

tenant NEWS



Olympic Issue
No. 57 NSW July 1996



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About the Tenants Union

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

Since 1976 we have fought for fairer laws and have worked to let tenants know about their rights.

Tenant News is our regular publication. We welcome articles and feedback.

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Atlanta struggle offers lessons for Sydney

Source: Pat Leidy, *Misplaced Priorities—Atlanta, the '96 Olympics, and the Politics of Urban Removal*

In a situation that provides many examples of neglect of poor and disadvantaged people, the 1996 Atlanta Olympic Games offers lessons for the community of Sydney in the lead-up to the games in 2000. Atlanta went through a process of upheaval and systematic redevelopment of the city, where a so-called public-private partnership saw large sums of public funds siphoned into the private purse, and an elite co-ordinating committee took control of the public functions of the city.

Behind the veneer of the commercialism and the media barrage of athletic endeavour and gold-plated aspiration, is a history of disregard of the poorer communities of Atlanta. Despite public pressure, the City of Atlanta proceeded with the construction of large building projects that removed these communities from public sight, and implemented 'Anti-Homelessness' ordinances and 'Vagrant-Free Zones' to make sure of it. It is estimated that the city spent \$US500,000 (\$A633,000) a year arresting homeless people on violation of these ordinances and other measures that were introduced to 'clean-up' Atlanta.

In 1991, Atlanta won the bid to host the Centennial Olympic Games by promoting its

image as a progressive city of the 'New South' of America, and the cradle of American civil rights. Many in Atlanta believed that the city should never have even submitted its bid—a belief claiming that Atlanta lacked the culture, infrastructure, sporting facilities and housing to cater for such an event. However, the proposal went ahead, emphasising a romantic 'go-for-it' attitude, and the guarantee that all of those things that Atlanta didn't have, could be created within a five-year period.

When Atlanta fast-tracked reconstruction for the Olympics, a struggle developed between the city leaders and business entrepreneurs concerned with image enhancement, and those who live in poverty. While the Atlanta Housing Authority failed to deliver 75 per cent of its public housing commitment and 20,000 people still remain homeless, the effort to reconstruct the city in time for Olympics added to the problem.

There was a blind pursuit of a policy of economic growth and progress without a comparable commitment to the greatest factor that makes a city thrive—people. In the Techwood-Clark Howell public housing project—the first of its kind in America—evictions increased by 70 per cent after a decision to create an Olympic Village on the site

The Olympics

was made in 1991. Landlords refused to renew leases for private tenants in the belief that they would make larger profits by leasing out houses to Olympic visitors. Public transport systems that were created for Olympic tourists, have been of little benefit to the residents of Atlanta. 'Street-sweeps' were implemented by police to remove homeless and visibly poor people from the downtown area. The Centennial Olympic Park was built on what used to be the site of three homeless shelters and service centres. Public housing has been reduced from 1,193 households to 360.

As an example of misplaced priorities, the first Olympic projects to be completed were two state-of-the-art jails valued at \$US56 million each—part of a cynical exercise to hide Atlanta's poverty by placing vagrants and the homeless behind bars and away from the international spotlight.

The Atlanta Olympic Committee (AOC) became a quasi-governmental entity controlling Atlanta's security, traffic plans, public transport, economy and city planning. Though it enjoyed all the benefits of governing, it shared none of a government's responsibilities—none of its officials were elected by Atlanta residents, and it held its meetings behind closed doors. Those leading the AOC consistently refused to open to the public the bid package presented to the International Olympic Committee (IOC) selection panel—in the end, the minority voices of the opposition were drowned out in the wave of 'Atlanta 1996' hysteria.

The Olympic bid and subsequent development came from the boardrooms of the elite business organisation, Central Atlanta Progress (CAP). This organisation developed into the powerful corporation, the Atlanta Committee for the Olympic Games (ACOG), alongside the Metropolitan Atlanta Games Committee, allegedly established to oversee the Olympic effort and protect the public interest. As a private corporation, ACOG is legally exempt from state laws that require public access, which effectively meant that community groups were barred from consultation, and could only respond to already formulated decisions.

Given the continuing influence of business interests in determining the city's policy, it is not surprising that Olympic-related programs have affected many poor and homeless citizens. The 1996 Olympic Games has had an impact on many levels, including housing, economic development and civil liberties. Atlanta's

experience is another example of governments being primarily concerned with 'revitalisation' and actively encouraging real estate investors and other business interests to directly profit from the process.

This is of strong concern for the residents of Sydney, especially when taking into account the recent history of cities hosting the Olympics. For example, the city of Montréal is still paying the construction debts for projects related to the games in 1976. Several of these constructions removed public housing estates and displaced homeless people. The Seoul Olympics of 1988 resulted in the forced eviction of at least 700,000 poor city dwellers.

The issues that the residents of Sydney will have to bear in mind during the lead-up to the Olympics are:

- forced-eviction;
- homelessness;
- unfair rental increases;
- Olympic-related projects that use public monies that end up in the private purse;
- consumer hype related to short-term benefits for private providers with long-term disadvantages for the public interest.

The Tenants Union believes that the excesses of the Atlanta experience can be avoided. We are working on proposals to put to the government, namely legal protections against unfair rent increases and terminations provisions, and, in association with the Boarders and Lodgers Action Group, developing legislative protection for residents of Boarding houses. It is important that these issues remain at the forefront of public debate and discussion surrounding the Olympic games. ■

Tenants Union goes on-line

The Tenants Union now has full electronic mail facilities. To contact the union, you can send a message to:

tunswc@enternet.com.au

Of course, you can still contact the Tenants Union via post:

68 Bettington Street,
Millers Point NSW 2000.
Telephone: (02) 247 3813
Fax: (02) 252 1648

New Program for Tenants

Source: David Ramsay/Keyhole Jan-May 1996

A new tenant participation program is due to commence in July this year for all public and community housing tenants. It will aim to emphasise tenants' rights and responsibilities, the need for effective Department of Housing (DoH) services (such as the tenant's rights to appeal against DoH decisions) and the development of local and community projects. The Tenant and Community Initiatives Program was launched at a State Conference in June this year by the NSW Minister for Housing, Craig Knowles.

