



Tenant News

Newsletter of the Tenants' Advice Service, ACT

Autumn 2007

GOODBYE SECURITY OF TENURE

On 20 April, Housing ACT (HACT) announced reforms to the Public Rental Housing Assistance Program (PRHAP). These reforms are being promoted as building on earlier changes made in June 2006 to "sharpen the Program's focus on those in the ACT community in most need of housing assistance".

The 2006 reforms involved tightening the qualifying criteria and priority needs system for both new housing applicants and current tenants seeking transfer. The latest reforms affect existing tenancies, and spell the end to security of tenure in public housing in the ACT.

The ideology underpinning the reforms is that public housing should not be seen as a long term housing choice, but should be provided only in extreme circumstances of special and significant need for housing assistance, and only to the extent and for the duration of that need.

The latest reforms affect two categories of tenants: those whose household income exceeds \$80,000 per annum; and those in premises with two or more extra bedrooms.

Where the tenants' annual income exceeds \$80,000 for a period of two consecutive years, the tenant will be offered the choice to either purchase their home from HACT, or "to consider purchasing or renting alternative housing in the private market". The current "Sale to Tenant" scheme will be expanded and the Government will introduce a "Shared Equity" program to aid tenants' home purchases.

To facilitate this part of the reforms, legislation is to be introduced to give HACT the authority to request income details from all tenants not claiming a rent rebate (also known as 'market renters'). Disclosure of income details will become an ongoing requirement for market renters.

The second part of the reforms relates to the size of the tenant's home. HACT has "housing size guidelines" to ensure that all rented properties are utilised to their maximum potential. Where HACT determine that a tenant has two or more bedrooms above the housing size guidelines, "consideration will be given to relocating them to housing more consistent with their current needs".

HACT tenants received notice of the reforms via letter on the same day as the announcement to stakeholders including the TU. The TU is aware that many HACT tenants are distressed and worried about this announcement, and what it may mean for them.

It is important to remind tenants not to panic! The changes are yet to be finalised: it is expected that policy will take 6 months to develop, and the reforms relating to income criteria will be phased in over 2 years. We understand that guidelines will be developed to guide how the reforms are implemented in practice. HACT have promised to undertake consultation in refining the details of the changes, and the TU will certainly take part in this process, updating tenants via our website and newsletter in due course.

Yet it must be said that the TU is deeply disappointed by this decision. The TU has always supported security of tenure as a crucial element of the right to housing, and in particular recognised the role of market renters in supporting the public housing system and contributing to strong and stable communities. At their worst, these reforms will mean the removal of people from what may have been home for many years, at great emotional and social cost.

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The views of contributors to Tenant News are not necessarily those of the TAS or the Tenants' Union ACT and the service does not accept responsibility for the views and opinions expressed by contributors in this newsletter.

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The TU now operates an e-mail list for people wishing to view our new publications—including Tenant News—in electronic format.

The list is also used to advise subscribers of important tenancy and housing issues and news.

If you would like to join the TU email list, please send a message to: tuact@bigpond.net.au

CONTRIBUTE!

We welcome and encourage all contributions, great and small, to **Tenant News**

This is a newsletter for tenancy issues, stories, thoughts, letters, cartoons...

If you are interested in contributing, call the office for details

02 6247 1026

Or post your contribution to:

PO Box 8, Civic Square ACT 2608.

Or email your contribution to:

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Remember to include your contact details!

EDITORIAL

Well only 4 months in, and 2007 has proved to be a very eventful year in the world of tenancy. And perhaps nowhere more so than in our own little part of the world: the ACT. This issue of Tenant News is so full of local news, we didn't have room to squeeze in any tenancy news from the rest of the country, let alone the rest of the world.

As usual, tenants have not exactly been winning that big competition that is the ACT private rental market. The usual rental squeeze that comes at the beginning of the year - as uni students and government workers flock to town - was further exacerbated this year, and the media made the most of the drama that followed. Then again, in classic chicken-or-the-egg, or perhaps life-imitating-art style, the question of just how much of the drama was actually *created* by the media stories, remains an interesting one - see page 3.

That said, it is very pleasing to see that the ACT government are finally doing something to address the fundamental issue that these events highlight: the serious shortage of housing in Canberra, and in particular the need for more, affordable, rental accommodation. The Affordable Housing Action Plan launched in early April (see page 6) contains some very positive initiatives to boost the supply of private and community rental stock which we eagerly await.

However the news is not good for public housing. Not only was expansion of public housing completely absent from the Government's Affordable Housing Action Plan, a further announcement made at the end of the month has heralded the end to what we have known and loved as security of tenure in public housing -see page 1. Whilst they are being billed as measures to address the housing crisis by 'freeing up' more public housing for those in 'greater need', most tenants will not agree that the removal of tenants from their homes, and resultant fracturing of communities, is really an effective answer to that problem.



DON'T BELIEVE THE HYPE!

The media has spoken: we are now in the grip of a 'rental crisis'!

If you have followed the headlines over the past three months, you will know all about the state of the private rental market right now, with its "terrifyingly low" vacancy rates, and "dizzily high" rents. You have seen the pathetic images of the poor tenants queuing down the street to inspect a rental property, and imagined the high-drama of those same tenants 'battling it out' in a 'cut-throat bidding war' to win the tenancy.

