

# tenant **NEWS**

Budget Horror Issue

No. 59 NSW May 1997



## **INSIDE**

- Budget news
- History of the Tenants Union
- CSHA reforms update
- Local, State, Federal and World News
- Legal News



# 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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The views expressed herein do not necessarily reflect those of the editors, or Tenants Union staff.

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# Costello's Budget forgets the poor and cuts housing funds

**T**hree housing related initiatives were outlined in the Howard Government's second budget.

Firstly, the Commonwealth State Housing Agreement has been cut by \$50 million per annum as of next year. On top of this is a 4 per cent efficiency cut. Overall, the Commonwealth monies for housing have been reduced by 9 per cent. There has also been a decline in the States matching requirement funds from \$427 million down to \$382 million next year.

Combine these Federal cuts with a \$90 million, or 42 per cent cut in NSW state monies specifically allocated towards new housing, the news for the 93,174 households on the public housing waiting list is disturbing.

On a slightly brighter note, the Commonwealth Government is undertaking to fund CSHA for a further two years. Federal allocations for Community Housing, Aboriginal Housing and the Crisis Accommodation Program remain untouched.

The CSHA task force has been abandoned and it will not meet again. Negotiations between the Commonwealth and the States will be on a bilateral basis, meaning that each State will negotiate individually with the Commonwealth. It seems that a coordinated national approach to housing is no longer an issue of concern for the Howard Government.

Department of Social Security officials have also indicated that there will be greater targeting of Public Housing in the future and the plans for this are currently being drafted.

Housing for people on low incomes is an issue of little importance for the Howard

Government. On gaining office last year, they subsumed the Housing and Regional Development Department into the Department of Social Security, initiated a one-year-only CSHA, fumbled an ill-conceived reform proposal that seems (for the time being anyway) to have been dropped, and reduced the guarantee of funds down to a six-month agreement. The cutbacks and rationalisation continues in this current budget, with cuts in the provision of public housing and an outline for further cuts next year and increased targeting of public housing.

Secondly, as of January 1, 1998, tenants subletting a Department of Housing property from a head tenant will be ineligible for rent assistance—unless the property is let at market rent. The DSS believes that this will effect approximately 14,000 people and accrue a savings of \$57 million—this seems a very unlikely scenario.

Thirdly, and finally, the Commonwealth has released a discussion paper on superannuation for housing regarding the use of superannuation funds to assist low-income people (incomes below \$25,000) to access superannuation for deposit-gap assistance into home ownership. A cynic might think that this proposal is to placate the Real Estate Institute of Australia and the Housing Industry Association who have been supporters of this proposal.

Due to the fact that the budget made inferences and moves to increase the savings of Australians, there is considerable doubt as to whether this superannuation proposal will go ahead as it goes against the thrust of the Government's savings initiatives.



## 1997 CSHA (in millions of dollars)

	CSHA	Comm. housing	Aboriginal housing	Crisis Acom. Program	Totals
Year 1 (now)	\$873	\$64	\$91	\$40	\$1068
Year 2	\$780	\$64	\$91	\$40	\$975
Year 3	\$770	\$64	\$91	\$40	\$964

The State Budget has also been announced and although much of the emphasis had been on reallocating funds within its portfolio (significant increases for Community Housing) it has reduced new public housing dwelling starts to 1,231—a new low.

Due to the decrease in the level of matching funds required by the Commonwealth it is important that the State retains its level of commitment to housing low income people. We call upon the State Government to maintain its current level of matching funds for public and community housing. ■

## New Internet Address for the Tenants Union

The Tenants Union has changed its electronic mail address.

To contact the union, send a message to:

**tunsw@fl.asn.au**

## STAFF CHANGES

### Goodbye to...

Well he's done it, our long serving Training and Resource Worker, raconteur, flautist, banjo man, tenant activist, celtophile, imbibor, and comrade **Paul Mortimer**, the very person responsible for numerous issues of this tome... has left the Tenants' Union. The organisational history of the Tenants' Union has not been lost. As a parting gesture Paul completed a history of the Tenants' Union entitled "Unfinished Business" He will be sorely missed. We wish him the very best in his multicultural pursuits.

### and Welcome...

Although starting work at the Tenants Union last year ... **Fran Crittle** (our Co-ordination) was never officially welcomed! A genuine oversight and Tenant News apologises. Fran's getting us organised so things like this will never happen again. Fran has had considerable experience coordinating a range of organisations including Wollongong Women's Information Centre, South Coast Workers Medical Centre and Marrickville Legal Centre where she discovered the delights of tenancy work and was subsequently lured to the Tenants Union. Fran brings with her a hirsute quadruped that graces the office called "Shirley".

**Gael Kennedy** is our new Training and Resources Officer, previously worked as a consultant for the Management Support Project of the Combined Community Legal Centres

**Zanne Landles Ware** is our new Access Officer who has worked on access issues for Home and Community Care and has a history working in tenancy related areas.

# Broken Promises, Social Security Cuts and Bastard Budgets

Source: Inner Voice

**F**rom July 1 this year, the maximum rate of Rent Assistance available to single people who share accommodation will be cut by one third. This means a reduction of approximately \$25 per fortnight for those on the maximum rate.

What amounts to a small saving for the Government will have a big impact on those it affects, especially at a time of spiralling rents in the inner city, bleak unemployment and public housing prospects.

The cut was not included in the Coalition's pre-election social security policy document and was extremely hard to find in August's budget. Bringing in these cuts means the government is actually cutting into the non-rental social security entitlements of citizens. Although the decision to exempt disability support pensioners and those on a Carers allowance is an important concession, the cuts are a harsh measure and could affect as many as 80,000 people across Australia.

A person 21 years or older earning Newstart and living in Newtown could be spending up to 73 per cent of their income on rent. For younger people it could be more like 88 per cent! Moving to a cheaper part of Sydney is a risky business as

it would mean having to explain to the Department of Social Security why, and losing payments if it is judged that one has moved to an area with fewer employment prospects!

