

*tenant***NEWS**

No 52 NSW NOVEMBER 1994

VICTORY ISSUE

*I N S I D E*

TENANTS UNION FUNDED!

NEW NSW LAWS?

CARAVAN LAWS CHANGING

VICTORIA'S TOILET TAX

OLYMPICS: SHARING THE SPIRIT

CALCUTTA

About the Tenants Union:

The Tenants Union of NSW promotes the interests of tenants, including boarders and caravan park residents.

Since 1976 we have advocated many improvements to laws and procedures affecting tenants, and we have worked to increase awareness of tenants rights.

Each year the Union continues to promote tenants access to their rights and housing justice. We gratefully receive contributions of up to 1500 words and invite feedback or suggestions for future issues.

The current Board of the Union is:

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We got it!

The Tenants Union has been given approval to be the resourcing body for services under the new Tenants Advice and Advocacy Program (TAAP). We will receive funding of \$181,000/ year.

It's the best news we've had for many years, as we can play a major part in how the new program will operate.

Our TAAP funding will employ a Program Development Officer, Training and Resources Officer, Migrant Access Officer and 0.7 of an Administrator. The Legal Aid Commission funding will continue and will employ our Policy Officer, a Legal Officer and the rest of the Administrator's position. Also, we still have a Solicitor seconded from the Legal Aid Commission. Tenants Union staff will effectively double.

Robert Webster, NSW Minister for Housing, announced his decision on October 4, setting off immediate celebrations amongst Tenants Union supporters.

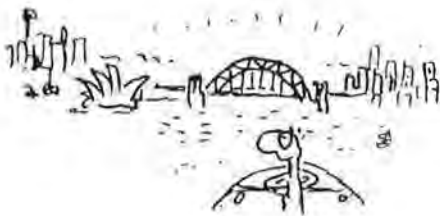
We thank all of the people and organisations who helped us with our application for funding, and who stuck by us during the last five hard years.

Credit must be given to the Minister for Housing for approving the Program and giving such an important role to the Tenants Union. Credit must also go to Clover Moore (Independent MP) and Deirdre Grusovin (Shadow Housing Minister) who were crucial in negotiating funding of the Program. Staff of the Office of Housing Policy have also been very professional in developing the Program.

Funding will be announced shortly for the twelve generalist TAAP services which should begin operating early in '95. Four Aboriginal services and a Caravan Park service will be established under TAAP, probably in the second half of '95.

A Liaison Officer is being employed by the Office of Real Estate Services in the Ministry of Housing to administer the Program from the government's end. Our TAAP funded workers should all be employed by November so they can start helping the new services get organised.

We're looking forward to working with all of these people to set up a good network of services for tenants in NSW. It really does look like things are finally changing around here.



I take the manly ferry. From the rear deck I watch the Harbor bridge and the opera house receding across the water in the morning sunshine. It is as beautiful and dignified a sight as it ever was. Life is heartwrenching and joyous.

NSW Shelter - funding increase

NSW Shelter has been granted 12 months funding of \$192,500 by the Minister of Housing to implement its strategic plan. This is a significant improvement on the initial funding offer.

We do not have details at this point as the terms of the agreement are still to be negotiated. However, it is possible that three staff will be employed and Shelter is currently looking for office space.

New laws for NSW tenants?

David Ramsay

The Tenancy Legal Working Party (TLWP) a Combined Community Legal Centres/ Tenants' Union committee has drafted a Private Members Bill which will be introduced into NSW parliament in the coming weeks.

The membership of the TLWP comprises solicitors specialising in tenancy law, tenancy specialists, Tenant Hotline advisers, community workers and academics.

This group has considerable expertise in working on a day to day basis with tenants, representing tenants at the Residential Tenancies Tribunal, advising and advocating on behalf of tenants, working within legislative structures and having extensive knowledge regarding the machinations of these structures. The knowledge and expertise of the Tenancy Legal Working Party has informed the proposed amendments to the Residential Tenancies Act outlined in the Bill.

The Bill, to be introduced by Clover Moore, is the result of many years' hard work by the members of the TLWP. The TLWP has long held concerns regarding imbalance in legislative protection afforded to tenants when disputes arise. The amendments provided in this Bill aim to redress this imbalance, and they represent a positive attempt by the community to reform tenancy law.

Proposals in the draft Bill focus on the following areas:

- Landlords bearing lease preparation costs.
- Rates, Taxes and charges re utilities.
- Privacy and Access.
- Safety, cleanliness and repairs.
- Urgent repairs.
- Locks and security devices.
- Insurance.
- Subletting.
- Rent receipts.
- Rent increases.
- Excessive rents.
- Terminations.
- Recovery of tenants' goods.
- Representation at Residential Tenancies Tribunal.

