



TENANT

TENANTS UNION OF NSW  
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NEWS

NSW

no. 18

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Panel detail BLF GREEN BANS - by M. Dolk + M. Fairvskye, part of the Woolloomooloo Mural project.

## "BULLETIN"

### LAW REFORM UPDATE

Later this year, the Government could table new legislation and there have been indications that new legislation will be based on the final report of the LTARC, whose recommendations are not that dissimilar to that of the interim report which was released publicly.

Constituents need to impress upon their local Members of Parliament and the Minister responsible, Mr. Whelan, that law reform must redress the imbalance of power between landlords and tenants.



## PUBLIC AND PRIVATE TENANTS CAN WORK TOGETHER

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Increasingly, the Tenants' Union is becoming more aware of the problems public tenants face and the Tenants' Advice Services are responding by assisting public with their problems. The largest public landlord in N.S.W. is the Housing Commission with councils and authorities such as the D.M.R. also let residential property. In many cases, the problems of public tenants are similar to those of private tenants, that is invasion of privacy, rent increases, evictions and failure by the landlord to repair and maintain.

For both a public and private tenant, action can be undertaken on an individual basis, however, for all tenants, the most successful actions are those undertaken as a group. In this respect, there is much to be gained from interaction of public and private tenants to swap tactics and methods for organising tenants.

We look forward to public and private tenants working together.

## CONSUMER CLAIMS TRIBUNAL

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*Increasing tenants and tenancy advisors are becoming concerned over the operations of the Consumer Claims Tribunal. If you or your friends have any satisfactory or unsatisfactory dealings with the Tribunal, could you please let the Tenants' Union know by writing to 118 Regent Street, Redfern, 2016 or by telephoning 699-7605 Mon-Thurs.*

### ADVICE FOR HOUSING COMMISSION TENANTS ONLY

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Cranebrook Community Centre,  
cnr. Kington Place & Pendock Street,  
CRANEBROOK. 2750 (047) 30 1104  
MON - FRI 9.30 - 12.30.

Riverwood Community Centre,  
198 Belmore Road,  
RIVERWOOD. 2210 534 4448  
MON - FRI 10 - 3.

Inner-City Housing Commission Tenants Association,  
P.O. Box M515,  
SYDEY MAIL EXCHANGE. 2012.

### BATHURST TENANTS' ADVICE SERVICE

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*Tenancy advice in Bathurst now operates:*

Mon-Thurs. 12noon-1pm at the  
Family Worker Scheme,  
114 Bentwick Street,  
BATHURST.



# "LTARC or CTWP or ?"

WHY IMPLEMENTATION OF THE MAJORITY RECOMMENDATIONS OF THE REPORT OF THE LANDLORD AND TENANT REFORM COMMITTEE WILL NOT ALLEVIATE THE DISTRESS OF TENANTS IN N.S.W.

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## REFORM OF THE LANDLORD AND TENANT RELATIONSHIP IN CONTEXT

N.S.W. is facing a critical shortage of housing, low-cost housing in particular, and tenants are bearing the brunt of this pressure.

About one third of the State rent their home. The nature of tenants and premises let, vary. Some tenants are saving to buy a home, some tenants can afford and want to live in the private rental market, some are waiting for public housing allocations. All face the same problems: lack of any security of tenure, unpredictable lease costs, difficulty getting repairs done, unpredictable rent increases, absence of accessible arbitration over disputes, and so on. As the law stands now, some renters are deemed licensees and have virtually no rights. Some licensees live in conventional housing such as rooms, some live in non-conventional housing such as caravans due to the lack of conventional housing.

Law reform such as in South Australia in 1978 did not affect the availability of rental housing as shown by a S.A. Department of Consumer Affairs study. We urge the N.S.W. Government to improve on the S.A. experience of law reform. Supply of rental housing is dependent on the operations of the financial system and is therefore largely outside landlord and tenant relations. Unless this is understood, tenants will continue to be penalised.

Law reform as proposed in the report of the Cabramatta Tenancy Working Party (CTWP) would make a significant improvement to the position of renters in N.S.W. and alleviate considerable distress. Providing housing security for renters would be cheap way for the Government to cut social and welfare costs now accruing in the absence of protection of renters' homes.

