



tenant news

Free newspaper of the Tenants' Union of NSW

Issue 85 June 2008

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URGENT! Attention: ALL TENANTS

by Sidonie Gnauck and Ned Cutcher, Central Coast Tenants' Advice and Advocacy Service

Real estate agents on the Central Coast are taking advantage of the tight rental market, using aggressive and underhand tactics to push rents up and threatening tenants into keeping quiet.

One agent on the northern Central Coast sent a letter to all of its tenants which suggested that if their rent was not kept two weeks in advance, the agent would increase the rent and that such tenants would not be recommended for other properties by the agency.

Central Coast Tenants' Advice and Advocacy Service (CCTAAS) was contacted by a number of tenants who received the letter. They said they felt intimidated and were offended by it. One tenant, after speaking with CCTAAS, contacted the agent in question and was told that the letter was aimed at the "bad" tenants. The agent implied that the caller should have no need to be concerned.

This tenant is able to afford her rent, but she is concerned about how these threats affect less fortunate tenants who live "week to week".

We understand that, after receiving several complaints, the agent in question sent a further, less threatening letter to all its tenants. Nonetheless, this second letter gave tenants cause to anticipate rent increases and a lack of support from the agency should their tenancy end.

Another agent in the Coast's southern region stuck a notice in its window calling for all landlords to increase their rent "NOW !!!!!!"

The Central Coast is currently experiencing a crisis in rental accommodation. One Gosford agent states in its *Property Management News* that the vacancy rate is 1.8 per cent – 1.8 vacant properties for every 100 rented. The newsletter goes on:

"Now you can expect to see rents really start to rise (supply and demand), landlords happy. You should see tenants start to request fixed term leases (and therefore fixed rental amounts) and us agents, we can hold off for a better quality tenant. These are nice times to be in Property Management."



Notice in a Central Coast real estate agent's window

Such tactics by real estate agents are leaving tenants feeling disheartened and vulnerable, and people searching for accommodation are disillusioned at the prospect of securing a tenancy. Tenants are unwilling to risk their current tenure by asking for repairs or disputing rent increases as they fear that a notice of termination will surely follow. People are less inclined to put themselves in such a position when the chances of relocating are so slim.

In light of these issues, CCTAAS liaised with the TU Policy Officer and various print-media journalists to raise awareness about the plight of Central Coast tenants. Clearly, the kinds of issues we so often hear about happening in Sydney are happening further afield.

CCTAAS continues to advise tenants of their limited options in challenging rent increases and the kinds of circumstances in which a notice of termination may be found to be 'retaliatory' by the Consumer Trader and Tenancy Tribunal.

Complaints about real estate agents

Complain to the agent, your landlord, or to:

- Office of Fair Trading
PO Box 972, Parramatta NSW 2124
phone 02 9895 0297 or 1800 625 963
- The Secretary, Professional Standards
Real Estate Institute of NSW
PO Box A624, Sydney South NSW 1235
phone 02 9264 2343

The institute represents many (not all) agents in NSW and will only investigate its own members.



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Editorial team: Jo Daniels, Sue Scott

Contributors to this issue: Grant Arbuthnot, Nassim Arrage, Ned Cutcher, Samantha Fradd, Sidonie Gnauck, Chris Martin

Photographs: Patrycja Arvidssen, Corinne Biggs

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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 New South Wales since 1976.

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

Vision

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

Mission

The TU seeks to promote a secure, affordable and appropriate housing environment by representing the interests of all tenants and other renters in New South Wales 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.

Board of Directors: Joy Connor, Jo Daniels, Brendan Edgeworth, Nadya Haddad, Patricia McDonough, Jennifer Rignold, Sue Scott, Ruth Simon, David White

Tenants' Union of NSW Co-operative Ltd

1 Buckingham St, Surry Hills NSW 2010

Phone 02 8117 3700

Fax 02 8117 3777

www.tenants.org.au

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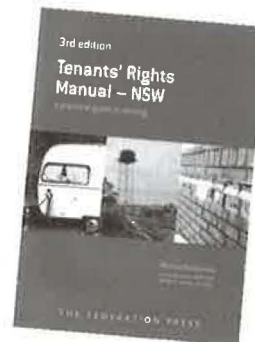
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Tenants' rights manual

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.

Want to write for Tenant News?

We welcome contributions from readers.
Contact Luke O'Connell on 02 8117 3700.

Tenancy law reform update

by Chris Martin, Policy Officer



While tenants wait for long overdue reforms to the main source of tenancy law in New South Wales, the *Residential Tenancies Act*, the NSW Government has recently amended the law in relation to public housing rent rebates and is set to make changes to the main forum for tenancy disputes, the Consumer, Trader and Tenancy Tribunal.