If these amendments successfully traverse their way through Parliament, residential tenancy law in NSW will be significantly improved.

Queensland law reform

The Tenants Union of Queensland tells us that their tenancy laws are about to change, with a Bill likely to go to their Parliament by the end of the year. They don't know what's in it yet but hope to see it before Cabinet considers it again. They hope that it will follow the recent recommendations of their recent "Residential Tenancies Review Committee."

A vigorous 'public debate' is expected to break out, with the landlord and estate agent lobbies gearing up to dilute any reforms they see. Queensland TU is in campaign mode, so we wish them good luck and lots of stamina.

Victorian toilet tax.

This is the limit: the Kennett Government in Victoria is planning to go one step beyond with 'user pays'. In much of NSW tenants now have to pay for water usage. The Victorian Government now wants to charge tenants directly for using the loo.

To calculate this, the Water Board down there will assume that 70% of water used will leave the property as "waste water," and a fee is charged accordingly. The Tenants' Union of Victoria is mounting a campaign against this most recent outrage in their State.

Wheels of change

Jill Whitehead

Combined Pensioners and Superannuants Association

Caravan and Manufactured Home Park residents, take heart. Both the State Government and the Opposition are planning changes to the legislation covering this form of housing.

Already we have had a win! The Government is amending the regulations to remove the ability of park proprietors to charge premiums when residents are selling homes, and prevent overnight visitors' fees being charged.

Other matters that badly need review are being looked at by both the Opposition and the Government. The Government has released a discussion paper, "Review of Tenancy Legislation Affecting Permanent Residents of Caravan Parks and Manufactured Homes."

The Government's review looks at the possible need to change existing legislative provisions regarding security of tenure, rent increases, additional charges, dispute resolution, abandoned goods and additional clauses on standard agreements. Copies of the discussion paper are available: contact the Office of Real Estate Services on (02) 229 0011 or freecall (008) 451 301.

Meanwhile, the Opposition's proposals have been tabled in Parliament already. The Opposition is pursuing separate legislation for park residents who own their own homes. Their proposed legislation covers both permanent and non-permanent park residents. It provides for greater security of tenure.

Under this proposed new Act, termination for permanent park residents can only occur if the resident is in default of rent payments or any term of the standard lease agreement (SLA), or if the Residential Tenancies Tribunal issues an order of termination once any other dispute relating to the SLA or rules has been dealt with. Non-permanent park residents would get the current provisions of 180 days' notice of termination.

The Opposition's proposed legislation would also prevent park owners charging premiums, visitors' fees, or for power and water where it's not separately metered (except as a component of the rent). In contrast to the current legislation, the park rules and any subsequent changes would have to be registered with the Tenancy Commissioner. Submissions regarding disputes or concerns about the rules may be made by park residents, alone or as a group, or by park resident associations.

Support the changes! Let your MP know about the issues.

Thanks, Poppy

Menopy 'Poppy' Bernhard has assisted tenants for around two decades. She is leaving South Sydney Community Aid after 24 years' service, and is moving from Sydney to live somewhere near Port Macquarie.

Poppy was involved when South Sydney Community Aid ran a Tenants' Rights Project in the mid-70's. This project contributed to the formation of the Tenants' Union of NSW in 1976. Poppy supported the Tenants' Union from the beginning, and we shared premises with South Sydney Community Aid until 1988.

She was one of the original volunteers on the Tenants' Union phone Hotline and made a major contribution to that service over 15 years. Thanks, Poppy.



Olympics: share the spirit

David Ramsay

The Tenants' Union continues its involvement in issues surrounding the staging and aftermath of the 2000 Olympics. This involvement has included representation on the steering committee of the joint Shelter NSW/ University of Western Sydney "Olympics and Housing Project," attending various forums, and having input into the Social Impact Assessment conducted by Keys Young consultants.

The Tenants' Union has concern over the impact of the Olympic Games on low income tenants, in particular; private renters, boarders and lodgers, caravan park dwellers, people residing in pubs and the homeless. Inadequate security of tenure, high levels of housing related stress (in terms of percentage of income spent on housing) and low levels of legislative protection afforded to these groups make them particularly vulnerable.