The most severe criticism of the report of the Landlord and Tenant Act Reform Committee (LTARC) is that it in no way comes to terms with the social context within which the law must operate. It is dangerously conservative rather than cautiously so. As it basically legitimises existing biased practice, it endorses business and marketplace interests, to the detriment of tenants. The recommendations of LTARC uncannily resemble the situation now encapsulated by the most widely used lease in N.S.W., that produced by the Real Estate Institute of N.S.W.

## SECURITY OF TENURE

LTARC fails to address this fundamental issue. It is implied that the landlord can issue a lease for whatever term he nominates (freedom of contract in tenancy has long been acknowledged a misnomer). For breach of the lease the landlord can terminate with 7 days' notice and after the expiry of the term, with no reason, the landlord can terminate with 1 month's notice. CTWP recommends specific periods of notice for "just case" eviction. Without security of tenure the tenant can enforce no rights. The landlord can retaliate for any assertion of rights by the tenants.

LTARC recommends that tenant be permitted to remedy the breach within the term of the lease. CTWP recommends that tenant always be given this opportunity.

In other words, the only security a tenant will have is during the term of the lease, a term prescribed by the landlord.

*THIS RECOMMENDATION DIFFERS IN NO WAY FROM THE CURRENT SITUATION*



LTARC recommends the streamlining of evictions, a totally inappropriate response for housing people in N.S.W. today. CTWP recommends different notice periods for the variety of reasons a landlord may want or have to terminate a tenancy. LTARC offered no such variety. LTARC recommends there only be a hearing of the eviction where there is a defense and strictly speaking this is only likely to occur where the eviction is during the term of the lease. So with no defense, and according to this procedure, no opportunity is given to either the landlord or to the tenant to determine the tenancy tailored to the particular circumstances. Currently only low-income earners plead hardship to lengthen the court order. Under this recommendation every tenant will have to plead hardship as there may not be enough time to locate alternative accommodation.

Evictions should not be streamlined. Only the CTWP has offered a constructive method of dealing with the termination of tenancies.

*WITHOUT SECURITY OF TENURE, RIGHTS TO TENANTS ARE MEANINGLESS, AS THEY CANNOT ENFORCE THEIR RIGHTS FOR FEAR OF RETALIATION. LAW REFORM HAS SURELY MISSED THE POINT IF IT FORCES TENANTS TO BE SUBJECTIVE.*

#### ARBITRATION OF THE ACT

Both LTARC and CTWP recommend a Residential Tenancies Tribunal to deal with tenancy disputes. However, CTWP has comprehensively examined the operations of such an apparatus. CTWP recommend Tribunal should have jurisdiction over tenancy disputes as far as possible; that it operate along the lines of the Consumer Claims Tribunal with referees arbitrating rather than conciliating as a hearing would be the last stage of a tenancy dispute.

Debts, rent arrears, should not be combined with evictions, especially as LTARC says evictions could be heard in the tenant's absence. Rent arrears have time and time again been shown to be allegations. Landlords and agents do make mistakes in their rent records.

LTARC did not look at the Rental Bond issue and comments on this are made at the end of this paper.

*NATURE OF THE TRIBUNAL WARRANTS CONSIDERABLE ATTENTION AS ITS ADMINISTRATION, ADEQUATE FUNDING AND RESPONSIBLE STAFFING WILL AFFECT ITS EFFECTIVENESS.*

#### RENT

LTARC recommends that the landlord be able to demand up to 1 month's rent in advance. This could be onerous for a tenant. CTWP recommends that the landlord be allowed only to demand 2 weeks' rent in advance which does not limit the tenant negotiating to pay at less frequent intervals.

LTARC and CTWP agree that annual rent increases only be permitted, however, LTARC did not suggest any method for arbitrating on high rent increases which may be retaliatory. This is a severe immission on the part of the LTARC in failing to look at any form of rent regulation.

