

# tenant NEWS

Newsletter of the Tenants Union

No. 65 December 1999

## Public housing rent rise

by David Owens

In September of this year the Minister for Housing, Dr. Andrew Refshauge, issued a media release announcing an increase in rent for most existing Department of Housing tenants and all new tenants from April of 2000.

The Minister, in his release, focused on the increase being 'an average increase of \$2.00 per week each year' for the next five years. He also went on to state that the rent increase would bring rent levels in line with other states and non-government not-for-profit housing providers, and that the extra money would be committed 'in its entirety' to the maintenance and servicing of public housing.

### The real impact

The reality is rents will effectively go up by 25% for tenants currently paying 20% of their income in rent to the Department. The Minister ignores this figure quite effectively by focusing on an 'average' figure of yearly rent increases. What is not made clear is that people on fixed incomes will have their total income reduced at a time when the federal government is about to introduce a goods and services tax.

The Minister, in his release, also justifies this rent increase by measuring it against the level of 'subsidy' that the Department provides to tenants who would rent in the private market. Such a statement draws a misleading comparison. People require state housing because of the failure of the private rental market to meet their needs. To argue for more money from a vulnerable section of the

<b>WEEKLY BUDGET:</b>	
<b>INCOME (DISABILITY PENSION) =</b>	
<b>\$185.95/WK</b>	
<b>EXPENSES:</b>	
RENT	\$35.75
FOOD	\$60 (incl. all groceries)
GAS	\$7.65 (av/wk)
ELECTRICITY	\$3.00
TELEPHONE	\$5.64
GARDEN	\$5.67
PHARMACY	\$8.00
PETROL	\$20.00
NEWSPAPERS	\$7.00
<b>ADD: RENT UP TO 25% OF INC = 9.00</b>	
<b>GST = 12.00</b>	
<b>BALANCE = \$10.24</b>	

The budget of a person on a pension who, after having their rent increased to 25% of income, plus GST, is left with \$10 to cover all living costs not covered here (eg clothes, dental care, house insurance, car rego). See letter on page 5.

community on the basis that they may already get too much support is unacceptable and ignores real needs in our communities.

### Where will the money go?

The Minister goes on to justify the 25% rent increase on the basis that extra money will be spent on maintenance. Yet out of the nearly \$300 million extra income generated by the measure the Department has only identified approximately \$28 million being spent on maintenance. We have to ask if the Minister's real agenda here is supporting public housing or putting to bed government debt.

And finally the Minister speaks about the 25% rent increase as bringing New South Wales in line with other states, a comparison not used when discussing costs of living for tenants or, for that matter, industry benchmarks for maintenance of properties.

### Tenants not in the plan

But the Minister and his Department push ahead with their plans to make the poorest of tenants pay for the Department's lack of long term planning. The Minister forgets that the Department has two very valuable assets, the homes they manage in trust for the people of New South Wales and the people that live in those homes. It seems appropriate that these assets should be ignored and neglected with equal skill. It isn't good enough to blame previous governments for current problems. The power to make a difference in public housing rests with this government and its Minister of Housing, Andrew Refshauge.

So write to your local Member of Parliament and ask why the Department of Housing rents are going up by 25% at a time of extremely low inflation. Ask why such a paltry percentage of this money is committed to repairs and maintenance. And ask why the people of this state should once again be treated to a second rate housing service at a time of such great need.

## Rent Assistance: Who benefits?

by Nick Warren

Commonwealth funding for housing to low income families has experienced a revolution over the last ten years. Governments are cutting the amount of money invested in public housing savagely and increasing our reliance on 'rent assistance' to

Rent Assistance was introduced in 1958 (called supplementary assistance) to help single aged, invalid and widowed pensioners living in rental accommodation. During the seventies and eighties the eligibility for assistance was expanded to include most Centrelink customers and some low income families. At the same time, rates of assistance went up. Rent assistance costs rose from around \$300 million per annum in the mid-eighties to over \$1.5 billion in 1999, while the money available for increasing public housing supply has

declined. This has been most marked since the period from 1996/7, where Commonwealth State Housing Agreement funds declined by over 10% per year (23% decline in 97/98).

Continued on page 5

"Today, there is nearly twice as much money spent on rent assistance to private landlords than there is available to all state governments of Australia to provide affordable accommodation."

address housing need. While this is seen as a way of giving everyone at least some help, are we losing our ability to provide public housing by throwing the money at private landlords for no gain?

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# FREE!



# Welcome from the Board

Mr John Watkins, Minister for Fair Trading opened the TAAP Network Meeting on 10 November. He talked about the importance of Tenants Advice Services to the renting community of NSW. In particular, he emphasised the vital role Tenancy Services play for low-income households who experience great difficulty attaining affordable, secure accommodation.

With the advent of the Olympics, secure accommodation should be a key issue for all governments in NSW. But the need for secure housing for tenants extends beyond the Olympics. Opportunities exist now to address these imbalances through the Boarders Bill and the Review of the Residential Tenancies Act, and to not only reinforce but expand the role of Public Housing.

In this edition, we focus on Public Housing and the challenges which must now be met.

Rita Wilkinson, Tenants Union Board

## 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. We welcome your involvement and membership. *Tenant News* is our regular publication.