Much of the detail of the program is still being finalised and the Tenants Union hope to be involved in the development of the new program.

The main focus is being placed upon assisting and involving tenants at a local level to improve their environment. Following consultation with

the Community Housing and the Aboriginal public housing sectors, proposals will be developed on how to involve all publicly funded tenants and applicants in the new program.

Tenants' Councils, through the Steering Committee, have expressed concern that, while the new program sets expanded goals, this has not been matched with a similar increase in funding. The Tenants Union is alarmed at the low levels of funds allocated to this important work.

This could mean that Councils will need to reduce, or sack their paid administration workers. There is also no agreement yet about whether Councils will be given funds to employ regional tenant workers, though such workers are included in the program.

All Public Tenant Council representatives on the Steering Committee have strongly supported the need for Councils to retain their tenant workers. This is essential for the maintenance and strength of the Councils, it will enable them to continue to assist and develop new groups, and to play a full and positive role in developing the new program. ■

Our 20 Years: Party and History

**August 17, from 7pm
Teachers Club, 73-75 Bathurst Street, Sydney**

All members and friends of the Tenants Union are invited to our Twentieth Anniversary Party. At the party we'll be launching our newly produced *History of the Tenants Union*. It'll be a big do and reunion, so put it in your diary and feel free to mention it to anyone you like.

It's on Saturday August 17 from 7pm to late, at the Teachers Club. It's only \$10 in and for that you get some food plus entertainment: live dinner music, some comedy and later, a DJ and dancing. Also, you get a free copy of the *History of the Tenants Union*.

There'll be a few stories told, the bar is not expensive and there are two pool tables.

If you want to come along, phone the office soon on 247 3813—we're trying to book people early so we know how much food to order.

Life Membership

Robert Mowbray is a founding member of the Tenants Union and has had an almost unbroken involvement with us for 20 years. He was very influential in shaping our organisation and has put in massive amounts of work for tenants' rights over the years. In recognition of this, the Board at the Tenants Union has made Robert its first life member, and will present this to him at our Twentieth Anniversary Party. Be there!

Proposed reforms to the CSHA

by David Ramsay

The Federal Government is considering proposals to reform the Commonwealth State Housing Agreement (CSHA) which will drastically alter the way housing provision is being delivered, and has plans that will have a particularly damaging effect on public and community housing in NSW.

Under the Coalition proposal, the Federal Government will provide a common housing subsidy for public housing and private rental tenants, with states being responsible for housing services and property management. If the proposals are carried out, subsidies to private and public tenants will have to be significantly increased if recipients are to pay the high market rents in NSW.

What is the CSHA?

The CSHA is the main mechanism for delivering housing assistance in Australia, and has been in operation since the 1940s. The agreement enables the provision of rental assistance, the purchase and construction of public housing and, in some states, also provides for home purchase assistance. It stipulates how monies should be spent on specific purpose grants; it ensures State compliance; it has matching provisions which encourages State funding for public housing; and it empowers the Commonwealth with policing powers to claim unspent funds. All of these provisions ensure that the States continue to have a commitment to affordable, appropriate and secure housing.

Despite the history of bipartisan support from previous Federal Governments and the social benefit that the CSHA has delivered in the past, the Coalition is seeking to proceed with reforms that make little economic or social sense, without study or analysis of the social impact of the proposed reforms, and with no community debate.

The new proposals

The proposals will hit NSW the hardest due to the Sydney market rents being significantly higher than any other capital city. The tenant subsidy will need to be greater than any other Australian capital in order to meet the proposed benchmark, which will have the effect of a decrease in the public housing program, little or no housing estate redevelopment, and cuts to

major maintenance programs. The Department of Housing (DoH) will be forced to sell its best-located housing, which will result in the further marginalisation of low-income people to the urban fringe and rural townships away from services and transport.

Other aspects of the proposals include:

- market rents to apply to social housing (Public and Community Housing);
- a subsidy or financial assistance based on a persons income and market rent will be provided on an equal basis to both social and private rental tenants;
- it may result in the eventual sale of two-thirds of all public housing;
- proposed NSW public housing estate redevelopment programs will not go ahead;
- eventually, NSW will have no money for the purchase and building of housing;
- money for consumer service obligations to disappear; and
- a removal of security tenure for new DoH tenants.

The high rents in NSW will also mean that most of the Commonwealth housing dollar will go into the hands of landlords rather than the supply and maintenance of public housing. The Coalition's proposals fail to acknowledge the reports of the Industry Commission and the National Housing Strategy that have indicated that the supply of public and community housing is the most cost-effective means of providing housing to low-income tenants in the long-term.

The NSW Government predicts that a major outcome of the proposals will be an increase in the cost of rent in Sydney, more people competing for fewer dwellings and an increase in the public housing waiting list by an average of six months.

The market has consistently failed to provide appropriate affordable and secure housing for low income and disadvantaged people.

The Tenants Union has serious concerns regarding the proposals and calls upon the Federal Government to commission a Social Impact assessment on the proposals.

For more information on these proposed reforms and how to campaign against them, contact David Ramsay at the Tenants Union on (02) 252 3215. ■



ILLUSTRATION: MIRIAM MCCURDY

Young people struggling for survival

Source: The Cost of Housing Report, National Shelter.

The questions of survival concerning most young people usually hover around how much of their income can be spent on housing, what they can get for their money, and what is left over in order to maintain a reasonable standard of living.

