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Risk and Operational Analysis
ACT Fire Brigade

Re: Introduction of Compulsory Smoke Alarms

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Thank you for the opportunity to provide comments on the Discussion Paper in relation to the introduction of compulsory smoke alarms in the ACT.

The Tenants' Union welcomes these proposals and is keen to participate in this process. The issue of smoke alarms has been continually raised by ACT tenants with the Tenants' Union through our advice service since the inception of the service in 1994.

I am happy to discuss these issues further and would like to express the Tenants' Union's ongoing commitment to participation in any ongoing consultation process in relation to issues relating to rental housing in the ACT.

Yours sincerely

Deborah Phippen
Executive Officer

28 July 2006

For advice on
residential
tenancy problems
call the

Tenants' Advice
Service

Ph: 6247 2011

Mon - Fri 9:30am
- 1pm

**Tenancy in
tenants'
hands**

Submission by Tenants' Union (ACT)

1. Introduction

- 1.1. The Tenants' Union (TU) is one of the primary providers of information, advice and education to tenants in the ACT.
- 1.2. The Tenants' Union membership consists of private, public and community housing tenants, occupants of other forms of accommodation as well as individuals interested in tenancy issues. The TU represents people renting in the ACT (private, public, community), works to promote the rights and interests of tenants and undertakes housing and tenancy-related projects.
- 1.3. The TU is a community legal centre providing tenancy advice, information and referral through the paralegal Tenants' Advice Service (TAS), casework is referred to Welfare Rights and Legal Centre. The TAS provides information, advice and referral through its advice workers and also undertakes community legal education, producing information, conducting workshops and presentations, promoting tenant participation. The TAS is funded through the Department of Justice and Community Safety, by a proportion of the interest earned from bonds lodged with the Office of Rental Bonds.
- 1.4. In the last year (2004/05) our service reported 4052 phone contacts with ACT tenants on tenancy/housing issues. In addition to this we had direct contact with people renting through a variety of other forums including presentations, workshops, information stalls, and community meetings. Furthermore we participate in a range of networks and forums with community service providers who have contact with people renting.
- 1.5. The consequence of this experience and range of services, and close links with related organisations, is extensive knowledge of tenancy and housing issues in the ACT. Accordingly the TU is providing a submission responding to issues and items from the discussion paper identified as being of particular relevance to the organisation and our expertise.

2. Introduction

- 2.1. Most people will rent their home at least once in their lifetime. According to Australian Bureau of Statistics, of the 120,000 private dwellings in the ACT 45,000 are rented (38%). This equates to 112,500 people (based on an average of 2.5 people per household)¹. Studies on housing tenure in Australia over the past 10 years have consistently found that more and more people are renting, and their time in rental properties is much longer than in the past, with increasing numbers no longer entering into home ownership.
- 2.2. As noted in the cover letter the issue of the lack of smoke alarms has been raised throughout the history of our advice service. Many tenants go into tenancies incorrectly believing that alarms are already compulsory and then express surprise and frustration at being unable to require that their landlord install something that is so obviously in the interests of both property owners and tenants. Many tenants are at a loss to understand why a property owner would not want such safeguards in place to protect

their investment, not to mention the safety of people residing in that investment. Unfortunately it has been our experience that without a clear legislative requirement for alarms it has not been possible for tenants to urge landlords to provide even the minimum protection of battery powered alarms.

- 2.3. A problem with tenants being forced to organise smoke alarms themselves is that they will often purchase the cheapest (and therefore least effective and reliable) units and will often be directed that they cannot fix them to the premises and therefore they will be incorrectly or inadequately installed. Also, as we are well aware it is often the experience that these alarms will be frequently set off and many people are tempted to remove the batteries and forget to replace them.
- 2.4. Through our advice line we too often hear of landlords and agents refusing to install anything themselves, occasionally telling tenants they will be liable for costs (and a penalty) if they install something themselves or at the most extreme refusing to allow such installation. We fully support this proposal to make smoke alarms compulsory.
- 2.5. Since there is no specific reference to smoke alarms in the Residential Tenancies Act 1997 we have been hoping for a case through Residential Tenancies Tribunal that would find the existence of adequate working alarms to be an essential part of premises being in a reasonable state at the state of the tenancy, this hasn't happened. We would also hope that alarms be required as a necessity for property insurance, although again evidence would show the contrary. Issue of insurance requirement is interesting
- 2.6. Risk of fires is high in rental properties especially in the lower end of the market since properties are more likely to be poorly built and maintained. In addition, tenants are less likely to have contents insurance for their belongings and to indemnify against any possible claims regarding liability. This is an issue that the TU continually tries to address through education of the need for insurance coverage. Therefore effective warning systems are so important for personal as well as property safety.
- 2.7. The rental market in the ACT continues to maintain its dubious claim to the highest median rent in the country, with half those in the market paying \$260 or more per week (ahead of Sydney at \$230)ⁱⁱ. This exists in tandem with a very low vacancy rate. The result of this situation is that tenants have little to no bargaining power when trying to enter the market. The reality is that while there may be many things they think are necessary or even required by law, they will take on tenancies without them because the option is not having anywhere to live. This means that tenants go into places that are not adequately heated, insulated, secure or even safe despite recognising the problems and not being happy or comfortable with their decision.
- 2.8. Unfortunately in relation to matters such as inclusions in residential premises, the fact is that choice is only for owners. Owners as occupiers will decide to take on risks for themselves in relation safety, security and efficiency. They will weigh up costs and the risks they are willing to

