

# TU tenant news

Free newspaper of the Tenants' Union of NSW

Issue 84 September 2007

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## Public housing funding in doubt as Commonwealth calls on private sector

by Chris Martin

The Howard Government has put in doubt funding to state public housing authorities, including the NSW Department of Housing (DoH), after June 2008 and called on the private and non-government sectors to make expressions of interest in Commonwealth public housing funds.

The Minister for Family and Community Services, Mal Brough, made the announcement on 26 July 2007, the same day as the Labor opposition's Housing Affordability Summit, and described the proposal as "a major shake up of the delivery of public and community housing across Australia."

Minister Brough criticised state and territory governments' management of funds provided under Commonwealth-State Housing Agreement (CSHA), noting that the amount of social housing across Australia had fallen by 14 units since 1996–97. (See Minister Brough's media release, right.) The minister indicated that he especially wanted to receive proposals that would increase the supply of social housing.

The current CSHA is due to expire in June 2008. State and territory governments had been preparing to negotiate with the Commonwealth for a new CSHA for 2008 and beyond and were surprised by the Minister's announcement. (See the media release of the NSW Acting Minister for Housing, Linda Burney, right.)

Subsequent to Minister Brough's announcement, the Department of Families, Communities and Indigenous Affairs (FACSIA) has published an "information pack" relating to the expressions of interest. The information pack uses more moderate language than the Minister's announcement: for example, it refers to the call for expressions of interest as a "request for information", and states that "at this stage we are just seeking

new ideas" and that "no decisions have been made about future funding to the states and territories."

The FACSIA information pack also states that public housing tenants will not be disadvantaged by the government's change in policy, and that the change in policy is "about increasing supply, not about management of existing stock."

The request for information closes Friday 28 September 2007.

### TU commentary

In announcing that he seeks new uses of the Commonwealth's CSHA funds, Mal Brough complained that social housing in Australia has not grown over the last 10 years. Australian social housing has not grown because it has not been funded to grow. This has been the deliberate policy of the minister's own government.

Over the 10-year period referred to by the Minister, the Howard Government has cut funding under the CSHA in real terms by more than 25 per cent. This represents a total funding cut of more than \$3 billion.

When the Howard Government took office, funding under the CSHA was already in decline, and the growth of social housing was already slowing. The further very sharp reductions in funding under the Howard Government's CSHAs effectively ended any prospect of growth.

The Howard Government's no-growth policy is reflected not just in reduced amounts of funding,



but also in the terms on which it is provided. Unlike previous CSHAs, which dedicated specified amounts of funding to capital expenditure – that is, the land, bricks and mortar of public housing – the Howard Government's CSHAs dispensed with the capital expenditure requirement. The Commonwealth has not funded social housing to grow, nor has it purported to require it to grow.

**"Clearly, more of the same won't work", says Minister Brough. On this, at least, the TU and the minister agree.**

In 2004–05, the DoH's total recurrent expenditure, including on repairs and maintenance, was \$951 million. Had it collected the full market rent for each of its properties (in total, about \$920 million), the DoH would have almost covered its recurrent costs. Because 90 per cent of its tenants receive a rental rebate, the DoH actually collected a lot less in rent – about \$552 million. It needs ongoing funding to cover its recurrent costs. It also needs ongoing capital funding if it is to produce any additional social housing stock. ★

Media release by Mal Brough

### "Howard Government looking to the future for public housing"

Minister for Families, Community Services and Indigenous Affairs, Mal Brough, said current arrangements through the Commonwealth State Housing Agreement (CSHA) which have seen the Australian Government provide almost \$10 billion over the past decade directly to the states and territories, had failed to deliver additional housing for those most in need.

"Clearly, more of the same won't work and will not help those in need," Mr Brough said.

*continued on p. 4*

Media release by Linda Burney

### "Mal Brough yet again trips up in desperate power grab"

The Federal Government policy to rip out more than \$300 million each year in public housing funding will put 327,000 NSW tenants in jeopardy, Acting Minister for Housing Linda Burney said today.

"They have already stripped \$1 billion from the New South Wales social housing sector over the past three successive Commonwealth State Housing Agreements (CSHAs) funds that could have built 5,000 new homes for people in need in our state.

"Despite this lack of investment by Howard, Costello and 'bull-at-the-gate' Brough, it is an outright lie to say we are decreasing housing stock numbers.

*continued on p. 4*





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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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### About the Tenants' Union of NSW

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

The TU is also the peak resourcing body for Tenants Advice and Advocacy Program in NSW.

#### Vision

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

#### Mission statement

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

We do this by:

- providing legal services to economically and socially disadvantaged tenants including Aboriginal tenants, social housing tenants, park residents and older tenants
- conducting strategic litigation to advance the interests of tenants
- providing information and advice to all tenants on their legal rights and obligations and in particular to tenants who are economically and socially disadvantaged
- supporting advice and advocacy services for tenants
- conducting research about the rental market and problems faced by tenants in particular tenants who are economically and socially disadvantaged
- advocating for affordable, appropriate and secure housing for all people including people who are economically and socially disadvantaged.