The acceleration of housing related costs associated with the Olympic Games will further the disadvantage that these groups currently endure. Information collated from other "hallmark events" both within Australia and overseas suggests that the benefits of the games are not equally distributed across the community and that specific groups such as the ones outlined above will face significant disadvantages in regard to the impact of the games.*

An adequate social impact strategy must be adopted to address these concerns if the games are to indeed "Share the Spirit."

Listed below are the key concerns in regard to the lead up to, the staging, and the after effects of the 2000 Olympiad. Also outlined are the strategies that should be adopted to avoid negative outcomes for low income tenants.

The negative impacts for low income tenants include:

- ▼ The renovation and up-grading of hotel accommodation and the subsequent displacement of long term residents.
- ▼ The conversion of boarding houses to tourist accommodation/ backpacker hostels, again resulting in the displacement of long term tenants.
- ▼ The increase in private rents resulting in the displacement of tenants and/or increasing housing related poverty.** The possibility of increased taxes as a result of

the Olympics is real and is evident by the scaling down of Atlanta's estimates of profit from \$157 million to the current estimate of nil. Current reports indicate that the taxpayer will be picking up Atlanta's tab.*** Increased taxes, if badly targeted, will be carried by low income tenants and add to the burden of higher rents.

▼ Increasing house prices effect first home buyers (those in the private rental market) considering purchase (places more pressure on the private rental market) and will also inhibit the ability of the Department of Housing's ability to acquire stock through spot purchase.

▼ Conversion of long term Caravan park sites to short term resulting in tenant displacement.

▼ Unfair rent increases.

▼ Increased evictions and the signing of short term leases resulting in tenant displacement and less security of tenure in the private rental market.

▼ Pressure on short term accommodation options leading up to and during the games.

▼ Harassment of homeless persons.

▼ Pressure on services to homeless persons due to increased demand (ie. increased homelessness).

The Tenants' Union is considering the adoption of the following mechanisms in order to minimise the negative effects that the 2000 Olympiad will have on low income tenants.

▲ Identify the impacts and opportunities that the 2000 games present.

▲ Establish data collection base points in 1995 in order to audit current levels of homelessness, demands on services (eg refugees), evictions, house prices, hotel rooms, rental costs, and an audit of beds within current services. This audit and on-going monitoring will assist planning to minimise the negative social impact of the Olympics and provide an early warning mechanism.

▲ Establish a Social Foundation to fund locally based projects aimed at reducing inequality.

Olympics: share the spirit

▲ Establish procedures that link the monitoring function to the mitigation measures and response strategies.

▲ Inclusion of pubs under "Environmental Planning Policy No 10, Retention of Low Cost Housing." This Act could also be extended to cover alterations and additions.

▲ Tightening up of evictions and rent increase provisions of the Residential Tenancies Act (see Clover Moore's Bill to Amend RTA 1994).

▲ The introduction of rent control measures set at 1997 levels in a similar manner to the controls set on hotel prices outlined in the Sydney Olympic Deed of Agreement (prices to be linked to CPI). These provisions must be mandatory to ensure compliance, need to apply up until 2001, and should apply to all Sydney metropolitan regions. The mechanism should be outlined under the Residential Tenancies Act (see Clover Moore's Bill to Amend RTA 1994.)

▲ The introduction of a tax or levy that specifically targets those attending the Olympics, either based on a bed tax of \$2 per night (may be difficult to administer or collect) or alternatively a \$1 levy on every Olympic event ticket sold. These funds will be used to assist displaced tenants, buy or build low income housing and/or ameliorate losses occurred through relocation. These funds could also be pooled into the social foundation.

▲ The designation of a large proportion of housing built for competitors, officials and the media for public and community housing post games.

▲ The provision of adequate affordable housing prior to the games. There is a strong demand for public housing at the current moment (the waiting time for priority or crisis housing can be more than 8 months in some regions). The pressures on the Department of Housing will not diminish in the lead up to the Games. The Department must commence a rapid planned expansion program at the earliest possible time. This expansion needs to coincide with an increase in the stock of emergency housing and a boarding house maintenance and purchase program.

▲ The establishment of housing advocacy and advice services within the regions most affected by the games to assist displaced tenants, and provide referral and support.

The planning for the Olympics in regard to its impact on low income tenants needs to be a co-ordinated approach, it needs to include representatives from State and Commonwealth government, the Olympic co-ordinating committee, and involve local government and community organisations. Strategies to address the social impact of the Olympic Games on low income tenants must be developed in a partnership approach. Work must begin now!

* See "Olympics and Housing," Shelter NSW and University of Western Sydney, 1994.