But in times of crisis we all know it is important to stay calm. Without wishing to spoil the fun (let's face it, everyone loves a good yarn), it might be helpful to add a little perspective to all the hysteria. The following 5 points are an attempt to look behind the crisis and what may really be driving it; to provide strategies for tenants to survive through it; and maybe even show that the situation is not hopeless for tenants, as these stories may have us believing.

1. The media do sometimes exaggerate.

As astonishing as this may sound, not everything you read in print or see on the news is 100% factual. This is because – in the world of mainstream media – drama and spectacle seem to sell more papers than facts and balance.

And if that sweeping generalisation is not good enough for you, sources such as Crikey.com and ABC TV's Media Watch – well-respected bastions of independent media analysis – have been busy uncovering numerous furrphies amongst the recent media frenzy that is the rental crisis.

Case in point: on Tuesday 27/02/07 Media Watch looked at reports from some NSW media predicting rent increases of 20% during the rental squeeze. As it turns out, the attributed source of this particular figure was the NSW Real Estate Institute (REI) who had issued a press release *recommending* that owners increase rents by between 7 and 10%. This somehow managed to get stretched to 20% when reporters latched onto examples provided by the REI of rent increases over the year of *up to* 20% in *some* suburbs.

Of course what was not mentioned was that – according to the very figures the REI supplied – these increases occurred in particular larger properties in upmarket suburbs, that smaller properties in the same area sustained average rent increases of less than 2%, and that in other suburbs, rents *decreased* by as much as 17% over the year. Not to mention, the Australian Bureau of Statistics' arguably more reliable figures showing an annual rent increase of just 2.4% in Sydney. Pesky details!

Similar wild claims were found in another paper – this time relying on projected figures supplied by the Residential Development Council – with reporters managing to transform a predicted increase of 40% over 5 years, into "research forecasting rents to rise by as much as 40% within 2 years"! The clearly favoured figure "20% per year" strikes again. The effect: the more it is repeated, the more convincing it will sound.

The examples go on: like reporters claiming 'thousands' wanted to rent some hovel, where the actual number of applicants for the place was 14... But you probably get the idea. (For the full Media Watch transcript, go to the TU website noticeboard piece "Who's Raising the Rent?")

Whilst Media Watch focused on Sydney-based stories, our own local media were feeding us more of the same in the Canberra context. Big figures were flying – projected rent increases of 'more than 10%' reported as cold hard fact, without any apparent independent evidence or historical data to support the claims.

Hyperbole has flourished, describing the capital's "dramatic" and "severe" rental shortage; "desperate" home-seekers; "soaring" rents, and the "alarming" prospect that things will only get worse... It's enough to make you want to run for cover! But in reality, it is probably quite safe to assume that this can be at least partly attributed to the media doing their 'thing' as has been so comprehensively demonstrated in the NSW context.

2. In a tight rental market, investors and the real estate industry get what they want.

So, if much of this 'crisis' is the product of often-inaccurate media hype, now the question needs to be asked: who really stands to benefit from the public perception of a rental market in crisis mode? The answer is: the real estate industry, and in turn, landlords.

It must be remembered that – even before the data gets warped, stretched and skewed in the hands of reporters – it is invariably being supplied to the media by the real estate industry itself.

In line with its overall profit-making agenda, the real estate industry is currently lobbying its respective state and territory governments to abolish land tax and stamp duty (because these things cost landowners money). It is convenient, therefore, to have a dramatic-looking rental crisis to rely on to argue that abolishing



Tenants cry foul as rental shortage shifts the balance of power

Tenants pay up, and shut up, as rents surge

Don't Believe the Hype (Continued from previous page)

land tax/stamp duty would encourage more people to invest, thereby increasing the supply of rental accommodation, and also preventing landlords from being 'forced' to increase rent in order to keep up with their 'escalating' costs.

One example comes from local estate agent, and president of the REI ACT, Peter Blackshaw, quoted saying "At the moment it's very, very tight - it's certainly the tightest that I've known it and I've lived in Canberra for nearly 20 years and the really alarming thing is it's going to get a lot worse". Blaming the fact that not enough people were investing in residential property, he said "The local government takes such a big proportion of the rent through land tax and rates that (residential property) just doesn't make sense as an investment.". Predictably, he suggests that abolishing land tax is the answer, envisaging that if the government doesn't start cutting back on tax, social problems will arise, and the "low income earners" will be the ones to suffer ("*Capital's Rents Less Affordable*" Kate Corbett, AAP, 5 Dec 2006)

Of course once again, there is no evidence to back up these claims. Recent comparative data (put out of course - but somewhat ironically in this context - by the REIA) suggests that annual returns on investment properties in Canberra were above average in comparison to other cities. Other reports citing 'property insiders' indicate that interstate investors are actually moving into the Canberra rental market, recognising that 'big profits' are to be made in some suburbs.

But more to the point, this kind of argument exploits a situation in which tenants - *not* landowners - are suffering, to prop up the property industry's own profit-advancing agenda. Which is insulting, to say the least.

It is all too obvious that a tight rental market and increasing rents is *good* for landlords and agents. In fact, the self-proclaimed "largest property management company in Australia", RUN Property Ltd, was obnoxious enough to issue a press release on 10/01/07 containing the following quote

from the CEO, Nathan Cher:

"The ongoing chronic shortage of rental properties in all capital cities is extremely good news for the property management sector... because professional management commissions are charged at a fixed percentage of rents, so as rents go up, there's a corresponding increase in commission income with no additional resources or outlay required".

This leads us, fittingly, to point 3.