According to the National Youth Housing Strategy (NYHS) and the Parliamentary Inquiry into Youth Homelessness, those within the 15–24 age group are on lower incomes and have higher levels of unemployment, housing poverty and homelessness than the rest of the population.

Young single people on low incomes who are buying or renting privately have the highest average housing costs as a proportion of income. While young people in public housing may pay lower than average market rents, the rent as a percentage of overall income is high, and their very low income is at the root of financial distress.

Affordability is a massive problem for young people in private rental, with low income levels and high housing costs putting them at a double disadvantage. To help overcome these

difficulties many young people live in group households to reduce their housing and general living costs. Of the various age groups, 16-year-olds are in the worst situation, as they have to spend nearly half their incomes on rent and are severely limited in getting access to income support and jobs.

Affordable housing for many young people is only achievable through adequate income support and additional housing assistance. However, it is not only about the monetary figure attached to rental amounts—if meeting housing costs means not being able to pay for other necessities such as food and electricity, then the housing is not affordable. ■

Facts and Statistics about young people

- According to the Australian Institute of Health and Welfare the number of homeless young people ranges from 15,000 to 19,000. Research by Mackenzie and Chamberlain in 1995 found that there were 11,000 secondary school students homeless during any one week, and that between 25,000 and 30,000 school students experience homelessness during each year (NYHS 1995).
- The vast majority of young people aged 15–19 live with their families of origin. Only 11 per cent live independently. Of this group 63 per cent live with unrelated people in group households. In the 20–24 age group, 51 per cent no longer live with parents (NYHS 1995).
- Thirty per cent of 16–19-year-olds living away from home were engaged in part- or full-time work. 16 per cent were employed and only 12 per cent were in secondary education but 25 per cent were undertaking tertiary studies. For 20–24-year-olds living away from home, 53 per cent were working and 11 per cent were unemployed (NYHS 1995).
- Nearly 75 per cent of independent young people on low incomes were in private rental housing and of these nearly 45 per cent pay more than 50 per cent of their income on housing (NYHS).
- In 1994, an estimated 25 per cent of single persons aged between 15 and 24 were living in after-housing poverty (Australian Institute of Health).

New Gunya Aboriginal TAAS in Western NSW

by Cecil See

Finally there is now an established Aboriginal Tenants Advice and Advocacy Service operating in Western NSW. The Gunya Aboriginal TAAS started in November 1995, established the office and organised the equipment, set-up and training. Since February, Cecil See, has been offering services to Aboriginal clients.

Activities

We have designed a logo for the program which we believe is an indication of the Aboriginal view of the home. We have also completed two basic training sessions with the Tenants Union and some training on caravans parks. Cecil is also completing a Graduate Certificate in Housing Policy and Management.

The service covers a wide area, but as there are only two Aboriginal services operating in NSW, we have had to take up other areas that are not covered by an Aboriginal service. This has placed extreme pressure on the service as we are operating with only one worker in each of these services. Luckily for Cecil, the service also has a 4-wheel-drive as some of the towns and locations are only accessible on dirt roads that are sometimes flooded.

The service has represented clients at the Residential Tenancies Tribunal (RTT), defending orders of rents in arrears, specific compliance, vacant possession and compensation for loss of rent.

The service has visited a number of Aboriginal communities, including those in Dubbo, Peak Hill, Mudgee, Gilgandra, Wellington, Narromine, Walgett, Cooamble, Warren, Goodooga, Balranald, Hay, Broken Hill, Menindee, and Condobolin. We visit these communities on a regular schedule so that people know when we will be in their area.

At this stage we can see a few difficulties that may be encountered:

- the largest problem has been the distance and time involved in travelling to all the communities. Because Aboriginal people and their communities need the face-to-face

contact, the only realistic thing that we can do is acquire extra resources;

- because there is only one worker, there is no attendance at the office when the officer is out on location;
- tribunal members referring clients and not adjourning the hearing—we cannot get out of this situation in regards to a tenant approaching the day of the hearing, but we can lobby for changes so that if a member refers a client/tenant, then this should constitute an automatic adjournment;
- people asking to be represented at a hearing a few days prior, or on the actual day of hearing.

On several occasions the service has appeared at the RTT to represent a specific client, but has then been approached by other unrepresented clients to act on their behalf. This situation is very difficult to work with and does not allow enough time to prepare a solid case.

Other issues are more acute, widespread and specific to Aboriginal people and communities. The major problems include repairs and maintenance, no tenancy agreements and condition reports, lockouts, rent in arrears, and physical threats—we deal with all sorts of problems and situations. ■

**The office has been set up within the
Thubbo Aboriginal Medical Co-op
in Dubbo.**

Street Access:

133 Bourke Street, Dubbo NSW 2830

Post Address:

PO Box 435, Dubbo NSW 2830

Phone:

(068) 84 8211

Free call:

1800 81 0233

Fax call:

(068) 84 8218

Explanation of Aboriginal words, symbols and concepts

The concept of the logo is that life revolves around the camp and hut. Fire is an essential part of family life. Aboriginal symbols and words have more than one meaning, depending on the context of the situation, the place, and to who it is addressed to.

Gunya
hut/camp

Boo-ma-ra
hunting boomerang
(spirit make wind)

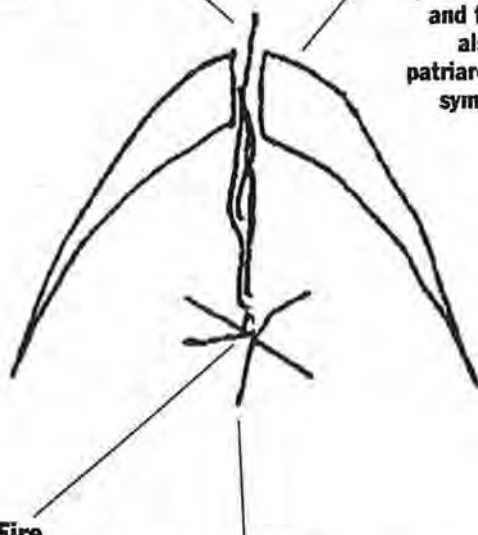
Smoke
(used for
spiritual
healing)

Boo-ma-ra
(protection
and food
also a
patriarchal
symbol)

Fire
(represents
life and/or
the family
circle)

Fire stick
(unity and well-being of the
clan.)