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

## Special offer to all members



Until December 25th members are offered the **Tenants Rights Manual - a practical guide to renting in NSW** at the special price of \$19.95, including postage. This represents a saving of \$10.00 on the regular price!

This may not be exactly what you have in mind for the Christmas stocking but it is an invaluable resource for anyone who is interested in knowing their rights in a residential tenancy. There are limited numbers, so get them while they last! Contact the Tenants Union on (02) 9247 3813. Membership forms are available on the back page of this newspaper for new members.

## Albury tenants join database debate

Albury tenants recently enjoyed a visit from TU Board member and tenancy worker Damien Hennessy. Damien's discussion of tenant databases, and their injustice to tenants, was given very good coverage by local television media. Margaret Rollins, tenants advisor in the area said:

'I was pleased to have television exposure to explain to viewers that the issues of databases is a cross-border one. They exist in all state of Australia and tenants can't escape them.'

The databases story also achieved National coverage in an interview held by JJJ's Sarah MacDonald. Lois Boswell, tenancy worker from the North Coast and a TICA representative participated in the debate.

## Special treatment: a protest song

**Excerpt from the Tunnel emission stack protest song, for the RTA, DUAP and EPA. Sung to Paul Kelly's song 'Special Treatment' by Jane Salmon**

I was told when I moved here,  
I was one lucky gal,  
Now a DOH tenant.

I'd been through the mill,  
I'd been through hell,  
But was here in a subsidised haven.

Oh I got special treatment,  
Special treatment!  
The ultimate in welfare treatment.

When I came here,  
There was a broad open sky,  
A park with trees below us.

We were grateful for the shelter,  
Glad to have a home,  
After years robbed as helpless renters.

Next came the dozers,  
The diggers and the drills.  
Trees tilled for some sort of tunnel.

Oh Knowles knew all along,  
What special land it was,  
We were here as silent "buffer" bodies.

Oh we got special treatment!  
Dumb battery animal treatment  
...  
Very exceptional treatment.

Health audits were not done,  
DUAP and Scully ignored complaints,  
Clover was the only one listening.

Construction raised dust,  
Car congestion all around,  
We wheezed and we coughed,  
But they were hosing it down.

Yeah, we learned about ballot treatment,  
Political numbers,

Tendencious Carr  
Government treatment.

We all asked to move,  
No solution was found,  
Not even emergency evacuation.

"You're lucky to be here,  
Where do you think you'll go?  
There isn't much transport in Penrith".

Next came the news,  
Of three stacks outside our door.  
They'll be disguised ...  
As beautiful buildings.

Oh yes, some are really units,  
Don't you worry about that.  
What heritage colour do you want them?

Oh you'll get special treatment  
Cheap Meriton treatment!  
More heartless rationalist buffer treatment.

## Have you seen that fax?

Something came through our fax machine late last week. The person who sent it to us said it had come through her fax with the sender's identity suppressed ...

So who's behind this latest piece of anti-Olympics guerrilla activism? The cartoon looks like this: there's a line drawing depicting a family of Prozac-peppy smilers. Above their heads reads the line: 'Keep taking your medication.' And Below: 'OUR OLYMPIC VISITORS MUST SUSPECT NOTHING'. We're told it may have originally been a postcard.

Whoever you are, we love your work.

Top: the Tenants Union Olympics postcard. Below: from the Rentwatchers demonstration (see facing page).





## Rights for boarding house residents a priority: review

The Department of Fair Trading review on the need boarders and lodgers have for legal protection is reaching its final stages. More than 40 written submissions have been received by the working party. The current stage of the review involves interviews with some of the major stakeholders including Nick Warren from the Tenants Union, to discuss their submissions in detail. The working party is hoping to make a recommendation to Cabinet by the end of January 2000. Hopefully the committee will recommend legislation which the government could put to parliament in March 2000. Just in time to offset, at least some of, the negative impacts of the Sydney 2000 Olympics.

Peter Mott - Tenants Union representative

## Tenancy law review nears finish

After nearly two years, the Department of Fair Trading's review into tenancy law in New South Wales is nearly complete. The report has been finished by the steering committee and handed to the Minister. There has been no announcement about when it will be released to the public, or if it will be given to the public at all. The Tenants Union has called on the Minister to release it as soon as possible.

Damien Hennessy - Tenants Union representative

## CSHA funding promise signed

After an interminably drawn-out process, State/Territory Ministers for Housing signed the multilateral agreement of the Commonwealth State Housing Agreement on July 28. The new, four-year CSHA will continue to fall in real dollar terms due to the government's 1% annual "efficiency dividend" and the fact that the funds are not indexed. Some concessions have been made, however. The States negotiated a \$269 million GST compensation package for housing providers and the Democrats brokered an agreement with the Commonwealth to quarantine social housing tenants' rent from a GST increase.

With the multilateral deal signed, the money for the July-December period was advanced to the States. Release of the funds for the remainder of the four-year Agreement will follow the signing of bilateral agreements between individual States and the Commonwealth.

As the multilateral agreement is thin on principles, the bilateral agreements will assume greater importance. The NSW government and the Commonwealth are now in the final stages of drafting their individual agreement.

Will Roden - Shelter NSW

## Theirs to keep: UK squatters

UK: A landmark court decision has given South London squatter Tim Ellis ownership rights to the squat he has occupied for 16 years. Lambeth council, which owned the house, will appeal the decision in the House of Lords.