Rent rebates: Danger for Housing NSW tenants

The *Housing Amendment (Tenant Fraud) Act* gives Housing NSW (formerly Department of Housing) new powers to investigate public housing tenants who receive a rental rebate, and new powers to recover rebate monies incorrectly credited to tenants.

The Act also creates a new offence where a public housing tenant intentionally fails to notify Housing NSW of a change in circumstances that affects their rent rebate, punishable by three months imprisonment. Housing NSW will be the prosecuting authority for this and other offences relating to rent rebates.

Public housing tenants who have been incorrectly claiming a rent rebate can notify Housing NSW under a temporary amnesty that will run until 1 October 2008. Tenants who notify under the amnesty are protected from prosecution and proceedings to recover the monies. The amnesty does not apply to public housing tenants who are already the subject of an investigation by Housing NSW.

The TU has expressed concerns that many cases pursued by Housing NSW as 'fraud' are instead cases where there has been a mistake – by the tenant or by Housing NSW – or where the tenant's circumstances simply do not fit well with Housing NSW's policies, or where the tenant is the victim of violence or oppression. The TU will be consulting with Housing NSW to try to ensure these sorts of cases do not become caught up in Housing NSW's new powers.

Housing NSW (Department of Housing) checking tenants get right rent rebates

If you are a Housing NSW tenant you probably get a **rent rebate**. The rent rebate reduces the rent you pay to about 25 per cent of your household income. To work out how much your rent rebate is, Housing NSW uses the information you give them about:

- your income (how much and what type of income)
- the income of any other person living with you.

If you give Housing NSW the wrong information, or if things change and you do not update your information, you will get the wrong rent rebate.

If you give them the wrong information on purpose so that you get the wrong amount of rebate, this is called **rent rebate fraud**. This is a crime.

If Housing NSW thinks you are getting the wrong rebate, they can:

- stop you getting the rebate
- check if you owe them money from the time you started to get the wrong rebate.

If you do owe them money, Housing NSW can:

- take you to court to get the money back
- end your tenancy.

It does not matter if you are getting the wrong rebate on purpose or not, they can still stop you getting the rebate, check if you owe any money and get this money back, and end your tenancy.

Opportunities for improvement Consumer, Trader and Tenancy Tribunal

The Consumer, Trader and Tenancy Tribunal Amendment Bill is currently before the parliament. Most of the proposed amendments are minor; notable proposals include a new Professional Practice and Review Committee and a new Social Housing Division.

The TU has welcomed the proposed new committee, which would deal with matters relating to tribunal members' training and performance, including complaints against members. The TU is less enthusiastic about the proposed new Social Housing Division, which would falsely give the impression that the law relating to social housing tenancies is so very different from that relating to other tenancies.

The TU instead suggests that the tribunal should deal with complicated social housing matters by allocating experienced, sensitive members to these matters, rather than by formally establishing a separate division.

The TU understands that the Government intends the amendments to be passed by June 2008.

Residential Tenancies Act

The NSW Office of Fair Trading is considering responses, including the TU's major submission, on the package of over 100 proposals for reform of the *Residential Tenancies Act* and other tenancy laws put forward for comment late last year. The TU understands that a reformed *Residential Tenancies Act* is one of Fair Trading Minister Linda Burney's "priorities for 2008."

RESIDENTIAL PARKS

Residential parks closing = less affordable housing

by Samantha Fradd, Residential Parks Legal Officer



Residential parks in New South Wales continue to close, and the affordable housing provided by those parks continues to disappear, as developers buy parks and turn them into money-spinning enterprises.

Readers will recall that Casa Paloma Caravan Park in western Sydney closed last year. All the residents left and moved into public housing or moved their homes to sites in other parks.

A number of other parks in western Sydney, the Central Coast and the Mid North Coast have closed or are in the process of closing.

Every resident in these parks faces uncertainty. Where will they go? Will they lose their home because they cannot find another park with a vacant site or a park that will accept their kind of dwelling? Upon moving, will they still be able to access the same services (such as the doctor they have been seeing for years)? Will they lose contact with their family and long-term friends from the park and the local area? And if they cannot find somewhere to move their home, will the limited compensation they are entitled to allow them to buy a home in another park?

The TU has been supporting Tenancy Advice and Advocacy Services to help residents who face park closure. This includes:

- writing submissions to local councils about the social and economic impacts of developments and giving

reasons why councils should not approve development applications (this includes showing a loss of affordable housing in the area)

- suggesting conditions such that, if a development is approved, the social and economic impacts on residents are mitigated by the developer
- negotiating with the developer about compensation for the residents and drafting agreements about the sale or relocation of homes
- giving the residents legal advice about their rights under the *Residential Parks Act* when they have to leave.

