

## Boarding Houses Act to commence next year

*Chris Martin, Senior Policy Officer*

**On 23 October 2012, the NSW Government's *Boarding Houses Act 2012* was passed by Parliament. The Act has not commenced operation yet. We understand that the government intends for it to commence in early 2013.**

This is a landmark reform. Residents of registrable boarding houses will have, for the first time, an enforceable entitlement to written agreements and receipts.

They'll also have, for the first time, agreements that must comply with certain basic occupancy principles. These include entitlements:

- to live in premises that are in reasonable repair
- to know the house rules before moving in
- to quiet enjoyment – use of the premises without interference
- to know why and how the occupancy may be ended, including how much notice is to be given
- to get reasonable notice of termination.

Residents will also have, for the first time, straightforward access to dispute resolution in the Consumer, Trader and Tenancy Tribunal.

The Act establishes a Register of Boarding Houses that anyone can check to find out if premises are registered or the name of the proprietor.

It also directs local councils to inspect premises for compliance with building and fire safety requirements.

Finally, it revamps the regulatory regime for licenced residential centres – now called 'assisted boarding houses'.

The Act improves on the government's earlier draft Bill, which was circulated for consultation in June this year (see *Tenant News* 101). In particular:

- the loophole about premises that are subject to a tenancy agreement is closed
- the names of boarding-house proprietors will be included on the register
- proprietors will be required to provide a written occupancy agreement at the start of an occupancy
- standard forms of occupancy agreements for different classes of agreements, persons or



... Fireworks ... © sung ming whang (flickr.com/smwhang)

premises may be prescribed by regulation

- the occupancy principles are effective – it is a term of every occupancy agreement that the occupancy principles apply
- a wider range of remedies is available in the tribunal, including compensation.
- new occupancy principles:
  - prohibiting penalties for breaches of house rules
  - allowing utility charges to be levied on a reasonable basis only
  - limiting bonds to two weeks rent.

The TU congratulates the NSW Government, particularly the

Disability Services Minister, Andrew Constance, who had carriage of the reforms. We also congratulate all the community workers, advocates and, especially, boarding-house residents, who, over so many years, have spoken out against the injustices of marginal renting and have kept pressing the case for reform.

Beyond the present Act, we encourage the government to continue reform of the boarding-house sector and marginal renting more generally by:

- working with stakeholders to develop standard forms of occupancy agreements to be prescribed by regulation
- legislating to provide that renters who are not otherwise covered

by residential tenancies legislation are covered by the occupancy principles and occupancy agreements

- boosting the Boarding Houses Financial Assistance Program in anticipation of increased applications for fire safety grants and to allow grants for other purposes
- expanding the Boarding House Outreach Program to connect boarding-house residents to support services throughout the state
- adopting as government policy the orderly winding up of the assisted boarding-house sector and ensuring that residents have access to appropriate housing and funded, not-for-profit support services.

## Q&A: LOCKOUT IN SHARE HOUSING GRANT ARBUTHNOT, PRINCIPAL LEGAL OFFICER

**Q I moved into one bedroom of a four-bedroom house. Three others rented the other rooms individually. The guy we rented from lived elsewhere. He was a bit of a pain, always turning up and ordering people about. We fell out over cleaning. He locked me out and threw away my stuff. He refuses to give back my bond of \$500. I have receipts but there was no written agreement for the room. What can I do? I don't know where he lives or even whether he owns the house.**

**A** It does not matter whether the guy owns the place or rents it. What you can do depends on your legal relationship with him. The Consumer, Trader and Tenancy Tribunal can decide this.

Apply to the tribunal for orders against him. Make your application in the Tenancy Division of the tribunal under the *Residential Tenancies*

*Act 2010*. In your application, include "In the alternative, transfer to the General Division" in order to use the *Consumer Claims Act 1998*.

The orders to apply for and time limits for applying are:

- compensation for lost goods – 30 days from your knowledge of their disposal
- bond recovery – six years from the guy's refusal to pay (but do not delay).

For a consumer claim, you must apply within three years of the lockout.

At a hearing, the tribunal will decide whether you are covered by one of the above Acts. If it decides that you are not covered by the *Residential Tenancies Act*, you may still take action under the *Consumer Claims Act* if the guy was running the place as a business.

Take your receipts to the tribunal as evidence.

You cannot take legal action without getting documents to that guy – finding him may be a problem. Having his name will help. A land title search for the premises (about \$12, through NSW Land & Property Information) will show who owns them.

