



Tenant News

Newsletter of the Tenants' Union, ACT

Summer/Autumn 2008

HIGH HOPES

Our new Federal Government had a lot to say about recognising housing affordability issues and that it was not just about access to home purchase while they were in election mode. Now it is time to see how much will actually happen to assist people in rental housing.

In July 2007 the then Federal Opposition Leader Kevin Rudd MP; Shadow Treasurer Wayne Swan MP and Shadow Housing Minister Tanya Plibersek MP released *New Directions for Affordable Housing*, a paper aimed at initiating a national debate to "address the decline in housing affordability for Australian families". Federal Labor also hosted a National Housing Affordability Summit in Canberra on 26 July to discuss initiatives canvassed in the paper.

At the end of January the new Housing Minister Tanya Plibersek made the following comments in relation to the release of reports on public and community housing:

"The Howard Government cut \$3.1 billion from social housing in real terms during its time in office. These funding cuts mean that low income working families are finding it harder than ever to get affordable housing.

Three reports released by the Australian Institute of Health and Welfare look specifically at public and community housing. They showed that public housing has become more tightly targeted. A third of Australians on public housing waiting lists are waiting more than two years for a public housing place.

The previous government's funding cut to the Commonwealth State Housing Agreement has forced the States and Territories to target the provision of social housing even more tightly to those in greatest need.

ABS data shows that in 1995, 22 per cent of applicants for social housing were accommodated. Ten years later, only 14 per

cent were able to move off waiting lists and into housing.

The previous government's decade of neglect means that now the most disadvantaged Australians are waiting longer than ever just to get a roof over their heads.

Many low income working families are now missing out on social housing altogether. These are the same working Australians suffering rapid increases in rent, which grew by 6.4 per cent in 2007 - more than double the rate of inflation.

The Rudd Labor Government is committed to working with the States and Territories to boost the supply of affordable housing.

While there are no silver bullets to housing affordability, the National Rental Affordability

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Editor: Deborah Phippen

Many thanks to contributors: Sandra Alonso, Gabriel Ash, John Harvey (art show photos), also to International Union of Tenants and Magnus Hammer for the IUT article; and Garry Mallard of TSN for the media articles.

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.

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:

TUACT@bigpond.net.au

Remember to include your contact details!

TU Email List

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

EDITORIAL

2008. So many new things and high hopes, as noted in our cover story. Hopes for change in many areas but for us, hopes for a recognition of the importance of rental housing in all its forms and its role in society as meeting our basic human right to adequate affordable, accessible, safe and secure shelter. Part of that is the recognition and protection of rights of people renting. Well, I said high hopes.

We are all keen to see how the new Federal Government meets its commitments in relation to housing and rental housing in particular as housing contuse to stay in the headlines, albeit mostly in relation to affordability problems. We urge people to become involved in the various opportunities that are presenting themselves, the more voices reminding the powers that be about rental housing the better.

It is interesting to see the increasing number of stories about rental housing across the country as shown by the articles we have included from different media outlets across the country. It is also interesting to see that the issues are much the same for us all—something we have known due to our contact with our State and Territory colleagues.

We also see that the issues are the same across the world as demonstrated in the issues raised in the article about the International Union of Tenants' Congress.

Of course one issue that affects us all is climate change, and the article here is the start of our work on the issue. We must ensure that tenants are not left out of the equation.

Lastly but by no means least, big news for our service is the extension of our phone line to Tuesday nights. The demand for our advice line has never lessened and we are always attempting to assist more people within the limits of existing resources. It is a balancing act and we are heartened that people understand we do as much as we can.

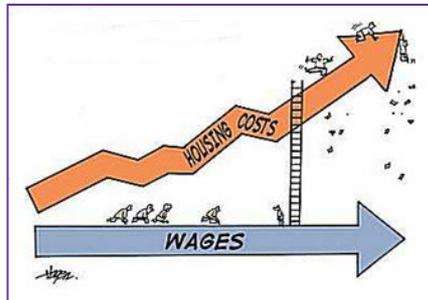


(Continued from page 1)

Scheme (NRAS) will increase the supply of affordable rental properties by 50,000, helping as many households to meet rising cost of living pressures and save to buy their own home."

Admirable and long overdue federal government sentiments and commitments, especially in recognising the need for more rental properties.

