

TU tenant news

Free newspaper of the Tenants' Union of NSW

Issue 77 December 2004

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Tenant Advocate gets his just desserts



The 2004 Law and Justice Foundation of New South Wales Justice Medal was awarded to Dr Robert Mowbray, Coordinator of WESTS (Western Sydney Tenants Service). A dinner was held with over 360 guests to celebrate the awards at Parliament House on October 7 this year. The Foundation awards the medal to "an individual who has demonstrated outstanding achievement in improving access to justice in NSW, particularly for socially and economically disadvantaged people. This may have been demonstrated in a range of activities over an extended period or in a single significant activity." The Law and Justice Foundation is a statutory body with a 37 year history of improving access to justice for the people of NSW, aiming to advance the fairness and equity of the justice system.¹ When the *Tenants News* asked Robert about the personal significance of the award he was quick to deflect any glory, saying, "I was very chuffed to have been nominated and pleasantly surprised to have been awarded the Justice Medal. I have been very lucky over the years in having employers, such as UnitingCare NSW. ACT, who have given me considerable freedom to pursue a commitment to residential tenancy law reform."²

Indeed, Robert has been a passionate advocate for tenants' rights for the past 30 years. It is no exaggeration to say that he is the father of tenants' rights in NSW, and of the activist organizations that carry on the struggle. At the 20th anniversary celebrations of the Tenants Union of NSW in 1996, Robert was made its first Life Member.

Even before, along with his two other triplets he was an activist in his student days, opposing the war in Vietnam and spending a brief time in prison as a non-complier after refusing to register for National Service. His involvement came out of a passion for social justice informed by his moral principles as a Christian.

Consider this. In NSW in the 1970s, apart from legislation watering down wartime rent controls, residential tenancies were still largely governed by landlord-tenant legislation dating back to 1899, and with minimal protection for tenants. That legislation in its turn was largely based on feudal relations of land tenure.

There were no controls on rents (except for those still protected by wartime regulation), there was no Rental Bond Board, and there was no residential tribunal. It was almost impossible to get bonds out of the clutches of landlords, and it was equally almost impossible to get any repairs done. Virtually the only protection tenants had was that eviction (when landlords bothered being formal about it) had to be determined by the local court, but this was still in any case easy, cheap and expeditious, and did not require any real reasons. And even that limited degree of protection the property lobby was whittling away at, trying to get quicker and easier eviction still. And there were plenty of landlords who didn't even bother with that process: they simply locked tenants out without fear of retribution.

Robert Mowbray has been literally involved in almost every single gain since, in most cases centrally. He has used a variety of means to do so, ranging from direct action, to setting up tenants' rights bodies, to lobbying and advocacy, to advising and defending tenants in court and tribunal actions, to writing large volumes of educational material, to setting up tenants' services from within the government, to legislative proposals and amendments, to his own academic work on landlords and their reasons for investment and disinvestment. This is literally a life that has been lived for tenants' rights.

In response to deregulation of the rental market in the early 1970s Robert was a key figure in the establishment of the Tenants' Rights Project at South Sydney Community Aid (SSCA) in 1975-6.

This came out of a student social work placement with SSCA in 1974, when Robert completed a research project looking at tenants' rights. "It was put to me that there were a lot of tenants coming into the agency having hassles with landlords and real estate agents- so why not do a research project and see if something would come out of that."³

From this sprang the Tenants Union of NSW in 1976. Of this early time - when he was working as co-ordinator of SSCA - Robert says, "In its early years the Tenants' Union relied largely on the dedication of a small group of unpaid activists. It paid off. Residential tenancy law reform got on to the political agenda."⁴ As for the nature of the Tenants' Union, "it was very much the philosophy ... that the best people who can change landlord and tenant law are tenants pulling together, forming a tenants' organization".⁵

After lengthy lobbying and protest, the bond board opened its doors in 1977, and in the following year lock-outs were made illegal and offenders could be prosecuted. Robert was one of the Tenants' Union's representatives on the Landlord and Tenant Act Reform Committee established by then-Consumer Affairs Minister Mr. Syd Einfield: Unfortunately the Tenants' Union felt obliged to oppose the final report, as its principal findings simply called for streamlined evictions.

From his eyrie in the beat-up old church in Redfern that housed SSCA Robert found the funds (as he had already done for the TU's first staff member, Reyna Dight) to run a campaign against the report, and was successful in having it buried. When Mr. Einfield retired, he noted that he had 22 reform items on his agenda, and had achieved 21 of them. Tenant activists still regret that a flawed and inadequate report prevented fulfillment of the last of them.

Robert wrote the original *Tenants' Rights Manual*, and a booklet called "Your Rights as a Tenant in NSW" which was translated into five community languages. It took another 12 years for the *Residential Tenancies Act*, a campaign Robert was also active in. The *Residential Tenancies Act* of 1987 now provides consumer protection to the state's 1.5 million tenants.⁶ "The awarding of the Justice Medal to a tenants' advocate reinforces the fact that residential tenancy law reform is an area which impacts substantially on socially and economically disadvantaged people," says Robert of the broader significance of the award, "It recognises that the struggle by Tenants' Union activists over nearly 30 years for legislative change linked to a strong network of advice and advocacy services has been to the advantage of tenants in New South Wales."⁷

The movement for Tenant's Rights has seen many great victories. We asked Robert which victories he saw as the most significant. "In 1977 the Rental Bond Board was established to hold tenants' rental bonds. In 1978 "lock-outs" were made illegal. But it was not until 1986 that reform legislation was introduced into the NSW Parliament and 1989 before comprehensive legislation was enacted.