** The National Housing Strategy Issues Paper 7 1992 states that "Issues Paper No 2 demonstrated that low to moderate income households in the private rental accommodation are a large and growing proportion of those most in hardship in the housing market" p.35.

*** Fogg, Christine. "More Olympic Secrets," Reportage, Winter, 1994.



"Heavenly Father, help us to resist the overtures of greed and selfishness...." said the Archbishop in his Australia day prayer. "SYDNEY, THE BEST ADDRESS ON EARTH" said the Lord Mayor.



Why do so many people wear the T-shirt saying "DON'T WORRY. BE HAPPY" Why do people drink so much alcohol. Why do tourists take so many photographs. Whose hat was that in the harbor.

Boarding house reforms

Source: 'Impact' August 1994, publication of ACOSS

According to the report of a NSW government taskforce inquiry, there are 178 licensed residential centres for people with disabilities in NSW, to accommodate 3,752 people. The taskforce was established last year by the Minister for Community Services, Jim Longley, to inquire into the regulation of such accommodation.

The report states that :

- 70 % of residents are male;
- 65 % are over 50 years old, and 42 per cent are over 60;
- 44 % have a psychiatric disability;
- 28 % are intellectually disabled;
- 19 % have disabilities related to substance abuse;
- 2 % were said to have no disability;
- 39 % went to a boarding house from a psychiatric institution, and
- 24 % from a family home.

It states that residents are vulnerable to neglect, abuse and exploitation; that most have few other housing options and the alternative is homelessness.

The physical conditions of the boarding houses vary considerably, but are generally poor. Most residents share a room and there is little privacy. The quality and level of services also varies. In most places there are no meaningful activities, and there are problems with access to community services and day centres. Most residents pay almost all their pensions in fees.

The taskforce identified no single solution to the problems. It proposed a range of strategies, with the guiding principle in a new regulatory system being the greatest conformity possible with the principles of the Disability Services Act. Key proposals include:

- new licensing standards to conform as closely as possible with the principles of the DSA. The Department of Community Services to remain the licensing authority;
- a transition period of four years for boarding houses to comply with new standards;
- access for residents and proprietors to the Community Services Appeal Tribunal for complaints about licensing;
- additional day programs for residents;
- improved referral and administrative procedures;
- restrictions on the size of facilities. Existing boarding houses will have to scale down to no more than 40 residents within four years.

Community groups have established the Living Standards Coalition to monitor developments and to provide a focus for lobbying activities. It meets at the offices of the NSW Council for Intellectual Disability.

For more information, contact Anna Christou: phone (02) 211 1611.

Update

Source: Living Standards Coalition

The NSW Minister for Community Services Jim Longley has announced a plan for proper standards of care and support for private "for profit" boarding houses. It has five points:

- Introduction of clear service standards for private boarding houses, to be set by an implementation group with representatives of Government agencies, consumer groups and boarding house owners.
- Increase Department of Community Services (DOCS) licensing advisers from nine to fourteen.
- Three pilot projects for Boarding House Workers to be established in Sydney's Inner West, Eastern Suburbs and a rural location.
- Private Boarding House residents to have access to an Independent Community Services Commission which can assist in conciliation.
- Two policy positions to be established to oversee and manage the disability licensing program within DOCS.

The Minister also released examples of new standards of care. The Living Standards Coalition feels that these are minimal and is trying to get more information.

The coalition is also concerned that there has been no response from the NSW Ministries of Housing and Health to the taskforce's recommendations. They fear that this shows a continuing lack of co-ordination between the three Ministries. The taskforce noted the lack of co-ordination as a major problem.

Strata titles low-down for tenants

*Information supplied by Andrew McLean
Strata Adjudication Section, Office of Real Estate Services*

Where different units in a block are owned by different people, they are usually 'strata titled.' The same often goes for town houses that share common areas.

A 'body corporate' is made up of all the owners of the units, and has an elected Secretary as its contact person. Tenants are not represented on the body corporate.

Where a tenant rents a strata titled property, the landlord is responsible for everything inside the unit or town house, including carpet, interior paint, light fittings, walls that are not common or external, and balcony doors.

The body corporate is responsible for common and external walls, outer doors and windows and all common areas including stairs and landings that are outside the unit.

When tenants ask for repairs to be done they are often told by the landlord and body corporate that it is the other's responsibility, so it's important to know who has to fix what.

The Residential Tenancies Tribunal is empowered to settle tenant/ landlord disputes. Similarly, the Strata Titles Commission is set up to settle disputes between a unit's occupier or owner and the body corporate. The tenant can use the Commission as the occupier.