In a further decision by Hackney council, two whole streets of squats which have been occupied by 50 or more squatters for many years will also be turned over to the tenants housing cooperative, London Fields Solutions. The council claimed that they had no money to renovate the two streets of 22 dilapidated Victorian terraces. London Fields Solutions will manage the premises, after the houses are turned over to the National Housing Association in five years time. In the meantime, rent paid by tenants will cover the councils refurbishment costs.

In the UK, it is not illegal for squatters to take possession of an empty house, but it is illegal to kick the door down or smash a window to get into the premises. Once inside, locks may be changed and power and water may be connected, and unwanted visitors refused entry. If a person has occupied a place for a minimum of 12 years, he or she may apply to claim ownership.

Source: International Express July 27 - August 2 1999

## Historic appointment to HAC

The Housing Appeals Commission, which hears complaints filed by tenants of the Department of Housing will be joined by Seth Merritt, tenancy worker with the Aboriginal specialist network.

Seth becomes the first Aboriginal worker to join the HAC. The Tenants Union welcomes Seth's appointment, and congratulates the HAC for their decision.



## Protesters shake Olympic celebrations

The One-year-to-go celebrations for the Olympics, at Darling Harbour in September, were a colourful affair. The schoolkids and tourists were out in their hundreds, collecting armfuls of stick-pins, badges and balloons (all genuine Sydney Olympics merchandise, of course). Then there was Rentwatchers, who provided the most lively entertainment of the afternoon. At least, the security guards certainly thought so ...

### Welcome to Syd-on-ee

The Rentwatchers protest kicked off with a medal-ceremony performance for the *Greedy, Grief and Gain* Olympics. Taking first place were the developers; second the landlords and third, the

real estate agents. Tenants won the wooden spoon (for showing poor sportsmanship when asked to leave their homes for Olympics tourists) and the homeless copped an eyeful of capicum spray and a speech on the need for vigorous 'street cleansing'. As the piece reached its climax (to a version of the national anthem sung with tongue firmly in the cheek, if that's possible) a banner was dropped from the overpass above the performance site bearing the slogan 'Olympic dream - tenants Nightmare'.

### Parliament sinks Olympic rent reform Bill

The purpose of this demonstration was to draw attention to Rentwatchers' Olympics Bill, which proposed that rent increase be tagged to CPI during the period of the Olympics, to prevent unreasonable rent rip-offs like those experienced in other Olympic host cities. Ian Cohen lent support from the Greens for this Bill. Speakers included Beth Jewell, Rentwatchers convenor, Ian Cohen and Tim Burns, tenant activist from Bondi.

During her speech, Beth Jewell cited the human rights abuses which took place during the Atlanta Olympics - 9500 homeless people imprisoned (unlawfully, as the courts later decided) - and the clear evidence of rent hikes in Sydney in the lead up to the Olympics.

The Bill failed to get Government support. This leaves the Government with no action to protect tenants.

### Rentwatchers goes to the UN

Rentwatchers has now sent a delegate to appear before the UN Commission on Economic, Social and Cultural Rights, to discuss adverse impacts of the Olympic Games in Sydney.

This follows Beth Jewell's appearance at a conference of international housing activists in Bangkok, in June.

Housing activists at this conference were shocked that Australia, with its wealth and 'democracy' could allow such violations of housing rights. Participants agreed to ask their respective governments to write to Australian and NSW governments concerning the displacement of Sydney people over the period of the Olympic Games.



## Public housing

**C**assandra was a Trojan princess who had the power to foretell the future, but whose true prophecies were destined to always be disbelieved. Reading the current public housing directions papers which have been released as part of a project by the University of Western Sydney Urban Frontiers Program and Department of Housing, one is reminded of the many disbelieved, but now true, prophecies made by housing activists and groups to numerous public housing inquiries over many years.

The Minister for Housing, Dr Andrew Refshauge has recently engaged the Urban Frontiers Program to recommend options for the public and community housing system beyond the current Commonwealth State Housing Agreement (CSHA). An announcement on a future model is expected at the National Housing Conference in late November.

While not explicitly ruling out the first and second options, Urban Frontiers overtly promoted the growth model as their preferred option. Most community participants also gave cautious support to further exploration of this option, although there were clear points of concern and disagreement.

### Cross Subsidies

The growth model would include an 'open access' policy, where anybody who wants it would be eligible for public housing. The market rents paid by higher income tenants would be applied to building and upgrading more stock. No problem here - a true **public** and **community** housing system should be available to all members of the community. Increased numbers of tenants who have higher incomes would go a long way to restoring the balance of many public housing communities which have suffered under the rationing policies. Other benefits may include reducing the stigma attached to public and

open market, and existing tenants to be charged more for living in good properties.

Issues with the financing of a growth system might include:

- If the tax concessions required amount to at least the current government contribution to public and community housing - why not continue with direct capital funding supplemented by a level of cross subsidies from higher income tenants?

