

# TU tenant NEWS

Free newspaper of the Tenants' Union of NSW

Issue 83 December 2006

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## Taking the Casa out of Casa Paloma

by Nassim Arrage

Liverpool City Council has given consent, on 10 November 2006, to a development that will mean the forced eviction of all 50 households remaining at Casa Paloma Caravan Park.

Casa Paloma is a caravan park located at Leppington in the Liverpool Local Government Area. It is currently home to over 50 households.

The Tenants' Union and the Parks and Village Service have been working with the residents to save their homes or at the very least to ensure that residents are given enough time and money to relocate.

A park owner cannot evict residents who own their own dwelling without development consent, unless a resident is in breach of their agreement.

The Residential Parks Act does allow residents to be paid compensation by the park owner. Compensation is limited to the costs associated with relocating their dwelling. Sometimes residents cannot relocate their dwelling because there is a lack of alternative sites or the dwelling is too old. This means that these residents are not entitled to any compensation and the best they can do is sell the dwelling for a fraction of its value. These residents face the prospect of having to dispose of their dwelling and the risk of homelessness.

Those residents who do not own a dwelling (i.e. they rent the dwelling and the site) are not entitled to any compensation under the Residential Parks Act.

If forced to leave, many of the residents do not have enough money to relocate and establish a new tenancy. Many face the real risk of homelessness.

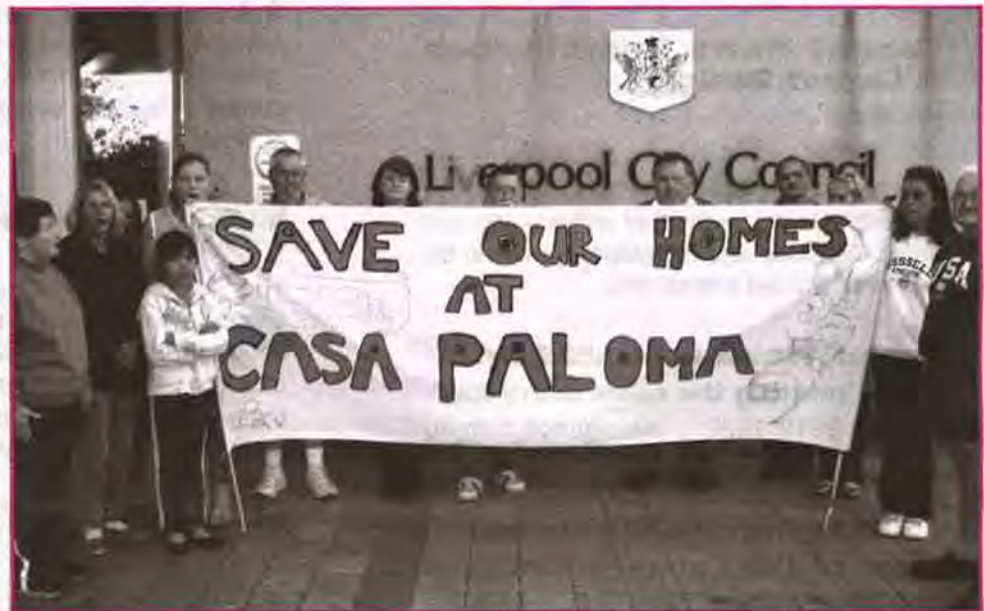
Residents who own their own homes (caravan, mobile home, manufactured home) are likely to lose the only significant asset they own because there is nowhere to move the dwelling to. Residential parks, in NSW, have been closing at an alarming rate. There is fierce competition for residential sites.

Dr Judith Stubbs, a social and economic impact expert engaged by the residents, has written a report that highlights that the effect of the development cannot be mitigated. This means that there is no real way you can make up for the loss of Casa Paloma as a form of affordable housing in the Liverpool area or the impact of relocation on the residents. Dr Stubbs' report considered loss of community and financial costs.

However, Dr Stubbs indicated that the following measures would help lessen the effects of the development on the residents:

- ★The appointment of an independent Tenant Advocate/Relocation Officer who would assist the residents find suitable alternative accommodation

- ★A minimum of \$3000 for those residents who rent their home to cover the costs of relocation, including removalists, four weeks bond, two weeks rent and reconnection of services



Residents and campaigners gather outside Liverpool Court House.

### What Does The Development Mean For The Residents?

This development means that all the current residents will have to leave the park. If the residents want to return after the development, our research indicates that they will need to pay between \$100,000 and \$150,000 to buy a new home. The remaining residents cannot afford to pay that amount of money for a new home.

#### WHO LIVES AT CASA PALOMA?

Most of the residents experience social and economic disadvantage.

In July 2006, Dr Stubbs conducted a Social Impact Assessment. She interviewed 61 households. Her findings include:

- Over 50% of all respondents were aged 55 years or more
- 60% of the respondents were single person households
- 10% of the respondents were single parents
- 15% of the respondents had dependent children
- 30% of the respondents (4 times the Liverpool average) were unemployed and 31% receive the aged or disability pension
- Over 30% of the respondents have lived in the park for over 10 years

- ★The replacement cost of a caravan, mobile home or relocatable home for those that own their own dwelling

- ★The developer provide at least 30% of the new housing, as affordable rental accommodation

Liverpool City Council's condition on the development (in relation to social and economic impact) is payment to residents of between \$1000 and \$2000 depending on how long they have lived in the park. Payment of an additional \$500 to those with dependent children and those who are frail or disabled is at the developer's discretion.