If a body corporate will not carry out repairs that it should, or will not meet other responsibilities under the Strata Titles Act, a tenant can apply to the Strata Titles Commission for an Order. This is similar to applying to the Residential Tenancies Tribunal.

It costs \$20 to apply for a Strata Titles Commission Order. A copy of the application is sent to each resident and anyone else likely to be affected, and they have four weeks to send in a written submission. Each party is invited to attend the Commission on a particular day and everyone gets a hearing. The Commissioner takes one week to make a decision and issue an Order.

The body corporate may be ordered to carry out specific repairs. The Commission can make Orders on a wide range of things under the Strata Titles Act, including rules placed on tenants by the body corporate.

If the Order is not obeyed the matter may proceed to the Local Court, which can impose a fine and award costs to the applicant.

Should the body corporate continue to ignore the Commission's Order, the Strata Titles Board is empowered to appoint an agent for 12 months or indefinitely to take over the powers of the body corporate.

The agent can impose fines on owners to raise money for carrying out repairs, sue owners who do not pay, and ultimately can sell the building to meet costs.

The Strata Information Service is now part of the Office of Real Estate Services and can be contacted on (02) 229 6122 or (008) 451 431.

Managing the workplace

This is a 2-day course about legal issues for managers and administrators, run by Redfern Legal Centre Publishing.

It helps organisations develop better management strategies and meet changing legal requirements. It looks at:

- * Unfair dismissal and redundancy
- * New Community Services Act (for complaints)
- * Complaints handling systems
- * Legal requirements of community organisations
- * Locating legal services and resources
- * Enterprise bargaining agreements
- * EEO programs
- * Conducting performance reviews
- * Avoiding conflicts
- * Grievance handling procedures

The fee is \$350 for 2 days or \$175 for 1 day only. Redfern Legal Centre Publishing can be contacted on (02) 698 3066 for more information.

Anti-discrimination law changes

Source : "Equal Time" August 1994,
newsletter of Anti-Discrimination Board of NSW.

1994 has been a momentous year for the Anti-Discrimination Act:

- On 3 April, homosexual vilification became unlawful.
- On 1 July, discrimination on the basis of a person's age also became unlawful.

In addition, at the closing moments of the May parliamentary session, even more significant additions and changes to the Anti-Discrimination Act were supported by the members of the NSW parliament. These last round of changes came into effect on 8 August:

- a) HIV / AIDS vilification became unlawful.
- b) a new, single and more comprehensive definition of disability was introduced.
- c) the industrial awards and agreements exemption was removed from the Act.
- d) it became illegal to harass or treat a person unfairly because of the sex, race, age, marital status, homosexuality / lesbianism or disability of one of their relatives, friends or colleagues.
- e) community and ethnic organisations are allowed to lodge complaints on behalf of an individual.
- f) the way in which organisations can get an exemption from the anti-discrimination law was changed.

It is now against the law to vilify someone because they are, or are thought to be, living with HIV / AIDS. This new law parallels existing laws on racial vilification and homosexual vilification.

HIV / AIDS vilification is any act that happens publicly and could incite others to hate (or have contempt for or ridicule) a person or people, because they are living with HIV / AIDS.

The Anti-Discrimination Board can be phoned on (02) 318 5400 for more information.

Tax exemption for cheap rental

Low-cost rental accommodation will now be exempt from land tax, in the same manner as for boarding houses. This was announced in the 1994-95 State Budget. It fulfils a commitment made by the Coalition Government to Independent MP Clover Moore, who moved a Private Members Bill on this in 1991.

The Tenants Union was involved in discussions with Treasury Officers to produce a workable model. The intention is that the tax exemption will help retain low cost accommodation.

The exemption applies to properties in the inner city region where weekly rent does not exceed a certain limit: 1 bedroom residencies under \$114.10 / week, 2 bedroom \$145.05 / week and 3 bedroom \$190.30 / week.

Organising options

"Organising Options" is a book written by Julie Nyland, who lectures in community management for the University of Technology. The book analyses community management, identifies pitfalls and looks at the principles of accountability, participation, administrative effectiveness and efficiency.

It provides steps to design the organisation's structures and get past the problems. It costs \$15 from NCOSS on 211 2599.

101 uses for council inspectors

*Information provided by Peter Young
South Sydney Council*

Council health inspectors are concerned with health and safety issues and rely on three laws: the Public Health, Local Government and Noise Acts.