- Partial sale of properties to tenants is called a 'shared-equity' scheme. Under these schemes, the only winner is the seller, with the purchaser ending up in no man's land, legally and financially;

- The negative impacts of wide scale public housing sales programs are well known and the current public housing system still bears the legacy of previous sales programs;

- The policy of charging more rent (rent premiums) for better located properties, fails to recognise tenants' traditional links to their communities and may well force lower income tenants into the 'ghettos' that Urban Frontiers says it is trying to break down.

### Management Models

Towards the very end of the process it became clear that the Urban Frontiers Program was leaning towards a range of management models, which may form around different funding streams.

This raised a range of concerns which were not able to be adequately discussed. The following issues need to be addressed:

- This model may effectively represent a full privatisation of the system, which would dishonestly conceal a much 'contracted' public/welfare housing tenure;

- How do we protect what we already have? The current public housing asset base may be dismantled through stock sales and transfers to provide initial success for new management models;

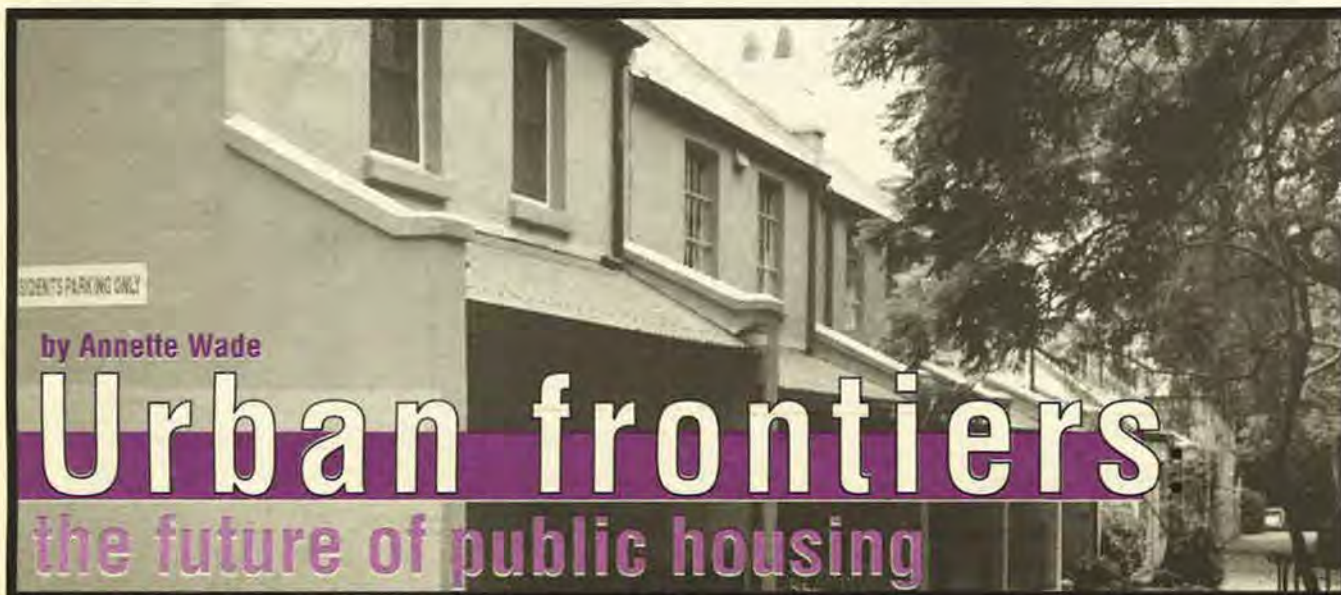
- How do we ensure that policy is applied fairly to all tenants and that decision making is transparent with a much wider range of housing providers?

- What sort of accountability would there be?

Even with this list of serious concerns, which is nowhere near exhaustive, a window of opportunity has been presented to us. The development of a true and viable public housing system is on the agenda for debate and discussion. For too long we have been encouraged to view public housing as last resort housing fit for only those who cannot manage in more 'desirable' housing tenures. We are in turn encouraged to view public tenants as dysfunctional individuals who fail to achieve better housing options. The current public housing system is little more than welfare housing, of more use to social welfare workers, than the many thousands of households who simply need secure and affordable housing.

It's time for us to discard our 'Cassandra' role and join in this debate to ensure that a decent public housing system is developed.

Thanks to John Bennett, a Victorian housing activist, for the story of Cassandra.



In short, the Urban Frontiers and the Department are telling us that continued cuts to government funding contributions have threatened the effectiveness of the system and waiting list demand is far outstripping supply because very little new stock is being acquired. The introduction of the GST provides a further funding concern as the future of the CSHA is uncertain in the new Commonwealth/State arrangements. And the policy of rationing public and community housing, by targeting allocations to people with high welfare needs, has led to increased social and management problems in some public housing communities. There is nothing surprising about this situation. The housing sector predicted this crisis as long as 10 years ago.

Urban Frontiers suggested that there are three options available to government:

- Business as usual;

- Further 'contracting' the system by selling off a large proportion of the stock and reserving a smaller, better quality pool of stock. Intensive, short term support for people with severe housing and other welfare needs would be provided and through this they would be expected to improve their situation and move on;

- 'Grow' the system by encouraging private and institutional funding as well as cross subsidies from tenants with higher incomes.