However, this is balanced by the current reality as we now see predictions from real estate and investor groups that the recent increases in interest rates (of .25%) will result in an increase in rents of 10%. One may ask, how does this add up? The long term aims of providing more affordable housing across tenures is needed, yet there continues to be disregard of immediate hardships and problems people are now facing in rental properties and looking for rental properties. Tight markets across the country (not just the ACT) are seeing tenant unions and advice services swamped with reports of evictions and re-letting at much higher rents; absurd and unaffordable rent increases; unprofessional conduct by agents and landlords; unreasonable policies and practices by agents including rent bidding, The



list goes on.

On Thursday 14 February Senate agreed that a Select Committee on Housing Affordability in Australia be established to inquire into and report upon:

The barriers to home ownership in Australia, including:

- (a) the taxes and levies imposed by state and territory governments;
- (b) the rate of release of new land by state and territory governments;
- (c) proposed assistance for first home owners by state, territory and the Commonwealth governments and their effectiveness in the absence of

increased supply;

- (d) the role of all levels of government in facilitating affordable home ownership;
- (e) the effect on the market of government intervention in the housing sector including planning and industrial relations laws;
- (f) the role of financial institutions in home lending; and
- (g) the contribution of home ownership to retirement incomes.

(2) That the committee present its final report on or before 16 June 2008.

No mention as yet of any form of rental housing.

STOP PRESS - Australia 2020

A message from the Prime Minister:



"....This is an important initiative to harness the best ideas for building a modern Australia that is ready for the challenges of the 21st century.

With the complex challenges that Australia is facing, we need to get the best ideas we can from all Australians – business people, experts, community leaders – and just ordinary Australians....

The Summit will help us shape a long term strategy for the nation's future – covering the economy, the nation's infrastructure, our environment, our farmers, health care, indigenous Australians, the arts, national security,

how we improve our system of government, and how we strengthen our communities and ensure nobody is left out of Australia's future.....It's a big agenda, but we need to think big.

I invite all Australians to contribute their ideas as we look ahead to how Australia will tackle all these challenges. This website is a great way for you to have input to how we plan for our common future.

If we want to shape the kind of nation Australia will be in 2020, the work needs to start now. There are few limits to Australia's future potential – now is the time to start turning our nation's potential into a reality."

Make sure you have your say and that rental housing is not ignored. Make a submission. Go to:

<http://www.australia2020.gov.au/>

Submissions must be received no later than COB Wednesday 9 April 2008



CLIMATE CHANGE AND TENANCY ISSUES

Over the past few issues of Tenant News we have been including information about energy efficiency in our homes and where to go for help. Issues such as high utility bills because of poorly designed and poorly maintained properties are nothing new to anyone who has ever rented. Now however they are in the news because these issues are affecting the community as a whole.

It is easy enough to find out information about climate change, just go to the internet and do a search, you'll be overwhelmed by the amount of information out there. The challenge is to find information relevant to you. As a general consumer you can buy green, invest green and manage your carbon footprint to some extent, however it is when you start thinking about changes where you live that it all becomes a challenge.

As a tenant information about the Australian Government Photovoltaic Rebate Programme and to retrofit properties while inspiring and interesting is clearly a bit out of the reach for people who cannot get their landlord to do basic repairs and maintenance.

What is useful is where you can go to find tips about what you can do within the constraints of your tenancy agreement, and possibly how you can convince your landlord or agent to make some changes. Some issues may still be maintenance and repair issues and you should check with TAS if you have any questions.

The ACT Government does provide energy audits to any homes. These involve having a person look at your home and give you suggestions for changes ranging from using door snakes, setting electrical goods properly to double glazing (landlords may be eligible for rebates on work they have done). For details go to:

<http://www.heat.net.au>

ACT residents can also have their light bulbs

replaced and showerheads replaced with energy efficient ones through a NSW/ACT initiative:

<http://www.greenalliance.com.au>

At a more general level information is also available through the Federal Government at:

<http://www.greenhouse.gov.au/index.html>

You can also become involved with community based initiatives such as The Big Switch:

<http://www.thebigswitch.org.au>

These are all practical steps that you can take to access what is out there now. The next

crucial step for all of us is to ensure that tenants are not left out of the mix when decisions are being made about how the community is addressing climate change.