A tenant or boarder can ask an inspector to act on matters such as an unhealthy or unsafe building or excessive noise. This can be very useful, particularly if the dispute is not with the landlord. If the landlord is at fault the Residential Tenancies Tribunal may be a quicker way to solve the problem, depending on the circumstances. There are three steps Council inspectors take to enforce the relevant laws:

1. Notice of intent to serve an order: Tells the owner/landlord what the problem is and what needs to be done. They have 14 days before an order is served. Most owners take steps to resolve the problem at this point.

2. Order served. There is a very wide range of orders which can be made, and the owner is usually given 14 or 21 days to comply.

3. Summons to local court. This only happens if the Order is ignored. A compromise is nearly always reached before it actually goes to court. It takes some weeks to get to court.

* Orders can be made on a landlord or neighbours.

* Orders can be made to get rid of pests such as cockroaches and rodents.

* Boarding houses can be forced carry out repairs to meet health and safety standards. The Minister for Health can close them down for an outbreak of disease.

* Noise restriction notices and on-the-spot fines can be imposed. Certain appliances cannot be used outside certain times, and even within these times a noise can be deemed offensive by the Council, particularly if it is over-loud.

* Construction noise can be limited by Council to certain times, but Councils don't have control over State government bodies such as road work done by the Roads and Traffic Authority - that comes under the Environment Protection Authority.

* The Department of Housing is bound by these three Acts and complies with council orders.

How money orders are enforced

*Information provided by Annabel Mayo
Consumer Credit Legal Centre*

The Residential Tenancies Tribunal (RTT) often orders the tenant or landlord to pay money to the other party in a dispute - this is usually described as a money order. The process for enforcing such an order is the same for both tenants and landlords.

To enforce such an order, a certified copy of the money order is obtained from the Tribunal and lodged with the Local Court. This is then considered to be a "judgement debt". The court will send a copy of the judgement debt to the debtor requiring that the debt be paid within a certain period or a formal debt recovery procedure will begin.

The debtor can approach the court at this point for an instalment order to allow the debt to be paid off over time. The debtor can also approach the creditor directly at any stage of the proceedings to try to negotiate a settlement which the court will recognise if there is agreement.

There are four main ways the court can formally deal with the matter on the creditor's behalf.

1. Writ for possession of property: a bailiff or officer of the NSW Sheriff will visit the debtor's premises and record what the person owns to the value of the debt, which might be removed and sold to pay it. This is called "tagging the goods."

2. Garnishee order on wages: the order is made on the debtor's employer to deduct a set amount from each 4 week wage period. It takes no account of dependants and usually doesn't leave enough to live on. Where these orders cause undue hardship the debtor can apply to the court for a garnishee instalment order which allows a lesser amount to be deducted each period. Only the Department of Social Security can garnishee Social Security payments.

3. Bank garnishee order: made on a bank account.

4. Bankruptcy: since most Tribunal orders are for less than \$5,000, bankruptcies are unlikely to be forced on debtors in tenancy cases. However, debtors may enter into voluntary bankruptcy and this limits the opportunity for the money to be recovered.

Financial counsellors are available to assist people with problems relating to debt on (008) 808 488.

When landlords come a-knocking

The landlord/ estate agent must be given access to the rented premises if they give proper notice. Notice that must be given under different circumstances is set out below:

Urgent repairs/ emergency:
No notice needed

Normal repairs/ maintenance:
2 days

Inspect the premises:
7 days, not more than 4 times in a 12 month period

Show the premises to prospective buyers:
'Reasonable'. Only a reasonable number of times

Show premises to possible tenants - 14 days before agreement terminates:
'Reasonable'. Only a reasonable number of times

If the landlord has good reason to believe premises abandoned:
None

Tribunal Order:
As specified in Order

The landlord can't enter your premises before 8am, after 8pm, on a Sunday or public holiday unless you agree.

Notice does not have to be in writing - but if it's not written they might not be able to prove they gave you proper

notice. If you are given proper notice you cannot refuse access, but you can negotiate for a more convenient time.