Also try searching phone books, the internet or the electoral roll.

#### **Further information on share housing**

• [sharehousing.org](http://sharehousing.org) • [tenants.org.au](http://tenants.org.au) • your local Tenants Advice and Advocacy Service

**Contact** NSW Land & Property Information: [lpi.nsw.gov.au](http://lpi.nsw.gov.au), 1300 052 637

## Relief for Aboriginal tenants facing eviction

*Gemma McKinnon  
Aboriginal Legal Officer*

**The TU recently assisted a community of tenants facing eviction by their local Aboriginal land council. We worked in conjunction with Western Aboriginal Tenants Advice and Advocacy Service and a barrister funded by a grant from NSW Legal Aid.**

Alice Edwards Village sits a few minutes drive outside of Bourke in north-western New South Wales. Tenants in the village have been living with the cloud of eviction over their heads for almost a year. They can finally breathe a sigh of relief after a long-fought battle with the land council.

Most residents have lived in the village since childhood. The community's matriarchs provide a safe environment for the children and young people. The communal lifestyle means that there is always a secure place to stay and the location provides a haven from the drugs and crime in town.

There has been a long-running struggle on the part of the tenants of the village to get

the land council to repair and maintain their properties. The properties have fallen into a serious state of disrepair. Some homes have brown snakes breeding in the ceiling and walls, others have electricity in only half of the house and most have difficulties with sewerage and rodents eating through walls.

The tenants did not pay rent for a time in response to the land council's neglect.

Aboriginal land councils across the state are under pressure to conform to new funding requirements. The difficulty of conforming to these requirements is evidenced by the ever-extending deadline for compliance.

This pressure also means that land council property rents are on the rise to the point where tenants in remote communities, like those in Bourke, are asked to pay rents that are significantly higher than those in Sydney. The combination of high rents and the high cost of living in rural and remote areas is making life for communities such as these very difficult financially.

Despite the unacceptable conditions, the tenants have a strong connection to the village and they continue to want to live there. For the moment at least, their tenancies are safe and the community can continue to live the life they have enjoyed for generations. ■



*Alice Edwards Village. Photo: Ned Cutcher*



# Out and about with the IUT

*Ned Cutcher, Policy Officer*

**On 8 November 2012, we had the pleasure of hosting Mr Magnus Hammar, Secretary General of the International Union of Tenants (IUT), for a day in Sydney. Mr Hammar was touring the east coast of Australia following his address to the 7th National Housing Congress in Brisbane.**

We began in Rosemeadow–Ambarvale and Claymore in south-western Sydney. There we met and spoke with local public-housing tenants and caught up with staff of the South West Sydney Tenants Advice and Advocacy Service.

The tenants of Rosemeadow–Ambarvale spoke of their resolve in the face of redevelopment of the estate and the relocations that

they felt forced into by their landlord, Housing NSW.

Their stories gave us a stark reminder that restrictions on eligibility for social housing, combined with limits on the availability of appropriate housing for people with mental illness or disability, can lead to dysfunction and despair within the neighbourhood.

Sometimes nobody gets what they need from this system, and it's no wonder that long-established tenants express reservations when told they must move away from all that they know and love.

The tenants of Claymore told a slightly different story, borne of different circumstances. For these tenants, redevelopment and relocation remain an unrealised threat to the

community that has been their home for 30 years or more.

Some homes have already been demolished but the funds to rebuild have not yet materialised. Many doubt they will ever see the brand new houses that have been promised. In the meantime, the uncertainty sees their local infrastructure degrade.

However, these tenants know that no matter what conditions are like on the outside, their community comes from what's inside the homes and gardens across the many winding streets of their town.

We then travelled into the city for a look at some of the heritage-listed public-housing buildings of Millers Point, many of which face the continued threat of sale by the NSW Government. We also passed by the iconic Sirius Building on Cumberland Street, The Rocks, which was built to replace stock that was demolished in the 1970s before green bans were imposed and the wholesale redevelopment of this historic area was stalled.

Then it was time to let Magnus do the talking. At Customs House Library, we heard some of his perspectives of how rental housing in Australia compares to housing markets in Europe.



*Magnus Hammar (back, second from left) with tenants from south-west Sydney*

According to Mr Hammar, there is a direct correlation between the percentage of rental housing and the strength of a country's renting laws. He expressed

surprise that, as the number of renting households grows, more demands are not made of Australian governments to strengthen our laws against unfair evictions.