At a broader level various groups have been considering the implications of policy

change on disadvantaged groups in the community, and this includes people renting who have little control over their home. Organisations such as Tenants' Unions and Shelters are working with better resourced bodies such as the Brotherhood of St Laurence to ensure decision-makers do not overlook the need for strong regulation to ensure positive change for all. For more information about this work check the TU website as well as the campaign information from the Brotherhood:

<http://www.bsl.org.au>.

We will be continuing to work for change that includes tenants. Watch this space.





GOVT SIGNS OFF ON AFFORDABLE HOUSING DEAL

Tuesday, 05 February, 2008, ABC News

A new finance deal between the ACT Government and Community Housing Canberra (CHC) will see up to 1,000 more affordable homes built in the capital over the next 10 years.

The \$50 million revolving loan is the latest part of the Government's Affordable Housing Action Plan.

CHC aims to build 500 homes for rent to low-to-moderate income households and 500 homes for sale to moderate income homebuyers.

Jeffrey Dalton from ACT Shelter says the deal should help homeless services across the city.

"The people it will help are the people who are in places like refuges or who might be facing homelessness as a result of not being able to afford rental accommodation," he said.

"So it's excellent news and and it may relieve some of the pressure on homelessness services."

But Mr Dalton says some people will still be left out.

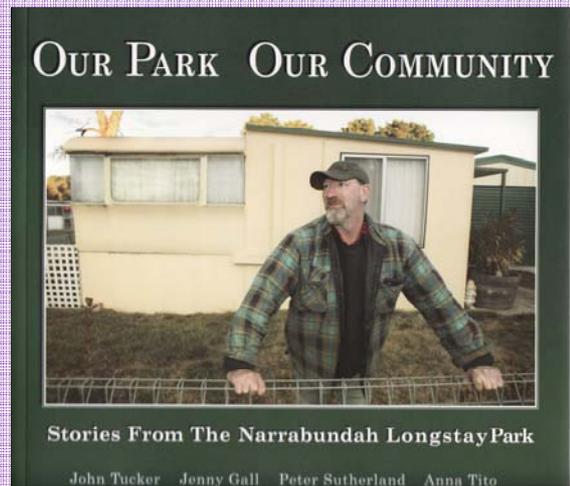
"There will be a number of people who are homeless who won't be able to afford to pay 75 per cent of the market rent, which is the kind of rent payment arrangement that we're talking about here," he said.

"So they will still need to be able to get into social housing, either public housing or community housing."

The TU would also ask what is happening with the regulation of community housing bodies in the wake of these commitments to significant expansion. Community housing tenants live in publicly owned properties but do not have the same avenue of appeals in relation to administrative decisions as tenants in public housing. We watch with interest.

Our Park Our Community

Stories from the Narrabundah Longstay Park"; a book that celebrates the lives and community of the residents of the Narrabundah Longstay Park.



"Our Park Our Community" contains profiles and photographs of park residents, and tells the personal stories of their lives and relationships. The book was conceived in response to the threat that park residents would be evicted from their homes last year, to show the importance of the park community through the emotional connections of the people who live there.

"Our Park Our Community" is a tribute to everyone who lives at the Narrabundah Longstay Park, and their determination to keep their homes.

To order a copy of the book, download the order form from ACTCOSS at <http://www.actcoss.org>.



Tenancy Week — Their House, My Home

Tenancy Week for 2007 was a great success, with thanks to the many people that made it possible. Often volunteering their time.

As always the week started with International Tenants' Day, and a public holiday in the ACT.



The crowd at CMAG

We had a good turnout for the launch and many positive comments.

We also had a positive response to our information stalls and our info kits were collected with gusto. Many people reported either having been assisted by TAS or trying to call TAS. We explained our resources limitations and people were all very positive.

Kathleen McCoy and Minister Hargreaves



The launch was held at CMAG, and the Minister, John Hargreaves did the official duties. Our MC was Amy Kilpatrick from the TU Management committee. The committee was also represented by speakers Viren Jackson (who spoke about community

housing) and Kathleen McCoy (who gave impressions of life in share housing). These speakers were joined by John Jacob who talked of being a public housing tenant.

Our first large scale art competition went well, see below.

Finally thanks to DHCS for assistance via the co-ordinating committee, as well as financial assistance that made the launch, and the art show possible.