Five sticks represents the
five linguistic areas of
central and western NSW:
Waradjuric
Ngiyampaa
Bagandji
Gamilaroi
Wangkumara.



The Cost of Living Increases

Source: NCOSS News

Household expenditure on goods and services have increased remarkably over the past eight years, according to the Australian Bureau of Statistics. In its recently-released Household Expenditure Survey, it outlines that expenditure on items such as food, transport and housing increased by 19 per cent.

It also shows that there is a huge difference in expenditure between households in lower income groups, typically made up of single-person households and aged-persons or couples in receipt of some type of social security benefit, and the higher income groups, characterised by a high percentage of double-income households.

The difference in average weekly household expenditure ranged from \$301 for the lowest group through to \$983 for the highest, with the average for all households being \$593. Those people on the lowest incomes spent more, as a percentage of expenditure, on food, housing fuel and power than those on higher incomes. Those on higher incomes spent a greater proportion of their income on transport, clothing, alcohol and recreation, than those with lower incomes.

In the lowest 20 per cent of income groupings, average expenditure was actually greater than average incomes—average income was \$267 per week, as opposed to average weekly household expenditure of \$309. While this does not mean that every low-income household is spending more than they earn on a regular basis, it does highlight the growing concern in the welfare sector that people on social security benefits are having increasing difficulty surviving. ■

Bond Bonanza

**Nearly \$370,000 is being held by the
NSW Rental Board and Tenancies
Service from former tenants who have
failed to reclaim their bond money.**

Source: Sydney Morning Herald 22/4/96

Minister launches TAAP publications

The NSW Minister for Fair Trading, Ms Faye Lo Po launched the new resource material published by the Tenants Advice and Advocacy Program (TAAP) on May 6. In this extract of the speech, the Minister commends the work of the TAAP and the Tenants Union.

'The focus of today is to celebrate the establishment and operation of the Tenants Advice and Advocacy Program. This Program was born in January 1995, and has been growing steadily ever since. Despite some early plumbing problems, TAAP has clearly been a successful initiative. Many thousands of tenants have had repairs carried out, evictions staved off, and rent increases dropped.

The Government is strongly committed to improving housing conditions for both private and public tenants in NSW and fostering a good relationship between landlords and tenants. The importance of this relationship as a form of consumer-trader relationship, was recognised by the Government, in bringing the former Office of Real Estate Services into the Department of Fair Trading.

The Government has allocated \$2.2 million during 1994/95 and an equal amount (indexed to CPI) in 1995/96 and 1996/97 for the funding of TAAP. TAAP was designed to compliment services offered by the Department of Fair Trading and other organisations. The main benefit of TAAP is the provision of services at the community level. The accessibility of a local advice and advocacy centre cannot be underestimated. Little things, like being able to talk to somebody who has heard of the suburb in which you live or knows the agent who you rent from are helpful and give you confidence in seeking advice.

TAAP organisations develop a relationship with tenants on a one-on-one basis. This is something which is only available at the community level. Undertaking case work is an important step in overcoming many tenancy disputes. It also educates tenants on the correct process should they find themselves with another problem later on, or if a friend asks for advice on a tenancy issue.

The Tenants Union has played a significant

role in the success of TAAP. As the resourcing body, the responsibility has fallen on the Tenants Union to ensure that generalist and specialist services are provided with appropriate levels of resources and training. It is a credit to all those involved that this has been achieved in such a short space of time.

It is however, in the specialist areas of the Tenants Advice and Advocacy Program in which the greatest challenges lie. Aboriginal tenants and those from non-English speaking backgrounds, as well as residents of caravan parks and manufactured home estates, are well-recognised as being the groups that are the least aware of their rights as tenants. The Government is committed to ensuring social justice for disadvantaged sectors of the community.

Knowledge is the key to minimising disputes and preventing exploitation. The Residential Tenancies Act gives tenants certain protection regarding their rights to a reasonable quality of accommodation and the price they have to pay. To exercise these and other rights, tenants firstly need to be aware that those rights exist.

The Department of Fair Trading's booklet, *The Renting Guide*, provides an outline of the rights and responsibilities of tenants and landlords. As many of you would know, the booklet must be given to each new tenant. In excess of 700,000 booklets have been distributed in just over six months. We also provide a centralised tenancy information service and a repository for rental bonds. But the Department can only do so much. It is important that organisations like the Tenants Union assist in the educative process.

I applaud the fact that the TAAP Services Network has produced a range of resource material through TAAP funding. There certainly is a need for this type of information to be available. The distribution of brochures and

posters explaining the TAAP network will greatly increase the profile of the services and ensure tenants are aware of the services available to them.

The Tenancy factsheets produced by the Western Sydney Tenants Service have been an invaluable resource for a number of years. The factsheets alone, I am sure, have resolved many tenancy disputes simply by explaining the basics of a particular topic in plain English.

I am pleased to see that as a result of TAAP funding, the tenancy factsheets have now been updated and translated into 25 community languages. The Network has also produced tenancy information flyers in a further eight less-commonly spoken languages. These publications will greatly increase access and awareness of tenancy services for those in our community of non-English speaking backgrounds.