To enable the Department to meet its brief, tenant and landlord representatives, as well as housing 'experts' were recently invited by the Urban Frontiers Program to participate in reference groups which were designed to inform the project. We were told that this was not a consultative process and reaching consensus was not required.

community housing communities and forcing the private rental market to lift its game as it competes for tenants who are attracted by better conditions in the public sector.

Issues with this approach might include the following:

- Where do we start? Does open access rely on an injection of capital funds to provide more stock, or will the 130,000 odd households who have been patiently waiting for many years have to give up their place to higher income earners?

**"The development of a true and viable public housing system is on the agenda for debate and discussion."**

- How do we balance allocations to those in need and those who can afford to pay more?

- How do we ensure that we don't end up with different classes of public tenant by allocating stock which is in better condition and well located to those who can afford to pay for it?

- Will higher income earners be evicted if their earning capacity changes and they can no longer provide the cross subsidy?

### Financing

The Urban Frontiers Program's failure to provide financial modelling options constrained discussion considerably. However, the model would most likely include mechanisms for institutional (super funds, etc) and private funding through the sale of equity bonds or a like product, increased government tax concessions for investors in rental housing, the sale or partial sale of properties either to sitting tenants or on the



## Letters/ Comment

### Dear Tenants News

I have sent you a copy of my budget to illustrate how a person receiving a pension like me, will be affected by the proposed rent rises for Department of Housing tenants (see page 1).

This is the picture as at November 1999. It is impossible to calculate the impact of the GST, so I have added 10% to the items, and it came very close to other estimates which I have read in the newspapers. The rents rising to 25% is to be done in stages so we will hardly notice! Of course, so many other costs rise a little so that we are not supposed to notice.

I don't drink, smoke, play the pokies, travel, have holidays etc. I haven't been to the hairdresser for many years. My teeth are falling apart with age, which is a financial strain. I don't have household contents insurance.

The Department of Housing claims that rents have to rise, "in line with other states" - in Victoria the rents are 25% but pensioners get a better deal on energy bills, and car rego and third-party costs. They also claim that the extra money is needed for maintenance of houses. The houses are too small for families, have cardboard linings, paint that cannot be washed, tap washers that fail and door handles which can cause an elderly wheelchair-bound lady to be locked into the bedroom on a Sunday. I, and all my neighbours, have had trouble with these inferior fittings. Not enough effort is put into the design of public

housing, and not enough effort is made by the Department to foster tenants' groups and listen to what they say. There is no way for tenants here in Albury to make contact with personnel in the Department to discuss such broader issues. The tenants are seen by the staff at the Department and the wider community as not being grateful enough for such good cheap housing.

If the Department needs more money for maintenance then they should look to other sources because pensioners just haven't got the extra!! Perhaps another round of "Estate Improvement" funding through the Federal Government. That funding had a community development component which was most valuable. The present government is worried about the very high bill for Social Security payments, but the pension is not enough to live on.

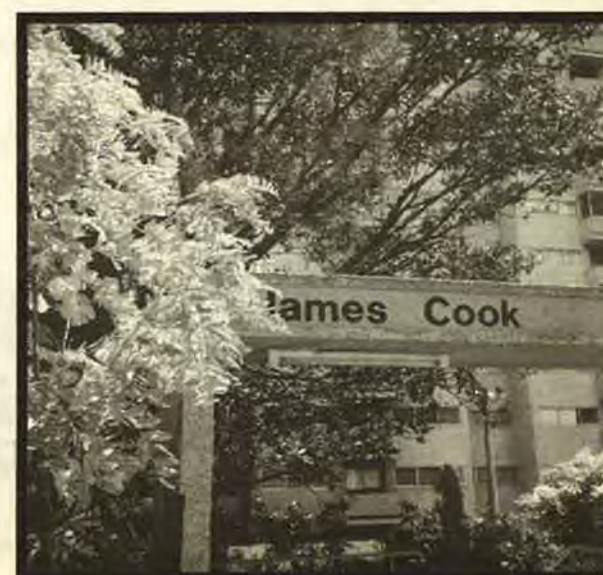
My housing might seem cheap to those paying a mortgage, but it is not cheap when compared with my meagre income. I have worked all my life and it is not my fault that I have not got a generous superannuation or redundancy payment.

Whether it be the Department of Housing or the Welfare policies, I am totally sick of taking the blame. I'm sure that a lot of people in my position feel that way.

*Ann Brennan*

Tenant, Albury

Images of public housing on this page: Woolloomooloo and Waterloo. Previous page: Millers' Point.



## Public Housing

People for Public Housing (PPH) is a State-wide group made up of people on the public housing waiting list, public tenants, housing activists and other supporters of public housing. Our aim is to work together to push for more and better public housing.

PPH has developed an extensive network of tenants and others who are committed to campaigning for public housing. As a campaign group, we have decided not to accept government funding, so our income is generated from donations, membership contributions and fundraising activities.

We hold regular meetings, at least bi-monthly, and also planning and training days throughout the year. In the last twelve months we successfully campaigned against the sale of public housing houses in Erskineville and exposed the vacant Defence Department housing in Woolloomooloo. Members have been also been actively advocating to include public housing in the Green Square redevelopment at Alexandria. Our current priority is to campaign against the sale of public housing stock and we are producing an information and education kit to assist PPH activists in their lobbying and campaign activities.