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## Editorial

by Brendan Edgeworth

From time to time in recent years, various members of the Tenants' Union of New South Wales (TU) have raised the question of whether the organisation's objects accurately reflect its present practices, policies and composition. Adopted over 30 years ago, those objects have arguably needed re-examination in light of the many changes that have occurred over that period. These changes include the enactment of much pro-tenant legislation that the TU actively pushed for, such as the *Residential Tenancies Act 1987* and the *Landlord and Tenant (Rental Bonds) Act 1977*. In turn, new institutions have appeared, transforming the landscape of tenants' rights, such as the various generations of tenancy tribunal and the Rental Bond Board.



Also, the TU itself has evolved from a voluntary organisation campaigning for, and offering advice to, tenants, to become a co-operative that employs 12 persons, and with an annual budget of over \$1 million, almost all of which comes from government with specific obligations attached to it, such as the requirement to provide legal advice and assistance to tenants.

A more recent impetus to revisit the original objects is the TU's current application to the Australian Taxation Office (ATO) for Public Benevolent Institution (PBI)

status. The TU has received legal advice that the ATO will examine the objects as part of their assessment. As PBI status is based primarily on the criterion that the organisation provides direct benefits to disadvantaged persons – which the TU argues is now its primary function – the objects should be amended to record that fact.

Accordingly, a Special General Meeting was held at the TU at 5.30pm on Thursday, 6 August 2007 to consider a proposal to amend the present objects. After an extensive discussion that canvassed the range of changes to the organisation and the environment in which it operates over the last three decades, the meeting decided to adopt the proposed new list of objects.

In brief, they differ from the former objects in three respects. First, they emphasise the central operational features of the TU today as an auspicing body for the TAAP network, and a publicly-funded provider of legal advice and assistance to tenants, particularly for those who are economically and socially disadvantaged.

Second, the new objects continue to emphasise the advocacy work conducted by the TU, again with particular emphasis on the interests of economically and socially disadvantaged tenants.

Third, they exclude many former objects that pointed to a dominant feature of the TU in its early days as a campaigning and activist organisation.

In consequence, the new objects now accurately express the work that the TU presently does, namely as a specialised community legal centre with training, auspicing, policy development, and advocacy functions central. Despite the changes, it is important to emphasise that the objects reflect the fact that the TU remains committed to advocating for the rights of disadvantaged tenants in particular, a commitment that it has consistently demonstrated over the last 30 years, and will continue to pursue no less vigorously in the years to come.

### STOP PRESS

## Minister announces residential tenancy law reforms for NSW

On 22 September 2007, the Minister for Fair Trading published 102 suggested measures for reform of tenancy laws in NSW.

The TU welcomes the opportunity to comment and consult on the suggested measures.

These measures deal with a range of issues and address problems identified by both landlords and tenants.

Of greatest concern to the TU is a fast-track to eviction for failure to pay rent. The suggested

change puts the onus on the tenant to apply to the Consumer Trader and Tenancy Tribunal if they wish to oppose the eviction.

Grant Arbuthnot, Principal Legal Officer of the TU, is concerned that this measure will adversely impact on tenants of non-English speaking backgrounds and those with low literacy skills.

The TU will examine the suggested measures in detail and consult with the Office of Fair Trading regarding the impact on tenants in NSW.

## Tenants' rights manual

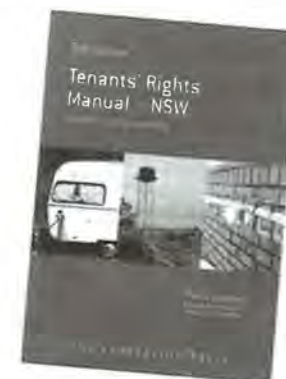
The third edition of the *Tenants' rights manual* (TRM) is available.

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 Federation Press on (02) 9552 2200 or see [www.federationpress.com.au](http://www.federationpress.com.au).



# Hunter tenants' service to the rescue

by Shane Sturgiss, Hunter Tenants Advice and Advocacy Service

On 8 June 2007, the "cruel storm" hit Newcastle hard. The storm brought constant rain for 12 hours and cyclonic winds of over 120 kilometres per hour – not to mention a beautiful big bulk cargo ship. Welcome to Newcastle the *Pasha Bulker*!

The combination of winds and hard rain had devastating effects on the city of Newcastle and surrounding areas including flash flooding, falling trees and wind damage to property. Nine lives were lost and hundreds of people were displaced or made homeless.

In some suburbs, people watched as their houses filled with water and their furniture floated out the door. Flooded businesses suffered further losses through looting. I saw a man in a wet suit walking out of a ski shop with a pair of skis under his arm. Another business endured an armed robbery since the thieves knew that police could not get through the flooding to attend to the call-out.

The State Emergency Service and other emergency services were pushed to their limits in saving people from their flooded homes and making repairs to homes with wind and tree damage.

The Newcastle *Herald* reported (23 June) that about 33,000 insurance claims worth \$350 million had already been lodged and that these claims included house damage and home contents.