3. The rental market is self-serving

In a legislative framework - like the ACT Residential Tenancies Act- in which market fluctuations can actually be used to justify individual rent increases - the mere *perception* of a tight rental market and rising rents is very useful to landlords and agents.

No relief for renters

Firstly, if everybody is convinced that there is a chronic shortage of rental accommodation, and that rents have and will continue to increase at an alarming rate, tenants fear the worst and are probably more willing to accept excessive rent increases, or any other questionable treatment for that matter. The overwhelming message is "it's a landlord's market" so they can get away with it. In fact, one Canberra Times headline read "Tenants pay up, and shut up, as rents surge".

Secondly, the RTA lists "rental rates for comparable premises" as a relevant factor the Residential Tenancies Tribunal (RTT) must take into account when reviewing a rent increase. This is often interpreted to simply mean 'average market rent' - which is not strictly correct, but often goes unchallenged. So the idea (somewhat simplified) is that a landlord or agent wishing to raise the rent need only refer to other vacant properties in the area being advertised at prices equal to or higher than the proposed amount, in order to justify the increase.

Of course the vacant properties relied on will have been advertised at the highest possible price because the advertiser is confident that the panic surrounding the tight rental market will mean that someone (a "desperate home-seeker" no doubt) will be willing to pay it. So in this way, the rental market is a big self-perpetuating, self-serving machine.

Once this happens, even if the vacancy rates eventually settle down and the actual shortage becomes less 'severe', the damage is done: rents will have increased across the board, and will be very unlikely to decrease again. Instead they will probably

Meet the new homeless



Rents to soar as crisis worsens

continue to go up, but perhaps at a steadier pace more in line with 'CPI'.

4. Landlords and agents choose to increase rent

Exaggerations and distortions aside, it is certainly true that the rental market has been tight for the past few months. This is generally the case in the earlier part of the year, as Canberra sees an influx of students, and government workers commencing new contracts – but this year it has seemed more pronounced than most. What has caused this is a subject of some debate, with explanations ranging from low investment in rental property, to the ever-decreasing supply of public housing.

Whatever the cause of low vacancy rates, it is not a foregone conclusion that this means landlords and agents MUST increase rents – they generally have a choice not to. In fact, where there are no actual increased costs to the landlord and no increased benefits to the tenant, there is a good argument that the rent should stay the same, or at most allow for a nominal increase to correspond with the rise in cost of living. But the reality is that the majority of rent increases occur because landlords and agents have seen an opportunity to increase profits. This is particularly the case in times like this: when the overwhelming message everybody is hearing is “now is the time for rents to increase”.

Whilst this is understandable: who would say no to the chance to make more money without lifting a finger? But the troubling part is how some agents in particular try to convey the impression that a rent increase is some inevitable phenomenon that the landlord (much less the tenant) is powerless to avert. Broad statements about ‘routine rent review’; ‘market rent’ ‘landlord’s increasing costs’, ‘interests rates’ and ‘new government rates/taxes’ commonly appear in rent increase notices, with the effect of shrouding what is often the real, very simple reason for the letter: ‘we want more \$\$\$’.

5. Tenants still have the Residential Tenancies Act: now is the time to use it

Whether you believe the hype or not, it is still important to remember that tenants still have basic protections under the law. Now, perhaps more than ever, it is important that tenants know and enforce their rights.

In this issue of ‘Hangin’ on the line’ on page 12, we look at examples the TU has seen of the fall-out from the rental crisis: landlords and agents trying to take

unfair advantage of the situation by hiking up rents and (impliedly or expressly) threatening eviction as the alternative. Most importantly, we cover what tenants can do in these situations – and show how it can work! Tenants who assert their rights and their equal position in the landlord/tenant relationship, can resist unfair rent increases, ensuring they don’t help contribute to the inflated rental market machine.

There are of course advantages to tenancy issues receiving greater attention in the headlines. Increased exposure puts pressure on governments who *are* in a position to do something about housing supply and affordability on a wider scale: strengthening investment in public housing, for one.

And in desperate times, we also get to know the areas of the Act that need work or need strengthening. We see the sections that – perhaps because of their drafting – may be used in unintended ways against tenants’ interests. We also see where there are things missing from the legislation that need to be there. This puts organisations like the TU in a better position to lobby for amendment of the law, to ensure better protection for tenants.

So, whilst it’s nice that tenancy has suddenly become a sexy issue, when it comes to the rental crisis, perhaps the best advice comes in those legendary words:

“Be alert, not alarmed”.

Crowded house sign of the times



Cartoon courtesy Canberra Sunday Times Feb 11, 2007

Battling the housing squeeze



ATTAINING AFFORDABLE HOUSING

Housing affordability has been in the news for some time now as the pinch is felt not just by tenants but by people wanting to purchase their homes. The TU has been highlighting affordability issues for tenants in recent publications as well as local and national media. It has been clear to us (and others in the tenancy and community sectors) that government intervention has been necessary to address the failure of the private market that our governments have been relying on to “re-equilibrate”.

We have all been calling on government intervention at a local level since the first ACT Affordability Taskforce in 2002. Since that Taskforce handed down their Report, and there was a subsequent report on action against the report in 2005, the problems have increased with higher rents, lower vacancy rates and overall higher house prices. The situation has now reached the point that the media around the country are reporting on affordability crisis. As a response our Chief Minister formed another high level group to look at how to address the problems. The following is a media release:

On 12 April Chief Minister Jon Stanhope released a comprehensive action plan to make housing more affordable in the ACT. The plan includes measures aimed at home ownership, private rental, public housing, community housing and supported accommodation.

