Tenant NEWS

Autumn Edition

Free newspaper of the Tenants Union of NSW

Issue 70 April 2002

Public housing 'reforms' erode tenants' rights

The presence of a strong public housing sector and security of tenure for thousands of NSW tenants has been threatened by reforms announced by the NSW Labor Government. By Emma Golledge - Tenant Advocate

On the 14th of February 2002 the Minister for Housing and Deputy Premier Dr Andrew Refshauge announced widespread changes to the provision and administration of public housing. Some of the changes, affecting all 'new' tenancies include:

- The requirement that tenants provide a four week bond calculated at market rent, capped to some undefined level in areas where there are high market rents.
- Renewable tenancy agreements that will create leases for fixed time periods which will require renewal by the Department of Housing (DoH) when they expire.
- A shared home ownership scheme that allows tenants to enter into financial arrangements with the Department of Housing to purchase a portion of their property.

The Government believes the changes will assist tenants to break the welfare cycle and become more self-reliant.

The Tenants' Union believes the proposed changes are unfair and could result in changes to the Residential Tenancies Act that may result in fewer rights for public housing tenants.

While marketed as a Social Housing Strategy, the changes contain no commitment to provide more public houses. Instead, the reforms simply place more obligation on tenants.

These reforms aim only to manage current housing stock, where demand currently far outstrips supply. The failure of the Labor Government to address the future needs of public tenants and those in urgent need of affordable housing is a fundamental flaw of the strategy.

Two of the central proposals: the implementation of a rental bonds scheme and renewable leases, see the Department of Housing behaving more like a private Landlord than a provider of housing to low income households.

Rental bonds increase the unaffordability of housing provided to public tenants, by creating additional entry costs (especially when calculated at the market rent for the property).

Renewable tenancies remove the security of tenure that has been a fundamental right of public housing tenants and a feature which positively distinguishes public housing above other rental tenures.

Ideally public housing is supposed to provide security of tenure for tenants excluded from the private sector and at risk of homelessness.

The current state of public housing is far from ideal and these reforms only make the situation worse.

Public housing should be establishing best practice, not replicating the worst aspects of the private rental market.

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Concerned groups meet to discuss DoH 'reforms'

Rene Ploegmakers shares the Victorian experience of government loan schemes for public tenants, at the Tenants' Union Forum held on March 5th at the UTS Blackfriars campus.

The announcement of new reforms by the NSW Department of Housing prompted the Tenants' Union to convene a forum of concerned individuals and organisations at the Blackfriars Campus of UTS in early March.

The aim of the forum was to discuss the effect of the reforms on Public Housing tenants and to assess the likely impact on service delivery to NSW Public Tenants.

Representatives from organisations such as Shelter, NSW Council of Social Services (NCOSS), Public Tenants groups, Community Legal Centres as well as Tenancy Workers from all over Sydney discussed their concerns about the reforms.

A specialist in Government Home Loan projects, Rene Ploegmakers travelled from Victoria to address the meeting. Rene is a former housing worker who is an expert in Government Loan Schemes.

In his presentation Rene Ploegmakers detailed the impact the shared equity scheme had on Public Tenants in Victoria, and warned of the risks of adopting a similar plan in NSW which is one of the proposals put forward by the Department of Housing.

According to Rene there are significant risks for tenants who enter into any equity partnership with the DoH. Tenants in Victoria who entered a similar scheme found themselves owing thousands more than first envisaged.

It is feared this NSW scheme is looking like replicating aspects of the failed Homefund scheme that was such a dismal failure for so many people who found their debt had increased beyond their ability to pay.

'The escalating repayment schedules were based on assumptions about increases in income and property values which turned out to be completely unrealistic.

Interest was capitalised and loan balances ballooned significantly. Borrowers purchased homes in

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TU wins awards - CTTT - NSW Van Parks - Privacy - Protected Tenants

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Aims of the Tenants' Union

The Tenants' Union aims to represent the interests of all tenants in New South Wales, both private and public, including boarders, lodgers and residential park tenants by:

- Raising awareness about tenants problems and rights.
- Providing high quality advocacy and advice for tenants through the tenants hotline and legal practice.
- Lobbying for improvements in residential property laws
- Promoting secure and appropriate housing solutions
- Supporting training and resourcing local independent statewide tenants advice services.

The Tenants' Union is a community legal centre that has been active in promoting the rights of more than one and a half million tenants in NSW since its formation in 1976.

Over this time we have advocated on behalf of tenants, to government and developed policies for equitable law reform to protect the rights of renters in NSW.

We have also produced numerous resources that provide information to tenants and their advocates, about their rights and current tenancy laws in NSW.

From 'Concerned groups meet...' Page 1

areas which suffered a significant decline in property values when the property market slowed.'[1] This, coupled with having to wear the costs of repairs, council and water rates made the 'dream of home ownership' more like a nightmare.

Before any mortgage payments were made, borrowers (or shareholders) would have to be able to afford a deposit, legal fees and stamp duty and then be able to afford a further $70 - $100 per week on top of their payments to cover rates, insurances and repairs.

These costs are beyond what most public tenants can afford and push the current 25% of income paid in rent payments to 35% or more in mortgage and associated payments.

Tenants who become borrowers would lose any rights and protection under the Residential Tenancies Act. The Homefund litigants had to resort to the Federal Trade Practices Act and incur the associated legal costs in their dispute – which for some is still continuing.

Many tenants who become borrowers may find that like Homefund the DoH scheme is so complicated that they often do not understand how their loan is structured and to what extent they, and not their co-mortgagee are liable.

In a report by Rene Ploemakers et al - *Impressions And Findings From Callers In Response To Media On Government Home Loans In June 1997*. Seven different home loan schemes were mentioned, after 228 callers rang the Consumer Law Centre Victoria in response to two Herald Sun articles about Government home loan schemes.

The following lists some of the beliefs and misunderstanding borrowers had about the schemes they were involved in:

- Government Loans were a way for people on a D.S.S. pension/benefit to afford home ownership;
- Borrowers had some protection/benefit being associated with the government;
- Some co-borrowers believed if one borrower died the other borrower would inherit the property debt free, and some were not aware their children would not be able to take over the mortgage in the event of their death;
- Borrowers had already paid significant amounts of money on the loan, sometimes as much as the original loan, but no reduction, or little reduction, had occurred on the loan balance.
- Borrowers believed the loan would start to pay out much earlier;
- The valuation undertaken at the purchase of the property would provide some protection as advice on the condition of the property. The valuation would alert borrowers to works that needed attending to and in what time period;
- Many who had been on the Public Rental Waiting List stated they would have been better off waiting for public rental;
- "Why are we paying interest on interest? If they had a brain they would cut out the CPI part of the interest so that people could buy their house";
- Many borrowers had calculated that they would have been better off even if left in private rental![2]

The proposed NSW Department of Housing share equity scheme is so scant on detail that we can only speculate as to what actual impact the so called reforms will have on NSW tenants who become borrowers. After Homefund and the failure of a number of other government home loan schemes, establishing yet another would seem like folly. ♦

By Carol Hannaford - Tenants' Union

1. Kirk, Greg: *Resolution of Failed Government Loan schemes: The NSW Experience On The Litigation Path*
2. Joy, Quillam, Ploegmakers: *Impressions & Findings in Response to media on Government Home Loans in June 1997*

Seminar

Social & affordable housing in the 21st century: old issues new possibilities

A Shelter NSW seminar for planners, community housing workers, community welfare professionals, social and affordable housing providers

9am

Wednesday 1st May 2002

Level 4, Geddes Room,
Salvation Army,
140 Elizabeth Street,
Sydney
(near Museum Station)

For more information phone
02 9267 5733
or
email
info@shelternsw.org.au

Pottery Estate Update

In the last 3 issues of the Tenant News we have followed the progress of a Western Sydney Tenants Service advocacy case involving tenants from the 'Pottery Estate' in Lithgow. By Robert Mowbray from WESTS

Lithgow City Council and two residents of the historic Pottery Estate, Lithgow have resolved a dispute. The residents can now move back into the houses after being out of them for nearly a year.Last year Council placed orders on the two residents to cease occupying their houses, following Council's plan to cut off their pan service. The residents had to leave their houses or face hefty fines. They appealed to the land and Environment Court. In early March the Court made a consent order allowing the residents to move back in and install composting toilet systems.