If you hear that a development application has been made to close your park

You can:

- write to your local council and object to the development
- contact your local Tenants Advice and Advocacy Service for advice about your rights (see back page for phone numbers).

FROM THE TRIBUNAL

What general price index does the Consumer, Trader and Tenancy Tribunal (CTTT) consider when deciding whether a rent increase for a residential park is excessive?

When a park owner wants to increase the rent for a resident in a residential park, they have to give the resident 60 days notice of the proposed increase. The resident has 30 days to challenge the rent increase in the CTTT as being excessive.

One of the factors that the CTTT has to look at in deciding whether the rent increase is excessive under section 57(d) of the *Residential Parks Act 1998* is "a general price index (such as the Consumer Price Index)".

Park owners have recently been arguing that the Consumer Price Index (CPI) is not the most appropriate index for the CTTT to look at. They have instead argued that another index, which is normally a higher percentage than the CPI, is the best index for the CTTT to use. Park

Noteworthy cases in the Consumer, Trader & Tenancy Tribunal

owners then argue that a rent increase is not excessive because it is below or equal to the price index they have put forward.

However, in *Parkes & Graham v Tuggerah Village (Residential Parks)* [2007] NSWCTTT 703 (3 December 2007), the CTTT did not accept this argument. In this case, the park owner argued that the CTTT should use the Service Industries Producer Price Index. The CTTT found that it was appropriate to use the CPI (the example given in the *Residential Parks Act*) which was 1.7 per cent for the relevant period.

That decision is reported at www.austlii.edu.au/au/cases/nsw/NSWCTTT/2007/703.html

Other CTTT members do not have to follow this decision. However, if a resident has applied to the CTTT for an order that the rent is excessive, and the park owner is arguing that the CPI is not the index to use, the resident can still show a copy of this decision and ask the CTTT to make the same decision.

Samantha Fradd

ABORIGINAL TENANTS

Aboriginal social housing tenants to pay for water?

by Nassim Arrage, Aboriginal Legal Officer



Can tenants living in premises owned by the Aboriginal Housing Office (AHO) be charged for water usage? The TU has looked into this and has some answers.

Some tenants can now be charged for water usage – whether or not there is a water meter. Public tenants were not charged for water usage before December 2005.

The situation differs between tenants of the AHO and tenants of AHO-registered housing providers (e.g. an Aboriginal corporation or Aboriginal land council).

The TU looked into the matter by researching the relevant laws, ministerial guidelines and policies. We found that tenants of the AHO whose tenancies are managed by Housing NSW are required to pay for water usage (see table).

Housing NSW (formerly Department of Housing) now manages most, if not all, of the residential tenancy agreements where the AHO is the landlord. So if one of these tenants receives a water charge – whether estimated or actual – from Housing NSW, the tenant is required to pay or face action in the Consumer, Trader and Tenancy Tribunal.

If you have any questions about Aboriginal tenants living in social housing and water charges, contact your local Aboriginal Tenants Advice and Advocacy Service (see back page).

Landlord	Managed by	Tenant pays water charges
Aboriginal Housing Office	A real estate agent or Aboriginal Housing Office	No
Aboriginal Housing Office	Housing NSW	Yes
Other Aboriginal social housing provider	The housing provider or a real estate agent	No

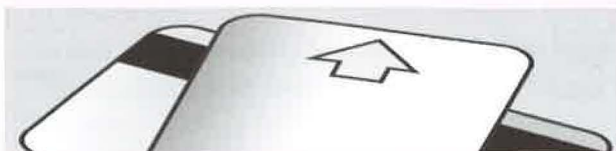
Tenants Hotline – Your questions answered

Q We have just moved into a flat in a strata building. The security door from the street is opened by using a swipe card.

The agent has refused to provide us with enough cards – he gave us one card for the four of us. He says that we can have more cards if we pay \$120 each for them.

We have signed a lease agreement with my husband and I as tenants. The children are listed by name in the agreement.

Is this right? Do we have to pay extra for access into the building? We would like a card each.



A You and your husband are co-tenants. Every co-tenant is entitled to a full set of keys and other security or access devices (like swipe cards). The landlord must provide these to the co-tenants.

So, you and your husband are entitled to one swipe card each. The landlord/agent must provide these without charge. The landlord will have to pay any charges to obtain the cards to which you are entitled.

All the cards come from the owners corporation of the strata scheme. The corporation is entitled to charge for or take deposits for access cards.

While the children may be listed in the agreement as "Other people who will ordinarily live at the premises", they are not co-tenants.