The IUT was founded in 1926 in Zürich, Switzerland with the purpose of safeguarding the interests of tenants.

See [www.iut.nu](http://www.iut.nu) to find out about the IUT's activities.

## Show how much you value your TAAS

*Ned Cutcher, Policy Officer*

### **NSW Tenants Advice and Advocacy Services (TAAS) are kicking off a conversation about their value.**

We've started by posting a series of articles on our blog that explain that, for just three cents a day, each renter household in New South Wales has access to a network of professional and committed tenant advocates, and a website full of information about our renting laws and how to apply them.

We'll be sharing more stories about tenants who have made use of these services, and the TAAS who advise and assist them. It's important that we tell these stories now.

Recently, Queensland's TAAS program was defunded by the state government (but emergency Commonwealth funds will keep services open until part-way through next year). In Victoria, services that support tenants in public housing are also being reduced. Demand for NSW services has grown significantly over the past ten



*Original image 'As seen in Sydney' © Mark Pesce (flickr.com/hyperpeople)*

years, but our capacity has not increased at all.

In spite of this, the value of TAAS remains high. We do an important job with minimal resources – and we think that's worth talking about!

*TAAS are funded from the interest on tenants' bonds and the Property Services Statutory Interest Account.*

### **Spread the word about the value of TAAS**

- Mention and share our stories on your social media pages.
- Leave a comment on our blog: [tunswblog.blogspot.com.au](http://tunswblog.blogspot.com.au)
- Email us your own story: [tenants@tenantsunion.org.au](mailto:tenants@tenantsunion.org.au).

### **How one TAAS helped to save a tenancy**

A tenant had managed to avoid having the landlord inspect her home for almost 13 years.

One day she required him to carry out an urgent repair. He came into the house and discovered that she was hoarding rubbish. He served her with a notice of termination and applied to the Consumer, Trader and Tenancy Tribunal for eviction orders. She contacted her local TAAS for advice.

*Continued on page 6*

*Continued from page 5*

The TAAS tried to refer the tenant to the community mental health team, but because she had no diagnosis of mental illness, they were unable to provide any support. They claimed that her issues were alcohol related.

The TAAS negotiated with the mental health team and they agreed to conduct another psychiatric assessment but could not do so before the landlord's tribunal hearing.

At the hearing, the landlord was insistent – he wanted the tenant to leave. The TAAS asked that the matter be adjourned for the tenant to have the assessment. The tribunal agreed.

The tenant was assessed, an initial diagnosis was made and medication prescribed.

The TAAS then attended the property, along with a local church organisation, and assisted in the removal of a fair amount of rubbish. They advised the tenant to keep the property as clean as possible in the lead-up to the next tribunal hearing.

At the next hearing, the tribunal ordered that the tenant would not be evicted if she kept the property in good order. However, the landlord could apply again for eviction if the same issue re-emerged within six months.

The tenant continued contact with the mental health team, which put her in touch with a number of support groups.

She also kept her home.

## Proposed strata reforms and urban renewal: adverse affects anticipated

*Chris Martin & Leo Patterson Ross*

**New South Wales' first strata title schemes are more than 50 years old and plenty of even older buildings have been subdivided into strata units over the years. With age, these buildings have sustained some wear and tear. Many are desirably located in inner and middle Sydney.**

Developers have had their eyes on them for some time. However, a strata scheme cannot be redeveloped unless every owner agrees to sell up and terminate the scheme. Now the NSW Government is looking at them too.

NSW Fair Trading is currently considering changes to the



*Wrecking ball © Bart Everson (flickr.com/editor)*

law about terminating strata schemes in order to facilitate 'urban renewal'. These include removing the requirement of a unanimous decision by owners to terminate. Instead, a majority would do, with some owners having to sell against their wishes. Fair Trading is asking for feedback

on what size of majority is appropriate and whether there should be a process for owners to collectively sell up or participate in the redevelopment.

We think that before the NSW Government considers these details, it should first consider



the wider implications of such changes. We're worried that without the government also committing to a stronger affordable-housing policy and additional investment in social housing, these changes may result in thousands of households losing relatively affordable and, for owner-occupiers, secure housing.

We have identified two groups of people in strata schemes that we believe would be particularly vulnerable. Both are older (60 and over), on low incomes (under \$60,000 a year) and live in the inner and middle rings of Sydney.

The first group are owner-occupiers without mortgages. Our analysis of 2011 Census data reveals about 29,000 such residents. Of this group, two thirds have incomes of less than \$600 per week.