The Historic Pottery Estate has seen residents struggle to keep their houses after Ceedive, a local developer, bought the estate from a mining company. Up to five houses on the estate have been demolished in the last year. In October one resident had a significant victory in the Land and Environment Court when the court overturned a demolition order on his house. At the time, evidence was presented by a heritage consultant that his house was a rare example of a relatively intact timber miners cottage dating back to the 1890's.

A spokesperson for the residents said " the last year has been very stressful. Residents want security of tenure. They are seeking to negotiate all outstanding issues with the developer so that *everyone can now* get on with their lives." ♦

and the winners are... TU & EATS

The Tenants Union had a great finish to 2001 when it won two awards at the inaugural Consumer Protection Awards dinner hosted by the Department of Fair Trading.

From left: Awards Patron Justice Marcus Einfeld, Tenants' Union Chairperson David Vaile, Tenants' Union Coordinator Annette Wade and Minister for Fair Trading The Hon. John Aquilina

The newly appointed NSW Minister for Fair Trading John Aquilina gave the Tenants' Union the Encouragement award for its work as a 'community consumer protection organisation'.

Eastern Area Tenants Service, part of the NSW tenancy network received the Highly Commended award in this category.

The Tenants Union also received a Highly Commended award in the special interest category for its website *www.tenants.org.au* which was launched in May last year.

This award recognised the TU's commitment to providing plain language legal information to NSW tenants and in particular rural tenants.

Receiving the awards on the Tenants' Union behalf were Chairperson David Vaile and Coordinator Annette Wade.

"The Tenants' Union is gratified that the NSW government appreciates the work that has been done for NSW tenants by community sector groups such as the TU and EATS not to mention the 20 other tenancy services in NSW" she said.

"With demand for help increasing and tenancy sevices working on a shoestring to provide comprehensive advice and advocacy, it's reassuring that the government recognises and encourages the contribution made by TAAP* workers - who are committed to protecting the rights of all NSW tenants." ♦

* Tenants Advice & Advocacy Program

Refugees make great tenants - tips for landlords & agents

The Tenants' Union would not normally entertain giving advice to landlords, however the following featured in a Real Estate Institute journal 'Marketing & Management' and we considered it to be advice worth passing on! By Arna Rathgen

A common misperception is that refugees are a burden on our resources. They are often portrayed as being unreliable, queue jumpers or, worse still, criminals.

How often have you got into a conversation with a taxi driver to find that they were a doctor or lawyer in their home country? Refugees come to Australia after facing such hardships as war, severe persecution or torture in their home country. They want to start a new life, and are grateful for the opportunity to do so.

Refugees understand and accept the responsibilities associated with establishing themselves in a new country. This includes the responsibilities of paying rent and maintaining private rental properties.

During the first year in Australia, Humanitarian refugees are guaranteed an income from Centrelink whilst they learn English and wait for recognition of their qualifications. They are also eligible for rental assistance through Centrelink.

Sometimes real estate agents may ask to see the bank statement of clients, and get concerned that they have low financial resources.

As refugees have often fled their country with very little material resources, and/or lived in refugee camps, it is correct that many do live on very low incomes. However, they have often lived on a very small income for sometime, and consequently have significant skills in budgeting. As a result, many real estate agents find refugees to be very reliable in paying rent.

During the initial period of time in Australia, they are provided with support from a number of agencies that assist refugees to settle in the country. They therefore have a substantial support base to fall back on if they do experience difficulties. Refugees are required to go through a comprehensive screening process, either overseas or in Australia. Refugees in Australia have no criminal record, and are in very good health. It could be said we receive the cream of the global crop. We are fortunate enough to receive the leaders, the educated and/or those with the skills to survive extreme diversity.

A common concern is when a refugee has come to an agency with no tenancy references. This is not due to their being a bad tenant. It is because this system did not exist in their country, and they have not been in Australia long enough to secure relevant references. Even though they might not have a reference, refugees are still used to paying rent and maintaining a property, and they are extremely grateful for what Australia has to offer.

There are, of course, certain difficulties faced by refugees, for example language barriers. Language barriers can exist because of a lack of interpreters, and/or information not being available in their language. Refugee families can also experience difficulty in accessing housing information, knowing their tenancy rights, or they may not ask for the necessary assistance for fear of causing offence. But these obstacles are far from insurmountable and can be overcome with just a few simple steps.

When working with refugees

1. Be aware of the impact English language difficulties can have. Sometimes a person may say they understand, even though the information is not actually clear to them.

2. Many newly arrived refugees have support from agencies such as Migrant Resource Centres or Anglicare. You can liaise with the worker from these agencies.

3. Inform the tenant if they are required to put any requests in writing.

4. Provide all new tenants with the *Renting Guide* in their own language, and have other translated resources available.

Tenancy fact sheets are available in 10 community languages and can be accessed via the Tenants Union web site www.tenants.org.au

The Renting Guide is available in community languages and can be ordered from the Department of Fair Trading Phone: 133220, or at www.fairtrading.nsw.gov.au

For further information about refugee issues contact the Service for Treatment and Rehabilitation of Torture & Trauma Survivors (STARTTS) Ph: 9794 1900 or contact your local Migrant Resource Centre. ♦

From 'Public Tenants Rights Eroded...' - Page 1

Rental Bonds:

Rental bonds for new public tenants introduce additional costs for tenants. While allowing for the bond to be paid in instalments, the government still imposes an extra financial burden on tenants, who already struggle to find money for after rent expenses.

A majority of public tenants receive Centrelink benefits and pay 25% of this income in rent. The payment of bond by instalments within the proposed twelve month tenancy, on top of these payments could push many tenants toward paying 30% or more of their income in rent. Low income tenants who pay more than 25 or 30% of their income in rent are deemed to be suffering "rent stress" and their housing said to be unaffordable.

The government's obligation is to address the lack of affordable housing in our community by providing housing at affordable rents to people on low incomes who would face rental stress in the private market. Again, the Housing Department should not be undermining the positive attributes of public housing by adopting the practices of the private rental market.

The Government has promoted the bond changes as necessary to promote care of DoH properties. While the Government argues that these changes will only penalise 'bad' tenants many tenants could lose bonds *simply due to ignorance of their legal rights* and responsibilities.

Poor understanding about the process of contesting bond could result in the DoH retaining the bond at the end of the tenancy, and for many public tenants the bond may be more than their fortnightly income.

Tenants often do not keep adequate records of maintenance issues and public tenants could find themselves penalised if the Department of Housing is of the opinion there was tenant damage to the property. Many DoH properties are poorly maintained and damage may not be the fault of the tenant. Often damage is done through a failure by the Department sub-contractors to repair in a timely or preventative way and the Department is often erratic in following up or inspecting any work done.