If you would like more information

on PPH:

Pat 9326 9485

Linda 9319 4561

Annette 9386 9145

From Page 1

## Rent Assistance

Today, there is nearly twice as much money spent on rent assistance to private landlords than there is available to all state governments of Australia to provide affordable accommodation.

This would be easier to feel good about, if it was the tenant that received the benefit of the assistance. Rent assistance is really a subsidy to landlords. In the context of the Sydney market particularly, any benefit to the tenant is immediately lost in rent increases.

A rent subsidy that goes to the landlord does nothing to compensate unemployed people, low income couples with no children or anyone close to the poverty line. What would be more welcome would be action to limit the loss of income through rampant rent increases.

The Tenants' Union has concerns about the effect of rent assistance for the following reasons:

1. by increasing low-income tenants' ability to pay, rent assistance just increases landlords' ability to raise the rent.

3. as rents go up, there is pressure to raise the (non-effective) assistance, which allows rents to rise more and on and on, 'til the bill for rent assistance (read: size of subsidy to landlords) becomes a large component of federal government spending and means other income support & housing measures don't get funded.

4. money diverted in this way into landlords pockets is money diverted away from increasing housing supply. As the real estate industry is so fond of telling us, most landlords own only one property. Extra profit does not go into new

property investment, but is more likely to fund private school fees, longer holidays, good restaurants, boat mooring fees, etc. The private sector can not turn this social investment into something useful like actual houses and while this money is counted in the federal government's estimate of what they spend on housing, it reduces their preparedness to fund real housing initiatives like more public & community housing.

5. by reducing the amount of money available for increasing the supply of housing stock, rent assistance makes the affordability crisis in housing worse.

This is the question that we now must ask: Is there any evidence that rent assistance actually reduces housing-related poverty, besides the simplistic argument that if you call a payment Rent Assistance then it must assist with the rent?



# Ordinary people and extraordinary lives in book of tenants stories

'Shelter from the Storm' by Siobhan McHugh, published by Allen and Unwin



Images of public housing: Above, Millers' Point and below, Waterloo.



Contact the NSW Federation for information about how to buy *Shelter from the Storm*.

A new collection of stories challenges stigma and stereotypes by drawing together the experiences of an eclectic group of public tenants.

*Shelter From the Storm* was recently released by the NSW Federation of Housing Organisations. They commissioned local writer/oral historian Siobhan McHugh to examine and publish the stories of public and community housing tenants and the results show a surprising range: tales of courage in hard times, of initiative, humour and spirit.

Among those who tell their stories are actor Bryan Brown, Federal Labor MP and the Department of Housing head Jennifer Westacott, who reveals that she has known all too well what it was like to 'hide from the rent man'.

McHugh comments about the stories in *The Big Issue*: 'You shouldn't judge people as being inferior, because that might be you this time next year. It was quite a salutary lesson to talk to people who never would've imagined themselves being the recipients of social welfare or public housing, but nevertheless ended up there.'

## Agents careless about language barriers

by Zanne Landles

The Tenants Advice and Advocacy Program network has completed a survey which aims to establish whether or not tenants from non-English speaking backgrounds are being provided with a copy of the Renting Guide in their own language. The survey was conducted by eight services from August 1998 to July 1999.

A total of 516 tenants participated in the survey and the responses indicate very limited distribution of the Renting Guide in languages other than English. Survey results correspond with those published in the research report by Keys Young Ltd. (1998), **'Fair Trading Issues in the Rental Property Market'**. **Section 4.4.1 of this report shows that of the people surveyed who usually spoke a language other than English at home only 8% reported that they had received a Guide in the relevant language.**

### History

Anecdotal evidence from access and caseworkers within the TAAP network suggested that many tenants from non-English speaking backgrounds are not being supplied with the Renting Guide in their first language when they enter a tenancy.

In view of this, the TAAP Access Network initiated and designed a questionnaire for tenants from non-English speaking backgrounds contacting TAAP services statewide. The survey aimed to ascertain if clients from non-English speaking backgrounds are receiving, being offered, and/or requesting the Renting Guide in their own language therefore confirming indications that this is not the case. A total of 516 questionnaires were completed between August 1998 and July 1999 and the results were collated in a main database. The following results emerged:

- \* 47% of responses indicated that they had received the renting guide
- \* 7% of respondents received the RG in their own language
- \* 3% reported being offered the RG in their relevant language
- \* 11% requested the RG in their own language
- \* 91% of respondents would like the RG in their own language if available

### Recommendations

The group has made two recommendation to improve the access of NESB tenants to information about their rights:

- \* That the provision of the Renting Guide in the tenants own language, where possible, be a matter of law under the Residential Tenancies Act.
- \* That the Renting Guide be included in the 'Onshore' package supplied by DIMA to new immigrants, in their own language. This already happens in Western Australia.

The Department of Fair Trading **Renting Guide** is published in these languages:

Arabic, Chinese, Croatian, Farsi, Greek, Italian, Japanese, Khmer, Korean, Macedonian, Polish, Portuguese, Russian, Serbian, Spanish, Turkish and Vietnamese.

## Rough justice: Tribunal rehearing rules

by Grant Arbuthnot, Legal Officer

A distinct unfairness has emerged from the operation of the new Residential Tribunal. When orders have been made, it is possible to apply for rehearing of the matter for the reason that an injustice has been done. If you have won your case and the other side applies for rehearing, you will not know about it unless there is an order that the matter will be reheard. You will not know that there has been an application about your case. You will not know what has been said about your case in that application. You cannot have a say in the making of the decision to rehear (or not).