“Access to safe, secure and affordable accommodation is one of the most basic of human needs, and the dream of owning a home is one shared by most Canberrans,” Mr Stanhope said. “Changes in the housing market over the past five years, driven by sharp increases in demand, have made this dream more elusive for many Canberrans, and this has placed greater pressure on the private rental market and on public and community housing services. I announce a wide-ranging plan to help Canberrans at all points on the accommodation spectrum, from home-buyers and private renters to those in public and community housing.”

Mr Stanhope said the Affordable Housing Steer-

ing Group established last year had found that while the ACT performed well on housing affordability surveys, due to our higher-than-average incomes, the data masked the fact that some Canberrans were in housing stress. House prices had doubled in six years and the ACT currently had the lowest vacancy rates and the highest median rents in Australia.

The Government was making it one of its highest priorities to help those struggling to get their foot in the door of home ownership, or having problems securing appropriate rental accommodation.

Key initiatives in the plan include:

- *new house and land packages priced between \$200,000 and \$300,000;*
- *regular englobo land sales;*
- *over-the-counter sales of affordable housing blocks;*
- *a major expansion of community housing that will deliver an additional 480 affordable dwellings over five years;*
- *an initiative to increase the supply of private rental dwellings by 200- 400 homes in the first instance;*
- *land rental and shared equity schemes, including for public and community housing tenants;*
- *targeted stamp duty concessions.*

The Action Plan was developed in consultation with stakeholders. A high-level team headed by the outgoing Executive Director of the Master Builders’ Association, Mr David Dawes, will oversee its implementation. Copies of the plan are available at www.actaffordablehousing.com.au and Canberra Connect shopfronts.

This announcement and the Action Plan have (generally and cautiously) been positively received across the ACT community. From a TUACTION perspective, a commitment to increasing the supply of rental stock is a good thing, and so is the high priority this issue is being given. It is also encouraging that there is recognition that the



affordability surveys are much distorted in the ACT by the fact that they are based on average income, which is skewed by the high wages in the public service (and other professional bodies). This calculation does not show the wage level of most Canberrans. So while “the average” ACT household can afford their home, there are many people who are in housing stress.

Increasing the supply of community housing is also a mechanism for increasing the supply of rental housing, although the level of affordability may vary. The theory is that even if the resultant housing is not affordable to all, people will move to the new housing and open up cheaper rental housing for those who need it. It is also believed that greater supply will stabilise rents as vacancy rates rise. Our issue is with regulation of community housing and the need to ensure that community housing tenants have the same rights as other tenants in public stock especially in relation to appeals and dispute resolution. This is not yet the case in the ACT.

Of course it is not surprising that the focus is on the “Australian Dream” of attaining home purchase. The assistance to those in and seeking private rental is limited to the reliance on increasing stock, as well as a commitment to add an additional worker to the Tenants’ Advice Service to help better meet demand. This is very welcome but it is sadly recognition that little will be done to help people renting in the immediate and short term.

The initiatives are constructive and in some cases innovative and to be applauded. However it is disappointing to not see an expansion of public housing stock or changes in legislation that will ensure affordability for people already renting (through limiting the extent of rent increases and giving security of tenure to all tenants). We all wait to see the detail of how they are to be implemented and are eager to participate in future consultations and work to try to ensure tenants are not forgotten.

Deborah Phippen



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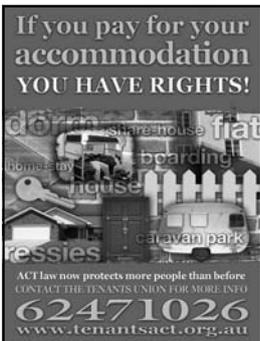
Office: Level 1 Manuka Arcade, 20 Franklin Street, Manuka ACT

The Tenants’ Union ACT encourages tenants to find out more about how this service can help you. You can find out general information about how to minimise your current costs, and help address environmental issues at an individual level. You can also find out how to encourage landlords to avail themselves of the various subsidies etc if they make improvements.



TU LAUNCHES OCCUPANCY CAMPAIGN

Since the introduction of occupancy rights in the *Residential Tenancies Act* in March 2005, there



has been very little public comment about:
- what these rights are,
- what they mean, and
- who they apply to!

To investigate the level of knowledge about occupancy rights in the community, the Tenants' Union conducted a research project talking to as

many occupants as possible. During 2006, contact was made with over 300 occupants from all over Canberra, including students, boarders and people living in mobile home parks. What we found was that many people had still not heard of "occupancy agreements". Those who had heard about occupancy agreements were often uncertain about how the new occupancy rights applied to their housing situation.

To address this lack of information and uncertainty in the community, the Tenants' Union then developed promotional materials. The promotional material included posters, postcards and advertisements. These materials were designed to raise general awareness of the issue to as many people as possible in the Canberra community. In addition, an "Occupancy Kit" was developed with 8 tip sheets answering the frequently asked questions of occupants in an easy-to-read format.

To draw the attention of the Canberra community to these issues and these new resources, the Tenants' Union held a week long "occupancy rights aware-



Ms Renee Leon (right) launches the Occupancy campaign, with MC and TU President Shae McCrystal.

ness campaign" in late February 2007. The campaign was planned to coincide with the start of the university year, when many thousands of students were entering occupancy agreements for the first time.