*HOUSING COSTS ARE THE LARGEST SINGLE EXPENSE FOR EVERYONE. RENT CONTROL IS NEEDED AND AN INQUIRY SHOULD BE SET UP TO DEVELOP A SYSTEM FOR N.S.W. IT IS THE ONLY WAY TO REDRESS HOUSING INEQUITIES.*

#### REPAIRS

LTARC recommends little to change the current situation. The standard will be set at the outset of the tenancy and that standard could be poor. Standards rely on a variety of health and safety ordinances which are deficient as they do not look at standards for premises which are rented. The LTARC offers little redress if the landlord will not carry out his/her obligations to maintain and repair.

Existing regulations must be supplemented with a modest Rental Housing Code to ensure a tenant's right to hot water somewhere on the premises, for example, and the Code would be useful for reference in arbitration.



THERE MUST BE A VARIETY OF PROCESSES TO ENSURE PREMISES ARE MAINTAINED AND REPAIRED.

### PRIVACY

LTARC seriously threatens tenants' privacy. In renting, the landlord gives control to the premises to the tenant and rights of access should be comprehensively described by CTWP. Naturally, a tenant may freely give access, but a tenant must not be obliged to in law. If a tenant wishes to be in attendance for repairs, for example, this wish should be respected. In renting, the premises are the tenant's after all. There should be severe penalties for trespass and compensation for invasion of privacy.

The tenant should have the right to change the locks to ensure control.

The LTARC says tenant should give workplace if requested. This surveillance is irrelevant to the landlord/tenant relationship.

Further, a recent development, Rentcheck, operated by the Credit Reference Association, should be outlawed. An agent/landlord should not be permitted to feed a tenant's rental history into computer data banks. There is no mechanism to oversee the authenticity of such information.

### OTHER COVENANTS OF THE AGREEMENT

A tenant's behaviour on rented premises is given undue consideration by LTARC. Provided a tenant does not damage property, pays the rent, uses it only as a residence and does not infringe local Government statutes with regard to overcrowding, a tenant's behaviour is of no concern to the landlord. There is provision in other laws to penalise tenant for illegal behaviour. The landlord is not the police of a judge; society has not sanctioned a landlord with these powers.

Both CTWP and LTARC agree that the landlord bear all statutory outgoing costs.

Leases and other statutory forms should be available free of charge.

The tenant will contract for services but the landlord should be liable for excess costs incurred through failure to maintain and repair.

### DISCRIMINATION

There should not be an "out" provision in anti-discrimination regulations such as the premises are not suitable for children (LTARC). The nature of most private rental is flats (REI Australia). Children have to live somewhere. Landlords should not have the right to exclude low-income families from private rental, a tenure form upon which they must depend for a home in the absence of alternatives.

### PROTECTED TENANCIES

LTARC recommends the phasing out of protected tenancies. However, the former Minister, Sid Einfeld, rejected this recommendation. If all tenants in N.S.W. are not 'protected', the 1948 Act should stay intact and be improved by tying the "wealthy tenant" limit to inflation.

### BONDS

The LTARC made no mention of bonds presumably endorsing the current Rental Bond Act and its operations. The Act must be adjusted and preferably brought under Landlord and Tenant regulations. The spending of Rental Bond interest is specified in the Act. CTWP recommends bond interest be spent as follows:

- to finance law reform for tenants;



- to finance the operations of the Tribunal and associated investigative staff;
- to print all statutory forms;
- for community education by Government and non-Government agencies (the law is useless unless people understand its provisions);
- for tenants' services (tenants are in an inherently weaker bargaining position; tenants also often need a range of other information, such as accommodation assistance, pension information, etc. and tenants' services in the community are in an ideal position to provide these services);
- to finance a hardship account - (bond assistance and loans for rent where unpaid due to circumstances beyond tenant's control - such as D.S.S. strike );
- for the provision of public rental housing and low-cost rental initiatives.

There are deficiencies in R.B.B. operations, such as the R.B.B. makes no effort to trace tenant if landlord claims the bond. Correspondence on the matter will be sent to the premises obviously vacated by the tenant. The R.B.B. system is complicated even to an informed tenant.

CTWP recommends a limit on all bonds to the equivalent of 4 weeks rent. The lodgement form should contain additional information such as weekly rent, type of premises and number of bedrooms. These statistics would be invaluable in monitoring the nature of the private rental market.

CTWP recommends that Tribunal take over the function of the Consumer Claims Tribunal with regard to bond disputes. Payment could be made immediately on settling dispute.