On behalf of the Tenants Union, I am proud to have a role in officially presenting them to you and to launch them into the community. ■

Information now in many languages

The network of Tenants Advice and Advocacy Services have just produced a wide range of useful written information in many languages. They were funded by the Department of Fair Trading and launched by their Minister, Faye Lo Po. They are:

1. Tenants Rights Factsheets, a series that covers 17 different tenancy topics for people with a specific problem. The series comes in a very handy size and is easy to photocopy. They are now available in English and 25 community languages—Arabic, Assyrian, Bosnian, Chinese, Croatian, Farsi, Fijian, Filipino, Hindi, Hungarian, Kmer, Korean, Kurdish, Lao, Macedonian, Portuguese, Romanian, Russian, Samoan, Serbian, Somali, Spanish, Thai, Tongan and Vietnamese.
2. Tenants Information flyer with a quick summary of tenants' rights, in English and eight community languages: Burmese, Indonesian, Polish, Pushtu, Tamil, Tetum and

Turkish.

3. A brochure giving information about all the Tenants Advice and Advocacy Services including multilingual information.
4. A poster giving information about all the Tenants Advice and Advocacy Services, also with multilingual information.

The work for these was done by the Sydney Language Centre and Social Change Media, co-ordinated mostly by the Tenants Union. It is an exceptional achievement to have this amount of good information available in so many languages.

People who want any of these resources can contact the Tenants Union Office on 247 3813.

The Renting Guide Tops 1,000,000

The Department of Fair Trading has so far produced one million copies of *The Renting Guide—Your Rights and Responsibilities as a Tenant or Landlord*—the Residential Tenancies Regulation was amended to require landlords or their agents to provide a copy to tenants entering into a residential tenancy agreement.

The booklet is also being utilised by teachers in Life Skills classes in schools, preparing young people for renting in the open market. To order copies of *The Renting Guide*, please write to Marketplace Development, Level 5, 234 Sussex Street, Sydney NSW 2000, or send a fax request to (02) 377 9128.

Source: Tenancy Times



Cut-backs to Legal Aid

Amidst the reports of the Federal Government's plans to cut over \$100 million from legal aid funding to the states, it is important to remind the Government of its claims that it supports community legal centres. In its Law and Justice policy statement, released as part of its March election campaign, the Coalition stated that it:

'will maintain current levels of legal aid funding as well as funding to community legal centres. The Government will examine ways, in consultation with Legal Aid Commissions, of increasing the extent to which legal aid is granted in civil proceedings, particularly in the family law area; and explore ways of ensuring equity in the allocation of legal assistance and in devising new and innovative ways of ensuring that all Australians are able to access the court system.'

The Coalition now claims that it should only fund 'Commonwealth matters' and will not fund cases that fall under State law such

as domestic violence, housing and tenancy matters, social security, debt and employment matters. In NSW, the Legal Aid Commission is facing a cut-back of \$10 million from its working budget of \$80 million. Unless the States are willing to make up the shortfall—and at this stage it appears to be unlikely—the workings of the Commission will be seriously compromised, and result in situations where clients will appear in court without legal representation.

Until the announcement of the Coalition's first budget in August, it will remain unclear whether the proposed cutbacks to the Legal Aid Commission will filter through to the community legal centres. However, any cutbacks will directly affect the ability of centres to provide legal representation and services for their clients, and will fly in the face of the Coalition's purported policy of 'increasing the extent to which legal aid is granted', 'ensuring equity in the allocation of legal assistance' and 'that all Australians are able to access the court system.' ■

'Noise and nuisance' evictions by NSW Department of Housing

by Kylie Kilgour, Tenants Worker, Redfern Legal Centre

In New South Wales, six years on from the Burdekin Report, we are seeing a community and government backlash against the deinstitutionalisation of people with a mental illness.

The Burdekin Initiatives were hailed as an important step in giving people with mental illnesses basic human rights and community services to enable them to live independently. However, much of the money earmarked to develop appropriate housing of these people has not been used. Urban ghettos are being created by inappropriate housing of these people in high-rise public housing estates.

The Department of Housing is being put under increasing pressure by Local Councils and residents to halt developments in public housing specifically for tenants with psychiatric illnesses. 'Not in our neighbourhood' appears to be the discriminatory attitude of a growing number of Local Councils.

In response, an increasing number of public tenants with psychiatric illnesses are being subject to evictions for being a 'noise and nuisance', under s22 of the Residential Tenancies Act 1987 (NSW). (Other States have similar provisions in their tenancy legislation.)

In a number of cases a notice of termination has been issued and the tenant has vacated without any formal proceedings being taken to end the tenancy. These tenants often end up in hostels, boarding houses or on the street—exactly where they were before the Burdekin Report.

In a case that Redfern Legal Centre acted in, the tenant had a history of paranoid episodes when she forgot to take her medication. She had recently been released from prison and housed by the Department of Housing in a block of flats in the southern suburbs of Sydney that was tenanted by elderly people.

The neighbours made oral and written complaints to the Department and the police about the tenants' behaviour. The allegations were quite trivial—the tenant had been seen naked, the tenant made noise late at night, the tenant smashed her own belongings in her own flat, etc. etc. The Department issued a notice of

termination for 'noise and nuisance'. The tenant had packed her belongings and was ready to leave. Her parole officer put her in contact with RLC and we were able to explain to her that she did not have to move out.

The Department refused to discuss the possibility of rehousing her somewhere more suitable. A Departmental employee told us that it was standard practice to issue a notice of termination as a 'warning to the tenant to behave'. If there are no further complaints after the issue has been issued, the Department lets the matter drop.

However, a notice of termination is part of the legal process of ending a tenancy. It is an abuse of process when the Department issues such notices if they do not intend to proceed to hearing. Moreover, there is an obvious disregard for the stress that such a notice causes to the tenant who receives it. The presumption that a tenant will access advice about the procedures for terminating a tenancy is, in our experience, misguided on the part of the Department.