The day after the storm and the initial fear, the water had started to subside and damage was being assessed. The personal crises began!

As I drove about, I began to see the real effect of the storm. Cars had been abandoned and left scattered across the streets and traffic islands. People were ripping carpet from their homes and throwing it onto their front lawns with their furniture and other damaged belongings. The sounds of sirens and helicopters filled the air and the feeling was of sadness and loss.

The local communities started to realise the extent of their losses. Floodwaters, over waist high in some areas, had caused total loss of property. Leaking roofs had caused damage to premises. Loss of power had caused refrigerated and frozen foods to spoil and to be thrown out. Fallen trees had caused damage to houses and cars.

To assist the people affected by the storm, the Department of Community Services set up and coordinated the Disaster Recovery Centre. This was a one-stop shop of insurers, and government and community services providers including Hunter Tenants Advice and Advocacy Service (TAAS).

At Hunter TAAS in Hamilton, the calls started coming in! Tenants were

receiving notices from landlords and real estate agents about having to vacate homes that had become wholly or partially uninhabitable. Tenants who could not afford to vacate wanted to stay in their homes. In some cases, tenants had to stay in unsafe premises.

Tenants called the TAAS about their obligations and the obligations of real estate agents. One question we heard over and over was about paying rent for an uninhabitable property. Another was about an agent's obligation to relocate the tenant.

The desperation of each tenant who called was evident in their tone of voice, their heightened emotion and their tears. Their heartbreaking stories were about how there was nowhere for them to go, what they had lost in the disaster, how they were unable to pay rent and how difficult it was to find and pay for emergency accommodation.

Repairs to rental homes are needed across Newcastle and the Hunter region. While there has been an influx of tradespeople from other areas, much of the work will take months to complete. An example of this came in a call from a tenant living in a block of units in a flooded area. The units were without hot water for over a week after the floods. The agent for the units claimed that there was only one repairer who could do the job and that repairer was busy.

In addition to the calls about the difficulties in getting repairs done were calls about rents going up by \$30 a week or more. In one case, a tenant was told that her rent would increase by \$30 a week if she signed a new 12-month tenancy agreement or by \$45 if she did not sign a new agreement. The reason given for rent rises was increased demand from people forced into the rental market after their homes became uninhabitable.

Tenants were frightened and concerned about being evicted for asking for repairs or asking for the rent on an uninhabitable property to be reduced. Others were concerned about becoming homeless after being evicted from a property declared uninhabitable by the landlord.

Recent reports put the number of displaced and homeless tenants at 450 households.

Our thoughts are with everyone affected by the storms and with the families of those people who lost their lives. ★



Shane and the stranded Pasha Bulker as the cyclonic winds began

## Storm damage and your tenancy



**My home has been damaged by storm or flood. What are my rights and responsibilities?**

### What should I do if I receive a notice saying that the property is uninhabitable?

If you receive an order from your local council to vacate the property, it is best to comply. Council may take court action to enforce its orders.

### Do I have to vacate the property? Can I be evicted?

Notice of termination for uninhabitability can be for immediate possession the landlord. Otherwise, it is the same as other notices of termination. The notice does not end the contract. Overstaying the notice means that the landlord can apply to the Consumer, Trader and Tenancy Tribunal for termination and possession orders. It usually takes a week or two to get into the tribunal. The tribunal may make orders for your eviction.

### Who can declare the property uninhabitable?

Whether it is the council or the tribunal, a decision that the property is uninhabitable must be based on evidence. Expert evidence (e.g. from a builder) may be useful if you want to prove the property is inhabitable or uninhabitable.

### Do I have to pay rent on an uninhabitable property?

You should pay the usual rent unless it is reduced by agreement with the landlord or by tribunal order. You can apply to the tribunal for a rent reduction if you and the landlord cannot agree on a reduced rent.

Negotiate for a reduced rent in writing, so that you can prove to the tribunal that you tried to make an agreement.

### Does my real estate agent have to help me find somewhere else to live?

The real estate agent is not your agent. The real estate agent's duty is to look after the interests of the landlord. There is no obligation on the agent to assist you in finding alternative accommodation.

### Can I arrange to get repairs done myself?

Yes, but you should get the prior written consent of the landlord if possible. Written agreement about repayment of costs is also a good idea. Keep in mind that you can be liable for any damage caused by attempts to repair the property.

### Can the landlord increase my rent?

The usual rules apply. A rent increase requires 60 days written notice.

### Can I be forced to sign a new tenancy agreement with a higher rent?

You cannot be required to sign a new agreement. Rent increases require 60 days written notice in any event.

### Can I ask for my rent to be reduced while the property is not habitable?

Yes, do it in writing so that it is clear what you want and you can prove you tried to negotiate a lower rent.

Answers by Grant Arbuthnot



# Housing Australia – a fair share for all

by Mary Perkins, Shelter NSW

The Australian housing system works well for the majority of Australian households and for this reason our governments have been slow to recognise a growing crisis for many low and, increasingly, middle-income households for whom decent housing is simply unaffordable. However, in the lead-up to this federal election there is significant public concern about housing affordability.