The campaign was "launched" by a short forum discussing the important issues facing occupants. The forum was attended by a number of interested members of the community and community representatives. We were lucky enough to have the following people speak at the forum:

- **Renee Leon**, Department of Justice and Community Safety;
- **Shae McCrystal**, President of the Tenants' Union, ACT;
- **James Swannson**, former student and occupant at University House, ANU;
- **Duane Strauss**, Student Representative for Accommodation, University of Canberra Student's Association; and
- **Kaye Saunders**, occupant/owner at Canberra Southside Motor Park.

The speakers were lively and interesting. What was particularly engaging about the forum as a whole was the variety of different contexts in which occupants live. The issues of priority to student- occupants were very different to those for mobile home owner- occupants. The forum was a useful moment to look at the diversity of priorities from the same angle, that is: without rights for occupants that work, the security of all forms of tenure are undermined!

With this in mind, although the intensive campaign is over, the job of raising awareness of occupancy rights is an ongoing one.

Anne Macduff



Speakers (from left) James Swannson, Duane Strauss and Kaye Saunders, and Occupancy Project Worker Anne Macduff



PUBLIC TENANTS HAVE A VOICE

by Helen Merritt

Some might recall that in 2004 a project called "Raising Our Voice" was initiated by the ACT Government in an effort to increase participation by public tenants in the management of their properties.

This initiative was enthusiastically endorsed by tenants who attended a Tenants' Housing Summit at the end of 2004.

To ensure that tenants were given an opportunity to directly participate in discussions with HACT staff on broad issues of interest and concern to all HACT tenants, a forum called the Joint Champions Group (JCG) was established by HACT. In early 2006, expressions of interest were sought from tenants to join the forum. It was anticipated that membership would comprise around 15-20 tenants. However, a larger than expected number of tenants showed interest, and 26 tenants were selected to form the inaugural JCG. I am currently a member of the JCG.

Membership of JCG is designed to be representative of a broad cross-section of the public housing community. However at the moment JCG is not as representative as it could be, and would benefit from the addition of young singles; younger families; and more culturally diverse tenants, to the current membership.

The JCG meets every six weeks and discusses a variety of issues, including draft policies, of direct relevance to tenants. JCG is not a forum for raising individual issues but rather, focuses on discussing and improving HACT policies and processes which will impact on all tenants, as well as addressing the responsibilities and obligations of HACT tenants. During 2006-07 JCG has addressed a variety of broad policy issues including disruptive behaviour, use of community rooms, a possible water levy, a code of conduct for tenants, communication with tenants, and improving the public perception of tenants in public housing.

The majority of HACT tenants are good, decent and law-abiding people, but the general community may not have this impression. This is largely due to the media's repeated focus on those tenants who do not conform to community standards, which is given far greater exposure than positive stories such as the wonderful efforts of tenants in developing and main-

taining their homes and gardens, demonstrated at the HACT garden competition last Spring. Discussion of a possible art show for public and community housing tenants is also underway—another opportunity to showcase the wide range of skills and artistry evident within the HACT tenant community.

Regional forums for HACT tenants in Tuggeranong, Woden, City, Belconnen and Gungahlin were held in May and October/November 2006. JCG members, both tenants and HACT staff, attended the forums along with representatives from Spotless; area Housing Managers; and Senior HACT Management. Tenants raised a number of issues during these open forums, including maintenance, security and waiting lists. It is intended that the topics raised will be discussed at JCG meetings over the coming months in an effort to find solutions to problems encountered by tenants, examine ways of improving processes and policies within HACT, improve service delivery and ensure safety and security for tenants.

A major topic for discussion over the coming months will, of course, be the changes to HACT tenancies, announced on 20 April by the Minister for Housing, Mr. John Hargreaves. HACT has advised that they will consult with the JCG on details during the development of appropriate guidelines for the changes, so tenants will have an opportunity to raise any concerns, as well as provide input and suggestions to the final guidelines. I am looking forward to lively and robust discussions on the changes.

The JCG has proved to be of great value to participants and, ultimately, for all HACT tenants, and is a great opportunity for tenants to have a say on issues which may affect them directly. The interaction between HACT and tenants is robust, open and honest. Expressions of interest from tenants to participate in JCG for 2007-08 will be sought in the next few months. I encourage all HACT tenants to consider participating.

Helen Merritt has been a resident of Canberra all her life and has a keen interest in ensuring access to safe, secure and affordable housing for low income and disadvantaged people. The article expresses her personal views and insights into participation on the JCG and does not necessarily reflect the views or insights of other members of Joint Champions Group.



NEWS FROM THE RTT

Tenant has \$7000+ Victory!

The TU was delighted with a decision handed down by the ACT Residential Tenancies Tribunal in February, ordering a landlord to pay over \$7000 to the tenant for renting out dodgy premises!

The case came before the tribunal after the landlord evicted the tenant on the basis that the premises were not “fit for habitation”. The landlord had issued a notice to vacate relying specifically on clauses 86 and 87 of the tenancy agreement. These terms allow either landlord or tenant to terminate a tenancy where premises are not fit for habitation.

If the premises are not fit to be lived in, no rent should be paid for them.

After being evicted, the tenant brought the action seeking - amongst other things - rent abatement. This claim was based on cl 87 - the very term the landlord had relied on. Cl 87(1) clearly states that - whether or not the parties chose to terminate the tenancy, the rent *abates* from the date the premises became uninhabitable. This means: if the premises are not fit to be lived in, no rent should be paid for them.

It appears the landlord could be characterised as something of a ‘rogue landlord’, with more than one investment property in Canberra. His various misdemeanors included repeated failure to lodge bonds, an offence under the Act carrying a \$2000 penalty.