The above payments are conditional on residents leaving within three months of receiving notice of termination. For those who own their own dwellings, this means trading away the 12 month notice period under the Residential Parks Act.

### The Campaign to save Casa Paloma

In September the residents began a campaign to save their community. They called on the local, national and international community to help them. They needed support to move the Council to either stop the development or at least ensure that the residents were

given enough money to assist with their relocation and enough time to find suitable accommodation.

Appeal letters were subsequently sent to the Council by a range of individuals and organisations from both Australia and overseas, including:

- ★Federation of Community Legal Centres in Victoria
- ★Punjab Urban Resource Centre (Pakistan),
- ★Eviction Watch and Urban Poor Associates (Philippines),
- ★Lumanti Support Group for Shelter (Nepal),
- ★Urban Resource Centre (Pakistan)
- ★Borderlands Cooperative, Sahmakum Teang Tnaut Phom Penh (Cambodia)
- ★GetUp Australia
- ★Public Interest Law and Advocacy Project (Cambodia),
- ★Hallam Goad (Cambodia)
- ★Homeless Persons Legal Rights Project (Australia)
- ★SHELTER NSW.

The residents want to express their gratitude to all those who wrote to the Council and the organisations and people who are supporting them through this process.

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tenants' union of nsw

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*Views expressed by the contributors to Tenant News are not necessarily those held by the Tenants' Union of NSW.*

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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 tenants 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.

**Vision**

A society in which people in New South Wales are able to access safe, secure and affordable rental housing.

**Values**

The Tenants' Union applies the following values to the full range of its activities:

- ★ A belief that social justice is critical to the health of any society
- ★ A belief that all people have a right to safe, secure and affordable rental housing
- ★ A commitment to building the capacity of tenants to help shape laws and policies that impact on their tenancy, including through active engagement in tenancy organisations such as the Tenants' Union

★ A belief in the value that tenants bring through their participation in the Tenants' Union's governance and operations

★ A commitment to ensuring that those groups within NSW who are particularly disadvantaged, such as Aboriginal and Torres Strait Islander communities, people with disabilities, vulnerable youth, the aged, refugees and people from culturally and linguistically different backgrounds are able to access the services of the Tenants' Union

★ A commitment to working collaboratively with government, tenancy organisations and other community-based groups to promote equitable housing outcomes for the people of NSW

**Mission statement**

The Tenants' Union seeks to promote a secure, affordable and appropriate housing environment by representing the interests of all tenants and other renters in NSW & by working towards just and sustainable solutions to housing problems.

**We do this by:**

- ★ Engaging tenants in a democratic organisation
- ★ Raising awareness of tenants' rights, developing policy solutions to housing problems & conducting lobbying & law reform activities in support of better housing
- ★ Providing quality legal advice and information services to tenants in NSW
- ★ Supporting the work of tenancy organisations
- ★ Operating an efficient & productive secretariat.

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.

**Tenants' Union Board of Directors**

David Vaile, Ruth Simon, Joy Connor, Brendan Edgeworth, Jennifer Rignold, Sue Scott, David White, Kerry Bevan, Joanne Daniels, Christine Gibson (until 7/12/06), James Allen (until 7/12/06)

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# Editorial

by Christine Gibson, Editor



The Tenants' Union of NSW ends its 30<sup>th</sup> year having just moved into long-awaited clean, light and spacious premises in Surry Hills. During 2006 the Tenants' Union has continued to develop organisationally in addition to maintaining its resourcing, training and advocacy functions. Apart from locating, negotiating and finding financial support for moving and renting the new office; other notable achievements include producing a detailed strategic plan, engaging fabulous new staff, winning 2 consumer awards for our highly valued training and receiving appreciation for the professional contributions made by dedicated staff in a number of arenas! Such positive feedback is richly deserved.

The 2006 Annual General Meeting of members happily did not have to be held in the seriously, seedy Millers Point premises. Excitingly the 2 vacant positions on the Board were both filled by public housing tenants.

As indicated by the articles in the current issue, next year will undoubtedly bring further challenges to the network of inspired energy and material reality that constitutes the Tenants' Union of NSW.

Thanks to the *Tenant News* contributors as well as to Pru, Carmen and Michelle and the members of the Board for all their support, professionalism and camaraderie during the year.

Seasons greetings to all.

Christine Gibson



**Tenants' Rights Manual**

The 3rd edition of the Tenants' Rights Manual (TRM) will be available in January 2007.

The TRM provides up-to-date information about NSW tenants' rights in a wide range of situations. Chapters include:

- ★ Starting a tenancy
- ★ Rental bonds
- ★ During the tenancy
- ★ Ending a tenancy
- ★ Locks and security
- ★ Repairs and maintenance
- ★ Share housing
- ★ Residential Park tenants
- ★ The Consumer, Trader and Tenancy Tribunal.

The TRM includes new sample letters that give tenants guidance when dealing with landlords and agents on a range of issues including bonds, repairs, ending a tenancy, privacy and access.

For more information contact the Tenants' Union of NSW (02) 8117 3700 or check the Federation Press website [www.federationpress.com.au](http://www.federationpress.com.au)

**Don't Let Your Landlord Rip You Off!**

The Tenants' Union NSW website contains a lot more information about tenancy issues including latest news, fact sheets, contact details for your local tenancy service and much more!