The Department of Housing already has the option of applying to the CTTT (formerly the Residential Tribunal) if they believe a tenant has caused damage to property. Any new policy that requires a bond, without any obligation on the Department of Housing to improve maintenance and communication procedures does nothing but impose a further financial burden on the tenant.

Renewable Leases:

The introduction of renewable tenancies for public tenants is an ideological shift in the provision of public housing. Prior to the announced reforms all public housing tenants could feel secure that unless they were found to be in breach of their tenancy agreement by the Residential Tribunal (now the CTTT) they would be able to remain in Department of Housing indefinitely.

Renewable tenancies mean that tenants would sign leases for fixed time periods to be renewed by the Department when they expire. The Department of Housing has claimed that a decision to renew the lease will not be influenced by any change in the tenant's financial situation, however there is some concern about the implications of this change of policy.

Any basic security of tenure that a public housing tenant may have had will be significantly eroded by these reforms and could result in unfair and discriminatory practices. All public tenants should be concerned at the proposed increase in the discretionary powers of Department of Housing officers that may not be subject to review in the Tribunal. These new policies may unfairly affect the most disadvantaged tenants - those the Department of Housing is specifically charged to house.

Shared Equity Schemes :

A new scheme contained in the proposals is the opportunity for public tenants to enter arrangements to purchase a share of their property.

The Government is yet to provide detail on the scheme and how it will be administered. While many public tenants may be keen to embrace the ideal of home ownership the benefits of such a scheme may be illusory. In other states such as Victoria, shared equity schemes have been financially disastrous for many who entered into them and it is surprising the NSW Government has so easily forgotten the debacle that was Homefund.

Under these schemes the purchaser is neither a tenant nor a homeowner The tenant usually buys a portion of the home but is required to continue to pay rent, their mortgage and one hundred percent of the outgoings (repairs, insurance and rates etc) on the property. As these schemes are pitched at low income earners the extra costs associated with shared home ownership may plunge many tenants further into debt and poverty, with no real prospect of ever owning their home.

The appeal of home ownership is undeniably persuasive to both the Government and public tenants. In considering the benefits of such a scheme it is important that public tenants are fully aware of their current rights and the possible obligations under such a scheme.

At present most public tenants have security of tenure. This means that for most tenants it is unlikely (without a breach of the agreement) they will lose their right to public housing. Instead of offering shared home ownership schemes that have the potential to plunge many families into debt, the Government should be preserving the rights of public tenants and guaranteeing them the security that long term public housing provides.

The shared home ownership scheme and the introduction of renewable leases are a shift in the philosophy of the Government in the provision of public housing. The insecurity of renewable leases may force tenants into considering shared equity schemes. This raises concern about whether tenants will be accurately informed about the true obligation a shared equity arrangement will place upon them.

The shared equity scheme will remove houses available to those households eligible for public housing, yet the Government has made no commitment to replace this stock. It is vital that the Government increase – not decrease public housing stock. There are thousands of NSW households who are on the Department of Housing list who are marooned in insecure, expensive and often sub-standard accommodation in the Private Rental Market.

These reforms place increased obligations on tenants without consideration of the practices of the Department as a landlord. This is extremely unfair, as all public tenants who have waited for urgent maintenance can attest. It is also unclear whether the changes will affect only new tenants who enter Department of Housing once the reforms are implemented, or whether they will impact on any Department of Housing tenant signing a 'new' agreement, which could include current tenants who transfer.

It is important that public tenants stand up for their right for security of tenure. This shared equity scheme enables the Government to dispose of public housing while offering tenants no additional benefits.

All tenants should be concerned at the erosion of the right to public housing and the shift in philosophy that suggests the Government aims to provide public housing to individuals for only short periods.

This seems an obvious attempt to reduce waiting lists without providing more housing. In a time when employment is increasingly insecure, security of tenure is even more vital for community well being.

Public housing should remain distinct from the private sector in its practices and should protect disadvantaged people from homelessness.

Instead, these changes indicate a declining Government commitment to public housing and suggest an abdication of governmental responsibility in providing affordable housing as a fundamental human right.♦

Housing reforms for whom?

Denise Steele is a Tenancy worker at the Combined Pensioners & Supernnuants Association (CPSA). The following is her address to the forum convened by the Tenants' Union after the recent release of proposed reforms by the Department of Housing. (see front page)

My name is Denise and I work for the Combined Pensioners and Superannuants Association of NSW in their tenancy and housing unit. Many of the people that I see are either housed by the Department of Housing or are seeking Department of Housing accommodation. These people are either on an aged or disability pension.

The 'reforms' that are mooted by Andrew Refshauge seem to me as little more than an expression of a social system based on the notion of a deserving and an undeserving poor. Only those who the Department deems as being worthy of security of tenure will be housed and all others punished with either the street or a private rental market beyond their capacity to pay. It is a step in the direction of the collapse of the public housing system as replaced by a mirror of the private market.

The idea that public housing should be available to all those who cannot afford to buy their own homes, for whatever reason, has *been lost to the notion of a welfare* housing system serving only to further divide the haves and the have nots.This becomes patently clear with the reforms offered to older people and those with a disability.

One of the frightening aspects of the reforms for these people is the introduction of "neighbour aides".

The use of euphemism litters the factsheet that goes to describe this process. The substitution of mild and rosy expressions for the hard and cold reality of what these reforms mean is patent. The image of kind and friendly neighbours emptying 'dustbins' (read garbage) for their disabled and older neighbours for a reduction in their rent will not stand the test of time.

What is this, the setting up of a social welfare system from within-side of a social welfare system? A separate community of disadvantaged and older people reliant on the largesse of their neighbours to see that their needs are met?

Where are the aged care packages that are meant to meet these needs? Where are the social supports from within the entire community that are meant to meet these needs?

The rosy picture painted of the friendly neighbour assisting in the day to day needs of older people and people with a disability is simply a euphemism for the abdjacation of government in its role of supporting such people.

My experience tells me that older people and people with a disability prize their independence. To be placed in a position of relying on the largesse of neighbours will not go down well. This is Homecare without even the dignity of community service.

My experience also tells me that older people and people with a disability are even sceptical of Homecare with many of them having been exploited at some time in their past. Having neighbours enter their homes will leave open the door for abuse.

What happens if the 'friendly neighbour' does not do an adequate job? Does the older person then inform the Department of their tardiness? Does the Department then sack the friendly neighbour? Does the friendly neighbour then become the enemy? It is not good to have an enemy as a neighbour if you are older or with disability. Where are the protection's offered to the 'friendly neighbour' in terms of occupational health and safety?

What does the Department envisage as the role of the 'friendly neighbour'? Does it stretch to podiatry and heavy lifting? Can you sue the Department if your ingrown toenail becomes septic because of inadequate care? Can the 'friendly neighbour' sue the Department if they fall while carrying out the 'dustbin'?

The entire reform put forward by Andrew Refshauge is little more than his use of the word 'dustbin'- it is really garbage. It places older people and people with a disability in a very vulnerable position and further reduces their level of independence. It opens the door for abuse by neighbours and puts the older and disabled person in a position of being 'beholding' to their neighbours.

For a neighbour to assist another is one thing, for a neighbour to assist for a reduction in their rent is an entirely new ball game and leaves the door open for elder abuse and further friction between neighbours.

