

# TENANT NEWS

NEWSLETTER OF THE TENANTS' UNION OF NSW

# 109 MARCH 2015

## TENANTS DEMAND...



Milly got the advice she needed from her local Tenants Advice & Advocacy Service.

## TENANTS NEED THEIR ADVICE & ADVOCACY SERVICES

*Interview with Milly Morison – Milly is a tenant who recognises the value of the network of Tenants' Advice & Advocacy Services (TAAS).*

I've contacted Tenants Advice & Advocacy Services for all sorts of things. I can't remember the first time. One of them was when I was given an eviction notice from a previous landlord.

I was good friends with the landlord. He was the owner of the house and we had a pretty good relationship. But he got really sick and asked if we could leave within a fortnight and I needed the legal back up to tell him that as much as I was concerned for his health,

and would do whatever we could do to get out, he couldn't evict us within that timeframe. The TAAS was able to provide me with the legal information to back up my case. It meant that we had a month that we could use to find a new house. We didn't take that long which was to the benefit of everybody but it meant that I was supported for that which was great. It didn't go to the Tribunal. I was able to take the information back to my landlord and say look really you can't do that.

I'll do whatever I can, but these are the facts about tenants' rights and it's unfair of you to abuse that.

Another of the reasons I contacted the TAAS was in terms of pest control. When I moved into the house after that house, it was infested with bugs. The real estate agent tried to tell me that that was my responsibility to get rid of all those bugs.

The TAAS was able to point me in the direction of

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MORE BANG  
FOR YOUR  
BOND

### SPECIAL EDITION: NSW ELECTION

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*Authorised by J Foreman,  
2/55 Holt St Surry Hills 2010*

# EDITORIAL:

## AFFORDABLE HOUSING IS THE HIGHEST NEED

Julie Foreman, Executive Officer

Affordable housing consistently ranks as the highest need in state and national community sector surveys and consultations. Getting and keeping safe secure housing has flow-on effects to almost every other area of a person's life. Without this basic platform any form of social support or opportunity is limited.

Tenants' Advice & Advocacy Services (TAASs) contribute positively to helping tenants keep their homes. During a 6-month period 15 TAASs recorded 516 tenancies at risk of termination. As a result of the advice and advocacy provided by skilled advocates, homelessness was averted in a staggering 424 cases, or 82% of cases!

And these great services are funded from interest on tenants' money – primarily, tenants' bonds lodged at the Rental Bond Board.

This edition of *Tenant News* is dedicated to the wonderful work of TAASs in NSW. We think more of this type of work should be funded and in the following pages we outline a fair proposal on how this can occur.

Based on the day-to-day advocacy work of the TAASs we have also developed a law reform and policy platform that will work towards a more just and affordable renting system.

In this *Tenant News* we invite you to support this work by:

- participating in the *More Bang For Your Bond* campaign; and
- using the policy information inside to inform yourself prior to the state election.

In 2015 we look forward to working with you for a just and affordable housing system. Join us! 🏠



Julie Foreman,  
TU Executive Officer

"I am a renter. Have been in the same house renting for 5 yrs 8 months. My rent is \$370 pw for a 4 bdr house. We need to move out by the 12th March so I have been looking at rentals and they have increased on average about \$100-\$200pw. I am needing a 5 bdr house and they are on average between \$550-\$750pw. It's ludicrous as the area I live in is a low income area. It just doesn't make sense. Something needs to be done as it is increasing homelessness"

– comment on the *Tenants' Union* Facebook page

# A BETTER DEAL FOR RENTERS

## THE TU POLICY AND LAW REFORM PLATFORM

### LAW REFORM FOR HOUSING JUSTICE

*"Oh, we're just renting."*

**Why should tenants feel that they have to put themselves down when they talk about their homes?**

Part of the reason is our tenancy laws. Our laws allow landlords to terminate tenancies without grounds: this is unfair and makes all tenants insecure.

Our laws allow excessive rent increases and other fees, and interference in tenants' decisions about how to live their own lives.

Our laws don't do enough to raise the standard of rental housing and make it safe.

And it's even worse for people in marginal rental accommodation – some of the most vulnerable members of the community – who are excluded from our tenancy laws altogether.