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Aims of the Tenants' Union

The Tenants Union aims to represent the interests of tenants in NSW, both private and public, including boarders and lodgers and residential parks by:

- raising awareness about tenants' problems and rights
- providing high quality advocacy and advice to tenants
- lobbying for improvements in residential tenancy laws
- promoting secure and appropriate housing solutions
- supporting, training and resourcing local, independent statewide tenants advice services.

The Tenants' Union of NSW is a community legal centre that has been active in promoting the rights of more than 1.5 million tenants in NSW since 1976.

Over this time we have advocated on behalf of tenants to State and Federal governments, and we have developed numerous resources providing information for tenants and tenants' advocates regarding the rights of tenants in NSW.

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Editorial

History and hope

By Harvey Volke



I don't believe in the ideology that lies behind book titles like "The Power of One". But it is nevertheless true that individuals can make a difference.

And in the right circumstances passionate, determined and committed individuals can make a substantial difference.

Robert Mowbray is one such individual.

Nowadays tenants can argue for their rights in a tribunal. They can't be locked out of their homes without a Tribunal order. They can get necessary repairs done. They've got a good chance of getting their bonds back. They can stop landlords invading their privacy. They can make landlords go through proper legal processes to get them out.

Thirty years ago, none of these things was true.

Think about it. Housing rights that should be absolutely basic and universal have been true in this land for less than 30 years in the more than 200 years since European occupation.

That they are true today is due more to Robert Mowbray than to any other single individual.

He didn't do it alone. He didn't do it without the commitment and activism of a lot of other people. He didn't do it without support - however conditional - from policy makers, and decisions by governments.

And he didn't do it without years of effort, of the expenditure of blood, sweat and tears, and of keeping on in the face of frustration, defeat, abandonment and the hard slog of the battle against indifference, inertia, opposition and sheer bloody-mindedness.

The agenda is far from finished. Boarders and lodgers still have no rights at all. All too often private tenancies are nasty, brutish and short: there are no guarantees of secure tenure in a home one can in any real sense call one's own. And in cities like Sydney, people on low and moderate incomes have literally been forced out of an expensive private rental market.

And having rights is not the same as exercising them. Here, too, Robert Mowbray has led the way. As if it were not enough to have had a central role in bringing about a substantial change in the rights enjoyed by tenants, it is no less true that Robert has by far helped more people to achieve their rights than any other single individual.

All of us have an effect, one way or another. Every action has an effect. The actions of Robert Mowbray, and the actions of all of us, are what make up history, even if it's not always the history that gets written.

And I think I've just talked myself out of despair at the present state of politics in this country. Thanks, Robert! ♦

Got a prickly pair problem?

John is a tenant; his unit needs minor repairs. He has raised these issues with his landlord in person and in writing. John's landlord has not acknowledged any of his written concerns.

Peter has fallen behind in his rent, so his landlord took him to the Tenancy Tribunal. A judgement was made for Peter to pay the rent in arrears he does not have the whole sum, and wants to negotiate paying instalments with his landlord.

Ella lives in a block of units; her neighbour continues making trivial and unfounded noise complaints to her real estate agent resulting in the real estate warning her on two separate occasions.

These are all examples of circumstances where the Community Justice Centres may be able to assist the people involved. CJC's provide a statewide dispute resolution service for various types of dispute. Many of the disputes that CJC's have successfully mediated involve (but are not limited to) tenancy issues between tenants, landlords, real estate agents and neighbours. Mediation is an alternative method to try to work things out, and enables the people involved to make decisions about how they want to act, and what they want to do.

Mediation sessions are conducted by two impartial, trained mediators whose role is to help people understand each other's point of view, and to work together to reach an agreement acceptable to everyone involved. In Peter's example, the CJC would write to the landlord and invite him/her to attend a mediation session so that both can explore and discuss options acceptable to them. The agreements reached in mediation are a result of discussion and negotiations, and are made in good faith.

While CJC's are an alternative to courts and tribunals, they do not make decisions. The staff and mediators will not be telling you what to do, or making decisions for you, but they will encourage and assist you to discuss and generate options.

Mediation with CJC's is free, voluntary and timely. If you are not certain about what to do you can contact CJC's. The staff will then explain CJC services and processes so that

you can make a decision about whether mediation may be the right thing for you. ♦

HOW TO CONTACT CJC'S

Sydney CJC
Ground Floor, Civic Tower
66-72 Rickard Road
Bankstown NSW 2200
Phone: (02) 9790 0656
Fax: (02) 9796 3258
Email: cjc_sydney@agd.nsw.gov.au

Western CJC
Level 1, 311 High Street
Penrith NSW 2750
Phone: (02) 4732 1933
Fax: (02) 4731 3578
Toll Free: 1800 252 736
Email: cjc_western@agd.nsw.gov.au

Northern CJC
Cnr Bolton & Church Streets
Newcastle NSW 2300
Phone: (02) 4929 0333
Fax: (02) 4926 2420
Toll Free: 1800 990 777
Email: cjc_northern@agd.nsw.gov.au

Southern CJC
2nd Floor, Transport House
1 Rawson Street
Wollongong NSW 2500
Phone: (02) 4228 0433
Fax: (02) 4226 3630
Toll Free: 1800 650 987
Email: cjc_southern@agd.nsw.gov.au

TTY: 1800 671 964
www.cjc.nsw.gov.au



From the Hotline

Q :Our landlord gave us 60 days notice to move out. We are happy to move but want to move earlier because we have found a great new place. We really want the new place but cannot afford to pay double rent for weeks. Can we end our tenancy before the 60 days is up?