And it turns out that this was not the first time the landlord had used this excuse to boot a tenant out of this particular flat after relations had soured. But, low and behold he always managed to find another tenant to rent out the premises to - and it would begin all over again. The same premises had been the subject of 4 different applications to the RTT by separate tenants over the years.

As the story unfolded, it became clear the premises were certainly *not* fit for habitation. The premises used to be a brick garage, converted to a granny flat at some stage. There was no available

evidence of any planning approval for the conversion – apart from approval for one internal toilet in the garage.

Tenants past and present had complained about an abiding smell of sewerage throughout the flat. The cause of this smell was simply explained by plumbers engaged by the tenants: the granny flat contained unapproved plumbing work: the kitchen sink, shower recess and hand basin were connected directly to the sewerage system of the toilet and thus would vent into the sewer system!

After hearing all of this the tribunal held that:

“the obvious health risk from exposure to the sewerage system, and the unpleasant nature of the smell present in the premises renders the premises unfit for habitation. (Further)... the lessor was aware of the situation for at least three years and had taken no steps to correct the situation. The premises have not been fit for habitation, nor approved for use as a residence from the commencement of the tenancy.”

And with that, the landlord was ordered to pay back every cent of rent he had received from the tenant since the beginning of the 10-month tenancy, and to “refrain from renting the premises until such time as a relevant Government authority approves them for occupancy as a residential dwelling”. A great result!

Bit of a whoopsy

For those tenants who thought that eviction was the worst that could happen, comes this recent gem from an RTT member:

Having made a conditional termination and possession order, the member explained to the tenant:

“if you breach this conditional order, the landlord can come back to the tribunal and apply for a warrant for execution” (!)



TU Update

TU Management Committee

President:	Shae McCrystal
Treasurer:	Anne Macduff
Secretary:	Genevieve Bolton
General members:	Viren Jackson Maribeth Cole Kathleen McCoy Southwest TAS (Jodie McVean / Alison Flint)

The TU has co-opted two new members into the management committee in 2007. In February we welcomed Southwest Tenants Advice Service. This position will be shared by SWTAS Queanbeyan staff members Jodie McVean and Alison Flint. And in March Kathleen McCoy was welcomed as a new member.

TU Staff

Deborah Phippen	Executive Officer
Sandra Alonso	Advice Worker
Elizabeth Policarpio	Administrative Officer
Helen Sexton	Advice Worker / Project Officer

Events

On Monday 5 February the TU launched the **Occupancy Project** undertaken by project worker, Anne Macduff. Read about the successful launch and panel discussion in Anne's article on page 8.

Between 12 and 16 February Canberra's Universities celebrated **O Week**. The TU got involved by once again running tenancy stalls at Canberra University and ANU's market days.

On 15 March the TU participated—together with other Canberra Community Legal Centres—in the **ANU Law Careers Fair**.

14 - 20 April marked **Youth Week** in Canberra. The TU participated in a combined community legal centres stall during Friday night festivities in Garema Place.

Submissions and Policy Work

The TU has made a submission to the ACT Legislative Assembly **Select Committee on Working Families in the ACT**. This enquiry is looking into the impact of the Workplace Relations Amendment Act 2005 ("Work Choices") on people working in the ACT and their families. The TU's submission focused on affordability and security issues for current tenants

The TU has also been involved with the development and launch of the **National Shelter policy platform** in April, calling on the Federal Government to address housing affordability at a national level.

The **Housing Assistance Act (ACT)** is being amended and the TU is reviewing the proposed Bill.

Publications

The **Occupancy Tips** and **Posters** are complete—having been officially launched on 5 Feb. They are now available from the TU website, or in hard copy from the TU office.

Our **Tenancy Tips** have also received a well-overdue overhaul. The series has been updated to reflect various changes in the law.

The **Share Housing Survival Guide** is in its final draft. After some finishing touches are made, print production is due to commence in around May.

IF YOU WANT TO FIND OUT MORE ABOUT ANY OF THE ISSUES DISCUSSED HERE,
PHONE: 6247 1026

or

E-mail us at: TUACT@bigpond.net.au

THE TENANTS' UNION
WELCOMES NEW MEMBERS.

IF YOU WOULD LIKE TO JOIN SEND IN THE MEMBERSHIP FORM FROM THE BACK OF THIS NEWSLETTER



HANGIN' ON THE LINE



The Tenants' Advice Service (TAS) offers free advice to all ACT tenants (public, private, community and others). You can access the TAS line by calling 6247 2011 from 9:30am to 1pm Monday to Friday

Weathering the Storm

In recent months, the TAS has heard from countless tenants experiencing the flow-on effects of the media frenzy that is the 'rental crisis': see "Don't Believe the Hype" page 3-5.

In particular we have heard from tenants with landlords or agents jumping on the bandwagon, trying to impose manifestly excessive increases of up to \$100 per week. In some cases the information is couched in 'take it or leave it' terms – with termination supposedly the only other option.

We have also seen highly suspect use of clause 96 (the term of the standard lease that allows a landlord to terminate a periodic tenancy with certain grounds) where it is all too obvious the prescribed grounds are being used as an excuse, the real motivation for booting the tenant out being to avoid rent increase regulations, and re-let the premises to new tenants at a much higher price: once again cashing in on the hype that surrounds the tight rental market.