A recent study shows that the Budget hits the least well off the hardest with unemployed households losing \$38 per week and households dependent on disability pensions losing \$21 per week. As for the family tax cuts, supposed to offset the cuts, only one in nine families will receive the full \$34 a fortnight tax cut, with nearly half of all families getting nothing.

Also in December's Social Security cuts was a broken pre-election promise to allow pensioners and the jobless the chance to earn a small sum on top of pensions and benefits. The Government claims this would discourage unemployed people from entering the workforce on a casual basis. ■

## Yet another broken promise from the Coalition.

*"The coalition recognises the vital role of (rent assistance) in reducing after housing poverty. A Coalition Government is committed to maintaining the real value of rent assistance". Coalition pre-election statement.*

## Court of Appeal win for NSW tenants

**T**he NSW Court of Appeal last week unanimously dismissed the landlord's appeal against the 1995 Supreme Court decision, *Swain & anor v Roads and Traffic Authority*. That case was a landmark interpretation of the decision making process the Residential Tenancies Tribunal must undertake before ordering that a tenant be evicted. In dismissing the appeal the Court of Appeal have affirmed the Supreme Court's ruling that the Residential Tenancies Tribunal must consider all of "the circumstances of the case" before it can decide whether it is appropriate to end a tenancy. This must be done even where the landlord has issued a "no grounds" termination notice.

In their decision the judges said the Residential Tenancies Act is "intended to balance the rights of landlords and tenants." They held that "a landlord does not have an absolute right to orders of termination of a residential tenancy agreement and of quiet possession, even if the notice served on the tenant is issued in the correct form, And is correct as to time". This is an important win for tenants as it gives them the opportunity to defend eviction proceedings in the Tribunal if they have compelling circumstances such as economic hardship, disability, medical grounds or family needs.

With a fiercely competitive private rental market and the threat of public housing sell-offs, this decision gives tenants some scope to fight for secure tenure.

It should be noted that this matter was run by the specialist housing unit of the NSW Legal Aid Commission. Without a grant of legal aid the Tribunal would still be deciding to evict tenants without regard to their circumstance. ■



# Increase in private rents

Source: Rent Report, Department of Urban Affairs and Planning

**P**private rents are on the increase according to the Department of Urban Affairs and Planning. In the greater metropolitan region, rents for one bedroom dwellings have increased at a rate of almost ten per cent per annum, reaching \$170 per week, mainly due to an increase in the rents for one bedroom flats in the inner city. Also on the up are rents for two, three and four bedroom dwellings of all types with increases of 5.3 per cent, 2.4 per cent and 7.1 per cent respectively.

Rents for both two and three bedroom houses have reached the same level at \$200 per week, continuing an upward movement in median rents for two bedroom flats since 1994.

For the September 1996 quarter, Concord experienced the highest quarterly increase in median rents for separate houses (8.5 per cent), followed by the Blue Mountains (7.1 per cent). Manly experienced highest quarterly rent increase for three bedroom

flats (8.6 per cent), followed by South Sydney (8.1 per cent) and Burwood (7.4 per cent). A large number of rural areas reported the same median rents as the previous quarter for two and three bedroom dwellings of all types, with several areas recording increases. The Central Murray (8.3 per cent) region and the Southern Tablelands (7.7 per cent) recorded the highest quarterly increases for three bedroom houses. Lower Murrumbidgee (6.8 per cent) and Southern Tablelands (5.3 per cent) report highest increase for two bedroom flats. Lower Murrumbidgee also recorded the highest annual increase (17.5 per cent) in rents for two bedroom flats followed by the Lower South Coast Region (10 per cent).

There has also been an increase in the numbers of total bonds held and new bonds lodged, but these are the lowest September figures since 1992. The trend in annual increases to total bonds is a steady 5.7 per cent. Over the past 12 months, rents for all dwellings has increased by \$10 for one bedroom and \$5 for other dwellings. ■

## State ministers unified on housing funding

Source: Courier Mail

**I**n a move that is designed to allay the fears that the Federal Government is moving to slash housing funding, State housing ministers are attempting to stitch together a unified position on funding to present to the Coalition.

This follows the announcement by the Federal Treasurer, Peter Costello, of a supposed further \$3 billion budget deficit, and the proposal to pay direct rental subsidies to low-income earners renting in the private market, rather than provision of finance to the State Governments for the development of public housing.

The proposals by the Federal Government have been greeted with outrage from all State Ministers, including Coalition ministers, as the result will be the loss of thousands of houses for public tenants and the destabilisation of capital works and house purchasing programs. ■

# More people are returning to renting

Source: The Glebe

**P**eople are less inclined to purchase their own home according to new research produced by the Australian Housing and Urban Research Institute. Economic insecurity, high mobility and marriage break-ups are seen as the major reasons for people abandoning the idea of owning their own home and renting instead. During 1996, 67,000 households left homes they owned outright or were buying and moved into rented accommodation. The institute's research was based on a survey of households performed by the Australian Bureau of Statistics in the September quarter of 1996.

According to the survey, a quarter of all households moved house in the past year. Private renters—who constituted one-fifth of the households—were the most mobile with half of all renters moving during the survey period.

The findings show that if the trend continues, Australia's level of home ownership—currently running at 69 per cent of the population—will continue to decline. The report added that the move from renting to home ownership has become increasingly difficult for many who are unable to bridge the deposit gap as a result of low savings capacity, in addition to job and income uncertainty, interest rate volatility, and changing household structures as a result of higher incidence of divorce.

Ironically, while more people are renting now and the level of low-income earners paying over 30 per cent of their income has increased by 10 per cent, low mortgage interest rates are making housing more affordable for the more affluent sectors of the community. ■

## Tenants' Rights Manual

The Tenants' Union of NSW is publishing a new edition of the Tenants' Rights Manual with funding from the Law Foundation of NSW. A consultant, Phillipa Bellemore has been working since last November with a steering committee to write the Manual. The steering committee is Robert Mowbray, Nick Warren and Jennifer Conley.