It is an appalling reform making already disadvantaged people more beholding to the largesse of others than ever before. It is also a complete abdjagation by government in its role of supplying professional and compassionate support to these people. ♦

Boarders & Lodgers Action Group News

The unfinished business of rights for NSW boarders & lodgers remains a critical law reform issue. BLAG has been campaigning for over 10 years, for the introduction of legislation to protect the rights of boarders and lodgers .

Excluded from the Residential Tenancies Act 1987, which protects the rights of other tenants, boarders and lodgers are forced to live at the whim of boarding house owners or caretakers. As such, they are subject to arbitrary eviction, harsh house rules and denied access to affordable dispute resolution.

BLAG's rights campaign is endorsed by more than one hundred community organisations including the NSW Trades and Labor Council, NCOSS and Shelter NSW.

Who are Boarders & Lodgers?

Boarders and lodgers reside in a number of residential dwellings that are not necessarily boarding houses. Some residents in boarding houses may be classified as tenants. The accuracy of obtaining a profile for boarders and lodgers is difficult given the lack of research. A number of inner city councils and Newcastle have completed surveys and conducted interviews. A Sydney University study of four local government areas undertaken in 1998 compiled the following profile

- Majority of residents are single.
- About 50% were employed on a part-time/full-time basis.
- The other half were on government benefits.
- A high proportion of boarders & lodgers have some form of physical or mental disability.
- The highest proportion of residents were aged between 20 - 29 with those over 60 another significant population.
- Occupancy rates of boarding houses is relatively high, In the 1998 report landlords responded that demand was either increasing or remaining stable.
- Residents are more likely to be long term than short term.

In Sydney it is increasingly more difficult to obtain affordable accommodation. This is compounded by the Department of Housing's policy direction of housing those with complex or high needs, coupled with a waiting list of nearly 100 000, boarding housing remains one of the few housing options available to residents.

What has the NSW Government promised?

The NSW Government has made several promises to protect the rights of boarders, recognising that they are among the most vulnerable groups in our community. Unfortunately we are still waiting. In 1998 the Department of Fair Trading (DoFT), convened a working party to investigate the need for legislation to protect boarders & lodgers. Over 50 submissions were received, including BLAG's model Boarders Bill 1999. We have yet to receive any word of the final recommendations of this working group.

What is BLAG doing now?

BLAG is now producing a newsletter to keep supporters informed. The next newsletter will focus on the *Boarders Bill 1999*.

BLAG is also :

- compiling a community resource kit for workers to defend boarders & lodgers who may be tenants at the Consumer Trader and Tenancy Tribunal (CTTT).
- working in association with the Coalition of Appropriate Supported Accommodation (CASA), to seek a resolution to the Boarders Review 1999.
- developing a community education kit for organisations to understand Boarders & Lodgers in NSW.
- developing a series of fact sheets to coincide with the community education kits about Boarders & Lodgers.

Newtown Neighbourhood Centre in association with BLAG and local government councils is producing an oral history project. The Tenants' Union of NSW convenes BLAG with meetings the second Monday of every month held at Marrickville Legal Centre. ♦

For more information contact the Policy Officer at the Tenants' Union on 9247 3813 or contact your local Tenants Advice & Advocacy Service. (See Back Page)

Losing the Last Refuge of the Battler

The loss of permanent accomodation in NSW residential parks 2002

As Department of Housing lists and private rents increase in major cities and towns in NSW, many tenants find that affordable accommodation in Caravan Parks around the state is becoming increasingly unviable. Joy Connor and Sean Ferns from the Park & Village Service (PAVS) presented their research which examines the current state of permanent accommodation in residential parks in NSW, to the 9th National Caravan Park Workers Conference in Cooranbong on 21st & 22nd March 2002. The following is an abridged version of their report.

Caravan parks provide a permanent home for many people in NSW. Currently there are between 22,800 and 50,000 permanent residents living in rented accommodation or their own dwelling on parks throughout the state. A third of these parks were owned or in trust to local government.

Up to 11 coastal and metropolitan parks housing more than 2,000 people are facing closure in the next twelve months. In addition parks across the state have been gradually providing fewer permanent sites and focusing on tourism.

Residents who own their dwelling face the possible loss of their only asset and thus their independence. The loss of significant amounts of accessible permanent accommodation for vulnerable people has serious consequences for residents, their communities and government.

What kinds of accommodation do parks offer?

Residents live in movable dwellings with or without a rigid annex e.g. caravans, relocatable homes, or manufactured homes. These dwellings may be owned or rented.

In NSW residents have rights under the Residential Parks Act. They have a right to specific periods of notice depending on the type of tenancy and dwelling and may have rights to relocation expenses.

Despite the increase in tenancy rights for residents, parks provide a living environment which is structurally at odds with the 21st century where personal freedom of choice is a paramount value.

The high-density living environment with its ancient land tenure system, gives unique power and responsibility to the manager who acts as gatekeeper, service and infrastructure provider and landlord. With the landlord usually living on site, parks provide a form of community which resembles a medieval village.

What role do parks play in housing provision?

Residential parks provide a lifestyle option for retirees, housing for the footloose and a flexible buffer for those people the mainstream housing system has failed to house successfully.

Parks do not house the rich. Median household income is less than half that of the general population - $293/week as against $637/week for the general population.

Rental Accommodation

Parks seldom require bond money and as dwellings are furnished and fully equipped, moving in is easy. Parks provide rental accommodation for:

- couples, families and singles who find it difficult or too expensive to access mainstream tenancies
- people exiting institutions, and families who have moved to be near those in institutions
- people changing jobs
- People with a disability (commonly an intellectual disability or a mental illness)

- People in crisis who have been referred from government or community agencies.
- People who like a flexible lifestyle
- People who have failed to maintain a tenancy in social housing

Owners renting sites

Owners of vans and manufactured homes are more likely to live permanently in parks from choice, although, for many, their life circumstances and limited means offer few options.

Parks provide these groups with some form of ownership and independence. They include

- retired people who have invested their super or the proceeds from the sale of their house in a small home or van and annex on a rented site often that nice coastal park where they have holidayed for so many years which looked so affordable
- People on a limited income who have saved enough or borrowed to purchase a van/van and annex or manufactured home.
- Older single men who value independence and like the park community.

Where are closures and loss of accommodation taking place?

In NSW there has been a decline in people living permanently in vans and cabins in parks since 1991(a 35% drop between 1991 and 1996). Some of this coastal accommodation has been replaced by manufactured homes.

In the west of NSW, most parks provided some accommodation for permanent residents until recent years. Now the trend is to replace these sites with tourist sites.(e.g. Hillston and Rankin Springs).

Although western parks may have accommodated only a few permanent residents, proportionally their loss to housing stock in their communities is significant.

The Sydney area is experiencing the biggest loss of permanent accommodation with two major parks set to close in the next 12 months. Between them over 1000 people will lose their accommodation. Another two are under threat bringing the possible total loss of accommodation in the Sydney basin to around 1,300.

Coastal areas close to major centers such as the Central Coast (approx 242) the Hunter (approx. 271), and Ballina (approx. 200) are the other areas where significant losses are either taking place or expected within the next few years.

On the south coast and in the west of the state the loss of permanent accommodation has been more gradual and associated with replacement of vans by manufactured homes and of permanent accommodation by facilities for tourists.

What is driving the closures and loss of permanent accommodation?

Land prices (and the chance to realise substantial capital gains), the rise in retirement tourism, upgrading of parks, and planning decisions are all contributing to the current loss of accommodation.