Viren Jackson

HOME

A major event for Tenancy Week was our inaugural art exhibition and competition. Through "Home" public and community housing tenants were asked to enter art works for inclusion in a two week exhibition at the Theo Notaras Multicultural Centre art gallery. The works were also entered into an art competition.



Anne Macduff & Helen Musa

The quality of works was very high and sadly we couldn't include all that was submitted. We encourage people to check information for this year's event and get involved.

Our tenancy artists exhibited were: Dr Possum, Bhavana Moylan, Sara Freeman, Michele Hawkins (1st and 3rd prize), Sarah Porganyi, Madeleine Dornan (2nd prize), Anne Perry and Antonia Aitkin.



1st Prize : Michele Hawkins – "Home among the Shells"

Art prizes were professionally judged and awards were presented at a cocktail party on the Friday of Tenancy Week, MC at the event was Anne Macduff. Judges Anni Doyle, Helen Musa and Jorge Bagnini kindly gave their time and attended the event.

A scrapbook of the event was produced and is available on the TU website:

www.tenantsact.org.au/Noticeboard/HOME%202007.pdf



TU Update

TAS LINE EXTENDED

This year we have been able to extend our phone line for an extra shift on Tuesday nights from 4.30 to 8pm. It is hoped this will make the line available to people who couldn't get access through the morning shifts.

TU Management Committee

At the AGM the following positions were filled:

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

TU Staff

Deborah Phippen	Executive Officer
Sandra Alonso	Advice Worker
Izzy Hockley	Administrative Officer (P/T)
Mariana Oppermann	Advice Worker (P/T)

Comings and Goings

As noted above, we have a new TU Committee, and very recently our Treasurer Anne left us for a year of travelling. Thankfully Heather Roberts has stepped and taken up the role for the rest of the year. Thanks again Heather and welcome to the TU

Events

From last year, and as detailed on the other page, Tenancy Week 2007 was a success. From now we will start co-ordinating events for Tenancy Week 2008.

At this time of year we spend much time involved in activities and stalls associated with Orientation Weeks for the different campuses across the ACT. It is very important at this time to ensure people looking for somewhere to live know what their rights are in relation to entering into and then maintaining their tenancies.

At the time of publication we are also participating in national events such as the National Shelter National Council Meeting, as well as the National Housing Conference.

Submissions and Policy Work

Issues we have been working on:

- Amendments for the RTA
- Climate Change and the ACT
- Social inclusion
- Housing affordability and renting

Publications

We are contributing the tenancy chapters to the new ACT Law Handbook. We are also continually updating website and welcome suggestions and feedback. New Tips sheets in the near future on how to find accommodation; tenant responsibilities and energy efficiency.

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



IUT CONGRESS 2007

The almost 100 delegates from 26 countries at the IUT congress in Berlin, September 20–23, all participated with great enthusiasm and contributed to an overall high spirit that characterized the congress.

Ms Ingeborg Junge-Reyer, Mayor of Berlin, opened the congress by committing herself and the city of Berlin to retain the important and large rental sector in Berlin.

Dr. Klaus Töpfer, former Executive Director of the UN Centre for Human Settlements in Nairobi and also former German Housing Minister, spoke about the importance of IUT not only working in developed countries but also in developing countries.

The future of rental housing is always on the agenda of the IUT

Tanzania. Japan was represented by Mr Kazuo Takashima from the Japanese Tenants Association. Mr Michael Kane from the National Alliance of HUD Tenants represented USA. Prof. Yelena Shomina from Moscow said she was hoping to establish a tenants association in Russia.

Being an organisation that besides promoting tenants' rights and affordable rental housing, IUT also promotes rental housing as a social commodity as such. IUT strongly believes that rental housing should be an important component in every democratic society. Citizens must be given the possibility to choose from a variety of tenures; rental, co-operative in several forms, and from ownership.



IUT President Mr Sven Carlsson highlighted the concrete proposal to establish an IUT representation in Brussels, with the European Union. IUTs expansion from one office, the Secretariat in Stockholm, to a second office in Brussels is historical, from an IUT perspective.

Dr. Franz-Georg Rips, Director as well as President of the German tenant organisation, the Deutscher Mieterbund e.V. said that Germany is a tenant country, with around 57 % of all households being tenants. But, the present government wants to increase ownership, at the same time as there increasing social polarisation and lack of affordable housing – 15 % of all German households need public housing assistance.