The LTARC recommended that the Auctioneers and Agents Act be amended requiring the agent to keep rent records for 3 years yet LTARC ignored the Rental Bond Act.

*BOND DISPUTES ARE STILL ONE OF THE LARGEST PROBLEMS TENANTS FACE. (THE OTHERS ARE REPAIRS, RENT INCREASES AND EVICTIONS.)*

#### LICENSEES

Another significant failing of LTARC is that it did not look at the application of the Act. Licensees will continue to be denied any rights. The definition "tenant" exists at common law and rights to tenants only, will mean landlords will exploit this tortured legal distinction to evade a new Act. CTWP recommends a definition of tenant in a new Act to protect homes for renters.

*WITHOUT SECURITY OF TENURE, RIGHTS TO TENANTS ARE MEANINGLESS. A BAD LANDLORD AND TENANT ACT WILL EXACERBATE EXISTING TENSIONS AND FAIL TO IMPROVE TENANTS' POSITION, WHICH IS PRESUMABLY THE REASON FOR REFORM.*



see page 10 for membership form





Graphic: Michael Fitzpatrick



## CONTROVERSY in ORANGE

### City Council reverses its tenants service decision

The Orange Tenants Advice Service will restart at the Community Information Centre on Wednesday.

At its meeting on Thursday night the City Council reversed a decision to drop the service after debating a rescission motion from Ald Borry Gartrell, Ald Peter Smith and Ald Margaret Stevenson.

During the debate several aldermen said that at the previous

meeting there had not been enough information provided about the service and how it would run.

They said that they had thought the tenants service would be run by council and not as a self-help, volunteer group.

Acting community development officer, Mr Mike Milston, submitted a two-page report about the service, how it was set up and how it would be run.

Mr Milston said it was

a self-help group operated by tenants and others who wanted to give other tenants the experience of their knowledge.

Like other self-help groups operating in the community it was voluntary, charged no fees, had no income and would be permitted to use the Community Information Centre like other self-help groups which used the community facilities provided by council.

He said there were between 10 and 15 community groups which used the Kite Street building for meetings and council should consider the implications of singling out one group.

Mr Milston, as the coordinator of the Community Information Centre, said he had been involved in helping the tenants group to get started.

(Continued Page 2)



# Council role is more than balancing books

How sad, inappropriate, and anachronistic that in this time of high unemployment and ever-increasing numbers of both the aged and lone parents (and the consequent social problems that these groups suffer) that Aldermen Hawkes and Niven appear to be firmly stuck in the old roads and rates mentality in determining council's policy.

These days councils have a much wider responsibility to the



## Letters to the Editor

people who elect them than the mere managing of money and the balancing of the books.

A community is not a business and should not be run like one.

People on low incomes who are forced to rent housing are quite frequently ripped off by landlords and agents, and Mike Milston's tenants advice service was to provide a much-needed support and

advice back-up.

The fact that it was to be staffed by volunteers (those invaluable people without whom many welfare services would not exist) meant, of course, that the cost to council would be nil, particularly as all the preliminary setting up had already been done.

Orange City Council has an excellent record for being a caring and humanitarian one, as witness the many social welfare programs it has implemented.

But it is vitally important that it is not impeded in its work by members whose vision is limited by a pragmatic concern for what Mrs Hawkes calls economic reasons.

Elva Roberts,  
March St.,  
Orange.

8. June 82  
Central Western  
Daily.

## CORRECTION

The Orange Tenant's Advisory Service is not operated by the Orange City Council as suggested in a front page story in the Central Western Daily yesterday. The service is operated by an independent, self-help group and is based in the City Council's Community Information Centre building. The mistake was made by a reporter.

27.7.82  
Central Western Daily.

## Tenant advisory service will start in June

The Orange Tenants Advisory Service will start at the Community Information Centre on Wednesday, June 2, at 4 pm.

Plans are well underway to get the service started.

An advisor from the Tenants Union of NSW, Miss Regina Haertsch, visited Orange recently to speak to the people who will run the Orange service.

Miss Haertsch told them that people who rented accommodation

were not fully aware of the bond money requirements in NSW.