Land Prices

In NSW the rise in land prices has led to park owners receiving lucrative offers to sell their parks for re-development. Land on the edges of Sydney and on the coastal strip has more than doubled in value in the last 10 years and the pressure on owners to realise their investment's gain, looks set to continue. Park owners have also mentioned the rising cost of land taxes as a good reason to sell out.

The parks most at risk at present seem to be those housing more marginalised people where there has not been any recent capital investment. However parks in prime location like Caves Beach near Newcastle are also under threat.

Tourism

The growing number of year-round older tourists is fuelling moves to phase out permanent accommodation on many parks and cater specifically for holiday/tourist usage. Unlike the previous seasonal holiday crowd, the "grey nomads" are providing a steady source of income all year round. Parks west of the mountains seem to be especially affected by the trend to "see the outback".

Upgrades of parks and loss of accommodation for those most at risk

The move from vans to manufactured homes on parks is continuing in all parks, both inland and along the coast. While accommodation continues to be provided it is for another group, older retirees who own their own manufactured homes which can cost up to $90,000 (or more), rather than van owners or van renters who cannot afford manufactured homes.

This displacement of one group by another may not show as loss of accommodation but in fact masks a substantial decline in accommodation for the most at risk people.

Research west of the mountains revealed that many park owners were not prepared to continue to offer permanent rental accommodation for people at risk because of the difficulties they had experienced and the lack of support available especially for people with mental illness.

Owners of parks in West Wyalong, Griffith, Leeton and Mudgee indicated that they were no longer taking these referrals from government and community service organisations and were restricting the long term rental places they offered. A typical comment is recorded below.

"They're cutting back on government housing and refuges and sending people to me. I reckon the new name for refuge is caravan park. But I'm not running a refuge and I'm not a social worker, I've got a business to run. I lose business when people can't cope and cause trouble.

Last time someone lost it, it took two weeks before mental health returned my call. After five really bad incidents with people with mental health problems last year I just don't take anyone who looks a bit wild eyed especially referrals from charities." (Interview with park manager Leeton NSW 2001)

On the other hand a park in Byron Bay area has extended its rental accommodation for low income renters by purchasing numbers of old caravans.

The park owner is taking referrals from charities and other services who pay initial rentals for people at risk of homelessness. High risk people are being housed in poor conditions subsidised by government rental assistance.

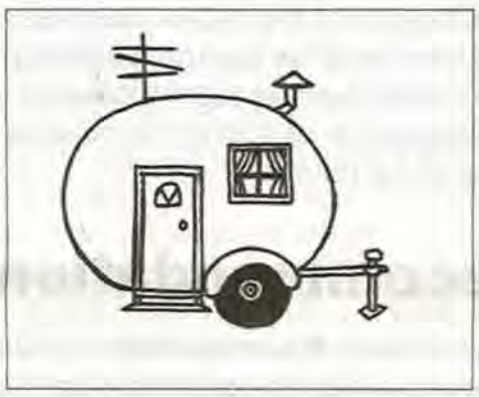
Effects of closures and loss of accommodation on residents

The Residential Parks Forum Workshop of September 2001 identified the following effects of closure and loss of accommodation on residents

1. The stress caused by closures is causing ill health particularly amongst elderly residents. Parks facing closure have reported an increased number of strokes, heart attacks and stress related illnesses.

2. Residents find it hard to leave a community that has been so important in their lives.

3. Homelessness is often the next step for park renters. Many find it very difficult to get in to the private rental market. This may be because they have difficulties finding money to pay for a bond, electricity and gas connection costs (low entry cost is a primary factor in at risk groups renting in parks) or to pay private market rents or because of previous failed tenancies which make it hard for them to get references. Families have



nowhere to go as the park has often been the only option left if they want to stay together.

4. Many residents are disadvantaged by being unaware of their tenancy rights around closure or was possible for the park owner to sell the park and that they could be forced to move their house somewhere else.

5. Residents from parks which are closing find it hard to locate parks which will accept their dwelling. Park owners get commission from the manufacturers of many relocatable homes therefore there is often a disincentive for park owners to allow residents to move their existing homes on to sites in other parks.

6. It is particularly hard for owners of older style 'single-wides' and vans and annexes as they are not welcome in many parks.

7. Residents who are entitled to compensation (and only certain categories of residents are), find it is of little use if they can not find a park which will accept their dwelling.

8. The closure of the park may mean that the resident loses their main asset or it's resale value is severely degraded by forced removal from a lovely seaside location to anywhere they can find to put it, especially if the new park does not allow sale of the dwelling on site.

9. The compensation provisions of the NSW Residential Park Act. This means the resident often has to pay removal costs from their own pocket and then be reimbursed, often through action in the Consumer Traders & Tenancy Tribunal (fromerly the Residential Tribunal), if they are to re-locate to a new site when one becomes available. Many have not got the substantial cash savings (around $12,000) such upfront costs require.

11. Owners may also be ignorant of their obligations, and given that residents are just as poorly informed, the tenant's rights can be severely abused.

Effects on Services

Tenancy services in the Central Coast, the Hunter and the Northern Rivers areas have reported an increasing number of inquiries from residents faced with park closure.

As services in these areas already face heavy case loads —typically, any one caravan park problem can involve scores and even hundreds of individual cases— this can create additional pressure to both parties.

Some clients have found the trauma very difficult and have become violent. Workers also feel frustrated because often there is little that they can do to help residents except delay the inevitable.

Resources are needed for both community education and workers who can assist clients.

The most disadvantaged residents have few resources to achieve a successful relocation. Without appropriate assistance and case management many will become homeless.

Charities and community organisations need extra dedicated resources as large numbers of people from residential parks will be seeking assistance. It needs only one park to close or threaten closure for local services to be deluged by hundreds of clients.

Residents need to have input into the appropriate strategies for re-housing of residents for each park that is closed. Models of this type of intervention on parks have already been developed in NSW by Leanne Wittish with the National Dissemination Program and in QLD on San Mateo park in Brisbane.

Loss of Affordable Housing

The closure of parks, the loss of permanent sites to tourist sites and the replacement of van accommodation with manufactured home sites, reduces the stock of affordable housing adding to a significant decline in recent years.

In the event of park closure this is not a slow decline but a sudden and substantial drop, creating crisis. The loss of housing at the very bottom of the market is particularly problematic in Sydney where the loss of accommodation for 1,300 people on parks will add to the 65% loss over the last 10 years.

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From previous page

The far North Coast has one of the highest regional waiting lists for Department of Housing dwellings. A park in Ballina providing 200 residents, (many of whom are aged and disabled), with accessible well serviced central accommodation, is set to be redeveloped as a shopping mall (Ballina already has two).

Residential Parks are not "the great solution" for long term affordable housing. The lack of personal freedom of choice, the vulnerability of a residents investment in their housing and the potential for marginalisation of disadvantaged people, make this an inappropriate policy option.

Parks as Crisis Housing

Parks are inappropriate for people in crisis. The lack of privacy, the concentration of people in crisis with challenging behaviours and the confined spaces all increase stress and trauma.

The community through our governments must take responsibility for ensuring supports and services are in place for vulnerable people. Without adequate appropriate housing, our communities will become sad and dangerous places.

Older people's Housing

The effect of loss of alternative housing for older people in parks in high need areas will be problematic. Residents who own their own dwelling on park need to have this asset protected. They have a fundamental right to protection of their property.

Should residents lose their homes the cost of re-housing them will be very expensive, particularly in high need areas. The loss of their independence and lifestyle can not be easily replaced. This group does not have the resources to access alternative independent housing for itself.

Residential Parks are not the 'great solution' for long term affordable housing.