The procedure used by the Tribunal is as follows. The rehearing application goes to the Chairperson or her delegate (another member of the Tribunal). The Chairperson or her delegate makes a decision based on the application and the Tribunal file of the relevant matter. If there may have been a substantial injustice, an order that the matter will be reheard is made. A notice of order is sent to both the parties informing of the order and the rehearing date (if known). If the rehearing application fails, the applicant is informed.

At the rehearing of the matter, the Tribunal will not hear any evidence or argument about why the matter should not be reheard. You will be expected to reprove your case. If this means obtaining the co-operation of witnesses to testify in person again, that is your problem. If you win again there will be no compensation for the inconvenience.

One effect of this system is that fraudulent rehearing applications, if competently drafted,

have a good chance of success. That the other side can have no say is a distinct advantage.

The party who has not applied for rehearing is faced with the prospect of running their whole case again. Settling the matter by consent orders for a smaller money order or other concessions will be attractive if the case is complex. If the matter settles by consent, the Tribunal can never tell whether the rehearing application was fraudulent. It is possible that the party who has not applied for rehearing cannot run their whole case again. Witnesses may not be available again, other evidence may not be available. There may be more pressing things in their life.

The Tenants Union says that the current procedure should not continue. It offends the hearing rule of procedural fairness (also called natural justice or due process). The hearing rule requires that if an official decision will affect someone, then the decision maker must inform that person of the relevant material and allow them to have a say on the issue/s.

There is a need for a rehearing process. It is provided for in the legislation (Residential Tribunal Act 1998) and is necessary for the Tribunal to provide procedural fairness. The legislation does not, however, prohibit procedural fairness in deciding rehearing applications. The Tribunal is also required to act expeditiously. The rehearing application procedure is certainly expedient, it is fast and cheap. The lack of procedural fairness is unintended. Expedience without natural justice cannot have been intended. The Tenants Union is lobbying the Tribunal to amend its rehearing procedure.



# Tenants successful termination after landlord's breach

by Stephen Graham

Section 57 of the Residential Tenancies Act says that tenants (or landlords) can give a notice of termination to the other party if they have breached the tenancy agreement **during a fixed term**. This part, however, has been rarely used by tenants and there has been some debate among tenancy workers as to what constitutes a breach under this section. Although no indication is given, it has commonly been thought the breach must be of a **serious and persistent** nature.

In a recent case, a young couple, Bob and Jody\*, successfully terminated their six month fixed term agreement using this section. Almost from the start of their tenancy, on 20 May 1998, they made numerous phone calls to the real estate, asking for a number of repairs to be done. They had no response from the agent, Mr Shady.

They then sent a couple of letters in mid July before finally sending a termination notice to the landlord on 27 July 1998. The notice given was 14 days (making their last day 19 August) and attached a list of the necessary repairs constituting breaches of the tenancy agreement. These included dampness and mould, a broken exhaust fan, loose toilet seats, faulty smoke

detector, leaking cisterns, leaking hot water unit and faulty shower taps.

Without refuting the tenants claim that they had contacted him "on numerous occasions for repairs" or responding in any way to the tenants reasons for wishing to leave, Mr Shady wrote back on a couple of occasions, referring to their notice as abandonment of the premises and thereby breaking the agreement. He also alleged that the tenants had refused access and gave notice of an inspection two days hence. This was to be 17 August, two days before Bob and Jody were going to move out.

Mr Shady turned up himself on the day, had a look around, tried to fix one of the loose toilet seats and, walking out the door, said to Bob, "I'll write to you with details of a plumber you can contact to get the work done." With no clear promise of the work getting done, Bob and Jody were still determined to move out of the premises. In case the landlord decides to dispute the bond, the couple were advised to gather as much evidence as possible - so Bob went around videoing and taking photographs with a wide angle lens!

*On the 19 August 1998 they moved out, rang the agent to make an appointment for the final inspection and put in their Claim for Refund of Bond Money to the Rental Bond Board. Mr Shady never turned up for the inspection and a few days later the tenants had **all** their bond returned to them!*

Bob and Jody thought that was the end of it until one day, mid September, they received a notice of

## Want to know the law?

The Tenants Union and Tenancy Advice Services provide Fact Sheets about a variety of common tenancy problems in community languages.

hearing at the Residential Tenancies Tribunal...they didn't know what was going on. All it said on the landlords application were orders seeking "Full claim for bond. Tenant refused access to get repairs done then moved out breaking the lease."

With all their evidence, including photos, supporting letters from witnesses and a chronology of events detailing all their encounters with the agent, Bob and Jody turned up to the tribunal. Mr Shady's credibility was looking less than intact. Well, it was just a false alarm - the landlord never turned up and so the application was dismissed!

Bob and Jody's story should give tenants some courage to use their rights under section 57 of the Residential Tenancies Act. As long as the notice is correct (must include landlord's name, address of rented premises, date the tenant wishes to move out and reasons, and their own name, signature and date), no less than 14 day's notice is given and they have some evidence to back up their reasons for termination, tenants should feel confident in terminating their fixed term tenancy if a breach of the agreement has occurred. If you are unsure if the breach would be regarded sufficient reason to break off the agreement, contact your local Tenants Advice and Advocacy Service.