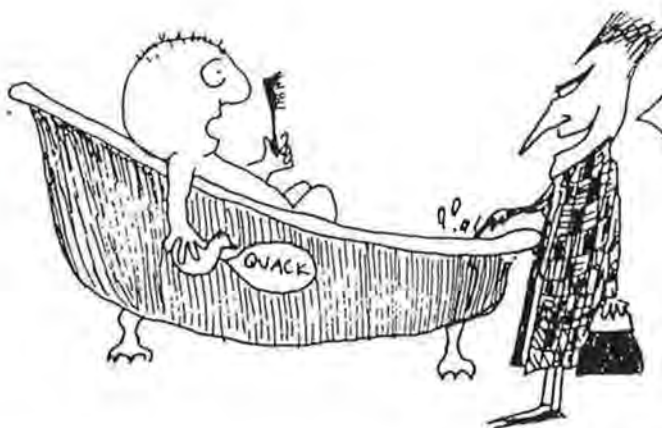
If you are unsure if 'proper notice' has been given or if more than 'reasonable' access is being requested, it is better to apply to the Residential Tenancies Tribunal to make a ruling, rather than deny access. 'Reasonable' is a bit of a vague definition. If a tenant denies access and the Tribunal later decides that the landlord should have been given access, costs could be awarded against the tenant because the premises weren't sold or rented.

It may be useful for the tenant to write a letter to the landlord or estate agent before taking the matter to the Tribunal. The letter could state that the landlord can only have 'reasonable' access, that the tenant feels what the landlord wants is unreasonable, say what access the tenant thinks is reasonable and asking the landlord/ agent to agree to that. It could also say the tenant is prepared to go to the Tribunal if the landlord doesn't comply.

Understandably, tenants do not like to allow the landlord/ agent/ buyers etc on to the premises when they cannot be there. But if proper notice is given, they have to be allowed access even if the tenant isn't home. If goods are stolen under these circumstances the Tribunal can order compensation to the tenant.

If the landlord/ agent asks for or gets access outside what they are entitled to, this goes against the tenant's right to 'quite enjoyment' under Section 6 of the Residential Tenancies Agreement. This right can be enforced by the Residential Tenancies Tribunal.

THE LANDLORD VISITS again



Legal Tool Kit

The 'Legal Tool Kit' is made up of ten plain language books on Legal subjects, including the Tenants Rights Manual. These have been placed in the 100 regional libraries in NSW, as a project funded by the Law Foundation of NSW through the State Library's Legal Information Access Centre (LIAC).

This is a very welcome development. It means that the Tenants Rights Manual is available to tenants through all of these libraries throughout the State.

A further 50 have been ordered for library sub-branches and 10 more are in "mini LIAC's" in libraries in Bega, Albury, Broken Hill, Dubbo, Forster, Coffs Harbour, Moree, Gosford, Windsor and Liverpool.

Retail leases

Retailers aren't covered by the Residential Tenancies Act, but tenant advisers sometimes get calls from retailers with lease problems.

Now there is a new Retail Leases Act which applies to most retail shops and other businesses in retail shopping centres - if the lease was signed after 1st August 1994. There are mediation procedures and a Commercial Tribunal to settle disputes. So retailers on commercial leases can be referred to:

Retail Tenants Unit, Department of Business (008) 063 333
Office of Small Business (02) 895 0555
Retail Traders Association (02) 290 3766

New law handbook

The new (5th) edition of The Law Handbook will be ready in December. It has 1,000 pages written in plain English by 50 lawyers and other specialists. It's produced by Redfern Legal Centre Publishing.

The handbook provides answers to common legal questions, explains the law and your rights, tells you when you need a lawyer, and lists organisations which can provide help and information. It's valuable for lawyers, people working in welfare and anyone else who wants to know how the law works.

There are 30 chapters including:

- Laws and courts
- Legal assistance
- Dealing with lawyers
- Interpreters
- Marriage and de facto relationships
- Custody and access
- Lesbian and gay relationships
- Domestic violence
- Children's rights
- Students' rights
- Housing
- Environment
- Aborigines
- HIV/ AIDS
- Insurance
- Tax
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- Pensions and benefits
- Contracts
- Consumer protection
- Privacy
- Debts and bankruptcy
- Criminal offences
- Discrimination
- Immigration
- Community organisations
- Freedom of information
- Copyright
- Freedom of speech

The Law Handbook is available from Redfern Legal Centre Publishing (RLCP) on (02) 698 3066 (FAX 698 3077). It will normally cost \$55, but there is now a pre-publication offer of \$49.95 if you order early. You can also win a library of RLCP books.

Cases

Case 1: long-term caravan leases

In 1988 40 caravan park tenants in one caravan park negotiated 18 year leases for their sites, with rent increases limited to CPI. They owned their own vans/ manufactured homes.

The agreement stated that if the park was sold a future owner would have to enter a similar agreement. But earlier this year the park was sold without the buyer knowing about the agreements and with a contract that didn't bind the new owner to the agreement.