The lack of personal freedom of choice, the vulnerability of a residents investment in their housing and the potential for marginalisation of disadvantaged people, make this an inappropriate policy option.

However, while unemployment, high housing costs and scarcity of public housing remain facts of life, residential parks will continue to be part of housing provision and as such any loss of supply warrants attention

What action has been taken so far by residents and councils

Residents and their advocates in several areas have used the local government planning process to either delay the loss of their accommodation or attempt to mitigate the effects of the trauma.

Residents in Ballina, Blacktown, Byron Bay and Caves Beach have been active. Several councils have provided sites on their own parks for displaced residents. However, not all park residents have the same skill, determination or support from their local council.

Councils who use their planning powers to try and mitigate the effects of closure can be thwarted by the current planning system. For example a decision by Blacktown Council to require Meriton to provide some minimal assistance to residents by extending notice times and providing some financial assistance for residents to relocate is being challenged in the NSW Land and Environment Court.

Conclusion

The problem of closures and loss of accommodation on parks needs to be on the agenda for action for government at federal state and local level. The issues involved cannot be solved by one government department or even one tier of government. There is a need for all relevant government and community organisations to come together to develop a cohesive and workable response. ♦

Recommendations

These recommendations are put forward as ways to meet the immediate needs of people whose housing is threatened by park closures and long term loss of permanent accommodation in residential parks. What is needed, is a well resourced whole of government and community response to managing both the rehousing of residents at closure and protecting the investment by residents in their housing.

Short Term Strategies:

- Adequate funding to cover rehousing and relocation costs for park residents displaced by park closures.
- A broad based task force should be established by the NSW Department of Housing (DoH) to co-ordinate responses to park closures.
- A local advisory and support service should be established by the NSW DoH where park closure is threatened.
- Priority access to social housing should be given to low-income people displaced by park closure.
- Tenants advice services should be given additional resources for education and advocacy for parks that are closing.
- The legal venue that deals with disputes from residential parks should be the Parks division of the CTTT and should be resourced for additional sittings, to deal with the increased demand occasioned by park closures.
- Information about both residents rights and the responsibilities of proprietors of parks on closure issues to be be prepared and distributed immediately by Department of Fair Trading.
- The law must be maintained. Inspectors from the Department of Fair Trading should visit proprietors of parks under threat and brief local police stations to ensure that the law is observed.
- Public health and service standards must be maintained until the last resident leaves. Health inspectors from local councils should ensure this with regular visits to the parks that are closing.

Long Term Strategies:

- Local councils to be required to take social impacts into account in determining development applications involving residential parks.
- In these development applications, where the park will remain a residential park, local government and planning regulations should be amended to prevent development approval being granted if this approval will result in a resident/s losing their tenancy.
- Department of Housing to be encouraged to invest in a wider range of low-cost housing options for park residents, especially in high-risk areas.
- Local governments and shires to be required to review their use of parks under their jurisdiction in light of needs for affordable and older people's housing, and have access to federal funding enabling them to adequately service needs of disadvantaged residents in parks.
- The Federal Government to extend funding for research into the role of parks in the housing system, and ensure comprehensive exchange of information between all stakeholders. A review of ABS methodology definitions and scope in the collection of data on residential parks.
- The provisions in the NSW Residential Parks Act, for compensation and relocation costs for owners of dwellings be amended to facilitate successful relocation of residents. ♦

For a complete copy of this paper contact: PAVS Ph: 9281 7967

The Landlord and Tenant (Amendment) Act 1948

(or - how I kept my rent low and avoided a no-grounds eviction)

One of the truly great things about the *Landlord and Tenant (Amendment) Act 1948* is its astonishing ability to keep rents low and to seriously restrict the landlord's capacity to evict. It does this by adopting an attitude that seeks to *protect* the tenant from both unfair rent increases and arbitrary eviction and is where the term *"protected tenancy"* or *"protected tenant" first originated.*

The term "protected tenant" is in fact, a misnomer. It is not so much the tenant who is protected, it is the premises. The premises are then more correctly described as "controlled" (or "prescribed") premises. When premises are no longer "controlled" they have been "decontrolled" and the premises do not then house a "protected tenant". There are ways in which a landlord can decontrol premises (but the process is difficult and sometimes only achieved with stealth).

Protected tenants are tenants of residential premises that have not been decontrolled by Section 5A of the *Landlord and Tenant (Amendment) Act 1948.* Subject to one exception, they must also have been tenants of their current premises prior to 1 January 1986.

The *Landlord and Tenant (Amendment) Act 1948* is a relic piece of tenancy legislation as amended at the end of the Second World War. It was of particular significance during the war as it served the purpose of ensuring that members of the armed forces were housed.

War creates acute shortages of materials and labour, which in turn creates an acute shortage of housing – perfect conditions for the profiteering landlord. The 1948 Act behaved in such a way as to prohibit such profiteering and to keep people in their houses by capping rents to within what the tenant could afford.

Members of the armed forces were given priority over other applicants for a rented home and the owner of an unoccupied home was obliged to make it available to them at a *fair* (government controlled) rent. Stiff penalties applied to owners who failed to provide this priority.

The 1948 Act gave special rights to returned servicemen and women who for some years after the war made them almost impossible to evict. Over the years these rights have become eroded by vigorous amendments aimed at returning the whip hand to the landlord with security of tenure and affordable rents lost to the becoming a relic of the past.

Though these amendments have had some impact in eroding the potency of the Act, it still gives those tenants still covered by the Act, significant security of tenure and major rights in relation to rent increases. Vastly different from current legislation *(Residential Tenancies Act 1987)* which offers no similar "protection" to the tenant and which operates out of a 60 day notice to terminate and rental increases set to what the market will bear.

Identifying your status as a protected tenant has particularly far-reaching consequences. In many cases you will find that you are not protected but it is worth the effort to run through the test set out below as sometimes some surprising people turn out to be protected tenants. They are certainly not confined to the usual older suburbs of the east, inner west or north, but can occur in the outer west of Sydney or in country areas.

Briefly the test is as follows:

- Did you move into the premises prior to 1st January 1986?
- Was the building built before 16th December 1954?
- Was the flat or unit you are living in subdivided into flats before 1st January 1969?
- Has a 5A lease been registered against those premises?

You can search for the answers to these questions by applying to Renting Services Ph.9377 9100 at the Department of Fair Trading, or by having your local tenancy service do this for you. If you do it yourself there is a $5:00 fee attached.

If you answered YES to the first three questions you are part way in identifying yourself as a protected tenant. The problem lies in how you answered the final question, which asks whether a 5A lease has been registered against the premises.

If a 5A lease has been registered on the premises there is a very good chance that the premises have been de-controlled and the tenant no longer protected. However, the existence of a 5A lease is not an absolute proof that the premises have been decontrolled and tenants are advised to seek the assistance of a tenancy worker to have this determined.

The introduction of the 5A lease emasculated the 1948 Act making it impossible for any future protected tenancies being created. It tolled the death knell for the Act and paved the way for the type of tenancy legislation that we see today in terms of "no grounds" terminations and rents set at the ability of the market to bear. Security of tenure and affordable rents became lost to market forces.

Still, there exist many protected tenants whose tenancies (read lives) have been saved as a result of the protection's afforded by the 1948 Act. Often these people will be pensioners on fixed incomes unable to afford market rents and having lived in their particular area for most of their lives. Often you will find this pensioner tenant has the care of an adult child with a disability.