A :Yes, but not based on the landlord's 60 day notice of termination. To end the contract, based on a notice, you have to give the place back to the landlord on or after the day specified in the notice.

Just leaving will terminate the agreement by abandonment. This will leave you liable to pay compensation to the landlord for losses caused by your abandonment of the premises: not a good outcome.

You can give 21 days written notice of termination and leave on or after the day specified in your (21 day) notice.

It is also possible to terminate the agreement by consent of the landlord. Always get consent in writing. Your landlord may be happy to give consent early because you have found somewhere to go. There is no guarantee you will be able to find a suitable place nearer to day 60. ♦



The Tenants Union Hotline operates between 9.30 am–1 pm, and 2 pm–5 pm on weekdays. A tenants adviser can provide information over the phone, or may refer you to your local tenancy service. Freecall 1800 251 101



“Now, do you really want to sign that?”

Free parking – A roll of the dice.

Are you in the process of inspecting prospective rental properties? Take heed: your car is moving precariously through the dangerous territory of a life-size Monopoly Board and “free parking” is not a given.

Recently, a tenant, who had just moved into premises in Paddington (near the Sydney Cricket Ground) contacted Eastern Area Tenants Service. His local council had just informed him that, as the development application for his apartment building had been approved after May 8, 1996, he would not be supplied with a parking-permit. Parking was not provided with the premises and the only public parking in the area was metered.

Having signed his agreement the tenant was left with no option but to sell his car or park it at a friend's house in Bondi—some distance away.

Local council policies on parking permits vary from council to council and within council areas. Please remember, before signing an agreement, to check that everything is in order! If parking is not supplied be make sure whether you can get a permit. Give your council the third degree. Give the landlord/agent the third degree. Give the neighbourhood dog the third degree (after all, they know where cars can park).

Inspect your premises like a detective inspects a crime scene – if work needs to be done, get your landlord to commit to do it in writing. Things like parking arrangements and fully functional goods, services and facilities are vital to ensure that home (where the heart is) is a pleasant place to be (where the car is).

You have been warned! ♦



Boarders with disabilities

Active and valued members of the community

Active Linking Initiative (ALI) is a program established by the NSW Government, initially as a pilot, in the year 2000. The program assists boarding house residents with disabilities to get involved with community based activities. In March, this year, Disability Service Minister, Carmet Tebbutt, announced that the Government is set to further fund this highly successful program.

ALI distributes funding to 11 non-government service providers. Over the past 4 years, these organisations have had a powerful effect on the lives of 1100 boarding house residents around the State, providing recreational, educational and vocational opportunities they would otherwise have been deprived of.

with the Active Linking Initiative through Newtown Neighbourhood Centre for the last 4 years. He started out doing art in the activities room.

“I go into the activities room, they give me a radio and I paint,” he says. Having sold some of his artwork Michael can now purchase his own materials from the local art store.

On Wednesdays Michael and other participants in the ALI program meet up at the Neighbourhood Centre and participate in a days planned activity. These activities range from Ferry rides to Manly and bus trips to destinations as varied as Newport, the Museum or the art Gallery.

“Met a guy called Ron through the program,” Michael says when questioned further. “If I am alone, that's no good.” He continues. Having a good friend that lives close by, someone he trusts and can while away the hours with (who also joins him in weekly activities) is a great comfort to him.

Michael is also writing a book about his life dealing with schizophrenia. His sister provides him with the bulk of the assistance he needs, but now and then he has a worker from ALI program to help him out with some of the technical issues. The other participants in the ALI program have been very supportive.

The Boarders and Lodgers Action Group thank the gods that ALI exists and would like to congratulate the advocates of this project for their success in securing continued funding. ♦

One of the participants in the ALI program is Michael (not his real name). Michael is schizophrenic and lives in a boarding house in the inner west. He has been involved



"The enactment of legislative rights has given residential tenants a modicum of protection. The establishment of the Residential Tenancies Tribunal (now called the Consumer, Trader and Tenancies Tribunal) has given residential tenants an ability to enforce their rights. Tenants now can receive some joy when faced with recalcitrant landlords and real estates agents. In 1995 the nexus between "uncollected goods" and monies owing at the end of a residential tenancy was broken under new regulations. Prior to this, landlords could hold a tenant's possessions as "hostage" if monies were owing under the residential tenancy agreement.

In 1985, during the ministry of Mr. Frank Walker, a review of tenancy services was undertaken, and a dream dear to Robert's heart was established: Previously, he had been at the centre of organization of a range of voluntary tenants' advice services, with all the attendant problems involved in maintaining voluntary services. During the review, interim funding was provided for the Tenants' Union (which also had other sources of funding), for Shelter NSW (for the first time) and for the no-longer-existent inner-city Housing Information and Referral Service. At the time, Robert went to work for Shelter NSW.

In 1986 and as a result of the review, funding was continued for those services, and it was also decided to set up tenants' advice and housing referral services around the State. Initially, Robert was involved in consultation around these, through Shelter NSW, but before long joined the Department of Housing to work on establishment and administration of the 20 services.

He remained there for three years until the sudden cancellation of the program in 1989, with the advent of a new and hostile conservative government. Upon that, he left the Department, and instead did a project for the then Combined Pensioners' Association, producing a report on legal rights for boarders and lodgers.

A little later the Uniting Church's Board for Social Responsibility, through Rev. Harry Herbert and John Nicolades (previously at Shelter) provided funding for a new tenants' advice service at Parramatta, to keep the issue alive until the government had a change of heart and refunded tenants' advice services. Robert was centrally involved in the development of Western Sydney Tenants' Service, where he remains to this day.