A major reason for this change is that our housing system has become much more unfair. Homeowners generally benefit – they gain not only a roof over their heads, a place called home, but also obtain an asset that appreciates substantially and is largely untaxed.

On the other hand, the households who cannot afford homeownership and are ineligible for social housing have few affordable alternatives.

The cold hard facts are:

- Nationally, 2 million households are in housing stress (up 20 per cent from 10 years ago)
- 400,000 households are in extreme housing stress
- 100,000 people were homeless on census night in 2001.

In NSW, there are some 260,000 households in housing stress and, significantly, 148,000 of the heads of those households are in the workforce. It used to be that having a job would protect a household from poverty. However, this is no longer the case.

In addition, the gradual withdrawal of funds from the Commonwealth–State Housing Agreement over the past twenty years means that our social housing system no longer provides the safety net that the community expected some twenty years ago. To get access to social housing these days prospective tenants must not only be poor, but also have other complex needs.

The key drivers to the solutions lie with the Commonwealth Government. It must develop policies and provide funding arrangements to increase the supply of housing affordable to low and moderate-income households. It must also expand the size of the social housing system so

that it can meet the needs of households whose incomes do not enable them to find affordable housing in the private market.

Recently, the Minister for Family and Community Services, Mal Brough announced a radical shake-up of Commonwealth funding for public and community housing. He called for expressions of interest from all parties (including state and territory governments, the non-government sector and private sector organisations such as builders) with proposals to increase supply. It is unclear what his commitment is to the maintenance and growth of the current social housing system.

The Labor Party has also made announcements on housing. The first was about a \$500 million infrastructure fund to reduce the cost of new housing developments, and the second, a \$603 million incentive for investors in new affordable rental housing.

For some years now, National Shelter has been working in an alliance with community sector, industry, and union organisations to promote a range of solutions. The solutions proposed by this coalition can be found at [www.housingsummit.org.au](http://www.housingsummit.org.au). National Shelter's policy platform, 'Housing Australia – a fair share', can be found at [www.shelter.org.au](http://www.shelter.org.au).

## What is housing stress?

In National Shelter's policy platform, households under **housing stress** are defined as those "having to pay over 30% of their income in housing costs".

Households under **extreme housing stress** are those "paying over 50% of their income on housing".

## Forum and workshop on housing issues

Shelter NSW is holding a forum and workshop to discuss two very important questions before the federal election:

- What does NSW need from future Commonwealth–state arrangements?
- How do we best assess new policy proposals for affordable housing?

The event will be in Sydney on Wednesday, 3 October 2007 and will include representatives from the major political parties. For more information contact Shelter NSW (phone 02 9267 5733) or see [www.sheltersnsw.org.au](http://www.sheltersnsw.org.au).

## "Howard Government looking to the future for public housing"

Continued from p. 1

"Given the states and territories abysmal record in managing public and community housing, with housing stock actually falling over the past decade despite the Australian Government's massive funding to states and territories, we are now radically altering our approach to ensure a better deal for future generations in need of affordable housing.

"Over the past 10 years the states and territories have used these funds in ways that have not increased supply.

"We need a bold, new approach to effectively use these funds to ensure housing is available for those most in need

including low-middle income earners, people with disabilities, Indigenous Australians and older people.

"Today I am announcing that for the next CSHA from July 2008, we will immediately invite expressions of interest from all parties, including state and territory governments, the non-government sector and the private sector such as major builders and any other interested individuals, groups or organisations, for their proposals and ideas on new and innovative approaches to using the available funds to increase affordable housing supply.

"This represents an innovative and dynamic shift in approach which will help ensure more effective use is made of Australian taxpayer funds to increase housing supply.

## "Mal Brough yet again trips up in desperate power grab"

Continued from p. 1

"New South Wales is in fact leading the other states in increasing social housing investment. Our target under the State Plan is to more than double the amount of community housing from 13,000 to 30,000 over the next ten years. We also continue to top up funding, above and beyond our obligations under the CSHA, this year to the tune of \$180 million.

"Mal Brough said he wants to scrap the CSHA and force State Governments to lodge tenders for Commonwealth funding alongside private and non government organisations. This reckless idea is policy on the run and will only hurt the most vulnerable people in the state. Mr Brough has given the Department of Housing only

eight weeks to lodge the first tender or miss out on \$300 million in funding for next year.

"We are already working closely with private and non government investors in some of the most innovative ways to make housing more affordable.

"All the states and territories have developed a unified position at the last Housing Minister's Conference and tried to work with the Commonwealth on addressing housing affordability which we all acknowledge is a critical issue. Mal Brough didn't even show up and now he dumps this bomb on our tenants.

"NSW strongly supports the concept of a national affordable housing agreement, that consolidates existing funding sources, including the CSHA, to comprehensively tackle the housing affordability issue," Ms Burney said.