These residents may have lived in their strata schemes for many years and have deep links to the local area. They may also have no assets other than their strata unit and, if they were forced to sell, may not be able to afford to buy again in the same area. This is a real possibility, especially if the market for units in the scheme is limited. (If the scheme is run down and there are insufficient funds for repairs, there may be few prospective buyers other than developers).

Upon termination of their strata schemes, these

residents may face the choice between buying again elsewhere or renting locally. Buying and moving would mean losing their links to the area and local services. Renting would mean time spent in private rental, which offers little security of tenure.

They could apply for social housing, but may be ineligible because of their income and/or assets. Even if they were eligible, waiting times for most social housing in inner and middle Sydney are between five and 10 years or more.

For a group that has enjoyed low housing costs and high security, and expected to continue to do so in their old age, these are poor housing options indeed.

The second group are private tenants. The 2011 Census data shows there are about 14,000 such tenants. Of this group, almost 5,000 live alone, and of these, about two thirds have incomes of less than \$600 per week.

Unlike owner-occupiers, tenants do not enjoy secure tenure, and the Census data do not disclose the affordability of their housing.

We acknowledge that the rental housing supply in inner and middle Sydney would probably

– eventually – increase as a result of the redevelopment of older strata schemes. Nonetheless, we are concerned that when a strata scheme is terminated, these tenants would also face unsatisfactory housing options.

They would likely be unable to rent affordably in the local area whether during the redevelopment or afterward. Premises in the redeveloped scheme will almost certainly rent for substantially more than those in the old scheme and these renters have little prospect of increasing their incomes. They would therefore have to move away, or try to rent unaffordably locally while waiting for social housing.

These vulnerable groups – and others who may be adversely affected by urban renewal – need housing options that are better than those presented by our current planning and social housing systems and tenancy laws.

We ask that the NSW Government review the implications of such proposals with input from interested government agencies, NGOs and individuals. The objective should be that everyone unhoused by urban renewal has access to affordable, secure alternative housing in their chosen location.

A longer version of this article on our blog further details the flaws in the housing system exposed by the proposed reforms. See [tunswblog.blogspot.com.au](http://tunswblog.blogspot.com.au) under the label 'Strata'.

# JOIN THE TENANTS' UNION

Support us in our work for safe, secure and affordable rental housing for people in New South Wales

## Membership application

(Tax invoice ABN 88 984 223 164)

I apply for membership of the Tenants' Union of NSW Cooperative Limited as:

- ☐ individual tenant    ☐ individual (non-tenant)  
☐ tenant organisation    ☐ organisation (non-tenant)

Name

Address

Suburb

State                      Postcode

Phone

Email

### Fees (GST included)

Annual fee covers 1 January–31 December

- individual low wage / pension / benefit    \$ 8.00
- individual waged worker    \$16.00
- organisation    \$32.00

### Payment

Membership fee    \$

Donation    \$

TOTAL    \$

Signed                      Date

### Payment method: Please tick

☐ Enclosed cheque or money order made out to Tenants' Union of NSW

☐ Deposit into our bank account:

Account name Tenants' Union of NSW  
BSB 062-004 Account No. 802624

For online deposits, please give the reference "MEM" plus your surname

### Please post this form to:

Tenants' Union of NSW  
201/55 Holt St  
Surry Hills NSW 2010

## NSW Tenants Advice and Advocacy Services



Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Southern Sydney	9787 4679
South Western Sydney	1800 631 993 4628 1678
Eastern Sydney	9386 9147
Western Sydney	8833 0911
Northern Sydney	9884 9605
North Western Sydney	1800 625 956 9413 2677
Blue Mountains	4782 4155
Central Coast	4353 5515
Hunter	1800 654 504 4969 7666
Illawarra South Coast	1800 807 225 4274 3475
Mid North Coast	1800 777 722 6583 9866
Northern Rivers	1800 649 135 6621 1022
North Western NSW	1800 836 268 6772 4698
South Western NSW	1800 642 609
Older persons (statewide)	1800 131 310 9566 1120

### Aboriginal services

Greater Sydney	9569 0222
Western NSW	1800 810 233
Southern NSW	1800 672 185 4472 9363
Northern NSW	1800 248 913 6643 4426



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### We invite contributions:

Contact the Publications Officer – see below for contact details.

### Tenants' Union of NSW

- A community legal centre specialising in NSW residential tenancies law.
- Peak resourcing body for the NSW Tenants Advice and Advocacy Program.

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