must be signed and dated by the other parent. If the child is travelling alone or without either parent, the consent letter authorizing travel must be signed and dated by both parents.

The consent letter should be specific to each trip and include the destination, travel dates, and contact information for the consenting parent(s). A comprehensive sample letter is provided for on the Passports Canada website. A consent letter could be required even if custody has been awarded to the parent accompanying the child, but visitation or access rights have been granted to the non-custodial parent. In the case of divorce or separation, a copy of the divorce, separation or custody/access order could be requested by foreign or domestic officials. If the child is travelling with a legal guardian, a copy of the court order granting guardianship could also be requested by officials.

The parental signature on the consent letter must be witnessed. Although anyone can witness the letters, it is prudent to have the letter certified, stamped or sealed by an official who has the authority to administer an oath or solemn declaration, such as a commissioner of oaths, notary public, lawyer, etc. This way, the validity of the letter will not be questioned. A parent requesting such an official to witness their signature will have to produce sufficient proof that he/she is the individual who he/she claims to be. It is up to the official to decide what proof is adequate, so make sure you ask prior to attending for the witnessing.

In an abundance of caution, contact the representatives of the country or countries to be visited to make sure that all information regarding specific entry requirements are understood. Specific entry requirements are the sole prerogative of each country. To avoid disappointment, educate yourself prior to the departure of your child. Contacting the embassy or consulate of the country or countries the child will be visiting prior to departure is always a good idea. Another great source of information pertaining to destinations is the transportation company through which travel has been organized. Such companies include airlines, trains, buses, ferries, etc. and can often provide information relating to additional policies that might be in place.

Being prepared for each trip abroad will enhance the travel experience and reduce the risk to your child. Make sure that you spend some time getting to know the destination(s) and travel requirements before your child leaves to avoid disappointment. Bon Voyage!

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*McGregor Stillman LLP is a general law firm formed in 1993 with emphasis on Civil Litigation, Corporate and Commercial matters, Real Estate, and Wills and Estates and Family Law. The firm represents clients throughout Alberta, and has also represented clients from British Columbia, Saskatchewan, Manitoba, Yukon, Northwest Territories, Ontario, Quebec and various parts of the United States.*

*The firm has a well established network of agents in Canada, including Vancouver, Vancouver Island, Calgary, Regina, Saskatoon, Winnipeg, Toronto and Montreal. McGregor Stillman LLP also has established affiliations with various law firms throughout the United States and Great Britain.*

### “COMMON SENSE SOLUTIONS” ®

*This newsletter contains general information only. It may not apply to your specific situation depending on the facts. The information herein is to be used as a guide only, and not as a specific legal interpretation.*



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## LEGALEye

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SUMMER, 2007

Presenting Legal News, Views and Updates from  
**McGregor Stillman LLP**  
Barristers & Solicitors

### EDITOR'S NOTE

Should you have any questions, concerns or suggestions for future articles please contact Greg Bentz at 484-4445 ext. 3630, or contact Greg at gbentz@mcgregorstillman.com.

### HEADS UP

**Heads Up is a column which appears in each issue of the McGregor Stillman Legaleye, highlighting new or upcoming legislation and legal issues in the Province of Alberta.**

### Helpful Relief? Amendments to Landlord-Tenant Legislation in Alberta

By Samantha Brodersen

Alberta is undoubtedly experiencing a significant economic boom. However, the results of our red-hot economy have not all been constructive. Alberta's overwhelming prosperity has led to a vast increase in new residents and corresponding demand for available housing. This has put a strain on the available housing supply across the province, causing significant increases in rent and housing prices. The financial repercussions faced by tenants have resulted in a demand to the Alberta Government for relief.

The Alberta Government responded by introducing amendments to the Residential Tenancies Act, S.A. 2004, c. R-17.1 and Mobile Home Sites Tenancies Act, R.S.A. 2000, c. M-20 in the Legislature on May 2, 2007 as Bill 34. Bill 34, now the Tenancies Statutes Amendment Act, 2007 received Royal Assent on June 1, 2007 and is retroactively effective as of April 24, 2007, when the Government announced its intention to revise landlord tenant legislation.