Protected tenants have lived in their home for many years. They have become accustomed to the area in which they live with their friends and services nearby. As Inner city housing becomes increasingly gentrified market rents escalate to well beyond the capacity of low income earners to bear, except for the protected tenant whose rent is set by The Fair Rents Board and is tied to a formula set in 1939. The application of this formula to a protected tenant will invariably keep the rent to well below the market value. Additionally, after the Fair Rents Board has determined a *fair rent* a landlord may not seek a further increase for at least a 12-month period.

Importantly, the 1948 Act protects in terms of security of tenure. Under current legislation *(Residential Tenancies Act 1987)* a tenant can be issued with a notice of termination on a "no grounds" basis. The 1948 Act insists on a "grounds" for eviction being produced. Unless the landlord can produce sufficient 'grounds' for eviction the tenant will remain secure. The weight of the tenant's hardship as compared to that of the landlord is a paramount consideration

The social consequences of such a proviso are obvious in that the most vulnerable of tenants are kept in their homes at a rent that they can afford. Without such protection many of these tenants would face family breakdown and possibly homelessness, as no longer does the Department of Housing meet its obligations in terms of housing those in most need and unable to meet the demands of the private rental market. Unfortunately, few such tenancies still exist and, courtesy of the introduction of the 5A lease no further such tenancies may be created.

And who knows, perhaps you hold such a tenancy and are unaware of your status. Perhaps you know someone who has been in their tenancy pre 1986 and they too, remain unaware. It is worth bearing in mind the possibility of such a status and doing a simple check list of the aforementioned test. Do not forget that the existence of a 5A lease is not a proof positive that the premises have been de-controlled and a tenancy adviser should be sought to determine this point. You have nothing to lose save a 60-day notice of termination and a rent increase beyond your means. It is worth considering.

The 1948 Act has shown that the control of rents and restriction on evictions adds to the fabric and certainty of people's everyday lives. Security of tenure and affordable rent is what contributes to a society that is functional and cohesive. In many ways the 1948 Act achieved this end. ♦

By Denise Steele

CPSA Tenancy & Housing Unit

CTTT

Consumer Trader & Tenancy Tribunal

Many tenants will have had some experience with the Residential Tribunal. It is the body that hears disputes about tenancy issues including rent, bonds, repairs and termination of a tenancy. This month, it is set to change.

The Residential Tribunal has become a part of a 'super-Tribunal': the Consumer, Trader and Tenancy Tribunal (CTTT). While some of the changes will benefit tenants, there will be some drawbacks.

Both the Tenants' Union and the NSW Tenancy Advice and Advocacy Services have made submissions to the Department of Fair Trading (DoFT) regarding the proposed CTTT Regulations and the changes to the Residential Tribunal.

Some of the most important issues arising from the proposed Regulations include, the new costs for applying to the Tribunal; the introduction of assessors; and new rules about rehearings and non-compliance with orders of the Tribunal.

Funding

Tenants pay for the running of the Residential Tribunal - it is funded using interest from rental bonds. The TU has questioned whether this funding will be kept just for the tenancy section of the new CTTT, or whether it will fund the CTTT as a whole. The Tenants' Union and the Tenancy services believe tenants should only have pay for the running of their own section of the Tribunal.

Application Costs

Previously, pensioners and students did not have to pay a fee to apply to the Tribunal. The new Regulations introduce a $5 fee, although pensioner and student tenants can apply for this fee to be waived. Many other people who are receiving government benefits will have to pay an even higher application fee.

The Department of Fair Trading has said that this application fee is being introduced to recover some of the costs of running the Tribunal, even though tenants already pay for the Tribunal, via interest on rental bonds.

Considering the costs of getting a money order ($2.40) or bank cheque ($5.40) issued, the introduction of this new fee will mean that low-income tenants will in fact being further burdened and may be prevented from applying to the Tribunal because they cannot afford it.

Assessors

An Assessor is someone who is authorised in writing by the Chairperson of the Tribunal, to carry out inspections in connection with any matter.

While assessors have been used in other Tribunals, they have not been part of the Residential Tribunal until now. The new Regulations stipulate that assessors can be authorised by a Tribunal member to carry out inspections and take evidence.

Under the Regulations, the assessor should carry out the inquiry as informally as possible, but will have to administer and oath if taking evidence. While this could make hearings at the Tribunal faster and more efficient, the Tribunal will not bear the costs of the assessors. When an assessor is used, the Tribunal member will make an order that the costs of the work done be paid by 'any of the parties'.

This could lead to a further burden on tenants and will affect low- income tenants significantly should the Tribunal decide the tenant must cover costs.

A potential scenario:

Maria is taking her landlord to the CTTT because of an ongoing failure to do plumbing repairs to her flat. Also, the leaks have caused mould damage to some of Maria's furniture and she wants compensation. The landlord asks for an assessor to inspect the flat. The assessor finds extensive damage to Maria's possessions and she gets compensation, but she still ends up having to pay half the costs of the assessor, even though she was in the right.

Like the introduction of the application fee for pensioners and students, this new provision is one that could greatly disadvantage tenants and make them less likely to apply to the CTTT.

Rehearings

The provisions about applications for rehearing of termination matters in the CTTT have stipulated that the time limit for such applications will continue to be 14 days of receiving written notice of the decision of the Tribunal. Originally, the new regulations in draft form, stipulated that, the time limit would be reduced to just 24 hours from the time of notification or 14 days from the date of the order. We are pleased to see that such a provision was not implemented.

When the Regulations were drafted, there was to be a provision which withdrew the opportunity to apply for re-hearings of matters that involved less than $500. This would have meant that tenants who had paid for urgent repairs to be done, or who had paid reservation fees, or had over-paid their rent for a short period, would not be have been able to have their matters re-heard and subsequently lose the opportunity to recover their loss from the landlord.

The Tenants' Advice Services, CTTT submission highlighted the dangers of such a provision. Subsequently, while this provision does exist in the new Regulations, it excludes any proceedings in the Residential Parks Division, Retirement Villages Division or Tenancy Division.

The Consumer, Trader and Tenancy Tribunal Act and Regulations, have come into affect as of 25 February 2002. The Tenants' Union and the NSW network of tenancy services hope that the amalgamation of Tribunals will still ensure that matters are heard and dealt with in an expedient manner.♦

By Rima Hadid

Tenants' Union Legal Officer

Squats - why not?

Occupied and self managed Social Centres grew out of the squatting movements across Europe and are now social and political forces to be reckoned with.

The Midnight Star Social Centre at 55-57 Parramatta Road, Homebush opened in late February. The Midnight Star is a large and safe abandoned theatre which has been converted into community space by the Social Centre Autonomous Network (SCAN).

The Midnight Star Social Centre is not residential, however it has a housing policy that provides emergency accommodation in return for work that contributes to the upkeep of the Centre.

The Midnight Star Social centre also provides a free community computer centre with internet access, printers and a photocopier. Free cinema screenings twice a week, a gallery space and Food not Bombs servings also feature at the centre.

Regular performances, music gigs and workshops mean that the high percentage of youth in the area can not only be entertained but also participate in the organising of activities. The space is also available for meetings and features a growing activist resource library.

SCAN is keen to get in contact with community organisations and individuals interested in further possibilities for the Centre.

For more information see:

http://scan.cat.org.au or leave a message on 0415 882 901 and someone will return your call.

International Squat News

On the 20th February in Italy, these type of centres have come under pressure with massive police raids in Turin, Florence and Bologna. The order for the raids came from Genoa city' attorney.