Without wishing to gloat – one of the best things these tenants have done is to get in contact with the TAS. We have been able to explain that – despite what is going on in the media – it is still quite possible to dispute a proposed rent increase if it seems excessive. Equally, tenants can challenge evictions that are based on suspect grounds.

Challenging a proposed rent increase could involve writing to the agent at first instance - asking for reasons and/or offering a compromise - or ultimately taking the matter to the Residential Tenancies Tribunal (RTT). With a proposed increase of this kind of magnitude – the landlord or

their agent will almost certainly bear the burden of proof in convincing the RTT that the increase is justified. This is because burden of proof is determined by whether or not the proposed increase is 20% higher than the increase in the Consumer Price Index (CPI – which generally only increases about 3-5% per year). If it is – the landlord bears the burden and must justify the increase.

Challenging a proposed rent increase is **not** a reason for the landlord to evict you. Retaliatory eviction is prohibited

Where the only reason put forward to justify the increase is 'market rent' – this can be challenged. Firstly it needs to be said that the language used in the legislation is not 'market rent' – which suggests that some kind of average figure can be used - but 'rental rates for comparable premises'. The landlord may seek to rely on evidence

of properties advertised in the same area at prices equal to or higher than the proposed new rate. The first thing here is to look in detail at the specific properties being compared with yours. Remember, these must be actual 'comparable premises'. Secondly, to offset the list of prices for advertised *vacant* premises, there is nothing to say you can't present evidence of other properties in the area that you know of being rented for less. This could be premises currently rented by your neighbours, friends or family, for example. You may also be able to find ads for cheaper vacant properties.

It is also important to remember that just because you don't accept a proposed rent increase, this is **not** a basis for the landlord to evict you. In fact, apart from anything else this would look like a classic case of 'retaliatory eviction', which is something the Act specifically prohibits!

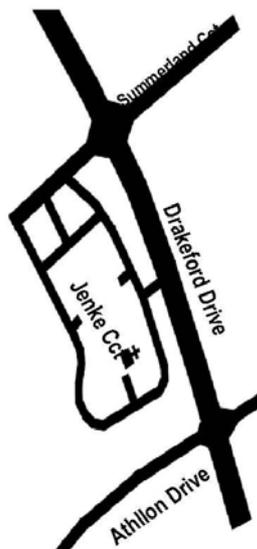
If the landlord relies on some other reason for terminating which you believe is disingenuous,



you can challenge the eviction on that basis. A tenant in this situation recently followed up on our advice by writing a simple letter questioning the sincerity of the landlord's reason for seeking to terminate the tenancy. This resulted in the landlord swiftly withdrawing the notice to vacate without further ado: a satisfying victory and vindication for the tenant, which did not even require a hearing in the RTT (a prospect the landlord was obviously not keen on either).

So whether it's a big rent increase, a dodgy-looking notice to vacate, or a veiled threat of 'if you don't do whatever it is the landlord wants, you will end up on the street with all the other desperate home-finders' – don't be afraid to stick to your guns. Some sensible negotiation can go a long way. And if all else fails – call the TAS. Chances are the law will provide you with a useful safety net that the landlord wasn't counting on.

FREE Community Meals



Tuggeranong Community Lunches

Every Thursday
between 12.30 and 1.30pm
at the **Tuggeranong Baptist Church,**
Jenke Circuit, Kambah

All Welcome

Hosted by Communities @ Work in partnership with Brindabella Baptist Church, Tuggeranong Baptist Church & St Stephen's Anglican Church
For more information please phone 6288 4744

Weston Creek Community Breakfasts

Every Tuesday mornings
between 7.30 and 8.30am
at the **Weston Creek Community Centre.**

All welcome

hosted by Communities @ Work in partnership with Canberra Community Care, St Jude's & Saint John Vianney's Catholic Church Weston, Oasis Community Church Lyons, St Peters Anglican Church Weston & Weston Creek Community Centre
For more information please phone 6288 4744



This project is funded through the ACT Government "Supplementary Support for Emergency Relief"



SOBERING STATS

The following figures are from *Market Facts*, the quarterly residential property report from the Real Estate Institute of Australia. In the past, the timing of this report was out of synch with the release of Tenant News. As a result we have been reporting the figures from roughly six months prior. This has now changed and so in an effort to 'catch up', the following data relates to the private rental market for both the September 2006 quarter (released in December 06) and December 2006 quarter (released in March 07). The next, winter issue of Tenant News will cover the March 2007 quarter data.

September

The National Picture

At least as far as the stats go, the abiding atmosphere for the September quarter was that of demand for rental accommodation outstripping supply across the country. Vacancy rates in all states apart from Western Australia fell from the June to September quarters. Canberra recorded the lowest vacancy at just 1.1%, whilst Perth was highest at 2.1% - still well below the industry 'norm' of 3%.

The Canberra Story

Canberra's low vacancy rate reflected a large drop of 0.9% from the previous quarter. Naturally this was expected to push up rents. On the whole, this did not (yet) eventuate: average rents for 3 bedroom houses, and 2 bedroom other dwellings remained the same as the previous quarter, at \$320 and \$300 per week respectively. However the figures do show some increases occurring in the outer south (houses) and west and north (other dwellings).

Canberra still has the highest national average rent for 3 bedroom houses, but has been momentarily stripped of this title in respect of two bedroom other dwellings. Canberra now comes in second in this category, behind Sydney.