"Working on this Manual is like living in a share house" said Phillipa Bellemore. "It's amazing how much is changing in the tenancy world at the moment. A lot of people have given their time and advice with generosity. As a result it is a much improved resource."

The final draft of the Manual was delivered to the publisher, Redfern Legal Centre Publishing, on schedule and it will be available in mid-August. Watch out for details of the launch and your invitation. To order your advance copy, call Gael Kennedy on (02) 9247 3813.

The Foundation Law/AustLII site that has the Residential Tenancies Tribunal decisions has a new address:

**<http://www.auslii.edu.au>**

To get directly to the RTT decisions:

**<http://www.auslii.edu.au/au/cases/nsw/rtt/>**

# Update on Tenant and Community Initiatives Program

Source: From the TCIP program update

**T**he Tenant and Community Initiatives Program was established in July 1996 with the purpose of establishing a clear and accountable framework for tenants and their representatives to participate at all levels of decision making about housing services and other issues affecting the quality of their lives.

A Program Management Team within the Office of Housing Policy manages and administers the new Program in consultation with key stakeholders and a State Advisory Committee. The Team, along with the Advisory Committee, have responsibility for developing a comprehensive and centrally coordinated information and training strategies which are fundamental to the success of the new Program.

A series of regional information briefings have been held for tenants and service providers in many regional areas. The briefings provided information about the Program, an opportunity for participants to discuss barriers to tenant participation and tenants expressed positive feedback about possibilities for participation through new and existing groups.

Community housing tenants and applicants will be invited to nominate representatives to attend focus groups throughout the state to discuss their particular tenant participation needs and how these can be accommodated. An information paper which discusses options for tenant involvement will be distributed to

housing providers. They will be asked to distribute the papers and facilitate discussion with tenants prior to the focus groups.

Important to the Program is to provide opportunity for tenants and housing providers to discuss and resolve issues at the regional and local levels through forums. The forums are intended to pass on information to tenants, provide a forum for initial suggestions and complaints, will have a problem solving and decision making focus, and develop a broad strategic direction.

The Advisory Committee has recommended broad principles for the operation of forums which ensures links to key Program objectives. Forum operation will be formulated by housing providers in consultation with tenant organisations.

Funding for locally devised projects will become available in mid-1997. Draft principles and Guidelines for funding submissions are being worked on at present.

Local tenant groups are encouraged to begin developing ideas for local projects and get current information about the funding process from their local Regional Tenant Resource Service or by telephoning the TCIP Management Team. *The Team consists of two full time staff; Caroline Egberts, Senior Program Officer, (02) 9228 5276 and Nicole Gurran, Assistant Program Officer, (02) 9228 5281* ■

## How to be a Good Tenant in the Wild West

**I**n keeping with the time-honoured tradition of conservative governments relegating the tenants in public housing to a perpetual underclass, the West Australian government has introduced the Homeswest 'Good' Tenant Policy.

The policy stipulates that in order to qualify as 'good', the tenant must 'maintain external property standards to acceptable street standards' and must not make 'excessive maintenance requests throughout the year' both of which are open to discrimination and arbitrary adjudications of what a 'good tenant' is. A tenant can only become a 'good' tenant only after a continuously satisfactory tenancy of three to five years, and only after that time, can be considered to increased amenities, such as screen doors and repainting. Appeal rights are restricted to 'the Regional Manager (only)' and are 'not applicable through Homeswest Appeals Mechanism'.

If the tenant is fortunate enough to be deemed 'good' by Homeswest, they may apply for a paint kit that can only use a 'colour chart of approved colours' and use Government Paint Committee approved 100 per cent Semi Gloss Acrylic paint—but only if the property has not been painted for at least five years. ■





# Our History Launch

**M**ore than sixty Tenants Union members and friends were in the back garden of our premises on March 10 for the launch of *Unfinished Business: The Story of the Tenants Union of NSW 1976-1996*. It was a chance to celebrate our achievements and re-state our determination to get a fair deal for tenants.

Simon Rice, Director of the Law Foundation of NSW, highlighted the importance of the Tenants Union in fighting for decent housing as a basic human right. The Law Foundation provided funding for the project to document and critically analyse the Tenants Union's work over twenty years.

There has been a great response from people who have read the book. Not only have they said that it is a good read, but it has given people a good understanding of the background of the Tenants Union and tenancy issues up to the present. This offers a better understand what's happening today in this area, and to see where the fight for tenants rights should be heading. For some people, it has also reminded them of past events which they had forgotten. One

woman was reminded of the eviction riot which occurred in her street in the 1930s when she was a young girl.

Mary Perkins, once a Tenants Union worker and then Board member, gave a concise summary of our history, including the early days of operating from a church building with a sloping floor. She pointed out the organisation's tenacity in surviving and advocating for tenants for 20 years; the achievement of fighting its way back after being almost completely defunded in 1990.

The history was written by Paul Mortimer, Training and Resources Officer for the last seven years. He thanked everyone who helped put the book together. Paul has now left the Tenants Union and he said it was an honour to work for such an organisation.

Any members or friends who haven't ordered their copy of *Unfinished Business* can get one by phoning the Tenants Union's office on (02) 9247 3813. The publication is free for members and \$10 for non-members. ■

# They are watching you!

**R**eal estate agents and landlords are subscribing to tenant database agencies in order to seek information on tenants prior to establishing a tenancy. The accuracy and nature of the information contained on these databases and the reasons for listing of individual tenants by these agencies is of major concern to the Tenants Union.

Tenants are compelled to provide extensive information in an application for rental housing with little scope for refusing to do so. The blatant disregard for the privacy of this information, its use in denying housing to prospective tenants, and the scope for abuse of the database are of great concern. The agent or landlord are also under no obligation to inform applicants that their listing on the database may be the reason for a tenancy refusal. This leads to a situation where inaccuracies and misrepresentations can go unchecked, with tenants not even being aware that such files exist.