The Tenants' Union is for *Just Renting* – reformed tenancy laws that deliver greater justice in rental housing:

- Fairer laws about tenancy termination – greater security for tenants
- Fairer laws about rent increases
- Fairer break fees
- Greater freedom of choice about pets & household members
- Raise the standard of rental housing
- Housing justice for marginal renters

### A STRONGER SOCIAL HOUSING SECTOR

Because decent housing is the right of every person, we need social housing.

Our social housing system should provide rental housing for every person not adequately served by the

private market, and challenge the private market to better provide for low and moderate-income households.

Social housing can be a life-saver. However, we don't have enough of it, and what we do have operates on terms that are often unfair, perverse and damaging.

We need to grow the social housing system everywhere, with new stock built and existing stock maintained – and where there is a question of old stock being redeveloped or sold, there must be transparency and consideration of the views of tenants and local communities.

We need to reduce work disincentives, particularly in public housing, so that tenants have nothing to lose from working.

The physical standard of social housing must be improved, through repairs and maintenance processes that prioritise the work that tenants say needs doing.

Recent needlessly harsh changes that result in long-term household members being evicted, even though they are eligible for social housing, should be reversed.

Social housing decision-making should be reviewable by the NSW Civil and Administrative Tribunal.

And a bit more respect should be shown – particularly by media agencies, politicians and housing officials – when talking about social housing tenants and communities.

### ACTION FOR HOUSING AFFORDABILITY

The high cost of housing is a critical problem across Australia and especially in New South Wales.

It is a two-fold problem for tenants. Some tenants are frustrated

purchasers who are priced out of the owner-occupier market. Many other tenants – particularly those in low-incomes – are stressed by the lack of affordable rental housing.

There are 220,000 low-income households in the private rental market in NSW (the lowest 40% of all households by income). Of these households:

- 78% are in housing stress (paying more than 30% of their income on rent);
- 43% are in housing crisis (paying more than 50% of their income on rent).

At the root of the affordability problem is housing speculation, encouraged by our tax system, which has inflated house prices and distorted the composition of the private rental market.


The TU supports the work of **National Shelter** and **Shelter NSW** to make housing affordability a priority for all levels of government.

In particular, we support reforms to our Federal and State tax systems to discourage housing speculation.

We support reforms to Commonwealth Rent Assistance so that it better assists those suffering most.

### TENANTS' MONEY, TENANTS' SERVICES

We're calling for funding to TAASs to be increased now by \$5.2 million per annum, and, going forward, for funding to grow in line with the number of tenants in NSW.

This would restore the real value of funding to TAASs (based on 2002 levels). This proposal is affordable. After paying its share of the funding increase to TAASs, the Rental Bond Interest Account would ordinarily still be in surplus. For more information, see overleaf. 

# MORE BANG FOR YOUR BOND! TENANTS' MONEY – TENANTS' SERVICES

## TENANTS' BOND MONEY

Tenants' bonds generate a lot of money for the NSW State Government. We believe that more of that money should be used for the benefit of tenants, through improved funding for Tenants Advice and Advocacy Services (TAASs).

Over \$1 billion of tenants' money is lodged as bonds at the NSW Rental Bond Board. This money generates tens of millions of dollars in interest each year: **about \$60 million in 2013-14**. The NSW State Government decides how this money is spent.

Most of the money – more than two-thirds of the total – is paid to NSW State Government agencies, primarily the NSW Department of Finance and Services, and the NSW Civil and Administrative Tribunal. These payments subsidise the cost of Tribunal proceedings, pay for administration of the Bond Board itself and help fund tenancy-related activities at Fair Trading NSW.

A small portion is used to fund the TAASs.<sup>2</sup> Other smaller amounts go to other community services (such as financial counselling services, and the No-Interest Loans Scheme) and affordable housing programs.

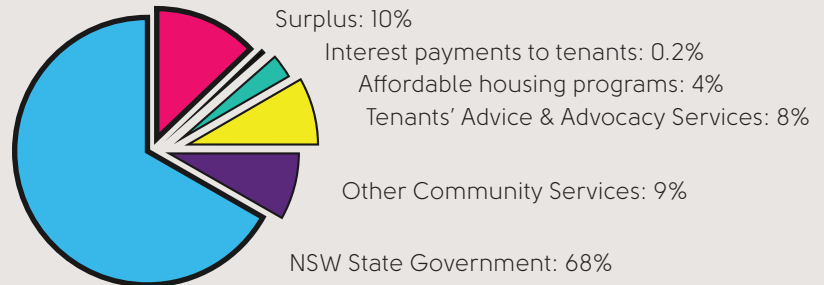
A tiny amount is paid as interest to individual tenants when they claim their bonds at the end of their tenancies.

