

## **WESTS Community Engagement Day**

**2.30pm to 4pm Friday, 21 May 2021**

*Talk (2:50pm, 15 minutes)*

I'd like to acknowledge the Traditional Owners of the land on which we meet, the Darug people. I also would like to pay my respects to Elders past, present and future.

Some of you may have heard a little of what I say today, because I spoke at [WESTS's 10<sup>th</sup> Birthday celebrations](#), some three years ago ...

*Western Sydney Tenants' Service* (or WESTS) today is part of Western Sydney Community Legal Centre. But the history of WESTS goes back to 1990. I'll come to that shortly.

Tenants services in New South Wales date back to the NSW Rent Payer's Association who operated one between 1910 and 1916. Our current tenants services took shape some 45 years ago in 1976 when the newly formed Tenants' Union of NSW set up a network of tenants advice services, initially using volunteers.

Ten years later on 1 January 1986, Labor's Frank Walker, funded the Housing Information and Tenancy Services (HITS) Program which established a network of nineteen Tenants Advice and Housing Referral Services across New South Wales. All employed paid tenant advocates. Like today, it drew on a small part of the interest generated from the lodgement of rental bonds with the Rental Bond Board. There was a service covering the Parramatta region called *Parramatta Auburn Holroyd Tenants Advice and Referral* (PAHTAR). But, the HITS Program only last four years when it met the ire of the then Liberal Housing Minister, Mr Joe Schipp, who axed it.

To fill the void and keep the issue of fully funded tenants service on the political agenda, the Board for Social Responsibility of the Uniting Church in NSW, now part of *Uniting*, funded a tenants service in Western Sydney. On 19 March 1990 Sir Ronald Wilson, President of the Uniting Church in Australia, President of the Human Rights and Equal Opportunity Commission and previously a High Court judge, officially launched *Western Sydney Tenants Service* (or WESTS). The Uniting Church believed that such services were essential if residential tenants were to have a semblance of housing justice. Initially, WESTS served a catchment area of twelve local government areas in South Western as well as Western Sydney. It shared premises with *Macquarie Legal Centre* in Station Street, Harris Park. These premises are now the Saree Shop opposite the railway line.

Some four years later, there was a new Minister who was a breath of fresh air, Mr Robert Webster ... also from the conservative side of politics. Workers at WESTS played a key role in the lobbying and negotiations leading to re-funding. This is all documented in Paul Mortimer's [Unfinished Business: The story of the Tenants' Union of NSW 1976-1996](#). It's worth reading Mary Perkin's piece called 'A cheeky strategy' (pp 58-59):

In November 1993 a friend of the Tenants' Union checked out the state of play with the HomeFund scheme, and the NSW Government's plan to use Rental Bond Board money to bail it out. ... The crucial source of power was the hung Parliament in NSW It didn't take a

lot of work to get the Labor Party Opposition and the Independents to support our argument and our strategy, which was: no Homefund bail-out without funding tenants' services ... this money was theirs. ... And we went to see the Minister, and very quickly the deal was done.

So, Mr Webster re-established a new Tenants Advice and Advocacy Program (TAAP) commencing in 1994 ... and today, some 27 years later, the program attracts bi-partisan support.

With the advent of TAAP, WESTS shed four local government areas in South Western Sydney.

I was lucky enough to work with WESTS from Day 1 in 1990 up until the middle of 2005. In March 2008, WESTS's baton passed to Macquarie Legal Centre ... and to Elizabeth Evatt Community Legal Centre for tenants of the Blue Mountains local government area.

So WESTS's history goes back some 31 years.

I'd like to share with you a little piece of WESTS's history of which most people are probably unaware.

In March 2001, a review of TAAP was completed for the then Department of Fair Trading. Among the recommendations of the Final Report was the suggestion that the TAAP Guidelines 'encourage but not require' the role of a 'duty officer' to be undertaken by services when resources permit.

WESTS took up this recommendation by creating the Duty Advocate pilot project, designed to test the potential and pitfalls of providing a duty advocacy services. The project employed Justine McGill as a Duty Advocate for 3 days per week in October 2001. The project had two stages: Stage 1 was training and preparation and Stage 2 was providing duty advocacy in earnest. Stage 2 ran for a six-month period from January 2003, working with the Blacktown and Penrith venues of the Consumer, Trader and Tenancy Tribunal. Justine's role was to provide assistance to tenants who otherwise might 'slip through the net' of service provision by TAAS. In particular, the aim was to reach tenants who face serious disadvantage in advocating for themselves.

The bulk of Justine's work was done at the stage of conciliation, with little time spent in formal hearings. There was a high rate of settlement in matters where she assisted with conciliation: 159 settlements out of a total of 212 conciliations (or 75% of conciliation efforts). You will find Justine McGill's final report [here](#) and a summary version of her final report [here](#).

WESTS engaged Phillipa Bellemore to evaluate the Duty Advocate pilot project. She produced a report in October 2003 which you can read [here](#). It concluded:

Without doubt the trial of the duty advocate position has been very successful and effective. It should be continued, extended and further developed. All stakeholders consulted in this process spoke highly of the worker and the position. It seems clear that a duty advocate presence at the Tribunal means that high need tenants who are not aware of tenants advice services such as WESTS can be assisted in an effective, timely and compassionate manner. ... The duty advocate is a vital position that assists tenants to more easily negotiate the Tribunal system for fairer outcomes.

Phillipa made a series of recommendations including:

1. That WESTS continue the employment of a duty advocate as a permanent part-time position
2. That NSW Fair Trading funds and extends this scheme to other areas using the model and protocols developed by WESTS.

Well, the rest is history. The presence of a duty advocate has become a regular feature of Tribunal hearings across the State. However, this has been on hold during the COVID19 pandemic, because the Tribunal has been restricted to telephone hearings.

But ... Phillipa's recommendation that NSW Fair Trading funds 'Duty Advocacy' at the Tribunal was never taken up. Indeed, the provision of a Duty Advocate role at the Tribunal has occurred *in spite of* an absence of additional funding. TAAS have had no real increase in baseline funding since 2002.

Three years ago I'd finished my talk by reading a case study from the files of the old WESTS. Here's another one ...

The previous evening a neighbour had told a client that the landlord was coming first thing in the morning to demolish his dwelling. I sprang into action. A solicitor was organised for the Land and Environment Court. The Minister's office was contacted. My wife and I arrived at a client's house at the crack of dawn and rallied the neighbours. At quarter to 8 in the morning the landlord arrived with a bulldozer, several trucks and two security guards carrying guns. I ordered them off the premises, warning them of a raft of laws they were about to breach. We called the police. The developer pulled back. We won a stay in the Land and Environment Court. You can read about this incident [here](#). It all ended up in the Court of Appeal five years later in the case of *May v Ceedive*. The police report on the incident states that Robert Mowbray 'appeared to inflame the situation insisting that police prevent action by [the landlord]'. This report then refers to Mr Mowbray as an 'outside agitator'. Justice Murphy in *Neal v The Queen*, High Court 1982, said of the defendant: 'If he is an agitator, he is in good company. Many of the great figures of history have been agitators, and human progress owes much to the efforts of these and many who are unknown'.

Congratulations to Franya and her team of tireless agitators at WESTS for their tremendous advocacy for the tenants of Western Sydney!

Robert Mowbray

Project Officer – Older Renters, Tenants' Union of NSW

21 May 2021