What is basically a combination of community intolerance and lack of government resources to support public housing tenants is generating a housing crisis for the psychiatrically ill.

The huge inequities of this situation are clear. If you're rich enough to own property, your housing is secure. But given that many people with a psychiatric illness also live below the poverty line, they are more likely to be in public housing. The neighbours then have access to a huge bureaucracy and legal services department which has the resources and the desire to evict 'difficult' tenants, irrespective of the difficulties the tenant may be facing.

Government has a responsibility to provide appropriate housing for all citizens, not just the 'deserving poor'. ■



Access, disability and equity

Source: Robin Banks, NSW Disability Discrimination Legal Centre

Disability discrimination is primarily the case when a person is left out, excluded or treated differently because of a particular disability. The last Australian census indicated that at least 18 per cent of the population described themselves as having an impairment—a conservative estimate considering that there are many people who are afraid to identify themselves as disabled, due to cultural issues and social pressures.

This is a substantial proportion of the population and highlights the need for landlords and agents to be aware of their responsibilities in the provision of housing to disabled people, and legislation that outlaws discrimination. Landlords have previously discriminated against people with disabilities, on the assumption that there may be a claim by the tenant for the provision of specific housing requirements that may be costly, or require ongoing maintenance.

There are sizeable barriers for disabled people when they apply for a flat or a house through an agent—such as, being told by the agent that the house that they wish to apply for has already been let out, or will be unavailable for several months. Even after successfully

applying for a house or flat through an agent, there have been instances where once a landlord has discovered that a tenant has a disability, any opportunity has been used to force an eviction, such as the posting of an eviction notice rather than a warning notice if a rental payment is late, the use of the 'no-grounds' Notice of Termination, or the imposition of hefty rent increases in the attempt to make the tenant move out.

People with disabilities have the same rights as other people. It is unlawful to refuse to provide services or impose conditions on the provision of services to a person on the basis of a disability. This is supported by NSW State Law (Anti-Discrimination Act 1977), administered by the Anti-Discrimination Board and Equal Opportunity Tribunal, and Federal Law (Disability Discrimination Act 1992), administered by the Human Rights and Equal Opportunity Commission.

Although there is legislation that deters and outlaws discrimination, disabled people do not seek action in many cases because they may not be fully aware of their legal rights, or are so used to being discriminated against that they feel that taking action is not worth the effort.

The most significant barrier is that of community attitudes to disabled people. These attitudes have been slow to change and most people with physical, intellectual and psychiatric disabilities still experience extremely negative and devaluing attitudes, even from those who claim to believe in equality and social justice. ■

For further information regarding disability discrimination and action that may be taken if discrimination occurs, contact Michelle Hannon at the NSW Disability Discrimination Legal Centre.

Tel: (02) 9313 6000

Free Call 1800-800 708

TTY services (02) 9313 7109

TTY Free Call 1800-644 419.

Telephone advice is available on Tuesday mornings (9.30–11.00) and Thursday afternoons (3–4.30).



'No-grounds' Termination dismissed again

Simply because a landlord issues a no-grounds notice of termination does not mean that there will be an automatic order by the Residential Tenancies Tribunal terminating the tenancy agreement. The Tribunal, following the decision of the Supreme Court of *Swain v RTT*, exercised its discretion pursuant to section 62(2)(c) of the Residential Tenancies Act, and did not make an order of termination where the tenant was issued with a no-grounds notice.

On dismissing the application submitted by the landlord, the Tribunal found that "it was established in *Swain v RTT* that the landlord does not have an absolute right to possession by virtue of issuing a notice of termination for no grounds. The tribunal is bound under s64(2)(c) and s65(2) to have regard to the 'circumstances of the case' and the 'relative hardship' to the tenant before making orders for possession".

The tenant entered into a six-month lease in 1991 at a rent of \$130 per week. After living in the flat for five years, a 'no-grounds' Notice of Termination was served in October 1995, requiring possession in January 1996. The landlord had indicated that he 'may well sell it', but the tenant requested to stay, citing health

reasons, the lack of suitable accommodation for someone in her condition, and considerable hardship if she was forced to move. In addition, the tenant also offered to purchase the unit from the landlord, in what was described as an offer that was 'quite generous' considering the state of the market, the state of the unit, and comparable sales in the block.

Despite this, the landlord proceeded with the Notice of Termination and lodged an application with the RTT. In its findings, the Tribunal decided that although the landlord has an absolute right to issue a Notice of Termination without grounds under Section 58 of the Act, it was obliged to consider special circumstances before determining whether the order for possession should be made. In this case, there was no issue of hardship on the landlord's behalf, and the landlord had not decided whether or not he would sell the property, or let it again.

The nature of the medical evidence and other matters presented to the Tribunal on the tenant's behalf were of sufficient weight that, in accordance with the *Swain v RTT* case, the Tribunal exercised its discretion not to make an order of termination of the tenancy agreement because of the special circumstances. ■

Landlord pays up in Kempsey

Source: North Coast TAAS

In November 1995, a couple* signed a fixed-term agreement of six months to rent a house at the rate of \$140 per week. The bond had been waived in exchange for the tenants cleaning the house and pool—the premises were extremely dirty and neglected, as they had not been occupied for several months. In addition, the kitchen needed repairs which the landlord had agreed to do. Three months after the tenants had moved in, these repairs had not been completed, despite many verbal and written requests from the tenants. Subsequently, the landlord made demands for the bond, and visited the premises frequently without prior notice.