After these payments, the Rental Bond Interest Account retains a surplus. Accumulated surpluses now amount to more than \$60 million.

1. Source: Averages from Rental Bond Board Annual Reports, 2011-2014.

2. This grant is matched by a grant from the Property Services Statutory Interest Account, which holds interest made by money in real estate agents' trust accounts, including money paid by tenants. The Tribunal and other agencies receive grants from this account too.

## WHERE DOES THE INTEREST GO?<sup>1</sup>



## WHAT TAASs DO

TAASs are community organisations that work for tenants. Across NSW there are 15 local TAASs, and four local Aboriginal TAASs. They:

- provide phone advice (more than 22,000 cases in 2013-14)
- advocate on behalf of tenants in resolving problems with their landlords or agents (more than 4,600 cases);
- represent tenants in Tribunal proceedings (more than 2,000 cases); and
- conduct community education about tenancy rights and responsibilities.

There are also two resource TAASs: the Tenants' Union of NSW and Dtarawarra (Aboriginal Resource Unit), that provide the local TAASs with legal backup, training and other support, and provide tenants with:

- factsheets and sample letters (almost 600,000 downloaded in 2013-14)
- a voice in tenancy policy and law reform.

## TAAS FUNDING: FALLING BEHIND DEMAND

Total funding to TAASs has not increased in real terms for over 12 years. However, the number of tenants grew by 25% in that time.

This has left TAASs stretched thin. Increasingly, tenants are missing out on the services they need & deserve.

## WHAT DO WE WANT?

We're calling for funding to TAASs to be increased now by \$5.2 million per annum, and, going forward, for funding to grow in line with the number of tenants in NSW.

The increase would:

- restore the real value of funding to TAASs (based on 2002 levels);
- provide properly for TAAS duty advocates at the Tribunal – a highly valued service for tenants most in need of assistance;
- provide properly for the Aboriginal TAAS, including an additional Aboriginal TAAS serving southwest NSW; and
- restore the value of funding for the TU's projects relating to older tenants and residential parks. Funding for these areas was reduced in the last funding round.

And tenants individually should get more of their bond interest. The interest rate should be tied to the Commonwealth Bank's Everyday Account rate for a deposit of \$100,000 (currently 0.2% per annum) rather than \$1,000 (0.01% – the lowest rate offered).

These proposals are affordable. After paying its share of the funding increase to TAASs, and increased interest payments to tenants individually, the Rental Bond Interest Account would ordinarily still be in surplus.

Get involved in the campaign now...

# JOIN THE CAMPAIGN

WE NEED YOUR SUPPORT TO WIN...



- 1 Check out [yourbond.org](http://yourbond.org). You'll find more information and a calculator to work out where your bond has been spent.
- 2 Subscribe to our campaign e-bulletin. We send out regular updates and ways to take action: [yourbond.org/signup](http://yourbond.org/signup)
- 3 Share the campaign with your friends on Facebook! Leave a comment about why you support the campaign: [facebook.com/morebangforyourbond](https://facebook.com/morebangforyourbond)
- 4 Give out some leaflets and postcards! Get in touch and we'll send as many as you like, or download it at: [yourbond.org/campaign](http://yourbond.org/campaign)
- 5 Talk to your local candidates! Below are some talking points you could use. You can find your local candidates details at [votensw.info](http://votensw.info)