Nor did he give up the dream of a network of funded tenants' advice services. Meantime, the ministry (though not the government) changed, and Mr. Robert Webster became minister, and proved more sympathetic than his predecessor, Mr. Joe Schipp.

In addition, the HomeFund scheme for encouraging low-income earners into home ownership went belly-up, leaving the government \$200 million in the red. A convenient source of funds to cover this was the Rental Bond Board, but he had to get approval for this through a hung upper-house and the Public Accounts Committee. Mary Perkins – then at Redfern Legal Centre, and now at Shelter NSW – thought the time might be right to enter discussions with Mr. Webster, and called together Robert and a small group of other people, and so it proved.

And out of that came the Tenants' Advice and Advocacy Program, which has existed ever since.

The funding of a network of tenants' advice and advocacy services has ensured that tenants have somewhere to turn to enforce those rights they were given. With or without funding the Tenants' Union distributed a massive amount of information on tenants' rights. The publication of "Your Rights as a Tenant" in many languages and the *Tenants' Rights Manual* are evidence of this. Today the network employs around 100 part and full-time workers to provide a comprehensive service to tenants of nearly 600,000 residential rental properties across New South Wales.⁸

As far as Robert is concerned, winning the Justice Medal simply reflects another stage in the ongoing struggle.

When asked about the challenges ahead for tenants and the tenancy advice and advocacy program, Robert is not complacent; "There is a long way to go for residential tenants to achieve housing justice ... with affordable rents, meaningful security of tenure and a tribunal with wide powers to hear disputes. Boarders and lodgers have remained

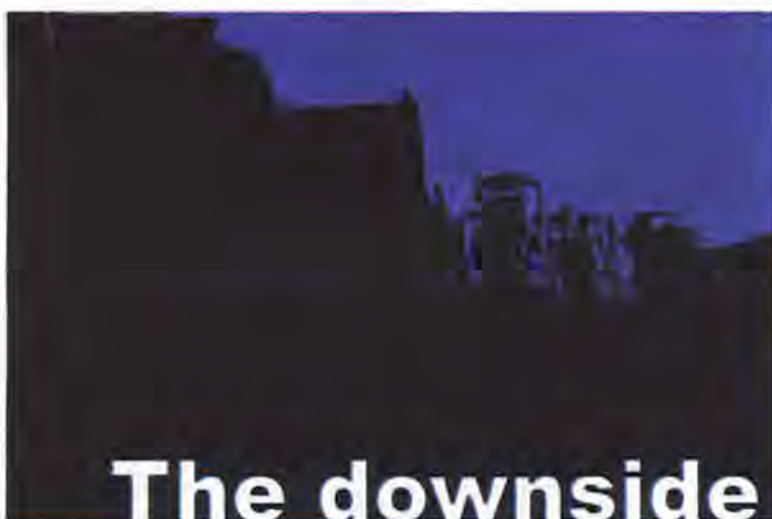
the forgotten group of residential tenants because they are largely disadvantaged and marginalised. Legislation that gives them basic rights has long been promised, but still not enacted. Proposals on how to make residential tenancy law reform deal with problems that arise in a share housing have been totally ignored. It is critical to bring legislation into the twenty first century by recognising the existence of such a significant sector in the housing market and to provide procedures to assist in resolving problems. Related to share housing is the prevalence of domestic violence and the

importance of addressing this issue in legislative reform. There is a need to enact minimum standards in the provision of accommodation. However, the major legislative thrust of the network must remain to keep chipping away at policy makers and our politicians until tenants achieve legislative recognition of "justice-cause" eviction and the requirement for landlords to justify rent increases."

Robert also warns against complacency in defending existing gains, "We must also resist attempts to turn back the clock where there has been progress, for example, the recent amendment affecting tenants of public housing."⁹ ♦

**an individual
who has demonstrated
outstanding achievement
in improving access
to justice in NSW**

- 1 Law foundation websites: http://www.lawfoundation.net.au/justice_awards/nominees.html
- 2 Tenant's News interview with Dr Robert Mowbray, November 2004
- 3 Robert Mowbray, cited in Mortimer, P, *Unfinished Business, The Story of the Tenants' Union of NSW 1976-1996*.
- 4 Tenants' News interview with Dr Robert Mowbray, November 2004
- 5 Op cit
- 6 Insights Uniting care newsletter, "Fighter for tenants turns the table on landlords": http://nsw.uca.org.au/news/2004/mowbray-justice-medal_12-10-04.htm
- 7 Tenant's News interview with Dr Robert Mowbray, November 2004
- 8 Tenant's News interview with Dr Robert Mowbray, November 2004
- 9 Tenant's News interview with Dr Robert Mowbray, November 2004



The downside of the construction boom

In recent months staff have assisted tenants who have been on the receiving end of the downside of the boom in construction of rental accommodation. Two cases highlight the problems. The first case involved a unit that had been built 4 to 5 years ago. The tenant inspected the premises with everything inside in tact, but was advised by the real estate agent that some work needed to be done on the balcony. The tenant agreed to take the property because it did not affect the inside of the premises. The tenant organised to move and gave notice at the premises where he was living. The day before he was to move his furniture in, he signed the tenancy agreement. He was then advised by the real estate agent that far more work was being carried out on the unit. This included a new bathroom, ensuite, laundry and toilet. This was all being carried out by insurance, because whole block of units were badly built. The tenant was without any water for the first week, no hot water for approximately 4 weeks and no bathroom facilities for around 8 weeks. The block of units also had to be underpinned. Following assistance from WESTS, the tenant achieved a good result

at the Tribunal who awarded him \$600 rent reduction and \$600 compensation for the inconvenience – but it was not easy to get this payment from the agent. Compensation was finally paid, but not before many reminder letters were sent to the agent and not without the agent threatening to go to court (for what, one may ask!!!).