The congress warmly welcomed faraway delegates; Penny Carr and Pat Cora from the Tenants Union in Queensland, Australia, and Mr Ludger B. Nyoni who represented the tenants in

Figures on housing give that rental housing is decreasing in almost all countries, in many countries sometimes to unsustainable levels below five percent of the total stock. Several reasons are to be found; tax benefits and subsidies for homeowners, "right to buy" schemes with subsidies, restitution in Central and East Europe, governments adopts the idea of an asset or property based welfare system, large scale selling of municipal housing to multi national investors.

Perhaps all of these reasons can be summarized as shifts in ideology? Today, all sectors, including the social sectors, are thought to be best provided for by the Market. Twenty years ago we expected social services to derive from state and government initiatives.

Privatisation and housing exclusion
Consequence and results from privatisation vary from country to country but can often be summarised as "housing exclusion" and rental housing becoming residual. States react to globalization as a cause to withdraw from policy regulation and reduce public spending and increase economic and labour market competitiveness. Low income households and



immigrants get difficulties in finding housing, and homelessness increase. Poor homeowners can often not afford maintenance and renovation. Another consequence is reduced labour mobility, due partly to high transaction costs. IUT, being politically not affiliated to any political ideology, does not take any standpoint in the issue whether affordable rental housing should be provided for by the public or the private sector – provided that the national legal systems guarantee a fair and transparent provision of affordable housing, giving each and everyone the right to enjoy decent living.

-Magnus Hammar
 article from "Global Tenant"
 For a copy of "Global Tenant" go to
www.iut.nu

RENT BIDDING PUT ON NOTICE IN THE NT

Friday, 01 February, 2008
 By Nick Calacouras
 The Northern Territory News

REAL estate agents have been put on notice to stop rental bidding or the Northern Territory Government will step in.

Chief Minister Paul Henderson said the bidding was unethical but not illegal.

"It's an emerging problem in the Northern Territory but I'd rather it be looked at by the industry," he said.

"If this does become a significant problem, I will look at legislation."

The Chief Minister acted after yesterday's Northern Territory News story about a rent crisis.

He said he had anecdotal evidence that agents were conducting live auctions to see who would pay the most for rental properties.

"This practice could hurt working families," he said.

Mr Henderson met Real Estate Institute president David Loy and chief executive Ryan O'Hanlon yesterday afternoon.

Mr O'Hanlon said they knew of at least four cases of rental bidding since September and asked Territorians to complain to the institute if it happened to them.

"We do not condone rental bidding and we will again tell all our agents that this behaviour is not supported," he said.

"If we get a complaint, we will follow it up and ensure the practice will not happen again."

Mr O'Hanlan said it would be difficult to

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Prof. Yelena Shomina, Russia.

Ludger B. Nyoni, TTA /Tanzania.

Penny Carr, TUQ /Australia.

Kazuo Takashima, JTA / Japan.

Dr. Franz-Georg Rips, DMB/ Germany.

Photos: Jürgen Schoo, DMB



IN THE NEWS

Articles, events, issues from around the country

INTERNATIONAL TRENDS IN HOUSING AND POLICY RESPONSES

*By Julie Lawson and Vivienne Milligan
For the Australian Housing and Urban Research Institute*

On 24 January 2008, the Australian Housing and Urban Research Institute (AHURI) published a report (International trends in housing and policy responses) which provides a review of housing policies across an array of twelve countries that have a similar level of economic development to that of Australia but have addressed housing questions in different ways.

The report aims to increase local understanding of international policy in housing, with a focus on social policies that intend to assist lower-income households to obtain appropriate and affordable housing, and to promote good ideas for policy action.

Of the UK, the report says "Strong central government policymaking and regulation, especially for England, but significant devolution of policy making in other regions. Key local government role in implementing affordable housing planning policy. Reducing local government role in service delivery in favour of housing associations. Strong attempt to broaden housing policy to incorporate an economic focus and integrate with wider government agenda.

"Housing policy and raising public expenditure on housing have been seen as important components of macro economic and social policies by the national government, geared to addressing affordability, supply and quality issues, as well as to combating labour shortages (especially of public sector workers). There have been major changes in the social housing sector centred on stock transfers to housing associations and harnessing of very significant levels of private finance to achieve the decent homes standard and to build new social housing.