HERO

CHAMPION

SUPER  
HERO

COSMIC  
HERO

## TALKING POINTS TO USE WHEN YOU CONTACT YOUR LOCAL CANDIDATE

- Introduce yourself. If you've ever received advice or assistance from a Tenants' Advice & Advocacy Service, tell them how the service helped.
- Ask them to support an increase in funding for Tenants Advice and Advocacy Services now by \$5.2 million per annum. This would restore the real value of funding to the TAASs.
- Remind them that from every dollar of interest that tenants' bond money earns, less than one cent is given to tenants directly. 68 cents goes to NSW government services, and 10 cents is added to a growing surplus. Only 8 cents in every dollar goes towards funding for TAASs.
- TAASs provide invaluable advice and advocacy to tens of thousands of tenants every year. But they're struggling to meet demand.
- Ask them to commit to proper funding for the Aboriginal TAAS, and services to older tenants and residential parks residents.
- Let us know how you went, and what their response is! 🏠

# TENANTS NEED THEIR ADVICE & ADVOCACY SERVICES

You don't need to be a member to get advice. You can get advice for free. For contact details see the back page, or our website, [tenants.org.au](http://tenants.org.au), where you'll also find useful factsheets.

*"I've been in my place for 15 years. Because of my health I need to stay calm. But I had big trouble with money. Luckily the tenants service helped me. The tenant advocates were very friendly and helpful." – George*

## MILLY'S STORY

*Continued from page 1*

where to find the information of whose responsibility it is.

The factsheets that are on the [tenants.org.au](http://tenants.org.au) website are awesome. I use the factsheets all the time for all sorts of things, like whose responsibility is it to get things fixed, or what sort of things need fixing, or who has to pay for pest control at what stages of the tenancy, what pests are covered. So I use it for that all the time.

My aunty recommended that I look up the information because I was having various difficulties. It comes up in conversation all the time. I regularly send people the link to the Tenants NSW website and say 'Have a look. Look up the factsheets. See what your rights are. Ask them questions if you've got any.'

I love the TAASs and the Tenants' Union and I am a member officially and I think it's worth every penny. I mean it's not that it's expensive, and it's worth it to support such a positive organisation. 🏠

*"I was being overcharged rent. It was really good how the Inner West Tenants' Advice Service helped me get back pay" – Belinda*



# TENANCY Q&A: BOND

Grant Arbuthnot, Tenants' Union Principal Solicitor

**Q** We've just moved out of a place we lived in for four years. The agent won't release our bond because of a mark on the carpet. It's been a month.

It is not the only mark on the carpet. The carpet is very old. We put the marks on the condition report at the beginning of the tenancy.

The agent says we'll have to pay to replace the carpet of two rooms as that carpet style is no longer available.

It wasn't one of our family who caused the mark. It was a spill of beetroot soup by a friend of my son.

It happened about a year ago and the agent has inspected the place twice since then and said nothing. I have cleaned it as much as possible; it is only visible in good strong light.

What can we do?

**A** The first thing to do is try to negotiate with the agent. If you make an agreement, get it in writing. If you can't reach a reasonable solution soon, then you can apply for the bond without the signature of the landlord or agent. This is called a unilateral bond claim.

You apply to the Rental Bond Board through Fair Trading NSW. Fair Trading will send a letter to the agent saying that you have applied for the bond and that they will pay it to you if the landlord or agent does not apply to the NSW Civil and Administrative Tribunal within 14 days.

It will also be possible for the landlord or agent to apply to the Tribunal for the bond for six months after you are paid the bond.

At the Tribunal you will need evidence to back up what you say. It is best to have photos showing the state of the place at the end of your tenancy.

There are a number of obligations on tenants about the state of the premises. They are in the Residential Tenancy Agreement and the *Residential Tenancies Act 2010*. All tenants in NSW agree to:

- not intentionally or negligently damage the premises,
- keep the premises reasonably clean, and
- return the premises to the landlord in the same condition as received plus only fair wear and tear.

More generally, all tenants agree to be responsible for the conduct of visitors as though the visitors' conduct is the tenants' conduct. This is called *vicarious liability*.

Timing; there is a three-month time limit for the landlord or agent to take Tribunal action about breach of the various obligations. The landlord or agent is out of time to take action about the first two obligations. But, they are in time to apply about the end of tenancy obligation & the bond.

Unfortunately, spilling soup is negligent and you are vicariously liable for the conduct of your guest.

Fair wear and tear is about ordinary human use (wear) and the effects of natural events (tear). This is not going to help either.

But, the law is not entirely against you. The landlord probably need not replace the carpet of both rooms and may even be able to have the carpet cleaned or repaired.