\* The names have been changed.

## From the Hotline

I live in a house at the back of a farm. The farm is worked by a manager, who lives in the other house (at the front gate) on the farm. The owner of the farm has retired and lives in town. I think my house used to be a farm workers place. I pay my rent to the manager.

It is a good place to live most of the time. There is a creek out the back, it is quiet, no telephone, rainwater on tap and reasonable rent.

The new manager has taken a dislike to me for some reason. He has ploughed up the driveway to my house and fenced off the front of the yard. What was the driveway is now part of a paddock and has a crop planted in it.

I have made a causeway across the creek using river stones and dead trees so I can get out of the place, but this is not a permanent solution. The land across the creek belongs to another farmer, I cannot rely on access from him indefinitely. Plus when it rains heavily the creek will rise and become impassable and my causeway will probably be washed away.

What can I do? I do not have a written lease and I do not want to deal with the manager except to pay the rent.

Erol

First you need to write a letter to your landlord, the farmer, not the manager. Inform him of the actions of the manager and demand that the driveway be restored. Give a time limit for restoration and say that if it is not met you will take further action without notice.

The further action you can take is application to the Residential Tribunal for the driveway to be put back and for compensation for any loss you have suffered because of the breach of the Residential Tenancy Agreement by the manager who acts for the landlord. It is also possible to apply for a rent reduction for the period you have not had use of the driveway.

Not having a written agreement for renting the house is not a problem. The Residential Tenancies Act 1987 applies to agreements written or oral (or both). The Act also fixes minimum terms for the agreement including that the landlord will provide the tenant with quiet enjoyment of the premises.

Now, "quiet enjoyment" is a quaint English legal phrase. It does not mean that pleasure must be nearly silent. It means normal use of the place without unreasonable interruption or molestation by the landlord, or people acting for the landlord. In your case it is clear that you are not able to normally use and enjoy the place if access is not reliable, and is a safari.

When the Tribunal is convinced that the landlord has breached a term of the agreement it can make an order that the landlord take steps to make good the broken term and cease breaching. It can also order rent reduction for up to 12 months where a landlord has withdrawn services or facilities provided with the premises. Compensation orders are also available where you suffer a loss that is caused by the landlord's breach of the agreement. Loss from a breach can be economic loss or non economic loss. Economic loss is usually expenses or damage to property. Non-economic loss is distress, mental anguish, stress, discomfort, inconvenience and disappointment.

The Tribunal cannot give you what you want without being convinced by evidence of your claims. If you want assistance preparing an application to the Tribunal you can call your local Tenants Advice and Advocacy Service, next time you are in town. Their phone numbers are on the back of Tenants News.

Yours sincerely,

Tenant News

## Need some tenancy advice?

The Tenants Union Hotline operates between 9.30 am and 1.00 pm, and 2.30 pm and 5.00 pm on weekdays. A tenants advisor can provide information and advice over the phone, or may refer you to your local tenancy service.

**The Hotline: (02) 9251 6590**





# Tenants Have Rights!

## How to avoid problems

- ✓ Start by reading your residential tenancy agreement. Get some help if you can't understand it.
- ✓ Tell your landlord, or the landlord's agent, about any problems and tell them what you want. You should confirm anything you agree to in writing and to send your landlord a copy.
- ✓ Remember that the agent works for the landlord.
- ✓ Keep a written record of what happens between you and your landlord or agent, including what each of you said and when.
- ✓ Keep copies of your:
  - Residential Tenancy Agreement
  - Condition Report
  - receipts for rent and bond money
  - all letters and written records.
- ✓ Never sign a blank form or any papers you don't understand.
- ✓ If you receive notice of a Tribunal hearing you should always attend.
- ✓ Remember that if you stop paying rent you can be asked to leave. Rent strikes do not work.

## For more help

Contact your local Tenants Advice and Advocacy Service. Workers will be happy to call you back if you live out of the area.

**Inner Sydney**  
02 9698 5975

**Inner Western Sydney**  
02 9559 2899

**Southern Sydney TAAS**  
02 9787 4679

**South West Sydney**  
02 9601 6577

**Eastern Suburbs Tenants Service**  
02 9386 9147

**Western Sydney Tenants service**  
02 9891 6377

**Northern Sydney**  
02 9964 9654

**Central Coast TAAS**  
02 4353 5515  
**Hunter TAAS**  
02 4929 6888

**Illawarra/South coast**  
02 4274 3475

**Mid Coast TAAS**  
1800 777 722

**North Coast TAAS**  
1800 649 135

**North Western NSW**  
1800 642 609

**South Western NSW**  
1800 642 609

**Aged Tenants Service**  
1800 451 488

**Aboriginal Services**

**Western NSW**  
1800 810 233

**Southern NSW**  
1800 672 185

**Northern NSW**  
1800 248 913

**Greater Sydney**  
02 9690 0020

**Your landlord can't evict you—only the Residential Tribunal can do this.**

**Tenants' Union Hotline**  
Ph: (02) 9251 6590

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

## Get a new lease on life... join the Tenants' Union!

### 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 .....