The practices of these agencies severely undermines the operations of the Residential Tenancies Tribunal and the rights of tenants to housing justice. We have evidence that tenants are listed on these databases for the simple fact that they have exercised their right to take their landlord to the Tribunal. A victory in the Tribunal is an extremely hollow victory when tenants find themselves listed on these databases and are subsequently unable to find accommodation.

In a recent case, a tenant sought compensation from the landlord at a Tribunal hearing and won the case. Afterwards, this tenant discovered that she was listed on a database as a 'problem' tenant and found it extremely difficult to rent other housing.

Although the tenant was able to find

housing through a friend, she remains listed on the database. It seems that the registration of a tenant on an agency's database is purely up to the discretion of the previous landlord—a practice with a wide scope for abuse. This practice is becoming more widespread and works against tenants seeking remedy for disputes for the fear that they may be 'listed'.

Another case brought to our attention last week involved a woman who had moved to Sydney from interstate and applied for a tenancy in Sydney's western suburbs. To highlight the inadequacies of the system, another woman with the same name had been listed on the database for an incident two years ago.

Although the applicant then informed the agent that she could not have been responsible for this damage as she lived under a different name two years ago, in a different state and that she could easily provide evidence to support her claim, her application for the premises was refused. The agent who entered the personal data from the applicant refused to correct the entry. Subsequent requests to the agency managing the database has proved to be fruitless—she remains listed as a 'bad' tenant. This woman has been consistently refused rental housing and has only recently found accommodation.

These agencies and databases need regulation, highlighted by the fact that the data collected by these organisations is highly suspect, unproven, discriminatory and old—some of the listings are over seven years old—and relatively unprotected.

The Tenants Union pointed out these concerns in a submission to the Federal Attorney-Generals Department. However, despite an election promise to the contrary, the Federal Government has dropped any



proposals to regulate private sector data collection organisations. Because these organisations often operate Australia wide we need national regulation.

On a slightly more positive note the Tenants Union has made representations to the Minister for Fair Trading Faye Lo Po and the Department and is currently in liaison with the NSW Privacy Committee on this important issue. The Minister's response follows:

"It is quite appropriate that real estate agents act to minimise potential uncertainties for landlords by ensuring the suitability of the a tenant. In such circumstances the use of tenant databases may be regarded as a legitimate business instrument. However, this legitimacy only exists if it can be shown that the database:

- is accurately and reliably maintained;
- does not contain information which is irrelevant or prejudicial;
- ensures accountability to all relevant stakeholders (including prospective tenants);
- allows tenants the right of access and correction of inaccurate data; and
- maintains privacy over tenants personal details.

I am particularly concerned that the potential tenant does not have any right of access to nor any right to amend if inappropriate, false or misleading information. Given the seriousness of the allegations, I have asked the Department for Fair Trading to undertake preliminary inquiries to provide a report into what actions if any, can be taken to address this problem."

The Tenants Union has met with the Department of Fair Trading and the NSW Privacy Committee who seem interested in following the issue up. ■

## Legal Aid Cuts

**N**ow that the announcement of the Budget has confirmed the cuts to the Legal Aid Commission, the national legal aid system remains in complete disarray. It is likely that Queensland will set up its own system with an agency agreement to do Commonwealth work. South Australia, ACT, Northern Territory and Tasmania will continue to operate in a co-operative agreement with the Commonwealth but it is unclear on what terms. These are only in-principle agreements at this stage. New South Wales, Victoria and Western Australia are still a long way from any agreement with the Commonwealth.

The Tenants Union's letter writing and postcard campaigns regarding the cuts to the tenancy section of the NSW Legal Aid Commissions Civil Law section have had an impact. Although cuts to this area may have been avoided this time around it is not over yet. It is important that we maintain an effective justice system for all and campaign broadly. ■

## Senate Inquiry into the provision of Legal Aid

**T**his unanimous report highlights the national concern over the cuts. It finds significant areas of uncertainty as to implementation of policy and no clear indication of legal aid funding arrangements beyond June 30, 1997—even in the States/Territories where in-principle agreement has been reached. It expresses concern about the implications for national equity of these agreements. It recommends the Commonwealth establish a high level task force to advise Governments on the legal aid system and its place in Australia's justice system. The Inquiry will continue past its original cut-off date of late April.

The Tenants Union asks you to contact your local MP and call on the Government to maintain current funding levels while it properly considers the report and sorts out the mess national legal aid is in. ■

# Department of Housing Evictions

Source: Housing Law Group

**A**s a result of the Legal Aid Commission taking injunction proceedings against the Department of Housing, the Department has advised that in cases where injunction proceedings or Supreme Court appeals are being considered against the Department, workers should in the first instance contact the Legal Section of the Department of Housing at Liverpool indicating the problem.

In the case *Saeemadaree v the NSW Land and Housing Commission*, all options for a s110 rehearing had been exhausted, but there were grounds for challenging the Registrar's refusal. For various reasons this potential test case did not proceed to a hearing in the Supreme Court, however, Justice Dowd at the initial hearing granted the injunction against the Department.

The Department's suggestion is made in the

context that possibly Supreme Court injunctions or appeals may not be necessary as the Legal Section may well advise the Regional Manager or Local Office to negotiate a compromise.

Further, the provisions of Section 107(5) of the Residential Tenancies Act give the Tribunal the power to stay orders made in the Tribunal provided an appeal under s107 has been filed in the Supreme Court. The Tribunal has a discretion if the application needs to be heard urgently. Even though, to current knowledge the only application for such a stay has been unsuccessful, it is advised that if there is time available this course should be considered.

This should assist in matters in which the client's interests are best served by negotiations rather than a test-case issue on appeal—and for matters which come at the last minute and have merit. ■

Contact: Legal Section  
Department of Housing  
DX 5067 LIVERPOOL  
Tel: 02 9821 6769  
or 9821 67870  
Fax: 02 9821 6700

## Legal Aid prevents another sad case...

**I**n a recent episode at a block of Department of Housing units in Tamworth, a tenant took a swing at a couple of tradesmen who were assisting two female Department of Housing staff members to relocate some other tenants. Police charges were laid.