City	3 b/r house	2 b/r unit
Canberra	320	300
Sydney	270	310
Melbourne	240	235
Brisbane	285	260
Adelaide	235	190
Perth	260	240
Hobart	250	200
Darwin	305	225

Median Weekly Rents, Sept 2006

City	Vacancy rate	Quarterly change
Canberra	1.1	-0.9
Sydney	1.7	-0.6
Melbourne	1.6	-0.1
Brisbane	1.7	-0.5
Adelaide	1.5	-0.1
Perth	2.1	0.3
Hobart	2	-0.2
Darwin	1.7	-0.7

National Vacancy Rates, September 2006

Canberra Rents, Sept Quarter 06	3br Houses	Median \$ per week	Change over quarter %	Change over year %	2br Flats/ Units	Median \$ per week	Change over quarter %	Change over year %
	Inner Central	350*	0	2.9	Inner Central	340	0	6.3
	Inner South	340	3	9.7	Inner South	277.50	8.8	11
	West and North	305	-1.6	5.2	West and North	270	1.9	8
	Outer South	310	3.3	6.9	Outer South	275	5.8	10

* This was reported in Market Facts as \$250 but, by reference to figures from previous and following quarters, this would have to be a typo and 350 the correct figure.



December

The National Picture

Much is being said by the real estate industry about investors fleeing the property market in favour of other types of investment classes - such as superannuation - that offer higher yields and lower tax burdens. Naturally, this is being used as a justification for –amongst other things - the need for rents to rise. Median rents for 3 bedroom houses rose in all cities this quarter, whilst rents for 2 bedroom other dwellings remained largely stable.

The Canberra Story

The scary-looking vacancy rate of 1.1% from last quarter rose to a slightly-healthier 1.6% in De-

City	3 b/r house	2 b/r unit
Canberra	330	300
Sydney	275	310
Melbourne	240	240
Brisbane	270	260
Adelaide	245	190
Perth	270	250
Hobart	260	200
Darwin	315	240

ember. Rents rose steadily in general for houses, but remained stable for other dwellings. Canberra continues to have the highest rent in the country for houses, and second-highest for units.

Canberra Rents, Dec 2006	3br Houses	Median \$ per week	Change over quarter %	Change over year %	2br Flats/ Units	Median \$ per week	Change over quarter %	Change over year %
	Inner Central	360	2.9	5.9	Inner Central	350	2.9	7.7
	Inner South	330	-2.9	3.1	Inner South	270	-2.7	3.8
	West and North	315	3.3	6.8	West and North	270	0	8
	Outer South	320	3.2	6.7	Outer South	272.5	-0.9	4.8

...AND THE PERFECT ANTIDOTE

Tenancy Cocktails

Courtesy of Tenants' Union of Queensland. As enjoyed at their 20th birthday celebrations, November 2006

Shooters...

Tokilla Landlord...

Tequila 30 ml
Served with lemon & salt

\$6



Bond Breaker...

Butterscotch Schnapps
Baileys

Layered



Cocktails...



Housing Headbanger...

30ml Ouzo
15ml Blue Curacao
Red Cordial
Top with Lemonade
Built on ice





Share House shake...

15ml Baileys, Malibu & Kahlua
30ml Frangelico
60ml Cream
Dash of honey & milk
Blended





Renta Colada...

30ml Midori
15ml Malibu & Galliano
60ml Pineapple Juice
30ml Cream
Blended



The Tenants' Union ACT

The Tenants' Union is a group of tenants, both public and private, who have come together to promote the rights and interests of tenants in the ACT.

The Tenants' Union provides a voice for tenants at all levels of decision-making.

The Tenants' Union provides information, advice, advocacy and education through the Tenants' Advice Service.

Join the Tenants' Union and have a say on issues that affect your housing and your home.

Name: _____

Ph: _____

Address: _____

Date: _____

Type of tenancy (circle): *private, public, community, student housing, occupant, share housing, not a tenant*

NB: Only tenants can be full members

Annual subscription (GST incl):

\$11- Waged

\$2.20 - Unwaged,

\$11 - Share house (no. of tenants:___)

\$55 - Organisation

ABN 99 664 903 582

TAX INVOICE

Make cheques payable to the Tenants' Union ACT Inc. Please forward your subscription and this application form to:

Tenants' Union ACT,
PO Box 8,
Civic Square, ACT 2608

JOIN NOW & STRENGTHEN THE UNION'S VOICE ON HOUSING ISSUES

The Tenants' Advice Service (TAS)

TAS is a free service for all ACT tenants. It is managed by the Tenants' Union ACT and funded by the interest earned from bonds lodged with the Office of Rental Bonds.

What we offer:

- Tenancy **advice** and **information** through our advice line (6247 2011, Mon - Fri, 9:30am - 1pm)
- **Workshops** and **presentations** on tenancy issues, rights and responsibilities. Free of charge to community groups and organisations, school groups etc. Targeted to tenants, people who will become tenants or those who work with tenants
- Leaflets and other **printed information** on common tenancy problems/issues
- Tenancy **website:**
www.tenantsact.org.au
- Articles for newsletter, tenancy information stalls and displays

For further information call

6247 1026

Tenancy Tips Leaflets:

- Access and Privacy
- Bond
- Defending an Eviction
- Ending a Tenancy & Breaking a Lease
- Eviction in the ACT
- Evidence Checklist for the RTT
- Making a Complaint about a Real Estate Agent
- Rent Arrears
- Rent Increases and Reductions
- Rent Increases: Formula & Figures
- Repairs
- Sale of Premises
- Tenancy Databases
- Tenancy in the ACT: a General Guide