In January 1996, the tenants applied to the Residential Tenancies Tribunal for orders for the repairs to be completed, to restrain the landlord from invading their privacy and to confirm the bond arrangement. In February, the Tribunal issued orders for repairs and an order to stop the landlord demanding bond money and visiting or entering the premises without prior notice of cause. By the end of March, the repairs had still not been completed, despite the orders. On April 1, the tenants' two-year-old daughter received a shock from the electric stove. While she was being taken to the hospital, her father rang the landlord to request urgent repairs to the stove and to inform him about the accident to his child. The landlord's response was to threaten the tenants with eviction. The tenant then contacted the local electricity authority, who arranged for the faulty earth wire in the stove to be fixed within the hour.

The tenants applied to the Tribunal for orders for repairs to be completed, for a rent reduction and for compensation for the accident to their child. By this time, the tenants had also received a termination notice, which they believe was retaliatory. The Tribunal ordered, on April 26, that the rent be reduced, and backdated the reduction to February. The landlord was ordered to pay \$50 compensation to the tenants, and the remainder of the compensation claim was referred to the Tenancies Commissioner for consideration. The landlord was also ordered to complete the repairs to the kitchen.

*The tenants are a married couple with four children.

Decisions to be made available

The Residential Tenancies Tribunal maintains a collection of its written decisions. Selected decisions are occasionally reported in the Residential Tenancies Update and the Retirement Village Update—copies of these are available by contacting the RTT Library by phone, letter or fax (The Librarian, Maya Kessler, [02] 249 0736).

In the interests of the public and freedom of information, the members of the Tribunal have decided to make their decisions more accessible to interested organisations such as the Tenants Union. All decisions, from mid-1996 will be provided quarterly to the Union.

Light relief...

Here are the winners of a 'Worst Analogies Ever Written in a High School Essay' award.

'...He spoke with the wisdom that can only come from experience, like a guy who went blind because he looked at a solar eclipse without one of those boxes with a pinhole in it and now goes around the country speaking at high schools about the dangers of looking at a solar eclipse without one of those boxes with a pinhole in it...'

'...She caught your eye like one of those pointy hook latches that used to dangle from screen doors and would fly up whenever you banged the door and opened again...'

'...The little boat gently drifted across the pond exactly the way a bowling ball wouldn't...'

'...From the attic came an unearthly howl. The whole scene had an eerie, surreal quality, like when you're on holidays in another city and *Sale of the Century* comes on at 7pm instead of 7.30...'

'...John and Mary had never met. They were like two hummingbirds that had also never met...'

'...The thunder was ominous-sounding, much like the sound of a thin sheet of metal being shaken backstage during the storm scene in a play...'

A Law For Women

**A series of radio programs about how to use
the legal system**

**Broadcast from 40 community radio stations
throughout NSW**

Contact your local community station for details

In 1994, the Law Reform Commission recommended that an active program of community education be urgently implemented to encourage women to use the law. *A Law For Women*, a series of ten 20-minute radio programs for women about using the legal system, gives you a step-by-step guide about how to enforce your rights. Women who've used the law talk about their experiences of courts and tribunals, and community workers explain legal processes in a way that's easy to understand.

This radio series explains aspects of the law in plain English, and outlines the range of support services available to women using the legal system and how to access these services. The programs are:

- 1—Women and the Law,
- 2—Family Law,
- 3—Domestic Violence,
- 4—Parents and Young Offenders,
- 5—Employment and the Law,
- 6—Social Security and the Law,
- 7—Immigration and the Law,
- 8—Tenants and the Law,
- 9—Women and Debt, and
- 10—Women and Small Business.

Program 8 of *A Law for Women* deals specifically with tenancy problems women encounter and offers legal advice from the Tenants Union. The program looks at the rights and responsibilities of owners and tenants, discusses common tenancy problems and advises women how to take a dispute to the Residential Tenancies Tribunal.

A Law for Women is available on cassette. For more information, contact Radio 2SER-FM on ph: 02 330 3000 or fax: 02 330 3099, or write to PO Box 123, Broadway, NSW 2007.

A Law for Women is produced by journalist and radio producer Jackie Randles and is funded by the Law Foundation of NSW. ■

Recent changes to people, places and things

There have been several changes to the structure of housing programs of support since the March Federal election, and the subsequent change of Government.

- The Commonwealth Department of Regional Development no longer exists.
- This change means that the Commonwealth State Housing Agreement and the Crisis Accommodation Program (CAP) will now be located in a section of the Department of Social Security under the title of 'Welfare Housing'.
- The new minister responsible for the Department of Social Security is Ms Jocelyn Newman.
- Supported Accommodation Assistance Program (SAAP) now comes under the control of the Department of Health and Family Services. The new minister for this department is Dr Michael Wooldridge.
- All Commonwealth programs regarding Local Government are to be administered by the Department of Sport, Territories and Local Government (Minister Mr Warrick Smith).
- Housing Industry functions have been transferred to the Department of Industry, Science and Tourism, whose minister is Mr John Moore.
- Region Development and Urban Management functions have been transferred to the Department of Transport and Regional Development (Minister Mr John Sharp).
- The new Federal Attorney-General and Minister for Justice is Mr Daryl Williams AM QC.

In NSW:

- The new Chair of the Residential Tenancies Tribunal is Sally Chopping.
- Elizabeth Coombs is the new Tenancy Commissioner and General Director of the Department of Fair Trading.



PHOTO: JEFF SPEED

Slum dwellers in Bombay may have a future to look forward to with a government proposal to provide free housing.

Free Housing scheme as the citizens' right to housing

Source: The Times of India

A government proposal to provide free housing to four million slum dwellers in Bombay is likely to result in a boom in construction in the coming years, which, in turn, may lead to major fluctuations in the real estate prices. Market-watchers feel that with a sudden rise in the availability of flats, the prices will come down.

Under the scheme, a developer or a builder who agrees to provide free houses to slum-dwellers in an area will receive a certain percentage of that area for freesale. A government-appointed study group has envisaged that about 22 million square metres of free housing would have to be provided while developers would receive 20 million metres of constructed area for freesale.