The Department of Housing applied to the Residential Tenancies Tribunal seeking an order ending the tenancy agreement with the resident and to take possession of his premises.

The tenant has a history of alcohol abuse and has sustained a head injury which renders him impulsive, aggressive and impetuous. The resident also suffers from epilepsy and, as a result of poor self-medication, he often displays quite bizarre and anti-social behaviour, having been admitted to mental health wards in the recent past. His doctor suggested that in ten to fifteen years he will be unable to handle money or buy groceries and may need long-term admission into a hostel.

The Tribunal was to decide whether the 'assault' on the two tradesmen had been 'intentional or reckless'. Because of the doctor's evidence, the Tribunal was left in some doubt as to whether the tenant could even form an intention, especially as he was not taking his medication adequately. So, the Tribunal declined to make an order terminating the tenancy agreement. No order for costs was sought.

A Tribunal member, in summing up, agreed that the resident was competently and efficiently represented by solicitors. The resident was represented on a legally aided basis and could not have presented his case without Legal Aid assistance, which is vital to ensure that a system of justice operates where each litigant has equal access to advice and representation.

This resident may have been moved to a 'Homeless Hostel' by the Department of Housing if such legal aid had been unavailable, even though he wasn't even behind in his rent. Worse still, he may have been left to find private rental accommodation himself. ■



# Lodger wins \$400 through Tribunal

Source: On The Record

**L**odgers are not covered by the Residential Tenancies Act 1987, and therefore do not have access to the RTT. Suing in the Local Court is time-consuming, costly and difficult, but if the lodging was offered in the course of carrying on a business, the Consumer Claims Tribunal can be used to some redress where a lodger has been wronged by their landlord.

Available remedies include compensation of up to \$10,000, supply of a service, and delivery or replacement of goods.

In 1996 a lodger was assisted in applying to the Consumer Claims Tribunal by a Redfern Legal Centre volunteer. As the lodger, 'Max', was a pensioner, the application fee was only \$2. Max sought compensation for loss of personal property that was disposed of by the landlord. Max represented himself at the tribunal and was successful in obtaining compensation, which has been paid, for the loss of his false teeth, among other items. ■

## Legal Aid Update

Luckily for the tenants of New South Wales, the Legal Aid Commissioners have yet to make any change to the policy relating to Legal Aid for tenancy matters.

This means that tenants with meritorious cases, who qualify for Legal Aid will continue to be assisted. This particularly applies to test cases, class actions and protected tenancies. Speaking of test cases: we would like to say a special thank you to Lynn Wilkins, Des Sheehan (the Legal Aid Commission) and Jane Needham (Barrister) who won the Road and Traffic Authority v Swain case in the Supreme Court of New South Wales Court of Appeal on Wednesday 7 May 1997.

In this ground-breaking decision, Justice Meagher, Priestley and Cole found Residential Tenancies Act "is intended to balance the rights of landlords and tenants". Also they concurred with the original finding of the Supreme Court that "landlords do not have an absolute right to orders of termination of a residential tenancy agreement".

In other words, landlords of NSW can no longer evict tenants as a matter of course by giving a 60-day "no cause" termination notice—the Tribunal must consider the circumstances of the case. So in special cases where the tenant is severely disadvantaged the Tribunal may decide not to grant an order of termination to the landlord.

For more information regarding Legal Aid phone the Legal Aid help line: 1800-806 913.

## Kelburn Hall tenants win at Tenancies Tribunal

by Kylie Kilgour

**S**ix tenants were recently successful in the Residential Tenancies Tribunal defending "no grounds" eviction proceedings.

Kelburn Hall first came to the attention of the Tenant's Union in 1995 when South Sydney Council announced plans to relocate the tenants of the building so that they could conduct safety fire renovations. The tenants, some of whom had lived in the premises for over 15 years, objected to being moved. After protracted negotiations with the tenants, Council sold the building to a commercial property development company. The property developers promptly served the tenants with 60 day "no grounds" eviction notices.

At a formal hearing by the Tribunal the property developers argued that they would suffer unfair financial losses if they were not able to take vacant possession of the three units in which the tenants lived. The tenants argued that they would suffer undue hardship on medical and economic grounds. The Tribunal found in favour of the tenants. ■

# Radical Social Change Strategies for Community Legal Centres

by Beth Jewell and Kylie Kilgour

## Time for change

Rapid and wide ranging social change needs local, regional, national and even international co-operation between activists. In an ideal world this would achieve radical change for a world class of people.

This is an emergency period for the poor. The reality is a toughness of economic times, unemployment and a politicisation of market economics. It is time now for Community Legal Centres to engage in more policy and law reform work.

One of the criticisms that can be made of Community Legal Centres is that CLC workers are re emphasising the old legal service ideology through casework based on services. CLCs should be centres for social activism rather than just individual relief. Workers should remain mindful of achieving change, not just bandaging clients up to go another round. The CLC lawyer could choose the client with the most important policy issue.

## 'Public Interest' litigation

By using the 'public interest' litigation in radical social change campaigns, the legal system can assist. Using a large client base, working with other organisations and using sympathetic legal aid officers to fund the action could bring about change for a whole class of people.

Also handy are 'test cases' and 'multi-client actions'. A test case is where a large number of clients have exactly the same interest/legal problem (e.g. the BHP female steelworkers case about weight lifting restrictions). The number of clients with a coincidence of interest is critical to successful cases due to conservative legislation across Australia.

Multi-client actions are where numerous parties having same or similar interests join together against a common opponent.

## Planning a multi-client action or test case involves four key stages:

- recruiting clients—the more clients, the more energy, and the more likely you are

to work out if you have a 'public interest' case or not.