The second case involved a tenant that signed a 12 month agreement and also paid 6 months' rent in advance (a common practice in the USA where the tenant comes from). The tenant signed the agreement before the property was finished being built, but was advised that all would be completed by a certain date and that they would be able to move in on this date. This was not the case. There were many things wrong with the property including a missing window from the laundry which allowed access to the rest of the house (security risk). The house was filthy from dust and building rubble. The tenant of course did not want to move in until everything was completed and up to standard. She could get no guarantee from the builder that all the repairs needing to be done would be rectified or done in any reasonable time

frame. Other tenants who had moved into adjacent premises with the same landlord had been pursuing the landlord for months over similar problems. The tenant decided not to move in. However, because the tenant had paid a large amount of rent in advance, it was going to be hard to recover this, because the Tribunal does not have jurisdiction to hear such matters and the real estate was not willing to end the tenancy without compensation being paid to the landlord. The tenant lodged a cross application to one lodged by the landlord with the Tribunal. The tenant sought a number of orders including return of her rental bond. She also send a letter to the Office of Fair Trading using a little-used provision (Section 16 (1A), (1B), (1C) of the Residential Tenancies Act 1987 seeking repayment of overpaid rent. However, the dispute was resolved with the tenant settling (against our better judgement) ... the tenant was far too generous in her offer to the real estate agent, who of course took the offer. ♦



BLAG roundup

SAAP

The NSW ombudsman recently conducted a review of SAAP services across the state. The resulting report raised concerns at the number of people excluded from using the services on the basis of mental health, drug and alcohol, pregnancy and other issues.

SAAP services, in response, have highlighted concerns for the safety and well being of other clients who share the services, citing consumer protection cases in which organizations have been sued by failing to consider health and safety in intake policies.

Peak body Homeless Persons NSW has agreed to attend to improvement of intake policies and practices, and to hiring a policy worker in a 12-month position in this role. It has also argued that reduced government funding and a dysfunctional mental health service are contributing to a situation in which SAAP services cannot cope with increased demand. With

many residents of boarding houses at risk of homelessness, BLAG is watching this situation closely.

Homeless Person Legal Service

A new service, Homeless Persons Legal Service, is serving to further highlight the issues faced by boarding house tenants. The service is an initiative of the Public Interest Advocacy Centre (PIAC) and the Public Interest Law Clearing House (PILCH), and provides legal services to people who are homeless or at risk of homelessness.

HPLS has stated that it is committed to working with BLAG in achieving legislative protection for boarder/lodgers and highlighting the multiple human rights violations experienced by people who are homeless.

For more information on the service you can contact Emma Gollidge on 9299 7833 or homelessproject@piac.asn.au

ALI

Active Linking Initiative (ALI) is a NSW state government program. It provides funding for community services to run programs designed to help people with disabilities living in boarding houses to engage with the community. This is achieved through activities that promote recreational, vocational and educational opportunities. In March this year, Disability Service Minister, Carmen Tebbutt announced the refunding of this program.

E Bulletin

BLAG have produced its first e bulletin, aimed at keeping interested people up to date with the campaign and boarding house issues. If you would like to receive the e bulletin contact Jesse Booth on 8272 7206 or at jesse_booth@fcl.fl.asn.au. ♦

BILLS, BILLS, BILLS!

The Energy & Water Ombudsman NSW (EWON) & Energy Accounts Payment Assistance (EAPA) vouchers

Many tenants, especially those with young families, often find themselves faced with an unfortunate combination of costs at the one time. A child may need unforeseen medical assistance at the same time as the car is up for registration. The practicalities of work and child rearing demand its usage. Then the bills arrive, one after the other. One of the kids has been leaving the heater on at night. The electricity bill has skyrocketed! Groceries need to be paid for. Then there is the rent...

At such times it is advisable that tenants contact local community agencies such as St Vincent de Paul or the Salvation Army. Most of these agencies have Energy

Accounts Payment Assistance (EAPA) vouchers that can assist with some of the payment. It is also advisable that the tenant contact the Energy & Water Ombudsman NSW (EWON). EWON can contact your provider, explain your situation, and negotiate on your behalf a realistic payment plan.

In one case, a volunteer from the St Vincent de Paul Society called EWON on behalf of a customer who had just received a disconnection notice for \$312 outstanding on her account. The customer had very young children and was experiencing financial difficulties.

The Society was able to offer the customer two \$30 EAPA vouchers and some food vouchers but was unable to negotiate a payment plan with the provider. The volunteer then contacted EWON for help.

Following the St Vincent de Paul Society EAPA assistance, EWON was able to secure an affordable payment plan with the provider, and the customer's power remained connected. ♦

A reasonable landlord

A disabled client was hoping to have his bond refunded after breaking the tenancy agreement early. The landlord was contacted and provided a list of costs at the end of the tenancy. Their claim included cleaning and minor repair costs, but did not include any compensation because the tenant was ending the tenancy agreement early. WESTS's Tenancy Worker calculated that the tenant may have faced an order to pay the landlord at least \$240.00 on top of the bond if the matter went to the Tribunal. The tenant requested that WESTS ask the landlord if he could have \$100 of his bond returned to him. This was agreed to and the tenant received his cheque within the week. Landlords generally are not a generous lot, but there is no harm in asking! ♦