Computers and archives were seized relating to the Genoa protests last year against he WTO. Searches are still going on with the Police actions being a clear strategy to frustrate the alleged political activities of the social centres.♦

New Privacy Laws & Tenancy Data Bases

You may have noticed the appearance of privacy statements on web sites or you may have received privacy statements from your bank or other businesses. This focus on privacy has occured because from 21 December 2001, amendments to the Privacy Act 1988 (Cth) have changed the way private sector organisations handle an individual's personal information and individuals now have some control over the way that their information is handled. **By Lisa Woodgate - Tenants' Union**

These new laws will also apply to tenant database organisations. The larger organisations will have to comply with the Privacy Act immediately, but there is a delayed compliance date for small businesses, so some of the small time tenant database operators will not come under the Act until 21 December 2002.

For too long tenant databases have been largely unregulated, so some controls over the operation of tenant database companies under the Privacy Act are welcomed. For the first time tenants have legal rights under the Privacy Act and the chance to fix common problems with tenant database operators, as well as the opportunity to seek redress through the complaints procedures where there has been an interference with a tenant's privacy.

So what are tenant databases?

Tenant databases are run by private companies that collect information about people who might be considered 'difficult tenants.' Tenants get listed when they are reported by a landlord or agent, who subscribes to a database organisation.

The landlord or agent can also check the names of applicants for rental housing. When a tenant is listed on a database, the database shows the tenant's name, some personal information and the reason they were listed. If tenant's name is on a database they might find it difficult to find rental housing, as they are likely to keep being rejected.

Reasons tenants are listed can include a breach of a tenancy agreement, such as for rent owed or 'damages' or when they have asserted their rights and might then be considered a 'difficult' tenant. Some people have been listed for trivial reasons, or as a punishment by an angry landlord who may have lost in the Residential Tribunal.

The threat of being listed can also discourage tenants from taking action about urgent repairs, harassment by landlords, or asserting other rights under the Residential Tenancies Act 1987. In effect, tenant databases operate to 'blacklist' tenants.

How does the Privacy Act work?

Under the Privacy Act there are 10 National Privacy Principles (NPPs) which regulate the way tenant database organisations handle personal information on tenants. These NPP's will help to overcome many of the problems that tenants previously faced when dealing with unregulated tenant database operators.

NPP's include requirements about;

• Openness: database organisations must make publicly available their information management policies and upon request let individuals know, what sort of personal information it holds, for what purposes and how it collects, holds and uses and discloses that information.

• Collection: a tenant's personal information must not be collected unless the information is necessary for a purpose directly related to a primary function or activity of the database organisation. The collection must be fair and lawful.

• Notification: organisations must take reasonable steps to notify an individual when their personal information is listed;

• Use and Disclosure: An organisation must only use or disclose personal information for the primary purpose of collection, specifying the primary purpose in it's public information. Use and disclosure for a secondary purpose is not allowed, except where it falls within the exceptions under NPP 2.

• Data Quality: A database organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up-to-date;

• Access: Tenants now have a right to access their information on a database, and tenants can't be charged to lodge an application for access, however reasonable charges apply to obtaining a copy of the listing;

• Correction: An organisation must take reasonable steps to correct information that is not accurate, up-to-date or complete;

• Complaints procedures. Under the Act there is a two step complaints procedure. Where a tenant is not satisfied with the tenant database's response to their complaint they can lodge a complaint with the Privacy Commissioner to investigate.

These principles mean that database organisations have clear obligations and responsibilities under the Act, and can face investigation and possible penalties if they do not comply with the National Privacy Principles.

Currently most database listings were collected prior to the commencement of the new privacy provisions. So, for old pre Act database listings, the right of access and correction only applies when the information is used or disclosed after the 21 December 2001, generally these rights are 'activated' when a rental application and rental check happens. Most other NPP's apply regardless of when the information was collected on a database.

As with the commencement of any new laws there is an initial teething stage with regard the implementation, compliance and testing of legislation, and here the Tenant's Union has continued to play a key role in ensuring that the rights of tenants prevail.

A brief excursion to database web sites reveals that there is still some way to go before databases are totally compliant with aspects of the Privacy Act. Some database organisations have been slow to remove their old outrageous charges and other non compliant practices.

Most recently the Tenants' Union has identified new tactics within the industry, with development of new "Inquiries Database" listings. Here current and prospective tenants have been asked to give their "voluntary" consent to be listed on an "Inquiries Database". Effectively, this would mean that every tenant or in Australia could be listed on a database regardless of whether they have defaulted in any way, a situation that raises serious questions with respect to interference with privacy and the public interest.

This type of operation would appear to be contrary to the Privacy Act, and the Tenants' Union has brought this and other matters of concern to the attention of the Privacy Commissioner.

Another area of concern raised by the Tenants' Union relates to the delayed application of the Act to smaller database operators. This situation is highly problematic as it allows these operators the opportunity to continue old practices and profit by them, and leaves tenants without the protection of the new laws until later this year.

For far too long tenant database operators have been able to operate unchecked and since the advent of the new Privacy Act provisions the Tenants' Union has been closely monitoring issues of compliance by tenant database organisations.

While the Privacy Act promises to bring some important changes in the regulation of the practices of tenant database organisations, the Tenants' Union recognises that further law reform may be necessary to close any gaps with the regulation of tenant database organisations. ♦

For more information go to www.privacy.gov.au

Tenants Have Rights!

TENANTS ADVICE AND ADVOCACY SERVICE

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 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.**
- ☑ **Contact your local tenancy service**

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

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.

Tenants Advice and Advocacy Services

Sydney Metro

Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Southern Sydney	9787 4679
South West Sydney	9601 6577
Eastern Suburbs	9386 9147
Western Sydney	9891 6377
Northern Sydney	9884 9605

Coastal

Central Coast	4353 5515
Hunter	4929 6888
Illawarra/Sth Coast	4274 3475 or 1800 807 225
Mid Coast	6583 9866 or 1800 777 722
North Coast	6622 3317 or 1800 649 135

Western

West. Region	6393 8600 or 1800 642 609
South Western	6361 3122 or 1800 642 609

Specialist

Aged Tenants Service	9281 9804
Parks & Village service	9281 7967
Greater Sydney Aboriginal Tenants Service	9569 3847 or 1800 686 587
Western NSW Aborignal Tenants Service - Gunya	6884 8211 or 1800 810 233
Southern NSW Aboriginal Tenants Service - Murramia	4472 9363 or 1800 672 185
Northern NSW Aboriginal Tenants Service	6643 4426 or 1800 248 913

Tenants' Union Hotline

Monday - Friday 9.30am - 1pm & 2 - 5pm

02 9251 6590

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

Membership Application

TAX INVOICE

I would like to apply for membership of the Tenants' Union of NSW Co-operative Limited ABN: 88 984 223 164

Name / Organisation: _____

Address: _____

Phone: (home) _____

Phone: (work) _____

This is a: (please ✔ one)

☐ new membership ☐ renewal _ _ _ _ _ _ (Membership Number)

I am a: (please ✔ one)

☐ tenant ☐ tenant organisation

☐ non-tenant ☐ non-tenant organisation

☐ other (please specify)

Annual fee runs from 1 January to 31 December.
New members can pay half fees after 30 June.
First membership fee paid covers cost of share.

unwaged $8.00 waged $16.00 organisation $32.00
(all include GST component)

Please find enclosed cheque / money order to the Tenants' Union for:

Membership: _____

Donation: _____

Total: _____

I am over 18 years of age. I support the objectives of the Tenants Union of NSW.

Signed: _____

Date: _____