## Don't wait till the last minute to enrol to vote

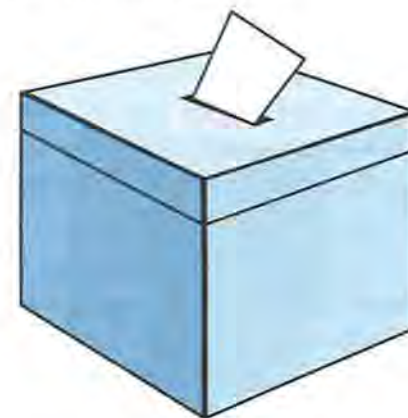
There are new deadlines for enrolling to vote in federal elections. If you're not enrolled, you could miss out on voting in the upcoming election unless you enrol soon.

Once the prime minister calls the election, you won't have much time to enrol. He is expected to call the election within the next few months.

**We recommend that you enrol to vote now, before the election is called.**

Remind your family and friends to enrol too.

The Australian Electoral Commission website has more information about the new deadlines and how to enrol. See [www.aec.gov.au](http://www.aec.gov.au).





# Tenancy fact sheets

As a tenant, you have rights under the *Residential Tenancies Act 1987*.

These factsheets provide an overview of your rights.

- ▶ Residential Tenancies Act
- ▶ Starting a tenancy
- ▶ Bond
- ▶ Rent increases
- ▶ Rent arrears
- ▶ Repairs
- ▶ Locks and security
- ▶ Access and privacy
- ▶ You want to leave
- ▶ Landlord ends agreement
- ▶ Consumer, Trader and Tenancy Tribunal
- ▶ Public Tenants
- ▶ Strata scheme tenants
- ▶ Boarders and lodgers
- ▶ Share housing
- ▶ Ending tenancy early
- ▶ Discrimination
- ▶ Lead
- ▶ Tenant databases
- ▶ Smoke alarms
- ▶ Mortgagees and tenants

The fact sheets are available from your local Tenants' Advice and Advocacy Service (see the back page) and from the Tenants' Union website at [www.tenants.org.au](http://www.tenants.org.au).



# Uncertain tenure for tenants in seniors' accommodation

by Andrew Boulton, Older Persons Tenants' Service

On 20 April 2007, 191 elderly tenants in Tamworth, Bathurst, Dubbo and Wagga Wagga were faced with eviction. The tenants were living in seniors' accommodation operated by a company, Village Life Ltd, that had decided to close the accommodation it provided at the four sites. The tenants were given no-grounds termination notices with 60 days to vacate.

Village Life operates as a specialist aged accommodation service that leases an estimated 600 or more individual units. In addition to accommodation, tenants are provided with three meals a day and a laundry service. Despite having the outward appearance of a retirement village, Village Life in fact provides seniors' rental accommodation. The tenants had residential tenancy agreements with Village Life that meant their tenancies could be terminated in accordance with the *Residential Tenancies Act 1987 (RTA)*.

Both the property group that leases sites to Village Life, MFS Diversified Group, and the Office of Fair Trading were under the misconception that the Village Life tenants were retirement village residents covered by the *Retirement Villages Act 1999 (RVA)*. The termination procedure under the *RVA* requires the Consumer, Trader and Tenancy Tribunal to order termination on four specific grounds (which do not include no-grounds terminations) and only after other dispute resolution methods fail. Because their agreements were under the *RTA*, the tenants did not have access to this process.

In response to the impending evictions, the Older Persons Tenants' Service (OPTS) provided support to tenant advocates from New England and Western Tenancy Advice and Advocacy Service (TAAS) and South Western TAAS, who met with and advised the tenants. OPTS also met with the Minister for Fair Trading, Linda Burney, and argued that these elderly people needed more protection and to be covered by the *RVA*.

In the meeting with the minister on 12 June 2007, OPTS handed her a detailed submission titled 'Review of Village Life Ltd Residential Tenancy Agreements'. The submission addressed a number of concerns, including:

- whether Village Life residents are covered by the *RTA* or the *RVA*
- the form of residential tenancy agreement used by Village Life, which included many unlawful additional terms
- that a system be put in place where sites are regularly inspected to ensure that services provided by Village Life comply with legislative requirements and meet the needs of the residents to an acceptable standard.

The submission also strongly recommended that elderly tenants occupying all seniors' rental accommodation similar to Village Life should be given more legal protection. Specifically, OPTS submitted that a regulation should be passed to include all such premises under the *RVA*.

OPTS also had ongoing liaison with the Office of Fair Trading (OFT). OFT advised that an organisation called SunnyCove Pty Ltd (now called SCV Group) had taken over all 14 sites formerly operated by Village Life. OPTS has contacted both Village Life and SCV Group to verify this, but neither have responded. A search of the Seniors Housing Online website showed that SCV Group has taken over the four sites which were to be closed and that Village Life has the remaining ten. SVC's takeover of the sites means that the tenants are no longer threatened with eviction.

On 18 June 2007, OPTS received correspondence from the minister advising that the OPTS submission would be included in deliberations of the Retirement Housing Options Task Force (comprised of government agencies). The task force has been established to:

- ensure that SCV Group implements residential tenancy agreements that

comply with the law

- ascertain whether amendments are required to retirement village and tenancy laws to prevent a similar situation occurring in the future.