The sheriff at the door

New rental investors have been enticed into the market because of the large tax benefits that flow from negative gearing and the halving of capital gains tax in 1999, and record low levels of interest. A number of landlords could not sustain their investment and have ended up in the Supreme Court because of default in mortgage repayments. In one case handled by WESTS the tenant had been in the premises for only 6 weeks of a 12 month tenancy agreement when the sheriff delivered a notice that a warrant was to be exercised one week later. It is highly unlikely that the real estate agent was not aware of the action in the Supreme Court because the previous occupant had been alerted to proceedings by the court. The real estate agent moved very quickly to find the tenant alternative accommodation. In another case, tenants were 3 months into a fixed term when the landlord requested that they move out without any compensation because the financial institution was about to obtain a possession order because he had defaulted on his housing repayments. The tenants had been receiving lots of mail at their address for the landlord, including from debt collectors. The tenants estimated that they will incur a loss of over \$6,000 by moving because they run a small business from the premises and they will need to change letterhead on stationery and so on. The tenants successfully negotiated payment of \$2000 compensation up-front in return for moving out in addition to a rent waiver for the time they remain in possession of the property, rather than join the queue of everyone else chasing the landlord for money. This agreement effectively penalises the tenant to a greater extent than it does the property owner. Nevertheless, the landlord honoured this agreement and the tenants duly moved out. ♦



Legal Service for the Homeless

A new legal service has further exposed the lack of legal protection for people living as boarders or lodgers. The Homeless Persons Legal Service, an initiative of the Public Interest Advocacy Centre (PIAC) and the Public Interest Law Clearing House (PILCH), provides legal services to people who are homeless or at risk of homelessness.

As NSW has still failed to introduce legislative protection for Boarder and lodgers many are vulnerable to homelessness.

"The service has seen many clients that live in crisis accommodation and lodging situations. The tenuous nature of lodging results in an inability to deal with other legal issues and is a barrier to getting your life together," Notes Emma Gollidge, the Co-ordinator of the Service.

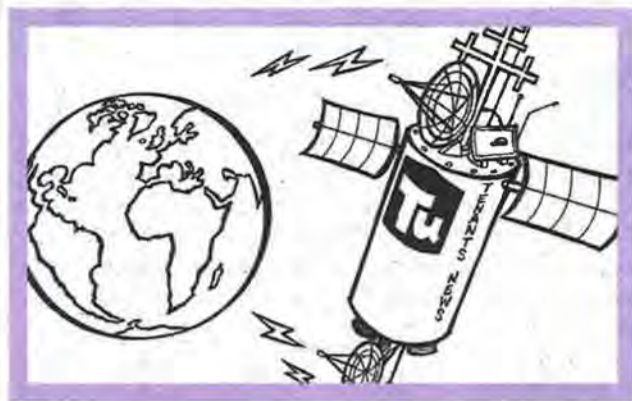
HPLS has stated that it is committed to working with BLAG in achieving legislative protection for boarder/lodgers and highlighting the multiple human rights violations experienced by people who are homeless.

For more information on the service you can contact

Emma Gollidge on 9299 7833 or

homelessproject@piac.asn.au ♦

Tenancy News Across the Globe...



South Africa

The Johannesburg municipality have evicted several buildings in inner city Johannesburg as part of their gentrification strategy make way for mixed residential and business development, ridding the city of the destitute. Needless to say the poor people who are being evicted will never be able to afford the luxury lofts and penthouse apartments that are being developed. The Johannesburg mayor Amos Maseko himself openly stated that people who earn less than R3000 a month should not be in the city center anyway. But for the people who work or trade in the city and cannot afford, with their meager subsistence earnings, to commute everyday from farther a field this is unthinkable.

The city center is in desperate need of rejuvenation; buildings are dilapidated and the streets are overflowing with refuse. Those that stand to benefit from gentrification justify their actions by saying that it is the residents fault for letting their communities get so run down and dirty, and that they are therefore deterring investment and tourism. If the municipality does not provide adequate services then what are the residents of the inner city expected to do? They cannot rely on the landlords, who are quite happy to take the rent from their tenants (even after they have been informed by the City that buildings they let are going to be evicted!) without ever putting anything back into the buildings. Be it a coat of paint or decent sanitation. Evictions are continuing.

[www.zabalaza.net]

UK

British deputy PM's policy of forcing local councils to privates the management of council housing has been thrown into disarray after a humiliating defeat at the UK Labour party conference. Delegates overwhelming backed a resolution stating that tenants should not be financially penalised if they opted to keep their homes under council control. Delegates also voted by a margin of around eight to one against the leadership and in favour of the resolution. It stated: "Labour will ensure that where tenants chose to remain under the management of their local authority they will not be financially disadvantaged. Funds available for stock transfer will be equally available for councils, ensuring a level playing field." The resolution adopted by the conference will now make it difficult for Mr Prescott and his team to maintain this policy. According to one source Mr Prescott and Jack Dromey, deputy general secretary of the Transport and General Workers Union, had a "stand up row" over the issue.

Alan Walter, from the campaign Defend Council Housing, said: "Council tenants' opposition to the privatisation of their housing has finally got to the top of the political agenda. Tenants should now be telling local authorities to stop looking at options for new management of their housing, because it's clear that the government will now have to concede the fourth option of direct investment."

[www.society.guardian.co.uk/]

USA

A landlord was charged in what is believed to be the first criminal prosecution in Wayne County for failing to repair a lead-based-paint hazard. Prosecutor Kym Worthy announced that Paul Mashni, landlord of Pointe Garden apartments, will be prosecuted as the first in a crackdown on those who knowingly expose tenants to lead hazards.

It was a Pointe Garden apartment that county officials say poisoned Tyler Varner. He was 2 years old when he went into convulsions one night last summer because of dangerous

levels of lead in his bloodstream. The lead came from peeling paint and paint dust from the windows in Tyler's apartment, investigators say. Tyler's mother, Terry Ward, said doctors told her Tyler has permanent brain damage.