Extensive use of the planning system to develop mixed communities and drive greater output of affordable housing especially in southern England. Also major area based initiatives in urban renewal / community regeneration. Innovation in

home ownership policy for lower incomes including various shared equity initiatives. Within a strong national policy and regulatory framework, considerable devolution of implementation tools and emergence of a variety of regional policies."

THE RENT YOU TAKE WITH YOU

*Friday, 25 January, 2008
Editorial
The Herald Sun*

SOME tenants will do anything to evade paying the rent - excuses like losing their job, saying their budgie died, their cat died.

Michael James Ward, of Traralgon, had the most valid reason of all. He died.

But that hasn't stopped landlord Antony Lee making sure he gets his money by chasing the deceased's family.

After all, as Mr Lee said, if his tenant dies, should that be his problem?

Whatever conscience might dictate, his real estate agent told him the law says no.

The law says that when a tenant dies, the tenant's representative must give 28 days' notice that the lease will be broken in order to terminate the lease.

VCAT had no legal choice but to order the tenant's grieving daughter, Theresa Duggan, to pay up after 28 days. It will be taken from his bond.

That \$600 would have come in handy to Ms Duggan, forced to take a loan to cover her father's funeral expenses.

Mr Lee took her to VCAT. Ms Duggan called him "heartless". We can't think why.

The public needs to be aware of the Residential Tenancies Act, detailed on the website of Consumer Affairs.



The State Government may consider a Tenants Union suggestion that the law be changed to reduce the deduction period from 28 days to one or two weeks.

A Beatles tune advises the dead to beware the taxman taking the pennies from their eyes. Some landlords know the song well.

<http://www.news.com.au/heraldsun/story/0,21985,23103824-24218,00.html>

THE VIEWS OF TENANTS ON RENTAL CONDITIONS AND TENANCY LAW IN QUEENSLAND

*A Report on Tenancy Law Reform
Focus Group discussions*

During the first half of 2007, the Tenants' Union of Queensland conducted a series of focus group discussions with private renters in eight different locations across Queensland¹. These focus group discussions were principally undertaken to understand tenants' contemporary experiences and perspectives of renting in Queensland. The project represented a rare opportunity for broad dialogue with individual tenants who had not come to the Tenants' Union for advice or assistance, but who were nevertheless keen to tell of their own rental journeys and stories, and to express their own opinions of tenancy law protection now and into the future.

This report details the outcomes of this series of focus groups held with tenants across the State. The chief purposes behind the focus groups were to (a) explore contemporary rental conditions, processes and issues from the experience of renters themselves, and (b) to consult with renters about specific law reform proposals and to test positions advocated by the Tenants' Union of Queensland. The timing of the focus groups was designed to coincide with the review of the Residential Tenancies Act, and the responses from tenants was to be used to inform both the TUQ main submissions on the Review, as well as in related lobbying and campaigning work.

In addition, it was seen that the focus groups would be an opportunity for the TUQ to inform renters of the government's law reform process, and to provide some general awareness and promotion of TUQ services. In practice, the exercises also involved the provision of general community



CENTRE ON HOUSING RIGHTS AND EVICTIONS

Dear friends,

Nominations are now open for **COHRE's 2008 Housing Rights Awards**, in the categories of Violator (3 Awards), Protector (1 Award) and Defender (1 Award).

Further information on COHRE's Awards can be found on our website at www.cohre.org/awards

Nominations can be made by an individual or group anywhere in the world, using the nomination forms available at: www.cohre.org/nominations

The deadline for submission of nominations is 1 July 2008. Completed nomination forms should be sent to: awards2008@cohre.org

education about tenancy laws, and tenancy law advice Part Three of the report outlines the implications of the views, experiences and perspectives expressed during the focus group discussions for tenancy law and regulation, for tenancy and related service provision, generally and for the work of TUQ in particular.

Go to: <http://www.tuq.org.au/> to download the full report

Articles sourced from TSN (Tenant Support Network) National TSN is an independent, unincorporated not-for-profit initiative delivering a range of services to social and affordable rental housing stakeholders throughout Australia and New Zealand. These services have been delivered consistently and without charge since 1988. For further information contact:
TSN@thenexus.org.au
 Coordinator: Garry Mallard



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, or 4.30 to 8pm on Tuesdays.