[www.tenants.org.au](http://www.tenants.org.au)



# The Tenants' Union Today

## The Tenants' Union of NSW Celebrates 30 Years

As part of the Tenants' Union of NSW's thirtieth anniversary, previous editions of *Tenant News* have looked at the history and formation of the organisation (TU). This edition looks at the TU today, as it continues to fight for tenants' rights and helps resource and support the Tenancy Advice and Advocacy Program Network.

After a period of de-funding tenants' advisory services (see issue 82, *Tenant News*), the State Coalition Government agreed in 1993 to re-establish tenants' services across New South Wales. This came after tenants' rights activists successfully waged a long campaign for the re-funding of such services. The new network was called the Tenants' Advice and Advocacy Program (TAAP) - and so became the TAAP Services. TAAP funding is now provided by the Rental Bond Board Interest Account as well as the Property Services Statutory Interest Account (formerly the Real Estate Agents Trust Account), rather than from tax revenue. The program is administered by the Office of Fair Trading.

TAAP services provide a frontline defence against daily injustices towards tenants across NSW. They:

- ★ Help tenants in conflict with real estate agents, landlords, the Department of Housing, community housing providers and/or residential park managers
- ★ Include specific services for Aboriginal tenants, older tenants and residential park tenants
- ★ Actively provide information to culturally and linguistically diverse groups and agencies that work with vulnerable tenants
- ★ Provide phone advice to tenants in their local areas and participate in the Tenants' Hotline statewide
- ★ Provide a series of tenancy fact sheets and other publications to tenants
- ★ Assist tenants with hearings in the Consumer, Trader & Tenancy Tribunal, where appropriate.

Today the TAAP network is made up of 14 generalist services and 5 services dedicated to Aboriginal and Torres Strait Islander tenants. The network also includes resource bodies for residential parks and aged tenants, with the Tenants Union being the peak Tenants' organisation and resource body for the entire TAAP network. The Tenants' Union resources TAAP services by providing advocates with ongoing training, access to a number of specialist solicitors,

maintenance of the tenants' website and contact databases,

information and community education resources, and the co-ordination of regular meetings to bring advocates from across NSW together.

As well as being the peak resource unit for the Tenants' Advice and Advocacy Program across NSW, the TU is also a specialist community legal centre. The Tenants' Union often takes on public interest cases where litigation is involved. Through these cases the TU seeks to improve and clarify tenancy law. In addition to casework and advice on tenancy law, the Tenants' Union actively campaigns for policy and law reform to improve the rights of all tenants. Through policy submissions and lobbying with relevant government Ministers and their departments, the TU raises major issues affecting tenants and seeks to influence positive policy outcomes.

### Current Tenants' Union Campaigns

#### "Just cause" termination of tenancies.

The TU believes that there should be no such thing as a 'no grounds' notice of termination. Under the current law, landlords don't have to give a reason for terminating a tenancy that has run beyond its initial fixed term. Of course there is always a reason for wanting to end an agreement but the laws, in allowing 'no grounds' notices, provide easy opportunities for landlords to hide a multitude of bad reasons for termination. The TU believes the law should require landlords to be transparent with their reasons for terminating a tenancy. The law should require that while some reasons (such as rent arrears, a contract for sale or the approved redevelopment of a property) constitute sound grounds for termination, others do not.

#### Protections against excessive rent increases

Under the current law, the legal process for increasing the rent is initiated by the landlord, but the onus is on the tenant to prove that a proposed increase is excessive. The evidence necessary to meet this onus is invariably more accessible to the landlord than it is to the tenant. As a result, tenants have great difficulty in successfully pursuing a claim that a rent increase is excessive.

The TU believes that where an application is brought to the Tribunal in relation to an excessive rent increase, the landlord should be required to show that the increase is not excessive. We also believe it is appropriate

to limit the frequency of allowable rent increases to not more than once in 12 months.

#### Protection against "bad tenant" databases

Tenant databases - sometimes known as 'blacklists' - are a menace to tenants. At worst a database listing can unfairly keep a person out of the rental market - at the very least a listing can significantly reduce a person's available rental options. Sometimes tenants are listed for trivial or wrong reasons. The threat or fear of a database listing can act as a deterrent to tenants who might otherwise try to assert their rights. Tenant databases are poorly regulated, and cannot be relied on to regulate themselves. The TU believes that tenant databases do not have a place in a fair rental housing system. There are numerous other methods of testing the suitability of prospective tenants.

While governments continue to allow tenant databases to operate, there is a need for strong laws tightly restricting the kind of information that can be kept as well as the circumstances in which a person can be listed on a database. Laws allowing tenants to apply for the removal of incorrectly listed information from a tenant database are also needed, as well as for the removal of information in the event that the reasons for a listing are resolved. In September 2005 the NSW Office of Fair Trading introduced regulations prescribing how and when real estate agents in NSW can list tenants on a database. These regulations do not apply to database operators themselves, or to private landlords or residential park owners. The Tenants' Union continues to lobby the Office of Fair Trading on the effectiveness of these regulations.

#### Laws equipped to handle co-tenancy break-down...

Current laws can be ineffective when disputes arise between tenants who appear on a written lease together. Co-tenancy disputes involve conflicting interests between people who are treated as a single entity under the residential tenancy agreement. There is no straightforward way for a person to end their liability under a co-tenancy, even after they move out, if their co-tenant does not wish to end the tenancy.

The TU believes the law should provide the following:

- ★ a simple method for assigning a departing co-tenant's full interest in a tenancy to another person, provided everybody consents to such an arrangement. Landlords should not be able to refuse this without good reason.
- ★ an orderly process for co-tenants to end their liability where they have moved out and are unable to assign their interest by consent.
- ★ resolution of disputes between co-tenants through the Consumer, Trader and Tenancy Tribunal.