OFT also advised that most of OPTS's recommendations for the Village Life Ltd Residential Tenancy Agreement have been implemented in the new SCV Group Residential Tenancy Agreement.

OPTS has also found that the MFS Diversified Group, which leased the Tamworth site to Village Life, has entered into a heads of agreement to sell the site to Young Estate Villages Pty Ltd. It is not known if MFS Diversified Group have sold the remaining 13 Village Life sites. It is known that MFS Diversified Group have joined with a Sydney developer to build the M5 Business Park at Bankstown Airport by 2008 for a reported \$28 million.

OPTS will continue its advocacy at a ministerial level for tenants in seniors' accommodation to be given the same protection as residents of retirement villages, who have greater rights by virtue of the legislation. This is not an easy task. There is a continued need for this form of accommodation for those who cannot buy into retirement villages but who may need extra services (such as provision of meals) to stay independent rather than go into hostels or nursing homes.

**If you are renting in a retirement village or a seniors' living facility** and have concerns about your circumstances, contact OPTS on 9281 9804 or for country callers 1800 451 488.

OPTS provides advice and advocacy to NSW public and private tenants aged 55 years and older, and all NSW protected tenants regardless of age. OPTS is auspiced by the Combined Pensioners and Superannuants Association of NSW and is funded by the Office of Fair Trading.

## Tenant news – your feedback please



We'd like your feedback about *Tenant news*. Tell us what you like and dislike about it, what you think is good and what we can do better.

To have your say, fill in and return the enclosed survey form in the prepaid envelope.

If you would like more forms or to provide feedback by phone, call Luke O'Connell at the TU on 8117 3708 (Mon–Wed).



## Casa Paloma closure: update

by Samantha Fradd

In the last issue of *Tenant news*, we told you about the development consent that had been given in November 2006 by Liverpool City Council to redevelop Casa Paloma Caravan Park at Leppington in Sydney's western suburbs into a manufactured home estate. At the time the consent was given, there were over 50 households living in the park.

Following the giving of consent, the residents were given notices of termination under the *Residential Parks Act* by the park owner. The park owner could not give these notices until they had the development consent. Those notices gave the residents 12 months to leave the park. The park owner said that they were willing to negotiate with residents so that they would leave earlier.

The Tenants' Union went to the park over a number of days and helped the residents to negotiate with the park owner and the developer. These negotiations were about when and how the residents would leave the park, the compensation they would receive, and whether their homes would be bought on site at the park or relocated to another site in another park or to some other place. The residents

agreed to leave earlier than the 12 months they were entitled to so that they would be eligible to receive the compensation amount of \$1000 to \$2000 that Liverpool City Council had made a condition of the development consent. As part of those negotiations, the residents were given the agreed settlement by the park owner before they left the park.

Most of the 50 households left the park in March and April this year. Some of the residents have been provided with Department of Housing premises. Some have moved into private rental housing. Others have relocated their homes to other sites. There are still a small number of residents living at the park who are waiting to move to another park in Wollongong once the relevant council approvals have been obtained. So far no resident has been left homeless by having to leave the park.

The closing of Casa Paloma Caravan Park means yet another low-cost housing option has gone from Sydney's western suburbs. None of these residents will be able to pay the estimated \$100,000 to \$150,000 that will be needed to return to Casa Paloma once the manufactured home estate has been built. ★

## New materials for tribunal clients

The Consumer, Trader and Tenancy Tribunal (CTTT) has reviewed the ways it provides service to consumers. Part of the review found that the CTTT could improve its community education and information materials.

In response, the CTTT now provides:

- a fact sheet listing where people can find legal information and assistance
- online videos about the tribunal's services in English and seven community languages (Arabic, Cantonese, Greek, Korean, Mandarin, Spanish and Vietnamese)
- information sessions about the tribunal held in Sydney and regional New South Wales.

The fact sheet, videos, details about information sessions and the report of the review are on the tribunal's website at [www.cttt.nsw.gov.au](http://www.cttt.nsw.gov.au).

### For more information

Contact the CTTT:

- phone: 1300 135 399
- fax: 1300 135 247
- TTY: 9641 6521
- email: [ctttenquire@cttt.nsw.gov.au](mailto:ctttenquire@cttt.nsw.gov.au)

## 700 000 renting households in NSW: 2006 Census

More than 700,000 New South Wales households rent their housing, according to the figures from the 2006 Census, released in late June.

The official count – 700,654 households – represents an additional 55,335 renting households in New South Wales since 2001, an increase of almost nine per cent.

The TU welcomes them and wishes them the very best of luck.

The 2006 Census also reveals:

### Renting up, homeownership down

Renters now comprise 28.4 per cent of all New South Wales households, up one per cent from 2001. Meanwhile, the proportion of homeowners has declined one per cent to 63.4 per cent of all New South Wales households.