This is about *mitigation of loss*, a contract law idea that encourages the wronged party to not be extravagant in recovering from a breach of contract. If they do spend more than necessary, they are not entitled to compensation for the whole amount.

***"We've just moved out of a place we lived in for four years. The agent won't release our bond because of a mark on the carpet. It's been a month."***

In your case it means that even if the carpet needs to be replaced, it should only be in the one room and it should not be with carpet of higher quality/cost than the current carpet.

Another idea in your favour is *depreciation*. The landlord cannot get compensation for new carpet when the damaged carpet is old. So, if you are liable to replace the carpet in one room, you only have to pay the value of the lost carpet as depreciated. According to the Australian Taxation Office domestic carpets depreciate over 10 years. It would be unfair for the landlord to get you to pay for new carpet when they have had the benefit of most of the life of the carpet already.

So, you will likely be liable to pay the landlord some compensation for the mark on the carpet, but not as much as the agent is dreaming.

**Contact your local Tenants Advice and Advocacy Service if you have any further questions. For contact details see the back page, or our website [tenants.org.au](http://tenants.org.au). On our website you can also find factsheets on bond and other tenancy matters.**

# STAY IN TOUCH

The Tenants' Union of NSW is a membership-based co-operative and a community legal centre specialising in NSW residential tenancies law. We're also the resourcing body for Tenants Advice & Advocacy Services.

The Tenants' Union has represented the interests of all tenants in NSW since 1976. We have a proven track record of improving tenancy laws and providing legal assistance and training.

We encourage you to support us in our work for safe, secure and affordable housing. Together we can achieve more. Please fill in this form, tick the appropriate boxes and return to the address below.

Name:

Organisation:   
(if applicable)

Address:

Email:

Phone:

## SUBSCRIBE (It's free!)

- ☐ Send me *Tenant News*.
- ☐ Send me the TU email bulletin.
- ☐ Send me  additional copies of *Tenant News* to give to others.

## VOLUNTEER

- ☐ I would like to participate in the TU's volunteer program.

## JOIN (You don't need to join to get advice or subscribe.)

I apply for membership of the Tenants' Union of NSW Cooperative Ltd as an: ☐ individual tenant ☐ individual (non-tenant)  
☐ tenant organisation ☐ organisation (non-tenant)

Membership fees (GST included):	1 year	5 years
Low wage / pension / benefit	\$8.00 <input type="checkbox"/>	\$35.00 <input type="checkbox"/>
Waged worker	\$16.00 <input type="checkbox"/>	\$70.00 <input type="checkbox"/>
Organisation	\$32.00 <input type="checkbox"/>	\$150.00 <input type="checkbox"/>

Donation: \$  Total: \$

Signed:  Dated:

Name (please print):

### Payment method

- ☐ Enclosed cheque or money order payable to Tenants' Union of NSW
- ☐ Deposit into our bank account below  
(for online deposits, please give reference: "MEM" plus your surname)

**Account name:** Tenants' Union of NSW

**BSB:** 062-004

**Account number:** 802624

**Address:** Suite 201, 55 Holt St,  
Surry Hills NSW 2010

**Phone:** 02 8117 3700

**Fax:** 02 8117 3777

**Web:** [tenantsunion.org.au](http://tenantsunion.org.au)



**TENANTS'**  
**UNION**  
OF NEW SOUTH WALES

## Get free tenancy advice



## Tenants Advice and Advocacy Services

Eastern Sydney 9386 9147

Inner Sydney 9698 5975

Inner West Sydney 9559 2899

Northern Sydney 8198 8650

Southern Sydney 9787 4679

South Western Sydney 4628 1678

Western Sydney 8833 0933

Blue Mountains 4782 4155

Central Coast 4353 5515

Hunter 4969 7666

Illawarra South Coast 4274 3475

Mid Coast 6583 9866

Northern Rivers 6621 1022

North Western NSW 1800 836 268

South Western NSW 1800 642 609



## Aboriginal Tenants Advice and Advocacy Services

Greater Sydney 9698 0873

Western NSW 6884 0969

Southern NSW 1800 672 185

Northern NSW 1800 248 913

Free Tenants Rights Factsheets

**Tenants NSW website**

[www.tenants.org.au](http://www.tenants.org.au)

### Tenant News

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