- using the media—there is definitely a rapport between the media and CLCs.
- holding public demos—this is a media event and gives clients a collective sense of outrage.
- legal action—this can include litigation.

Social action of a radical nature should be planned to attack unjust practices on many levels by Community Legal Centres. Simultaneous activities at local, regional, State and National levels and a variety of strategies will provide agitation and attract the attention of the media and the powerful. We can achieve so much now with the internet, the BBS, the National Law Reform Network for CLCs. Collaborative potential has never been greater!

- *The current campaign being organised by SHELTER and other organisations around proposed changes to the Commonwealth State Housing Agreement (CSHA) has great potential and is a good example of the beginnings of a radical social change campaign. It is a National issue and all levels of government should be lobbied. ■*

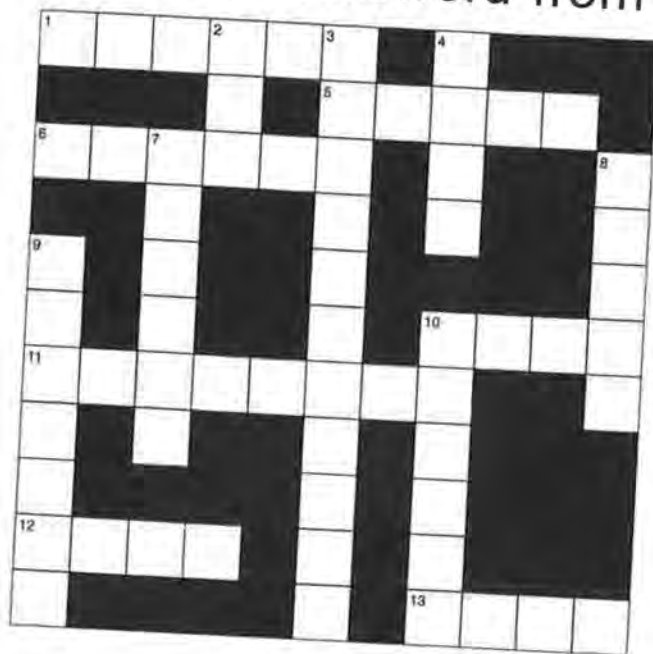
## RENTAL SERVICES

During January and February 1997, the number of calls per day made to the centre peaked at 1,000. It was impossible to answer all those trying to phone the centre as we can handle only 500 calls per day. The previous peak, in 1996, was 700 calls per day.

TAAP Services have also been extremely busy these last two months, with many referrals coming via "The Renting Guide".



## Tenant's Crossword from the Hunter TAAS



### ACROSS

1. A person who rents a property.
5. To remove a person from a house is to ..... them.
6. The area of service covering is the ..... region.
10. The fee paid for leasing premises.
11. 60 days notice must be given for a rent .....
12. The acronym for non-English speaking background is .....
13. What you must do before signing an agreement.

### DOWN

2. Parliamentary legislation
3. .... notices are the first step in the eviction process.
4. You and the landlord must both do this on the agreement.
7. Written advice
8. The number of days a landlord must give when notifying you of a rent increase or, a "no cause" eviction.
9. You must put all your complaints and notices in .....
10. A ..... is a common cause for complaint if not carried out quickly.

## Letter from a new member in Yass...

Paul Mortimer  
Tenants Union  
68 Bettington Street  
Millers Point NSW 2000

Hi Paul,

The reason that we are interested in joining the union is that if we can prevent what's happening to us from happening to others: The hurt and anger of having our caravan and annex pulled down and dumped, because we raised a few health problems that the Manager wouldn't do anything about, nor would local council.

Please put us down for the updated book (*Tenants' Rights Manual*) as we will need to know the law if we are going to try and help others.

Thanking you,

(Name and address withheld)  
CP Tenant

# Stretching out the Shelter

Source: National Housing Action

*Shelter UK is one of the most powerful and influential policy and advocacy organisations working in the fields of homelessness and housing in that country. Chris Holmes, the Director of Shelter UK, outlines some of the issues for homeless people and the action that the organisation has implemented.*

**O**ur view is that the levels of housing investment in this country are gravely inadequate both in new building and in investment in preparing and modernising the existing housing stock—which is currently right at the bottom end of the European league.

We consider there has been an excessive emphasis—indeed preoccupation—with the promotion of home ownership and a lack of adequate priority directed into rental housing. The cuts have been most severe in the local authority rented sector, so that in the last decade local authorities have almost completely had to stop building new homes.

What we would like to see is that everyone should have a right to a permanent, decent and affordable home, and that there should be a choice between different tenures of equal status and esteem. But the highest priority should be an expansion of social rented housing. We're not just talking about standard blocks of flats—we're talking about housing provision that is sensitive to different needs. We would like to see more broadly based and socially mixed public housing stock so that it's not simply a situation of developing ghettos for the poorest.

Despite a very depressing national picture in terms of cutbacks, one can go to a number of towns and cities and see some extremely well planned and designed housing developments which are clearly meeting the most important needs in those communities. The problem is just that the scale of it is so inadequate.

In talking about the new proposed homelessness legislation, it may be helpful to know that currently, local councils have a legal duty to secure accommodation for those homeless households who are in what is called 'in priority need'. In our view, that has been an

absolutely vital safety net for homeless people since it was brought in with an Act of Parliament in 1977. The recent proposals will weaken this legislation so that councils would only have a duty to provide temporary accommodation for up to twelve months.

In its White Paper looking at housing reforms, the Tory Government said that for many people homelessness is just a short-term crisis. We dispute that. It's only a short term crisis in a majority of cases when the council provides them with a permanent home—that's what resolves it nothing else. We have been campaigning very hard against the Government's proposals. We do feel that the campaign is beginning to make some impact. Local authorities have been virtually completely solid in opposing the proposals.