County officials say Mashni ignored several orders to fix the problem. Mashni, whose Plymouth company, PEM Investments, manages several apartment complexes, said Wednesday that he never received the orders because they were delivered to a wrong address and never forwarded to him.

County testing of paint dust showed lead levels up to 75 times higher than state and federal standards allow. If convicted, Mashni may only face a \$200 fine, spend up to 90 days in jail or both. State senators approved a bill that would make it illegal to rent a dwelling with known lead-based-paint hazards.

[Detroit Free Press - Indexed on Nov 11, 2004]

Canada

Vancouver proclaims Tenants' Rights Action Coalition Week to mark 20 years of affordable housing and tenant advocacy. TRAC was formed in 1984 when the provincial government of the time dismantled regional Rentalsman Offices and abolished rent controls. As part of the Solidarity movement, a group of tenants got together to challenge the erosion of tenants' rights. Among TRAC's successes in the past twenty years are blocking eviction without cause, winning a Supreme Court challenge to discriminatory secondary suite bylaws, and helping develop the 1995-2003 system of rent protection that protected tenants from economic evictions.

[www.tenants.bc.ca/bulletin/]

A piano-playing landlord

A tenant applied to the Tribunal for rent reduction and compensation because, on moving in, they discovered that the landlord used the garage as a music room and taught piano from 7.30am to 9.30pm everyday. This case raised the complex and unresolved issue of the applicability of the Civil Liabilities Act to tenants' claims for compensation. Partly because of this, the dispute spanned five months and the tenant decided they couldn't wait any longer and abandoned their tenancy. ♦



The Housing Problems of Immigrants to the United States

Illegal immigrants are probably the most vulnerable people when it comes to housing. They are easy targets for exploitative landlords who threaten reporting them to immigration authorities if they try to assert their rights. Unaware of laws that set standards for apartment conditions – and intimidated by landlords – they hesitate to complain, and often live in miserable conditions, going months without heat or hot water.

If they do actually find themselves in Housing Court, the US equivalent to the tenancy tribunal, they often face a double whammy: They do not understand the language being spoken, and they also do not understand the legal system they are dealing with – a system that regularly confounds English-speaking legal citizens who do know something about the law. Like most tenants, they represent themselves at the court, and their opposition is an attorney, highly educated and well-versed in the language of the court.

Responding to a call from the New York Immigration Coalition, advocates are searching for answers to the housing problems immigrants face. Comprising 40 percent of New Yorkers, immigrants' housing problems are substantial.

But there are few easy answers. Consider the case of a West African immigrant Safiatou, a slight woman with three children. She was in the Housing Court recently trying to figure out if she could continue living in the two-bedroom Bronx apartment she has called home for the last three years. It was doubtful.

Although the apartment was rent stabilized, a status that offers tenants many protections, Safiatou was never on the lease and only distantly related to the man who was. He disappeared about four months ago and Safiatou, who occasionally earns some money braiding hair in Harlem, has only a fraction of the back rent the landlord was seeking and makes not nearly enough to pay the \$888 monthly rent.

Safiatou does not speak a word of English. In the village in the Ivory Coast where she grew up, housing conflicts are resolved by the village chief and almost never would result in someone becoming homeless.

"Maybe I can find a roommate," she said in her native language, as she considered her options. "I have nowhere to go otherwise."

But with no right to the apartment and the landlord's attorney unwilling to even consider giving her a lease, Safiatou's idea was a non-starter.

The coalition's project was launched after focus groups comprised of immigrants identified a variety of housing issues. The groups varied by nationality, gender, age, immigration status and area of the city, from senior citizens in Chinatown to undocumented West Africans in Harlem to Arabic-speaking women in Brooklyn.

"What was interesting was that although there was a unified voice for affordable housing, there were unique issues for each group," said Ben Ross of the New York Immigrant Coalition.

Since then, Ross has organized meetings that have included a wide variety of groups working with immigrants and others working with tenants. Just connecting these groups was a step forward. At the first meeting, advocates exchanged business cards, probably as important a step as the discussion of problems for immigrants and tenants.

The expertise, connections and experience of advocates in both worlds will be extended as a result. Already, housing advocates are setting up training workshops on tenant rights. And immigrant advocates are helping housing advocates recognize the problems immigrants face, such as language barriers at Housing Court.

Housing advocates are hoping that helping organizations that help immigrants will bring more people out to rally for better housing code enforcement, more just enforcement of housing laws, creation and preservation of affordable housing and strengthening of the rent stabilization law.

Joe Lampert November 2004,
<http://www.gothamgazette.com/article/housing/20041109/10/1175> ♦



Tenant News Showcases:

Our mystery cartoonist strikes again



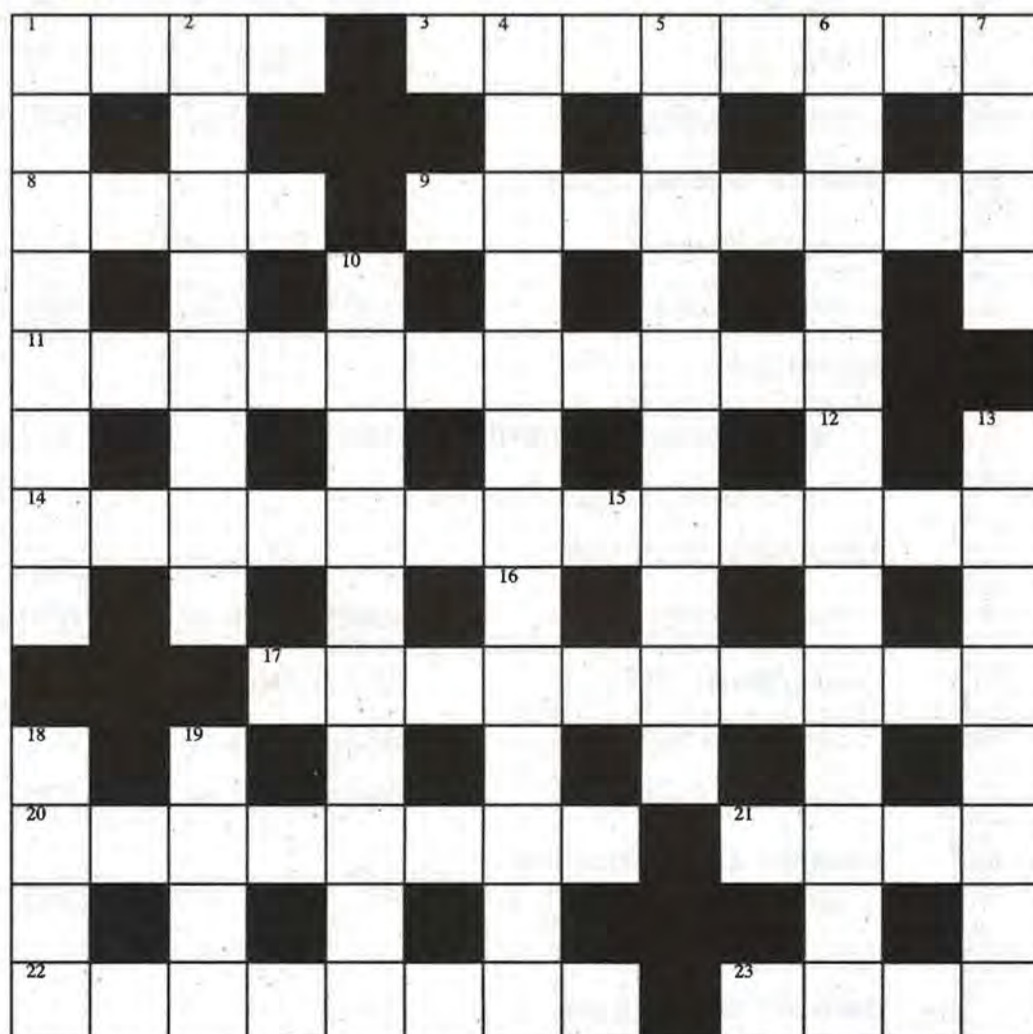
Tenancy legal crossword puzzle

ACROSS

1. amount payable by a tenant under a residential tenancy agreement in respect of a period of the tenancy (4)
3. owner of a rental property (8)
8. place a tenant's details on a tenant database (4)
9. an animal, not suitable as a pet in modern apartments (8)
11. artificial radioactive element, toxic to landlords and tenants alike (10)
14. a minor sin, eg paying the rent less than 14 days late (6)
15. legal undertaking between parties, held in the custody of a third party until some condition is satisfied (6)
17. tasty treat, much enjoyed by tenants (6,4)
20. British PM who sold off much social housing (8)
21. homeless man of the Himalayas (4)
22. renters who receive meals with their accommodation (8)
23. negative return on an investment (4)

DOWN

1. family member (8)
2. pointy end of a aeroplane, behind which the pilot sits (who may be a tenant. Or maybe not) (8)
4. landlords' representatives (6)
5. South Australian Premier who introduced the first Residential Tenancies Act (3, 7)
6. essential kitchen equipment that a landlord should repair urgently if broken (4)
7. group accommodation (4)
10. biased, eg like how the Residential Tenancies Act favours landlords' interests (10)
12. famous musician and producer who played synthesisers and other instruments on David Bowie's album 'Lodger' (5, 3)
13. enticements — do not accept from strange real estate agents (8)
16. occupation chosen as one's life's work, eg tenant advocate (6)
18. cheque or deposit book butt (4)
19. long dramatic story, eg of a dispute with a landlord (4)





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 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.
- ✓ If you stop paying rent you can be asked to leave. Rent strikes do not work.

Remember: your landlord can't evict you - only the Tribunal can.

For more help

Contact your local Tenants' Advice and Advocacy Service.

Sydney Metro

Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Southern Sydney	9787 4679
South West Sydney	4628 1678 or 1800 631 993
Eastern Suburbs	9386 9147
Western Sydney	9891 6377 or 1800 625 956
Northern Sydney	9884 9605

Coastal

Illawarra/ South Coast	4274 3475 or 1800 807 225
Central Coast	4353 5515
Hunter	4929 6888 or 1800 654 504
Mid Coast	6583 9866 or 1800 777 722
Northern Rivers	6621 1022 or 1800 649 135

Greater Western NSW

North West	6772 8100 or 1800 836 268
South West	6361 5307 or 1800 642 609

Specialist

Older Persons Tenants' Service	9281 9804
Parks and Village Service	9281 7967

Aboriginal Services

Western NSW	6882 3611 or 1800 810 233
Southern NSW	4472 9363 or 1800 672 185
Northern NSW	6643 4426 or 1800 248 913
Greater Sydney	9564 5367 or 1800 772 721

Tenants' Union Hotline

Mon-Fri 9.30am-1 & 2-5pm	1800 251 101
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www.tenants.org.au

For fact-sheets and for further information about the Tenants' Advice and Advocacy Program



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: _____

return to: Tenants Union of NSW, 68 Bettington Street, Millers Point 2000

NSW Tenants' Advice and Advocacy Services