The law should also recognise that victims of domestic violence may need to end or change their tenancy arrangements in order to secure their safety. If a co-tenant leaves rental premises because of domestic violence, they should be able to apply to the Tribunal for orders ending their liability. If they decide to stay in the premises, they should be able to apply for orders vesting the tenancy in their name only.

*continued on pg 5*



THE  
TENANTS'  
UNION OF  
NSW HAS  
MOVED!

↓

The new premises are at  
1 Buckingham St  
Surry Hills NSW 2010 →

P. (02) 8117 3700  
F. (02) 8117 3777

Hotline 1800 251 101  
& 8117 3750







# Mortgagee Repossession

by Ken Beilby

When financing the purchase of a property, the purchaser usually gives a mortgage to the lender. The mortgage is a form of security for the lender. The mortgage allows the lender to take action to recover the money if the purchaser does not comply with the loan contract. In many cases this involves repossessing and selling the property in order to get their money back. For tenants this means that they may lose their home as the landlord may change or the mortgagee may take possession of the premises and end their tenancy. More often than not, the tenant is the last person to find out that either of these things has or is about to occur. However, it is not a process that happens overnight. The landlord must be in default of their mortgage/loan contract before the mortgagee can begin to take action for repossession.

The first sign of a problem can be that the tenant receives a letter from the mortgagee (lender) stating that they need to start paying the rent directly to the mortgagee rather than to the landlord. This is 'a section 63 notice' as the power to issue the notice is given by section 63 of the Real Property Act 1900 (NSW). This notice will tell the tenant that the landlord is in default of their mortgage and that if the tenant does not pay the rent to the mortgagee then the tenant may have to pay the money twice (to the landlord and to the mortgagee). A section 63 notice does not end the tenancy. Nor does the mortgagee become the landlord. The tenancy does not end until the mortgagee obtains possession by an order of the Supreme Court.

Often the tenant will not be aware of any action that the mortgagee is taking in the Supreme Court until they receive a notice that they have to leave the premises because possession has been given to the bank. This notice will usually give the tenant 10 days from the date of the decision of the Supreme

Court to vacate the premises. The Court can give more time if it is aware of the tenancy and the circumstances of the tenant. To enforce the order the Sheriff may forcibly remove the tenant from the premises.

### Detrimental Impact on the Tenant

Tenants can be dispossessed of their premises with very little notice and little right or chance to recover it. If the tenant wants to get the premises back they will need to make an application to the Consumer, Trader and Tenancy Tribunal for an order that they be the tenant again. This order is hard to obtain. The tenant will need to show special circumstances that would warrant the tenancy being vested in them once again. If notice of the Supreme Court proceedings was given to the tenant, then such an application must be made within the Court proceedings as it cannot be made to the Consumer, Trader and Tenancy Tribunal.

If the tenancy is ended by an order of the Supreme Court, the tenant can seek compensation from the landlord. Compensation is in the form of a monetary award. If the landlord cannot pay their mortgage then it is unlikely that they will have any money to pay compensation for the loss of the tenancy.

### It Could Happen to You - an example from Maroubra

Mary moved into premises where the landlord had not paid the mortgage for some time. The landlord did not mention the mortgage or that the mortgagee was taking action in the Supreme Court for possession of the premises. The first thing Mary knew about the action taken by the mortgagee was from a notice delivered to her by a Sheriff's Officer. The notice gave Mary 10 days to vacate the property. Mary did not seek compensation from the landlord, instead she concentrated on finding a new place to live. Mary had lived in the premises for only two months of a 12 month fixed term agreement.

### Practical Tips

- ★ After you receive notice that you are now to pay rent to a mortgagee, keep in close contact to find out if/when an application to the Supreme Court for possession may be made;
- ★ Keep in contact with your landlord as they may be able to give you details of what is happening. Be aware that embarrassment and self interest may stop the landlord from being forthcoming.
- ★ If the mortgagee is seeking possession through the Supreme Court, you should negotiate with them to ensure that you have enough time to move out. If the mortgagee is unwilling to guarantee you time to move out, then write to them formally seeking time to move out. Request that they present the details of your circumstances to the Supreme Court so that it can be informed when making its decision as to the date to give possession to the mortgagee. A copy of this letter should also be sent to the Supreme Court (including the file number relating to the matter), to ensure that the court is aware of your circumstances and takes them into account when making its decision, just in case the mortgagee's solicitor forgets to mention it to the court.
- ★ If you decide to move out before you have been informed of an order of the Supreme Court, you will need to give appropriate notice to your landlord. If you do not give proper notice the landlord can seek compensation from you for breach of the tenancy agreement.



## From the Hotline

**Q** Our place is at Fairfield. It's a nice house and usually we have no trouble with the landlord. We have been here about two years. We received a notice from Sydney Water that they will cut off our water because the water bills have not been paid.

I thought we had to pay for water, but I have never received a bill.

What can I do?

**A** In the agreement (lease) you have agreed to pay for water usage if there is a water meter just for your place. Tenants who share water meters cannot be required to pay for water except in Public Housing (but that is another story).

The water account with Sydney Water is in the name of your landlord. The usual process is that the landlord pays the bill and then provides a copy to the tenant. Tenants only have to pay the "water usage" charge calculated from the meter readings. The other amount on the bill is called a "service charge"

and is not payable by the tenant.