In terms of the latest UK budget, we asked for a significant increase in the budget for social housing, saying it would be cost effective, tackle unemployment, it would create socially useful jobs. Sadly, what we saw was not just cuts in local authority and housing association programs. In one particular measure the Government is raising £1 billion by selling off housing corporation mortgages but that money is not being put back into social housing, it is simply being used to fund tax cuts. It's the most vulnerable groups who are not seen as important. It is single parents, asylum seekers, young single people, unemployed single people, who are paying the cost in order to make the savings that the Treasury wanted.

One small ray of light is that there is an allocation of £50 million in the Budget over the next three years for 'Rough Sleepers Initiative' which is help for people literally sleeping on the streets. We think it falls far short of what's needed. The amount over the last five years in total for central London has been £180 million, and there have been real benefits from it, very valuable work done by voluntary agencies, and permanent accommodation that people can go to. ■

**Answers to Tenant's Crossword**  
Across: 1. Tenant 5. Evict 6. Hunter 10. Rent  
11. Increase 12. NESB 13. Read  
Down: 2. Act 3. Termination 4. Sign 7. Notice  
8. Sixty 9. Writing 10. Repair



# Resources available

from Tenants Union NSW (02) 9247 3813  
List updated February 1997

## TENANTS RIGHTS INFORMATION

### Tenants rights factsheets

Set of 17 in English, Arabic, Assyrian, Bosnian, Chinese, Croatian, Farsi, Fijian, Filipino, Hindi, Hungarian, Khmer, Korean, Kurdish, Lao, Macedonian, Portuguese, Romanian, Russian, Samoan, Serbian, Somali, Spanish, Thai, Tongan and Vietnamese

### "Tenants have rights"

information pamphlet in English, Burmese, Indonesian, Kurdish, Polish, Pushtu, Tamil, Tetum and Turkish

### Aboriginal tenants rights factsheets

Set of four

### "Tenants Rights Manual"

(\$24.95, postage and handling \$5)

### "Your rights as a tenant in NSW"

handbook (\$5)

## POSTERS

### "Tenants have rights"

Tenants Union poster

### Aboriginal tenants rights

Poster

### "Tenants have rights"

Tenants Advice and Advocacy Program poster

## PAMPHLETS

### "Free advice for tenants"

Tenants Advice and Advocacy Program promotional pamphlet

### Tenants Union of NSW

Information pamphlet

## PUBLICATIONS

### "Tenant News"

(\$20/year) Newsletter of Tenants Union. Free to all members

### "Unfinished business"

(\$10, postage \$2) History of the Tenants Union

### "Ninga-nar"

Report(\$10) Aboriginal tenant community education

### "Migrant access to tenants services"

Report (\$10)

## MORE RESOURCES...

for tenants and tenant advisers  
Updated February 1997

### Department of Fair Trading:

**Tenancy Services** (02) 9377 9100

(1800) 451301

Residential Tenancies Tribunal—application for an order

"The Renting Guide" booklet. In English and being translated

- "Caravan Park Living" booklet
- "Strata Title Living" booklet
- "Hot property" newsletter
- Policy statements of Tenancy Commissioner

**For bulk copies of booklets contact**

**Education Branch, Fax: (02) 9891 1134,**

**PO Box 972 Parramatta 2124**

### Department of Fair Trading:

**Rental Bond Services** (02) 93779000

(1800) 422021

Fax orders to: (02) 9377 9373

Standard forms:

- Lodgement form bond
- Claim for refund of bond
- Transfer of bond
- Change of shared tenancy agreement

These forms also available from State Bank branches

### Residential Tenancies Tribunal library

(02) 9249 0736

- Residential Tenancies Tribunal decisions. Printed copy or on internet

<http://austlii.law.uts.edu.au>

### Real Estate Institute 02 9267 6311

REI charges for all publications, ask for price list

- Residential Tenancy Agreement Part 1, Page 1 Lease
- Residential Tenancy Agreement Part 1, Pages 2-9 Lease
- Residential Tenancy Agreement Part 2, Condition report
- Application for tenancy
- Termination notice

### Streetwise Comics (02) 9560 3244

- "Home at last"

Comic about tenant issues for young people. Produced with Marrickville Legal Centre

- "Our place"

Comic about housing issues for Aborigines in NSW

### Redfern Legal Centre Publishing

(02) 9698 3066

- "Share housing survival guide" handbook  
Produced by Redfern Legal Centre and Sydney University Student Representative Council
- "The Law Handbook" 5th Edition

## Resources

### Redfern Legal Centre (02) 9698 7277

- "Warehouses and the Residential Tenancies Act" information pamphlet

### Combined Pensioners and Superannuants Association (02) 9262 6722

- "Finding somewhere to live in NSW—a guide for older people"
- "Homes we can live in" pamphlet
- "Renters and repairs" pamphlet
- "A guide to protected tenancies" 2nd edition A new edition of this last publication is currently being produced

### Bookshops

- "Residential Tenancies Law and Practice NSW" Lang, Andrew 2nd Edition 1990. Published by The Law Book Company Limited

### Government Information Service of NSW (02) 9743 7200

- Residential Tenancies Act (1987) as Amended and Regulations
- Residential Tenancies (Caravan Parks and Manufactured Home Estates) Amendment Act 1994
- Landlords and Tenants (Rental Bond) Act 1977 and Regulations
- Fair Trading Act 1987 Regulation (Caravan and Relocatable Home Park Industry Code of Practice Regulation 1992)
- Landlord and Tenant (Amendment) Act 1948 A bound kit of the Residential Tenancies Act and the associated Acts and Regulations can be purchased

### Department of Housing (02) 98216111

Standard forms available from Department of Housing branches:

- Application for Housing Assistance
- Application for Immediate Housing Assistance

### Department of Housing Client Services Co-ordination Unit (02) 98216264

- Handbook on public tenants rights Currently being produced

### Anti-Discrimination Board

(02) 9318 5400

- "A fair go for employees and clients of Real Estate Agents" booklet Factsheets:
- "Discrimination and the Anti-Discrimination Board"
- "Discrimination, EEO and Affirmative Action"
- "Disability discrimination—your rights"

### Ethnic Communities Council of NSW

(02) 9319 0288

- "Pathways to Ethnic Communities"

### Ethnic Affairs Commission of NSW

(02) 9716 2222

- "People of NSW"
- "A Directory of Ethnic Media in NSW" 1996

### Department of Immigration and Ethnic Affairs (02) 9219 7869

- "Settlement Planning Information" 1996

## Residential Tenancies Tribunal Statistics Report Calendar Year Ended 1996

This report is made available through the Registrar to the Chairperson and Manager Tenancy Service by the tenth day of the following month.