The summary of the noteworthy amendments are as follows:

- Landlords are limited to one increase in rent per year. This

applies to both periodic and fixed term tenancies. Three months notice will still be required before increasing rent on periodic tenancies (with six months notice required for mobile home site tenants).

- Landlords will also need to provide one years notice before ending a periodic tenancy for the purpose of converting a rental unit to a condominium or to undertake major renovations to a rental unit. In addition, no rent increases will be allowed during this one-year period. One years notice continues to be required for converting a mobile home site to a condominium unit or for other uses.

- Landlords are also liable for fines up to \$5,000 per tenant if any notice to increase rent or end a tenancy does not comply with the legislation. Further, such increases or end of tenancies shall be declared void.

Although the amendments intend to alleviate some financial stress and hardship faced by tenants in Alberta, it is questionable how effective they actually are. Limiting rent increases to once per year is a start; however, there has been no limit implemented as to the amount of the yearly increase. Therefore, landlords may be tempted to make the most out of their one increase for

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the year by implementing a significant increase to cover potential increases in market rates later in the year. In addition, with the vacancy percentage in Alberta being extremely low, one years notice for ending tenancy or converting a rental unit may not serve helpful as it may remain very difficult to find alternative accommodation within the notice period.

Therefore, despite the warranted attempts by the Alberta Government to alleviate the financial repercussions of a booming economy and increase in demand for housing felt by tenants in Alberta, tenants will most likely still experience the brunt of such repercussions and for the most part simply have to “grin and bear it”.

**FIRM NOTES**

Greg Bentz was admitted to the partnership on January 1, 2007.

Geoffrey Coombs joined the firm as an associate on February 1, 2007.

Elizabeth Caines, our articling student, will be admitted to the Alberta Bar on August 3, 2007 and has accepted a position as an associate with our firm.

Samantha Brodersen also joined our firm as an articling student on June 4, 2007.

Kimberley Oakey joined our real estate department as a legal assistant in January of this year.

Cathy McElroy has moved from our accounting department to join our real estate department as a legal assistant.

Sarah Veitch jointed us as an assistant in our accounting department in May of this year.

Danielle Borgia is working with us as a clerk during the summer and will be taking the legal assistant course at Grant MacEwan Community College commencing in September 2007.

Mark Stillman was re-appointed to the Audit Committee of the Law Society of Alberta for the upcoming year.

We are please to announce McGregor Stillman’s 3rd Annual Superbowl Bowling Extravaganza taking place on October 26, 2007.

**CAUSES CELEBRES**

*Double NN Movers Ltd. v. Edmonton (City) [2007] 1 S.C.R. 116*  
By: Geoff W. Coombs

A recent decision of the Supreme Court of Canada has shed new light on the obligations that an owner has when putting a contract out for bid.

When an owner asks for bids, a contract is formed between the owner and every contractor who bids on the work (the “Bidding Contract”). The owner sets out a number of express terms in the tender documents particularly what constitutes a compliant bid, but there are also a number of implied terms to this contract. One such term is that the owner will only accept a compliant bid. Another is that the owner will treat all bids fairly and equally. Once the bidding is closed and the bids are evaluated a second contract is awarded to the successful bidder (the “Main Contract”) and once this Main Contract is awarded the Bidding Contract with all the unsuccessful bidders comes to an end.

In January of this year the Supreme Court of Canada in Double NN Movers Ltd. ruled in a majority decision that the evaluation duty owed to the bidders by the owner does not include the owner to investigate the accuracy of the bid information submitted by each bidder. In this case, the City of Edmonton (the “City”) asked for tenders in the early ‘80s. The Bidding Contract stipulated that certain equipment used in the project had to be 1980 models or newer and the equipment had to be identified by the City licence registration number; failure to comply with the tender requirements may invalidate the bid and that the City reserved the right to reject any and all tenders; or the City had the right to “waive any informality”.

The successful bidder was Sureway Construction (“Sureway”). But in its bid, Sureway had listed a piece of equipment as “1977 or 1980”. Nor did it provide information regarding the equipment’s licence registration numbers. Notwithstanding this deviation from the Bidding Contract, the City awarded the Main Contract to Sureway but insisted on compliance with the 1980 model requirement. Sureway agreed to provide such equipment but in reality supplied a 1979 unit. The City argued that it “waived the informality” compliance deviation.