take. Owners as lessors manage/control the risks for their tenants and other occupants. They decide what the costs and risks are to their investments and those living in those investments. In a tight rental market, such as has existed in the ACT for some time and is likely to remain for the foreseeable future, tenants as occupants of premises the choice is making do with something not to the standard they hope for, or having nowhere to live.

- 2.9. As a final point relating to the breakdown of options relating to different types of alarms it is very important to make the point that distinguishing between the types of alarms required for different housing tenures entrenches the acceptability of different standards for rental and non-rental housing. It promotes the unacceptable position that in the ACT community people in rental housing are not entitled to the same level of safety as those who own or are purchasing their homes. This issue must be taken very seriously when considering policy/regulation development in this area.

3. Options

3.1. Option A:

The requirement of immediate installation of alarms would not be open to confusion or misinterpretation in relation to what type of system is required and would go a long way to ensuring that at the very least there is minimal protection for all residents. Tenants would be in the position to demand that their landlords provide at least the minimal level of protection for themselves, and the property.

However it must be noted that it is highly probable that the disadvantages of this option are most likely to be experienced by tenants, as noted above. While the minimal protection is a positive step there is little likelihood that many landlords would be persuaded that the hard wired systems are worth the expense on their tenants.

This is the least favourable option for tenants.

3.2. Option B:

This would be the most valuable for tenants since it is likely that being compulsory is the only way tenants will see the more reliable option being installed.

It is likely that we would learn of installation costs being passed on to tenants in the form of rent increases, and while installation is a one-off cost the increases are on-going.

This would be the best result for tenants because it is the method that ensures equity in terms of protection across tenures.

3.3. Option c

This option effectively enshrines the position of tenants having sub-standard protection.

Do not agree with point about prospective tenants identifying non-compliance. As noted above, this may apply in a healthy rental market

with high vacancy rates where landlords are actively competing for tenants, however in the ACT we have had a very low vacancy rate for many years and rental properties are very hard to find. There are many tenants competing for properties and they are unlikely to point out any deficiencies in properties when they know they will miss out on a home. A landlord is in the position that they are able to go to the next applicant if someone raises concerns/questions about the premises.

We recognise that in the long run when hard-wired alarms are in new properties and properties sold they will move into the rental market, and as noted it should eventually lead to a substantial amount of rental properties having hard-wired alarms.

It has to be noted that some (and often poorer quality) rental properties remain as such very long periods of time without ownership changing. And as noted in the disadvantages, this will see large sections of the community (and generally the most disadvantaged) with battery powered alarms for long periods of time.

This option does provide for immediate (if not fully acceptable) protection for all residents, and will lead to eventual near complete coverage of hard wired systems.

We would see this as the second best option.

4. **Other issues/comments**

- 4.1. We would suggest consideration of incentives for hard wiring, and that there definitely be education about the problems with battery alarms and the possibility of liability for damage etc where battery alarms fail. It would be useful to have tenant/landlord specific information developed and we would be happy to assist with any such work
- 4.2. The reference to the voiding of insurance policies is of great interest. It would seem to be an option that insurance companies may be encouraged to take up and would greatly assist to address the power imbalance for tenants.
- 4.3. Since the costs of hard-wiring are bound to be of concern and used as reasons to reject these proposals, it would be useful to have appropriate information developed that give realistic costs as well as how these costs can be minimised or recompensed through things such as negative gearing claims etc.

ⁱ Table 2.8: Housing: ACT Summary 2006, CAT. NO. 4102.0 - AUSTRALIAN SOCIAL TRENDS - DATA CUBE,

ⁱⁱ Victor Violante, CTimes, 26/06/06