Sydney Water does not usually cut off the water supply if the house or flat is occupied. What they do is 'restrict supply' if the bills are not paid.

You should contact Sydney Water and negotiate to pay the usage charge directly in return for them not restricting your water supply. Negotiate this for future water usage if possible. If you pay for past usage, it may be complicated by the landlord later claiming those amounts from you as well.

If you cannot negotiate a suitable agreement with Sydney Water, contact the Energy and Water Ombudsman of NSW



(EWON). The phone number is 1800 246 545. EWON can negotiate with Sydney Water for you as they have dealt with cases like this before.

Make sure you get receipts for any payments you make. Keep them, you may need them later.

If the landlord demands two years worth of water payments from you, contact your local Tenants Service for advice and assistance. Fairfield is served by the South West Sydney Tenants' Service. Phone them on 4628 1678 or 1800 631 993.

The Tenants' Union Hotline operates between 9.30 am-1 pm, and 2 pm-5 pm weekdays.



## Casa Paloma - Some background

- ★ In November 2005, Berlyn Properties Pty Ltd, a developer based in Brisbane submitted a development application to the Liverpool City Council to turn Casa Paloma Caravan Park into a manufactured home estate
- ★ Liverpool City Council, as the consent authority, had concerns about flooding, ecology and other issues
- ★ In May 2006, Berlyn Properties appealed to the Land and Environment Court because the Council had not made a decision on whether or not the development could go ahead
- ★ In June 2006, the Tenants' Union solicitor and Mr Eastman, barrister, were successful in assisting Ms Lynette Goldsmith, a resident of the park, become a party to the proceedings in the Land and Environment Court
- ★ The Court said that the social and economic impact of the development was a relevant and real issue
- ★ A hearing date was set for the end of August, 2006
- ★ During the intervening time the developer and Council resolved the flooding and ecology issues. All that was left was the social and economic impact of the development on the residents and the locality
- ★ On 15 August 2006, the developer moved the Land and Environment Court to vacate the hearing dates. The developer's lawyers said that it would be better for all concerned if Council made the decision on the development
- ★ At this hearing, in granting the vacation of the hearing dates, Chief Justice Talbot said: "It would be a very brave council that decided to grant development consent without properly, fully and adequately in a legal sense taking into account the issues the second respondent raises particularly having regard to these reasons and the finding of the Registrar that the second respondent is raising

an issue that should be considered. It is the determination of this Court that the issue should be considered in relation to the appeal."

- ★ Liverpool City Council decided to refer the development application to its Independent Hearing and Assessment Panel (IHAP).
- ★ On 7 September 2006, there was a meeting of IHAP. Over 30 residents of the Casa Paloma Caravan Park attended the meeting. The Tenants' Union and Mr Eastman represented the residents. The Park and Village Service and Dr Judith Stubbs gave submissions about the serious impacts the development would have on the residents and the general locality.
- ★ IHAP made the recommendation that development consent should be deferred, pending review of the development by Council's Design Review Panel on urban design issues. IHAP's recommendation indicated a preliminary approval of the development as long as there was a condition that the developer pay the residents between \$1000 - \$2000 if they left the park within 3 months. This recommendation goes against evidence and submissions that the residents put to IHAP.
- ★ On 25 September, Liverpool City Council passed this recommendation as a resolution. The resolution gives the Corporate Manager - City Planning, power to make the decision on the development. The residents had no right to speak at this meeting.
- ★ The residents then began a campaign to appeal to the Council to not give development consent.
- ★ On 31 October, there was another call over in the Land and Environment Court. The Council had still not decided about the development. Again, the developer and the Council said that development consent was expected within the week. The Chief Justice set hearing dates in November 2006.

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### What happens to future residents, if the development goes ahead?

The developer has said this is a transitional development. He seeks to turn Casa Paloma into a manufactured home estate for 15 - 20 years.

The manufactured homes will cost between \$100 000 and \$150 000. A resident who buys one of these homes will still have to pay weekly site fees. If this new development goes ahead as it is, the new residents will, in time, be in a similar position as the residents currently in the park.

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### Legal rights for boarders, lodgers and other occupants

Boarders and lodgers, and numerous other groups of renters, are expressly excluded from NSW residential tenancies legislation. As a result, they are without effective legal rights in relation to their housing. The TU believes that all occupants of rental accommodation should be covered by legislation that implements basic occupancy principles. These should include reasonable notices of rent increase and termination, and should allow the Consumer, Trader and Tenancy Tribunal to resolve disputes. Laws should also allow for the creation of various standard forms of agreement to specifically suit different types of rental accommodation, and which should apply if a renter is not otherwise provided with a legitimate occupancy agreement.

The Australian Capital Territory has recently passed laws for occupants' rights, which have won the support of residents' representatives and accommodation providers alike. New South Wales should pass its own occupancy laws so that all renters - tenants and occupants - have legislated rights.



### Equitable treatment for tenants of social housing

About one in twenty households in NSW live in social housing. Originally, social housing provided secure, affordable housing to poor and working households in a way that the private rental market failed to do. More recently, the failure of governments to properly finance social housing has meant that tenants in social housing often live in poorly maintained properties, in neighbourhoods where poverty and a range of social problems have become concentrated and entrenched.

Now the New South Wales Government is removing even the security and affordability of social housing. Under its 'reshaping public housing reforms', social housing rents will increase, and tenancies will be terminated if a household's income rises above certain limits. These changes create a poverty trap and further marginalise social housing neighbourhoods.