Double NN a rival to Sureway and an unsuccessful bidder, was aware of and had informed the City that Sureway did not own 1980 or new models but the City did not investigate this issue prior to awarding the Main Contract.

Double NN sued the City for the profits it would have realized had it been awarded the Main Contract. Double NN claimed that the City breached its duties under the Bidding Contract by permitting Sureway to supply equipment that was older than 1980 and by waiving a fundamental term of the Main Contract.



The Supreme Court of Canada (the “Court”) dismissed the final appeal of Double NN, finding that even though the City had entered into a Bidding Contract with Double NN, the City did not breach any obligations.

The Court found that the City’s obligation to accept only compliant bids did not go so far as to require the City to investigate the accuracy and legitimacy of the bid details at the bid evaluation stage. The Court also noted that a condition of tender entitled the city to waive any informality in a bid. The Court said that it would not materially affect the price or performance of the Main Contract. In this case, the Court determined that it would have been obvious to any contractor bidding on the project that the listing of licence numbers was not an essential term of the Bidding Contract and was therefore was a term capable of being waived by the City.

Ultimately, the Court found that the conduct that Double NN complained of was conduct which occurred after the award of the Main Contract. Where an owner undertakes a fair evaluation and enters into a Main Contract on the terms set out in the Bidding Contract, and it is fully performed, then any obligations on the part of the owner to the unsuccessful bidders have been discharged. The Main Contract is a distinct contract to which the unsuccessful bidders are not privy and the law of contracts did not permit Double NN to require the cancellation of the Main Contract in the name of preserving the integrity of a bidding process.

The Court held that allegations raised by rival bidders do not compel owners to investigate the information provided in the bids and that such a requirement would encourage unwarranted and unfair attacks by rival bidders and invite unequal treatment of bidders by owners. This would frustrate, rather than enhance the integrity of the bidding process.

**AS WE SEE IT**

*What you need to know for travelling with children*  
By Elizabeth M. Caines

Travelling abroad is a complex matter that often requires careful planning and preparation. Travelling abroad with children can cause further complications and necessitates additional planning. Great efforts are being made inside and outside of Canada to locate missing children and decrease the risk of child abduction. In support of this effort, all children are now required to carry a passport and, in many cases, additional supporting documentation. For the purpose of international travel, it is important to note that any person under the age of 18 could be considered a child.

Foreign officials and transportation companies are vigilant concerning documentation for children crossing international borders. Whether you have a child who is travelling alone or in the company of a parent, it is imperative that the proper identification is available. This includes any documents that could be required by the authorities of the destination country or countries, and by Canadian authorities upon return. A good starting point is to gather the documents currently listed on the Passports Canada website, including:

- Birth Certificate showing the names of both parents;
- Citizenship cards;
- Landed immigrant records and certificates of Indian status;
- All legal documents pertaining to custody;
- A copy of any separation agreement or divorce order;
- A parental consent order;
- A death certificate of a deceased parent.

The most common questions we receive with respect to travelling with children surround situations in which parents are separated or divorced. In situations in which the child will be travelling alone or with one parent, all legal documents pertaining to custody should be available should you, or your child, be questioned. For example, if a divorce has been granted, make sure that a copy of the divorce judgment is be carried during any international travel.

The Department of Foreign Affairs and International Trade reports that children are most vulnerable to abduction when the relationship between their parents is broken or troubled. Further, this vulnerability increases if one parent has close family with ties to other countries. If there is a possibility that a custody/ access dispute will arise while your child is travelling alone or with a parent or guardian, it is strongly recommended that you seek legal counsel prior to the child’s departure from Canada. It is imperative that you satisfy yourself of your status, and the status of your child, in your destination country because the child custody/access arrangements that you have in Canada may not be recognized in another country. In many cases, abduction or custody issues arise when the child is prevented from returning to Canada. For example, in some countries, children must obtain the permission of their father and women must obtain the permission of their husbands in order to travel. Acquiring a thorough knowledge of the laws relating to children and women is of the utmost importance prior to making final travel arrangements.

In addition, it is strongly recommended that children travelling alone, or with one parent carry a consent letter. This is a document that proves the child has the permission of the absent parent(s) or guardian(s) to travel. In many cases, such a letter