### Mortgages up, outright homeownership down

Amongst homeowners, the proportion who own subject to a mortgage has increased compared with those who own outright. In 2001, for every two mortgagors there were five outright owners; in 2006, the numbers are almost even. In fact, the decline of outright homeownership is absolute: there are now 142,691 fewer outright owners in New South Wales than five years ago.

### Similar trends nationally

Across Australia, renters comprise 27.2 per cent of households, up 0.9 per cent, while homeownership is 64.8 per cent, down 1.4 per cent. Amongst homeowners, about half own subject to a mortgage, up from about one third in 2001.

### Same for Sydney – only more so

These trends are even more pronounced in Sydney, which is now home to 452,395 renting households – an increase of 35,932 households. Renters now comprise 29.7 per cent of all Sydney households, up 0.7 per cent, while homeownership is 61.2 per cent, down 1.5 per cent. Amongst Sydney homeowners, those who own subject to a mortgage now slightly outnumber outright owners. In fact, the number of Sydney households who rent, own subject to a mortgage and own outright are each now roughly equal – each presents about 30 per cent of all households.

### For more information about the 2006 Census

See [www.abs.gov.au/websitedbs/d3310114.nsf/Home/census](http://www.abs.gov.au/websitedbs/d3310114.nsf/Home/census)

## From the Hotline



**Q** I have received a letter from a bank in South Australia saying that I have to pay rent to the bank because the landlord is not paying off the mortgage properly. Do I have to pay the rent to the bank? How does this work?

**A** That the bank is in South Australia does not matter if it has a registered mortgage for the premises. The mortgage should be registered with Department of Lands in New South Wales.

The mortgage is security for money borrowed by the landlord. It gives the bank rights over the premises if the landlord fails to pay back the loan properly. The bank is called a mortgagee.

If the landlord has broken the mortgage or loan contract by not paying, a registered mortgagee is entitled to take the rent from the tenant of the premises.

This right is from section 63 of the *Real Property Act 1900* (NSW).

If a registered mortgagee gives you a written notice (under section 63) to pay rent to the mortgagee, you should do so. After such a notice, rent receipts from the landlord or the real estate agent do not count. You still owe rent to the mortgagee.

The mortgagee can take the same steps to get the rent that the landlord could have taken. For example, the mortgagee could take you to the Consumer, Trader and Tenancy Tribunal for orders to pay rent and arrears to the mortgagee.

To be certain that the notice is from a registered mortgagee you can do a land title search at the Department of Lands.

Registered mortgagees are listed and identified as mortgagees on the title search document. Fees apply. Currently a search costs \$10.50.

You can do a land title search on the internet, if you can pay by credit card. See [www.lands.nsw.gov.au](http://www.lands.nsw.gov.au) or phone the Department of Lands on 9228 6666 to find out how to do a search.

That a mortgagee is after your rent is a sign that the landlord is in trouble. You should contact your local TAAS (Tenants Advice and Advocacy Service) about what to do and about the other possible mortgagee problems.

A factsheet on mortgagee problems for tenants is available from your local TAAS or from [www.tenants.org.au](http://www.tenants.org.au).

The Tenants' Union Hotline is open weekdays 9.30am–1.00pm and 2.00pm–5.00pm  
**Freecall 1800 251 101**





# Tenancy news across Australia



## QUEENSLAND

### Residential Tenancies Act under review

The Queensland *Residential Tenancies Act* is currently under review. Public submissions have closed and Cabinet is expected to meet in early October to consider what should be included in the revised Act.

The Tenants' Union of Queensland has identified three main areas needing reform in the tenancy laws:

- Every eviction should have a just and sound reason.
- There should be greater predictability and notice periods for rent increases.
- A new tribunal system should be established specifically for tenancy matters.

Further details are at [www.tuq.org.au](http://www.tuq.org.au).

United times (*Tenants' Union of Queensland*), Spring 2007 issue.

## TASMANIA

### New rental bond agency

Tasmania is to have a new agency responsible for holding residential rental bond moneys in trust. The Rental Bond Authority (RBA) will be established by late 2007 according to the Consumer Affairs and Fair Trading (CAFT) division of the Department of Justice.

Currently, Tasmania has no statutory agency for the lodgement and administration of bonds. Bond moneys are held by landlords or their agents.

The main activities of the RBA will be (from the CAFT website):

- managing rental bond money including lodgement, refunds and maintenance of tenancy details
- educating tenants, private owners and real estate agents about their rights and obligations
- referring disputes on rental bonds to the Residential Tenancy Commissioner
- providing information on all rental bond related matters
- monitoring legislation
- providing policy advice to the Minister and Government.

The rent rant (*Tenants' Union of Tasmania*), Autumn 2007 issue and [www.consumer.tas.gov.au](http://www.consumer.tas.gov.au).

## WESTERN AUSTRALIA

### Indigenous tenants revisited on public housing

In July, the West Australian Equal Opportunity Commission began consulting Indigenous people across the state about their experiences in accessing public housing.

An inquiry by the commission in 2004 reported that Indigenous people often found it hard to obtain housing and "were expected to live in poorer and more crowded conditions". The aim of the current consultations is to see if anything has changed in the three years since the inquiry.