At the same time, social housing tenants are increasingly being treated differently at law. Recent amendments to the Residential Tenancies Act have inserted new terms about water charges and old debts into social housing tenants' agreements, created new grounds for terminating social housing tenancies, and reduced the scrutiny of the Tribunal in

### Where are we now?

There are close to 50 households that remain at Casa Paloma. The development consent means the eviction of Casa Paloma's permanent residents. The required payments will not cover the costs of relocation and finding suitable alternative accommodation.

The Tenants' Union and the Parks and Village Service are assisting the residents to explore both their legal and alternative housing options.



relation to evictions from social housing. Public housing tenants may be required to sign 'Acceptable Behaviour Agreements' (ABA's) additional to their usual tenancy agreements, under threat of eviction. Where a tenant is in breach of an ABA, the Tribunal has no discretion to make alternative performance orders if the Department of Housing applies for termination of the tenancy.

The TU opposes legislation that places additional, unfair burdens on social housing tenants and the use of residential tenancy law to implement draconian 'law and order' policies.

### Secure, affordable housing for all

During the last decade:

- ★ average house prices relative to income have almost doubled
- ★ the proportion of first homebuyers has fallen by about 30 per cent
- ★ the proportion of low-rent homes has fallen by about 15 per cent
- ★ opportunities to rent public housing have fallen by about 20 per cent.

More than 1.5 million lower-income Australians, especially renters and recent purchasers, are incurring housing costs above 30 per cent of their income. About 100,000 people are homeless in Australia on any particular night.

Housing problems are especially severe amongst indigenous people. Their home ownership rate is about half as high, and their rate of homelessness about four times higher, by comparison to other Australians. Other groups amongst which housing problems are particularly widespread include sole parents, unemployed people and people with disabilities. Significant difficulties are being experienced in a number of regional areas as well as in Sydney and other major cities.

The Tenant's Union of NSW supports the campaign, led by the National Housing Alliance, ACOSS, the ACTU and the Housing Industry Association for a National Housing Plan, including a National Affordable Housing Agreement.

For further information on the campaigning activities of the Tenants' Union of NSW please visit our website. [www.tenants.org.au](http://www.tenants.org.au)

★ all figures cited from [www.tenants.org.au](http://www.tenants.org.au)





# Tenancy News Across the Globe...

## Forced evictions reach crisis levels in Africa: Over 3 million evicted since 2000

Research conducted by Amnesty International and the Centre on Housing Rights and Evictions (COHRE) reveals that the practice of forced evictions has reached epidemic proportions in Africa, with more than three million Africans forcibly evicted from their homes since 2000. The two organizations have called on African governments to halt forced evictions and abide by their international human rights obligations. Jean du Plessis, Executive Director (Acting Interim) of COHRE, said, "Many African governments justify forced evictions on the grounds that they are essential for 'development', but by carrying out forced evictions, African governments are pushing people into poverty -- not pulling them out of it."

*COHRE/Amnesty International Joint Media Release, 4 October 2006, www.cohre.org*

## Government of Greece fails to stop forced evictions of Roma

The Greek Government is failing to curtail ongoing widespread anti-Romani abuses by local authorities, particularly in the area of housing. Local authorities in Patras and Chania have destroyed more than 70 Roma homes since July 2006 while more than 200 households are threatened with eviction. Nearly 60 Roma homes were demolished in Makrigianni and Riganokampos districts by the Patras municipal authorities since July 2006.

*17 October 2006, COHRE/Greek Helsinki Monitor Joint Media Release, www.cohre.org*

## Housing Rights Situation of World's Children Abysmal

The housing rights situation of the world's children is at crisis point causing millions of preventable child deaths every year, reveals a newly released report by Centre on Housing Rights and Evictions (COHRE) and Cordaid (Netherlands). According to the report, there are an estimated 150 million street children worldwide, some as young as three and around 640 million children (one in three) living in slums or inadequate housing in



the developing countries of Latin America, Africa and Asia.

The following examples cited in the report highlight the broad scope of housing rights violations that children suffer in all parts of the world:

- In the USA, poor children in inadequate inner-city housing are more likely to miss school and to develop chronic health conditions such as asthma in allergic reaction to the excrement of cockroaches, mice and other vermin.
- In Zimbabwe, since May 2005 more than 220,000 children were unable to attend school because they had lost their homes in the government-led forced evictions campaign known as "Operation Murambatsvina" (drive out rubbish).
- In India some 18 million children are 'pavement dwellers', living out their childhood on the streets of major cities.
- In the United Kingdom, one in twelve children will develop diseases such as bronchitis, tuberculosis or asthma because of inadequate housing.
- In Zambia, thousands of children have been orphaned by the HIV/AIDS pandemic. With nowhere to go, they line the streets of the capital, Lusaka, every evening.
- In Guatemala, hundreds of street children and homeless children have been ruthlessly murdered by armed vigilante groups with 'social cleansing' on their agenda.
- Roma children in European countries including Bulgaria, the Czech republic, Greece, Italy and Poland live in substandard housing and face violence during forced eviction at the hands of State officials and racist groups.

*20 September 2006 www.cohre.org*

## International Union of Tenants Down Under

The International Union of Tenants visits Australia.

Magnus Hammar, Secretary-General of the International Union of Tenants (IUT), toured Australia during November. Mr Hammar visited the Tenants' Unions of Victoria, Australian Capital Territory, NSW and Queensland. His visit coincided with the 20<sup>th</sup> anniversary of the Tenants' Union of Queensland and the 30<sup>th</sup> anniversary of the Tenants' Union of NSW.