### A Information collected at the time of lodgement

#### I Applications lodged during 1996

Termination/possession order	20,370
Rental bond	3,049
Breaches	7,231
Other tenancy	632
Vary or set aside - section 110	681
Retirement village	34
Caravan Park/Mobile Home	31
<b>TOTAL</b>	<b>32,038</b>

#### II Breakdown of total received in I above

Lodged by tenant/retirement village resident	4,387
Lodged by landlord/retirement village administering auth.	27,641

Lodged by Retirement Village applicant (3 months only)	5
Lodged by Department of Housing (3 months only)	1,489

Lodgements by Rental Bond Board Division	
Inner Sydney	1,081
South Sydney	464
Eastern Suburbs	1,989
Inner West	1,219
Lower North Shore	546
Upper North Shore	379
Mosman/Cremorne	275
Manly/Warringah	575
North Western	800
Western Suburbs	1,440
Parramatta/Hills	1,592
Fairfield/Liverpool	2,667
Canterbury/Bankstown	1,137
St George	1,574
Cronulla/Sutherland	735
Central Coast	1,349
Greater Newcastle	1,672
Hunter Valley	648
New England	504
North Coast	1,605
Greater Wollongong	1,455
South Coast	658
Campbelltown	1,328
Goulburn/Monaro	656
Riverina	778
Penrith/Windsor	3,778
Blue Mountains	195
Orange/Bathurst	407
Dubbo & North West	377
Mudgee District	39
Western District	106
Other	
No. of interpreters at hearings	660
No. of warrants issued	2,278
No. of CMOs issued (10 months only)	2,962

### B Information collected at end of RTT process

#### III Final orders made

Without a hearing (3 months only)	485
Sub Total	485
Finalised at first hearing	25,710
Finalised at subsequent hearing	4,393
Sub Total	30,103
<b>TOTAL</b>	<b>30,588</b>

#### IV No. of orders finalised following a hearing

Withdrawn - section 90	4,041
Dismissed - section 108	2,850
Agreements - section 109	6,271
Other	13,352
<b>TOTAL FINALISED</b>	<b>26,514</b>

#### V Appearances at hearing: (3 months only)

No parties	605
Applicants only	2,286
Respondent only	141
Both parties	1,420
<b>TOTAL</b>	<b>4,452</b>

#### VI No. Represented at Hearing

Nil representation	8,834
Landlord	20,230
Tenant represented	403
Both landlord and tenant represented	1,380
Administering authority represented	18
Retirement village resident represented	-
Both administering authority & resident represented	1
<b>TOTAL</b>	<b>30,866</b>

Statistics prepared by Meg Smith Contact Phone number: 02 9249 0706



# NSW TENANTS ADVICE AND ADVOCACY SERVICES



**TENANTS  
ADVICE**  
AND ADVOCACY  
SERVICE

## Regional Services

### Inner Sydney

Ph: (02) 9698 5975

Redfern Legal Centre  
73 Pitt St Redfern 2016  
Fax: (02) 9310 3586  
Phone advice: Mon-Fri 9.30-1, 2-5.30

### Inner Western Sydney

Ph: (02) 9559 2899

Marrickville Legal Centre  
338 Illawarra Rd Marrickville 2204  
Fax: (02) 9558 5213  
Phone advice: Mon-Fri 2-5

### Southern Sydney TAAS

Ph: (02) 9787 4679

PO Box 503 Campsie 2194  
Fax: (02) 9718 0236  
Phone advice: Mon/Tues/Thurs/Fri 10-1, Wed 2-5

### South West Sydney

Ph: (02) 9601 6577

South West Tenants Advice  
PO Box 1042 Liverpool 2170  
Freecall: (1800) 631 993  
Fax: (02) 9822 4076  
Phone advice: Mon-Fri 9.30-12.30

### Eastern Suburbs Tenants Service

Ph: (02) 9386 9147

27 Spring St Bondi Junction 2022  
Fax: (02) 9386 9146  
Phone advice: Mon-Fri 10-12.30, Mon-Wed 2-4.30

### Western Sydney Tenants' Service

Ph: (02) 9891 6377

PO Box H86 Harris Park 2150  
Freecall: (1800) 625 956  
Fax: (02) 9635 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 Warrarong 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) 9247 3813

Tenants Union of NSW  
68 Beltington St Millers Point 2000  
Fax: (02) 9252 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) 9262 6722

Combined Pensioners and  
Superannuants Association  
Level 11/35 York St Sydney 2000  
Freecall: (1800) 451 488  
Fax: (02) 9262 6120  
Phone advice: Mon-Fri 9-5

### Tenants Union Hotline

Ph: (02) 9251 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] .....

First language .....

Please tick

☐ New membership ☐ Renewal

Are you a: ☐ Tenant ☐ Home Owner

☐ Other [specify].....

### FEES

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].

### YEARLY FEE

Tick the fee that applies

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

Waged worker \$15

Organisations \$30

Donation \$ .....

I enclose \$ .....

Signature .....

Date .....

Return to: Tenants Union, 68 Bettington Street, Millers Point 2000

### OFFICE USE ONLY

Service Fee.....Shares .....

Donation .....

Receipt No.....Membership No.....



**Get a new lease on life  
- join the  
Tenants Union!**

IF UNDELIVERABLE PLEASE RETURN TO:

**TENANTS UNION OF NSW  
68 BETTINGTON STREET  
MILLERS POINT NSW 2000**

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