She said bond money was a payment of four to six weeks rent made by the tenant when renting accommodation.

The law in NSW was that the landlord or agent must deposit the money with the Rental Bond Board.

Miss Haertsch said it was illegal not to deposit the money with the board and landlords or agents could not deposit it in a building society or trust account.

"Many tenants, not knowing of the law or the details of the bond scheme, have foregone their rightful refund of bonds," she said.

The aim of the advisory service in Orange was to make people aware of these rights.

"The Tenants Union of NSW has been instrumental in supporting the development of advice services throughout the State.

"These advisory services are being supported by local solicitors and many tenants are using the service to find out where they stand on a point in the lease, such as repairs, bond return, eviction or rent increases," Miss Haertsch said.

The Orange service will be run by volunteers and people working with the 50-50 House emergency accommodation, Youth Refuge and Community Information Centre.

Central Western Daily 21.5.82



# HOUSING IN COFFS HARBOUR

There is a growing awareness on the part of the North Coast health and welfare personnel of a "housing problem". Statistics are sketchy since housing is not the domain of any one agency, we are at the stage of talking generally about "increasing" numbers of homeless. So far our analysis amounts to this - towns on the North Coast are experiencing rapid population expansion (44.4% increase in Coffs Shire since 1976) - many people come to retire, many young families are attracted by the environment. The result has been an escalation in land and house prices and high rents due to increased demand. Average rent for a unit in Coffs Harbour is \$70 per week, average house is \$100 per week, however, the availability of rented accommodation is limited during tourist seasons and there is a sharp increase in rents at this time. In all towns on the Coast, caravan parks are a popular alternative housing with most parks having a full complement of permanent vans. There is a five year wait for Housing Commission homes and a long waiting list.

Whilst rents and prices of houses on the North Coast may not seem steep in comparison to Sydney prices, people coming to the Coast are often caught unprepared since they are expecting to live more cheaply than in the city.

The situation for tenants briefly - very insecure. Landlords can always find new tenants so that rent increases are frequent and little notice is given in the instance of landlord wishing to return, sell or renovate. I speak from personal experience having been given 1 month's notice to vacate so that landlord could return, there were no houses available for rent at that time so we had to move in with my parents. Furthermore, estate agents are reluctant to rent to families with children or single parents with children and since there is high demand, agents can pick and choose.

In terms of North Coast emergency housing, there is one youth refuge between Newcastle and the Queensland border, and 3 YACS funded women's refuges. The youth refuge based in Coffs Harbour turns away up to 6 people per week and all women's refuges are greatly used particularly during tourist time. When the emergency period is passed, the usual housing option is caravan parks since other rented accommodation is in short supply and too costly.

Since housing has only recently been identified as a cause for concern, the response by Local Council, real estate agents and tourist authorities has not really been tested. It is now essential for groups on the North Coast to analyse their local housing situation, collect realistic statistics and involve Local Government, Chamber of Commerce, real estate agents in discussion. This process is being started by R.C.S.D. with a Housing seminar organised for the 17th September to look at housing options and strategies.

We will keep you informed.

DI FURNESS

Project Officer

Regional Council for Social Development

covering North Coast Region from Maclean to Taree.

Phone. 52-7317



# TENANT NEWS

TENANTS' UNION OF N.S.W. CO-OP LTD.,  
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TENANTS' HOTLINE: for advice and assistance  
Phone: 698-8033  
Mon - Thurs 1pm-9pm  
Fri 10.30am-5pm  
Sat 9.30am-12.30pm



## GET YOUR FRIENDS TO JOIN.....



### APPLICATION TO JOIN TENANTS' UNION

Name.....

Address.....

.....Postcode

Telephone.....

Occupation.....

Are you a tenant? .....(please)

Are you a home-owner?.....( tick )

Cost: Pensioners)  
Unemployed) ..... \$2  
Students )

Workers ..... \$6

Organisations ..... \$15

This covers purchase of shares and  
a service fee.

I enclose \$.....

I declare that I am over 18 years  
of age.

Signature.....

Witness.....

Date.....

Cut along dotted line and return to:

Tenants' Union of N.S.W. Co-op. Ltd.,  
118 Regent Street,  
REDFERN. N.S.W. 2016.