The International Union of Tenants was founded in 1928 by the Swedish Union of Tenants. The IUT participates in the United National (UN) Economic and Social Council as well as in the European Council. The IUT has 54 members from 42 countries (including the Tenants' Union of NSW).

While in Sydney, Mr Hammar visited a Tenants Advice and Advocacy Service in Marrickville as well as a housing co-operative in the inner city and he spoke at the office of the Tenants' Union of NSW.

Mr Hammar spoke about the state of rental housing in Europe where many countries have conservative governments who are moving towards the sale of their public housing assets. The main problems facing tenants in Central and Western Europe are rent increases, 'invisible' landlords, bad management, ignorance (of their rights) and insecure tenancies.

The state of rental housing is grimmer in the Balkan States where there is little

protection for tenants. Many properties have been handed back to the relatives of those forced to leave during WW2. The new owners often see this property as an unexpected windfall and pay little regard to the tenants.

Some of these new owners, in an attempt to force an eviction, increase the rent by 200% or send 'hit men' to cut off the power supply or take out windows (in the middle of winter with the excuse that they are upgrading the windows).



*L-R: Lisa Woodgate, Eloise Finlay & Magnus Hammar, Secretary-General of the IUT*

Mr Hammar also said that the IUT welcomes African tenant organisations to membership. Many African tenants suffer from inhumane removals which leave families homeless. Some of the problems faced by African tenants' organisations are the lack of legal protection for tenants as well as the rapid urbanisation that is accompanied by unplanned settlement.

The IUT is committed to putting housing on the agenda of the European Council as well as working with the UN to stop unfair evictions and inhumane removal. For more information about the International Union of Tenants visit [www.iut.nu](http://www.iut.nu).

## ...And Around Australia.

### Rental Crisis in WA!

Western Australia's property market is now one of the most expensive in the country. There is also a shortage of rental properties, causing rising rental costs.

In Sydney, the increase in the average rental price for the past year was 1.1%, in Brisbane it was 6.3% and yet in Perth it was 25-30%, making Perth one of the most expensive cities in which to rent.

Even on an average income, rent increases put many people in housing stress (i.e. their rent is more than 30% of their income). There are few alternatives to renting in the private rental market with public housing, through Homeswest, is becoming even more difficult to access. Waiting periods, even for priority public housing, are very lengthy. Many people remain in crisis accommodation services for extended periods. A sharp rise in homelessness in WA is a likely result of the current "boom".

After all, if a 1% rise in interest rates effects

home owners greatly, what of the effect of 25% rent rises for tenants?

*Tenants Advice Service WA, <http://www.taswa.org>*

### Tenants' Union of Queensland Celebrates 20th Birthday in Style!

The TUQ's 20th birthday celebration dinner was held on Wednesday 8 November. Special guest for the evening was the Secretary-General of the International Union of Tenants, Mr Magnus Hammar. Magnus traveled from Sweden to help celebrate and along the way visited with Tenants' Unions in other states.

The MC for the evening was media personality, Helen Razer. Among other journalistic achievements, Helen writes a column for the Big Issue. Meeting Helen and obtaining her autograph was a particular highlight for TUQ's Big Issue supplier Ted Jones. Ted is also one of TUQ's dedicated



## Tenants' Union Takes Out Fair Trading Awards

The Tenants' Union was recognised for its outstanding learning and assessment resource for the Certificate IV in Community Services Advocacy at the Fair Trading Awards on November 8 2006. The Tenants' Union won both the Metropolitan Service Award, which recognises outstanding work in promoting consumer protection by community organisations, and the Metropolitan Syd Enfield Award, which recognises organisations or associations for their outstanding work in protecting vulnerable consumers. The Tenants' Union has done great work for tenants since 1976, advancing tenants' rights through law reform and developing a resource which improves competency among tenant advocates.

*Pictured L-R: Michelle Jones (TU Executive Officer), Diane Beamer (Minister for Fair Trading), David Vaile (TU Chairperson) Simone Montgomery (TU Training Coordinator)*



members who attended on the night. Among the past Co-ordinators and Steering Committee members were previous workers, families and funding body representatives.

*Tenants' Union of Queensland Press Release, November 13, 2006*  
<http://www.tuq.org.au>

### Victorian housing strategy welcomed

The Victorian Council of Social Services, Council to Homeless Persons and the Tenants' Union of Victoria have welcomed the release of the Victorian Housing Strategy while calling for the Government to ensure that the initiatives in the strategy are supported with sufficient resources to ensure its success.

The plan commits to three significant actions including minimising housing stress. Housing Stress is defined as households in the lowest 40% of the income distribution paying more than 30% of their income in housing. It also commits to continued advocacy around housing affordability with the Commonwealth Government.

All peak body representatives agreed "with the release of this State plan the pressure is on the Commonwealth Government to go back to the drawing board and develop some co-ordinated solutions to the problems of declining housing affordability."

*Tenants' Union of Victoria, Press Release, 26 September 2006* <http://www.tuv.org.au/>

### Australia celebrates International Tenants' Day

In May 1986, the Council of the International Union of Tenants (IUT) met in Paris and a decision was made to designate the first Monday in October as "International Tenants' Day," a worldwide day of tenant action and advocacy. This year's theme was "Stop illegal evictions!"