At the consultation held in Kalgoorlie, tenants described many of the same problems reported in the 2004 inquiry, including the allocation of older, poorer quality houses.

The commission also heard about the problems Indigenous people encountered in trying to rent privately in Broome. High rents and racism were the main obstacles, according to a residents' group.

Feedback from the consultations will be provided to the Department of Housing and Works, the department responsible for public housing in WA.

ABC North West WA news online, 5 July 2007; ABC News online, 6 July 2007 and Message stick online, 9 July 2007.

# ...and across the globe



## CHINA

### Affordable housing plan for urban poor

The Chinese central government recently announced plans for an affordable housing program for low-income urban families.

The program will require local governments to subsidise rents for low-income families or to offer them low-rent apartments. The program should be running in cities by the end of the year and should extend to families in townships by the end of next year. By the end of 2010, the program should be available to all low-income families across the mainland.

The China Society for Urban Studies reported earlier that China has 1.56 million urban families without access to adequate affordable housing.

South China Morning Post, 14 August 2007; China.org.cn, 25 January 2007.

## ITALY

### Vatican raises rents, evicts tenants

The Vatican has been raising rents and evicting tenants from properties it owns in central Rome.

On what was once low-cost accommodation, rents are being increased by as much as \$2,000 a month. One tenant reported that his monthly rent had gone up from the equivalent of A\$1,145 to A\$3,340.

Whole blocks of apartments are being cleared of residents to make way for luxury hotels. The tenants are mainly elderly people, many of whom have occupied their apartments since the Second World War. One such apartment block was made into a five-star hotel charging €400 (A\$660) per night for a room.

Telegraph.co.uk, 27 May 2007.

## CANADA

### Guideline for rent increases tied to CPI

In recent reforms to tenancy laws in Ontario, Canada, a government guideline for rent increases has been linked to the provincial consumer price index (CPI).

The annual guideline, set by the provisional government, is the maximum percentage by which a landlord can raise rent. Any landlord wanting to increase rent by an amount over the guideline

must seek approval of the Landlord and Tenant Board.

According to the Minister for Municipal Affairs and Housing, linking the guideline to the CPI ensures both that landlords can cover their costs and tenants can pay their rent.

The guideline for 2008 has been set at 1.4 per cent, which is the lowest since the guideline was first set in 1975.

Ontario Ministry of Municipal Affairs and Housing media release, 3 July 2007.

# Tenants rate a mention

### Good tenants neglected, bad tenants rewarded

A public housing tenants' group in Moree says that Department of Housing policies reward certain tenants' bad behaviour.

The South Moree Tenant Group claims that tenants who deliberately damage and neglect their homes are given upgrades and maintenance by the department while those who look after their homes are not. The group has met with the department seeking to have the policies changed.

The state local member, Kevin Humphries, supports the group in its efforts. He says that the department should go further and reward good tenants, who are effectively subsidising bad tenants. He gave the example of one tenant of

35 years who had not had any upgrades to her house while her neglectful neighbours had had three in 10 years.

The Minister for Housing, Matt Brown, has said of the initiative that he and the department "have been working toward this, as well."

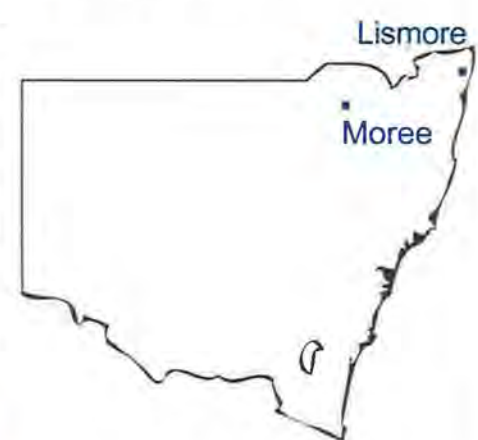
ABC News online, 18 July 2007 and 6 September 2007.

### Most rental stress on far north coast

The 2006 Census has revealed that the far north coast of NSW has Australia's highest proportion of tenants under rental stress.

In the electorate of Richmond, which includes the city of Lismore, 57.5 per cent

### New South Wales tenants in the media



of tenants pay over 30 per cent of their income on rent.

Tenants in the neighbouring electorates of Cowper and Page were also shown to be "struggling with rents."

ABC News online, 26 July 2007.





# 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	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	1800 642 609

### Specialist

Older Persons Tenants' Service	9566 1120
Parks and Village Service	9566 1010

### Aboriginal Services

Western NSW	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–1:00pm and 2:00pm–5:00pm	1800 251 101
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### Membership application or renewal

TAX INVOICE ABN 88 984 223 164

I would like to apply for membership of the Tenants' Union of NSW Co-operative Limited

Name / Organisation:

Address:

Phone (H):

Phone (W):

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 1 January – 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

For fact sheets and for further information about the Tenants' Advice and Advocacy Program see the Tenants' Union website: [www.tenants.org.au](http://www.tenants.org.au)