Just when we were beginning to think that we had heard it all in respect of real estate agents, tenants began contacting TAS late last year about a 'recent change in the law'. Needless to say we were dumbfounded. None of us had heard of any recent change to tenancy law. The mystery unfolded...

A tenant contacted us as a result of having received an odd letter from her real estate agent. The letter began:

"Following recent advice from the tribunal we are writing to inform you of some very important changes to our procedures that will affect all tenancies where there is more than one tenant ..."

And went on to advise:

"Should one tenant issue a notice to vacate [in a periodic tenancy] this will terminate the tenancy for all parties. All tenants must vacate the premises in accordance with that notice."

The tenant was understandably concerned because the person she was renting with was going to be moving out soon but she wished to remain.

Another tenant (Malic) who was renting with a mate contacted TAS. Malic's mate was moving out and Malic's girlfriend was wanting to move in. However, the real estate agent advised Malic that **he would have to move out, put all his belongings in storage, reapply to rent the premises with his girlfriend and there was no guarantee that their application would be successful!**

The agent advised that this procedure was required because there had been a change to the law.

Tenants should note that there has not been any such change in the law. Real estate agencies are simply *choosing* to adopt such procedures.

Those engaging in such practices are not only seeking to justify their behaviour by advising tenants that there has been a change in the law requiring such action, they are also being untruthful. It is misleading, at best, to state, *"Following recent advice from the Tribunal..."*

So what does the law say?

A periodic co-tenancy does terminate for all co-tenants where a single co-tenant gives a lessor three week's notice to terminate the tenancy (under clause 88 of the Standard Residential Tenancy Terms). Similarly, a fixed term co-tenancy terminates at the end of the fixed term where a single co-tenant gives the lessor three week's notice to terminate the tenancy (under clause 89 of the Standard Terms).

However, this has always been the case and was not a significant issue until agents began making it an issue by advising the other co-tenants that they **must** vacate the premises in accordance with the notice. Whilst the co-tenancy does come to an end, there is no reason why the other co-tenants can't remain at the premises and sign a new tenancy agreement. Forcing co-tenants who wish to remain at the premises to physically vacate, remove all their belongings and put in a new application to rent the premises is an unnecessary and unreasonable requirement



which places a substantial and costly burden on tenants.

The difficulty in overcoming this practice is that whilst it is absurd, it is not unlawful. That is, although there is nothing in the law requiring such procedure, so too, there is nothing in the law preventing it.

What can you do?

Let's say your flatmate (co-tenant) has given the lessor three week's notice to vacate. You want to remain at the premises but your real estate agent is insisting that you vacate.

The first thing to do is advise the agent that you wish to remain at the premises and establish why the real estate agent is insisting that you vacate. Is it because the lessor no longer wants you there, or is it simply because the agent's policy is that where one co-tenant gives a notice to vacate, all tenants must vacate the premises in accordance with the notice?

It is very important to keep in mind that you are in an extremely vulnerable position. The tenancy will end in three week's time, irrespective of your wishes. You can only remain at the premises if the lessor allows you to stay and there is nothing requiring the lessor to let you stay.

You may find, as Malic did, that agents take a different approach with tenants who are aware that what the agent is proposing is not required by law.

When Malic advised his agent that what they were requiring him to do was not a legal requirement, the agent backed down (to an extent). Malic no longer had to physically move out and his girlfriend was allowed to move in. However, the new tenancy agreement was solely in Malic's name, despite both Malic and his girlfriend wanting it to be in both names.

Unfortunately, you may also find, as TAS did, that knowing the law will make no difference in dealing with your agent. TAS attempted to

resolve the matter directly with the real estate agency who had sent their tenants the letter referred to at the beginning of this article. However, our attempt at direct negotiation met with a brick wall. The agency was adamant that irrespective of the law, they would continue with their policy and would not make an exception to it in any circumstances.

Some good news

The good news is that this practice - to our knowledge - appears to be limited to just a couple of real estate agents in Canberra. We are currently working at finding other ways of resolving this issue. Hopefully common sense will soon prevail and we will have good news to report in upcoming issues.

Quotable quote:

"The Residential Tenancies Tribunal regrets that 10 years after the Residential Tenancies Act came into force, some real estate agents still exhibit a marked ignorance of its content or the correct procedures to be followed."