Many Australian tenancy organisations are members of the International Union of Tenants'. In Australia, the number of people renting (compared to home ownership) is increasing. Issues facing tenants are often overlooked. International Tenants' Day (and Tenancy Week) is an opportunity to raise awareness of tenant's rights and specific matters affecting tenants. In Australia, International Tenants' Day was celebrated in a number of ways, and for many states it marked the beginning of Tenancy Week.

### Western Australia:

To celebrate International Tenants' Day and kick off Tenancy Week, the Tenants Advice Service WA and the Tenancy Week Steering Committee launched the 'No Room in the Boom' campaign. The objectives of the campaign are to lobby for:

- More affordable renting options, ensuring there is a greater supply of rental properties now and in the future.
- Better consumer protection for tenants to ensure they are not vulnerable to short term market spikes (e.g. abolish letting fees, abolish option fees, and link rent increases to CPI).
- A redirection of revenue created by the economic boom toward increasing public and social housing stock.

### ACT:

In the ACT International Tenants' Day also marks the start of Tenancy Week. Each year the Tenants' Union ACT collaborates with ACT Shelter, Coalition of Community Housing Organisations ACT and Housing ACT to coordinate Tenancy Week.

In the ACT Tenancy week is used as an opportunity to raise awareness of tenancy issues as well as services available for people renting in the ACT. The week was launched at the Multicultural Centre, with tenancy speakers and an exhibition of artwork by tenants. During the week, activities included a Workshop on Domestic Violence and Tenancy for community workers as well as public information stalls at Westfield Belconnen and Woden Plaza. The launch of "The Renting Book" by Mr Simon Corbell MLA, ACT Attorney-General was also a highlight.

### Queensland:

The Tenants' Union of Queensland observed International Tenants' Day by calling for the removal of unfair evictions from our rental housing system. The TU Queensland and the Inner North Tenants' Advice and Advocacy Service also held an information stall in the Queen Street Mall in Brisbane to celebrate the day.

*Sources: Tenants' Advice Service WA, <http://www.taswa.org>, Tenants' Union of Queensland <http://www.tuq.org.au>, Tenants' Union ACT <http://www.tenantsact.org.au>*

## Tenants Rate A Mention

*Here are a few tenancy stories which made it into NSW media in the last few months. Please feel free to send the TU your media stories, especially from radio, TV or regional newspapers.*

### Rent Assistance paid to landlords instead of tenants

Federal Labor MP Craig Emerson wants to pay rent assistance directly to the landlord where people on social security benefits have a history of falling into rent arrears. He says that "that's good for the landlord, it's good for the tenants and it's good importantly for the children of those tenants who can be more assured of having a roof over their head."

*(ABC News online July 21 2006)*

### Rent increases = homeless families

Mission Australia has seen a 13% increase in the number of Western Sydney families using their Homeless Brokerage Service. Mission Australia's Kerry Edgecombe said "Part of the reason is financial stress caused by rising rental costs in Sydney"

*(Media Release Mission Australia 7 August 2006)*

### Ombudsman critical of boarding houses

The NSW Ombudsman has taken an interest in the Department of Ageing, Disability and Home Care's (DADHC) failure to monitor their licensed boarding houses. The report identified allegations of sexual assault, inadequate handling of medication, sub-standard food hygiene and appalling uncleanliness. NSW Ombudsman, Mr Barbour said "DADHC failed to adequately meet its July 2003 commitment to this office regarding the rolling out of an effective monitoring system".

*(Inner City Courier, 12 June 2006)*

### Family terrorised by landlord's "agents"

A family who were legal tenants on a property in Wellington were terrorised by a gang who arrived at the property with the landlord to evict them. The gang threatened the women with rape, to assault the tenant's father, to smash windows, and to cut off the power and drain the water tanks. The matter was being heard in the Supreme Court as the legal tenant, Mr Nam, shot the gang leader

and seriously wounded two accomplices. Justice Adams said "The Nams were in lawful occupation, attempts were being made to evict them with gross illegality".

*(Sydney Morning Herald 1 August 2006)*

### Privacy Act to cover all Residential Tenancy Database Operators

The Privacy Act 1988 will now cover all Residential Tenancy Database Operators. Attorney General, Phillip Ruddock said "This will provide an additional guarantee to tenants that their personal information is being handled fairly and appropriately".

*(Attorney General's Department Media Release 30 October 2006 -www.ag.gov.au)*

### Rents to increase in building drought

Rents will increase over the next five years because of housing shortages. BIS Shrapnel, an industry forecaster predicts that because of the downturn in the building industry rental markets are set to tighten. "Rental markets throughout Australia are as tight as a drum, with vacancy rates in all capital cities below 2.5 per cent as at June 2006," Mr Anderson from BIS Shrapnel said. There is a forecast that rents will increase by 5 per cent this year and by as much as 40% in the next five years.

*(Sydney Morning Herald, 30 October 2006)*

### Tenants unsure of their rights

The Office of Fair Trading's survey of consumers revealed that many renters overestimate how much they know. Diane Beamer, Minister for Fair Trading said "one-in-four tenants did not know that it was advisable to put their requests for repairs to an agent or a landlord in writing, and they could be missing out on some of their rights as a tenant." Ms Beamer further added that "a high number of tenancy disputes arise because people are not aware of their rights and responsibilities."

*(ABC Online 5 November 2006)*



# 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
  - and 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	4969 7666 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

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

[www.tenants.org.au](http://www.tenants.org.au)



### 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, 1 Buckingham St. Surry Hills NSW 2010

NSW Tenants' Advice and Advocacy Services