

Class-Action Lawsuit Challenges BC Transfer Tax on Foreign Buyers

In [prior blog posts](#), we reported that the British Columbia government had imposed a 15% transfer tax on residential real estate purchases by foreign nationals in the Greater Vancouver Area, and that this tax had resulted in a notable decrease in purchases by foreign nationals after the imposition of the tax. The tax was imposed by the provincial government in an effort to curb escalating home prices and the tax revenue is intended to be used for affordable housing.

Not surprisingly, foreign purchasers are not happy with this additional expense and a [class-action lawsuit](#) has been commenced challenging this tax. The plaintiff named in the lawsuit is a student from China. In July of 2016, she entered into a purchase agreement to buy a townhome for \$559,000 with a closing date of November 14, 2016. The new tax will add approximately \$84,000 to her closing costs. If she fails to close the purchase transaction she will forfeit her non-refundable deposit of \$55,990.

The enactment of the tax legislation was quick and did not exempt purchases that foreign nationals had committed to, but would close after the imposition of the tax. Judging by the high number of transactions registered in the days before the effective date of the tax, many foreign purchasers moved up their closing dates if they were able to do so.

The lawsuit alleges that the imposition of the tax:

- is outside the jurisdiction of the provincial government;
- discriminates against foreign nationals because of their status as foreign nationals; and
- breaches a number of international trade agreements that the federal government has entered into, including NAFTA

In an interview with [The Globe and Mail](#), Christy Clark, the Premier of British Columbia, said that from a legal perspective the tax is “on pretty solid ground.”

It will be some time before this case makes its way through the courts. Before the lawsuit can proceed it will first need to be certified as a valid class action.