The scheme has been described as a revolution and the greatest and last opportunity for the people of Bombay to receive affordable housing. If the Rental Act is amended and brought into effect, it will open up great prospects for institutional investment in public housing.

In order to control the prices of flats, the government should identify vacant flats and allow them to be occupied and impose a non-occupancy levy on landowners as a deterrent. In addition, the concept of housing should not be looked at purely as sources of income, but a fundamental fabric in the development of a society.

While many people have welcomed the scheme, apprehensions have been expressed in certain quarters about its success. There is a belief amongst flat-owners that prices will go down substantially when the availability of housing increases considerably. In certain up-market localities, however, the prices are likely to remain constant. Some urban planners and observers have speculated as to who would purchase the large number of freesale flats built alongside slum rehabilitation projects. However, their fears will be allayed by the improvement in the quality of life for the people of Bombay and, over time, the disappearance of slums.

Above all, the current proposals indicate that the government has at long last recognised the citizen's fundamental right to housing. ■

NSW TENANTS ADVICE AND ADVOCACY SERVICES



Regional Services

Inner Sydney

Ph: (02) 698 5975

Redfern Legal Centre
73 Pitt St Redfern 2016
Fax: (02) 310 3586
Phone advice: Mon-Fri 9.30-1, 2-5.30

Inner Western Sydney

Ph: (02) 559 2899

Marrickville Legal Centre
338 Illawarra Rd Marrickville 2204
Fax: (02) 558 5213
Phone advice: Mon-Fri 2-5

Southern Sydney TAAS

Ph: (02) 787 4679

PO Box 503 Campsie 2194
Fax: (02) 718 0236
Phone advice: Mon/Tues/Thurs/Fri 10-1, Wed 2-5

South West Sydney

Ph: (02) 601 6577

South West Tenants Advice
PO Box 1042 Liverpool 2170
Freecall: (1800) 631 993
Fax: (02) 822 4076
Phone advice: Mon-Fri 9.30-12.30

Eastern Suburbs Tenants Service

Ph: (02) 386 9147

27 Spring St Bondi Junction 2022
Fax: (02) 386 9146
Phone advice: Mon-Fri 10-12.30, Mon-Wed 2-4.30

Western Sydney Tenants' Service

Ph: (02) 891 6377

PO Box H86 Harris Park 2150
Freecall: (1800) 625 956
Fax: (02) 635 8548
Phone advice: Mon-Thu 10-1, 2-4

Northern Sydney

Ph: (02) 9964 9654

Northern Area Tenants Service
16-18 Fitzroy St Kirribilli 2061
Fax: (02) 9959 4453
Phone advice: Tues/Wed/Fri 9.30-1

Central Coast TAAS

Ph: (043) 53 5515

PO Box 293 Wyong 2259 NSW
Fax: (043) 53 5525
Phone advice: TBA

Hunter TAAS

Ph: (049) 29 6903

PO Box 84 Newcastle 2300
Freecall: (1800) 654 504
Fax: (049) 29 7996
Phone advice: Mon-Fri 9.30-4.30

North Coast TAAS

Ph: (066) 22 3317

PO Box 525 Lismore 2480
Freecall: (1800) 649 135
Fax: (066) 22 3141
Phone advice: Mon-Fri 10-1, 2-4

Illawarra/South Coast

Ph: (042) 74 3475

Illawarra Legal Centre
PO Box 139 Warrawong 2502
Freecall: (1800) 807 225
Fax: (042) 74 3491
Phone advice: Mon/Tues/Wed/Fri 9.30-1 & 2-5, Thurs 2-5 only

Western NSW

Ph: (063) 62 6555

Western Region TAAS
PO Box 1409 Orange 2800
Freecall: (1800) 642 609
Fax: (063) 62 2933
Phone advice: Mon-Fri 9-5

Aboriginal Services

Western NSW

Ph: (068) 84 8211

Gunya Aboriginal Tenants Service
PO Box 435 Dubbo 2830
Freecall: (1800) 810 233
Fax: (068) 84 8218
Phone advice: Mon-Fri 9-5

Southern NSW Aboriginal TAAS

Ph: (044) 72 9363

PO Box 1138 Batemans Bay 2536
Freecall: (1800) 672 185
Fax: (044) 72 6487
Phone advice: Mon-Fri 9-1, 2-4.30

Northern NSW Aboriginal TAAS

Not yet operating

Resourcing Services

TAAP Resourcing Body

Ph: (02) 247 3813

Tenants Union of NSW
68 Bettington St Millers Point 2000
Fax: (02) 252 1648

Caravan Parks Resource Service

Ph: (043) 96 5658

Parks Occupants Information Service
PO Box 535
Toukley 2263
Fax: (043) 96 3690

Aboriginal TAAP Resourcing Service

Not yet operating

Associated services

Aged Tenants Service

Ph: (02) 262 6722

Combined Pensioners and
Superannuants Association
Level 11/35 York St Sydney 2000
Freecall: (1800) 451 488
Fax: (02) 262 6120
Phone advice: Mon-Fri 9-5

Tenants Union Hotline

Ph: (02) 251 6590

Phone advice: Mon-Fri 9.30-1 and 2-5

YES I want to join the Tenants Union of NSW

Name
 Address
Postcode
 Telephone [h][w]
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 Please tick
☐ New membership ☐ Renewal
 Are you a: ☐ Tenant ☐ Home Owner
☐ Other [specify].....

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Membership runs from 1 January to 31 December. New members can pay half fees after 30 June. New membership fee includes cost of share[s].

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No (or low) wage/pension/benefit \$8
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 Donation \$
 I enclose \$

Signature

Date

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 68 BETTINGTON STREET
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