Two residents backed by the Legal Aid Commission took it to the Supreme Court, which stayed the sale and made the following ruling (but not in these words):

- The purchaser didn't know about the agreements when the contract was exchanged.
- The purchaser didn't have to honour the agreements, so the caravan park residents would be disadvantaged by the sale.
- The purchaser would suffer large losses if the sale was stopped, so on balancing interests the sale should go ahead.
- Because the owner had disregarded the agreements \$30,000 from the sale was awarded to the 2 tenants as compensation for the agreements being broken.

Most of the residents are now organising a collective case for damages against the former owner, who owns a significant amount of land marked for redevelopment.



Case 2: HIV sufferer

The first interim determination under the Disabilities Discrimination Act involved a lease for HIV positive people.

A support group for HIV positive people lodged a complaint in June alleging that a lease was being held up because the lessor did not want them using the premises. The group asked the President for an interim determination to prevent them being evicted while the Human Rights and Equal Opportunities Commission investigated the matter.

Within five days of the initial complaint being received, and after receiving supporting documents, the President issued the interim determination. Conciliation staff then assisted the parties to come to a settlement and the support group has the lease. It was an important precedent for the Commission acting quickly to prevent discrimination occurring.

The NSW Disability Discrimination Legal Centre can be contacted on (02) 313 6000.

Case 3: mould

93/13924 *Forward - v - Moghaddan*

The tenant applied to the Tribunal for compensation for an infestation of mould which caused damage to personal property.

Evidence of the tenant and witnesses showed that the tenant tried to beat the mould with sugar soap, exit mould, jif and methylated spirits. The house was kept continually ventilated with windows open and fans in operation. A gas heater was run to combat the cold.

Similarly, the evidence of landlord and agent was that they were quick to fix problems to assist ventilation. Five months into the lease the tenant terminated the agreement with the landlord's consent.

The Tribunal concluded that the premises were not 'fit for habitation' by the tenants, so the landlord had broken the tenancy agreement. In reaching this conclusion it was determined that the tenant had not done anything to cause the infestation. A total of \$1,038 was granted to the tenant for rent reduction and compensation for damage.

Calcutta: poor person's metropolis

Source: 'Global Tenant'
publication of International Union of Tenants

In 1994 it is expected that the population of Calcutta's Metropolitan District (CMD) will have exceeded 12,900,000. This continual increase in population contributes to the chronic overcrowding of this vast city.

A dominating feature of the housing in the CMD is the large population living in squatter and slum conditions. The primary cause for this situation is the lack of effective demand for purchased and rental housing caused by the low incomes of most households.

Nearly 71% of total households belong to low income groups, taking home an average wage of US\$100. If we assume that 20% of their income went on housing expenses it would take over 20 years to amass US\$1,000, which at current market rates would buy 8.33 sqm of constructed building. Therefore the majority of the CMD population requires some form of housing based on their available income if any. Because of the economic restraints there is a great diversity of housing in Calcutta. The following offers a brief outline of each.

Squatter settlements: These are housing structures located on private or public lands over which the settlers have no legal rights. The CMD has over 500 squatter colonies of different sizes.

Slum settlements: The most distinctive characteristics of a slum area is its complex tenure system. The land is owned by a landlord, who rents it to a person who build a hut on the land and they rent them to families or households. According to one survey there are about 2.64 people living in official slums in the CMD.

Pavement dwellers: This occurs in the core city area. Though they occupy public ground space illegally, they have not been levelled as squatters, they do not erect any structure that may be called a shelter in its true sense, which the squatters do.

Employees housing: This is provided by the private employer to their relatively low paid employees free or for a nominal fee. This accommodation can range from a place to sleep on, to a construction site shed.

Owned and filtered housing: These are mostly found in the older parts of the city and are dwelling units that are occupied by the owner themselves, though they may or may not have purchased them. These have often been gained from inheritance.



Rented dwellings: 80% of households stay in rented accommodation. Due to a provision of the rent control act, rental rates have remained stagnant for many years. Because of this most owners show no interest in maintenance or repairs and most of the dwellings are old and dilapidated.

Public housing: These dwellings are built by Government and Public agencies. These units are either rented or directly sold to low income families.

Sometime this year it is expected that a new law for tenants will be introduced. The provisions of the new law state that the landlord will be able to raise rents 4 times/year with an annual increase of 15%. This is in place of 10% every 5 years. Although tenant associations agree that stagnant rental rates have inhibited the ability of landlords to properly maintain and improve properties, such a dramatic increase in rents would not be acceptable. The ability to appeal this law in the courts has been hindered by likely costs as it would have to go to the Supreme Court.

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