The statement was made by Jann Lennard in the 1st reported RTT case for 2008 -> *KITERNAS V*





Rent Bidding *(Continued from page 9)*

legislate because members of the public often tried to outbid each other.

"With vacancy rates so low, the public are fighting over places to live in and are upping the rent by up to 40 per cent," he said.

"The agent then has the legal obligation to take those offers to the landlord."

Opposition Leader Terry Mills said legislation would not fix the problem and the Territory needed more land released.

"The cause of the problem is the lack of supply, which has strengthened demand to the point where we have this problem," he said.

The Chief Minister also reminded Territorians that it was illegal for rents to be renewed in excess of the market value and urged people to complain to the Tenancy Commissioner.

http://www.ntnews.com.au/article/2008/02/01/3243_ntnews.html



National Insurance Hotline

The National Insurance Hotline operates Monday - Wednesday and has been busy since inception. The service engages case work / legal assistance and offers legal advice not only to the public but also community lawyers, financial counselors and other interested community workers in insurance complaints and disputes such as: rejected claims; refusal of insurance cover; harsh and unfair terms or special conditions; inability to claim due to an inability to pay the excess on an insurance policy; and claims by insurance companies against uninsured third parties (such as uninsured drivers and tenants who are sued by the landlord's insurer).

As an example, the service has acted on behalf of clients in insurance matters involving: Travel insurance, Medical insurance, Life, TPD/TTD, Income Protection, CCI, House and Contents, Motor Vehicle, Landlords Insurance and 3rd Party Uninsured. We have provided briefs and entry into pro bono schemes for clients on: Strata, Pleasurecraft and Building insurance.

The service has finally reached true national status with the recent raising of our profile on the west coast of Australia and the expansion of our co-operative arrangements with nationwide local government bodies.

The service also has provided specialised on the ground response to natural disaster events such as storm and hail in VIC, NSW and QLD. Our service has also conducted dozens of CLE presentations to community workers and private law firms in VIC, NSW, ACT and QLD.

1300 663 464

Monday to Wednesday
9.30am – 4.30pm

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SOBERING STATS

The following figures are from *Market Facts*, the quarterly residential property report from the Real Estate Institute of Australia. Data relates to the September 2007 quarter. There is no good news. December figures will be available from the REIA in March.

Note that these figures are based on rents advertised by real estate agents.

The National Picture

In the September quarter 2007, there were either substantial increases in median weekly rents for 3-bedroom properties, or rents were stable where they were already very high.

The increases in rent contradicts the slight all in vacancy rates in some areas. Vacancy rates are still very low and any increase could be explained by growth in the upper end of the markets that don't result in any increase in affordable properties.

The Canberra Story

Canberra sadly maintains its position as being amongst most expensive locations in this country.

Canberra's vacancy rate is not the lowest in the country, yet our rents are still amongst the highest.

Median Weekly Rents, Sept 2007

City	3 b/r house	2 b/r unit
Canberra	350	340
Sydney	295	340
Melbourne	260	270
Brisbane	300	290
Adelaide	255	205
Perth	300	290
Hobart	270	230
Darwin	440	340

National Vacancy Rates, Sept 2007

City	Vacancy rate	Quarterly change
Canberra	2.2	-0.2
Sydney	1.4	0
Melbourne	1.2	-0.2
Brisbane	1.6	0.1
Adelaide	1.5	0.2
Perth	2.5	0.4
Hobart	2.3	-0.1
Darwin	0.7	-0.5

Canberra Rents, Sept Quarter 2007

Houses	Median \$ per week	Change over quarter %	Change over year %	Flats/ Units	Median \$ per week	Change over quarter %	Change over year %
Inner Central	408	0	12.95	Inner Central	392.50	-2.4	14.2
Inner South	410	0.7	7.95	Inner South	296.66	-0.8	8.4
West and North	395	3.85	16.45	West and North	296.66	3.9	12.7
Outer South	380	-0.75	10.4	Outer South	316.25	-2.4	10

Be aware that these are not figures that should be the sole basis of a rent increase. Rent increases are regulated as to how often they can happen and what might be excessive. CHECK OUR WEBSITE OR RING TAS IF YOU GET NOTICE OF AN INCREASE