It is lawful for you to be asked to pay for any cards additional to which you are entitled as co-tenants.

Rents through the roof?

The lowdown on rents going up



Rising rents are in the news again, with two sets of figures showing strong increases across Sydney and the rest of New South Wales over the past year. *By Chris Martin*

Sydney rents rose 1.7 per cent in the three months to March 2008, and six per cent over the year, according to the latest Consumer Price Index (CPI) figures released in April by the Australian Bureau of Statistics.

The CPI measures inflation in the prices of goods and services, and the figures show that rising rents were amongst the strongest contributors to rising inflation generally. The rise in rents was well above the rise in all categories of goods and services measured by the CPI, which was 1.4 per cent for the quarter, and 3.9 per cent for the year.

Nationally, it is a similar story: rents in all Australian capitals rose 2 per cent for the quarter, and 7.1 per cent for the year, compared with rises in all CPI categories of 1.3 per cent and 4.2 per cent.

Rents have also risen faster than incomes, which in New South Wales increased 3.9 per cent over last year.

These are strong rent increases that many tenants can ill afford. They are, however, less than the increases forecast for the year by some industry players. The Real Estate Institute of NSW startled tenants early last year when it predicted that rents would surge by 20 per cent over the year; they in fact increased by less than one-third that amount.

The NSW Government's *Rent and Sales Report*, released in May by Housing NSW, gives another perspective on rising rents and the tight rental market.

The *Rent and Sales Report* looks at data from the NSW Rental Bond Board and shows that across the state, the median rent for tenancies commencing in the quarter to March 2008 was up 11 per cent on the same quarter last

year. Similar increases were recorded in the inner, middle and outer rings of Sydney (see Graph 1).

The report's figures on rent increases are significantly different from (and higher than) the CPI figures – this is because they are measuring different things. The report's figures are based only on new tenancies that have just commenced in the most recent quarter. These are tenancies that reflect the full effect of the current shortage of rental housing and the hot competition amongst would-be tenants for properties that come onto the market.

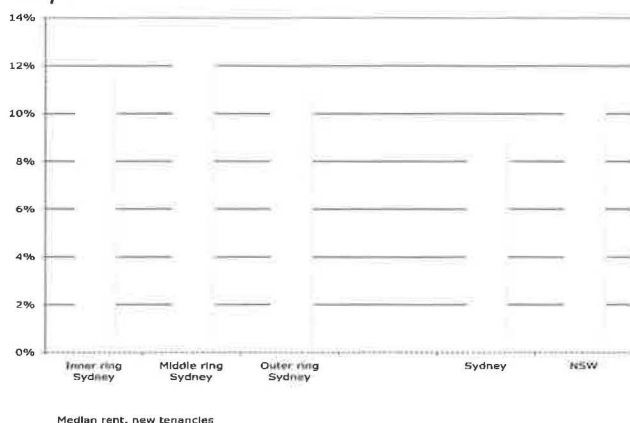
The CPI figures, on the other hand, are based on surveys of tenancies of all durations, from new tenancies to long-standing ones. These include established tenants who are known by their landlords to be a good risk and who tend to get smaller rent increases.

The *Rent and Sales Report* gives a measure of how tight the rental market is by showing the number of new tenancies commencing, as measured by the number of new bonds lodged.

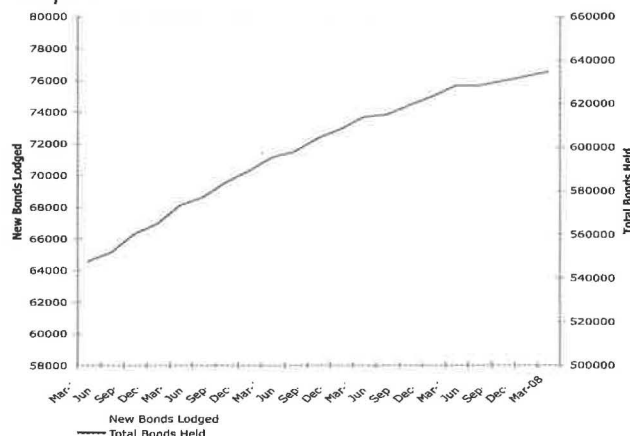
Although the total number of bonds held by the Rental Bond Board continues to grow, the number of new bonds lodged is down 7.4 per cent compared with the March quarter last year, and down 14.4 per cent compared with the March quarter five years ago (see Graph 2).

The March quarter is usually the strongest for new tenancies commencing, because of the start of the academic year. The present is the lowest March quarter – and the third lowest quarter – for five years. Tenants have stopped moving; those in established tenancies are trying to weather the housing crisis by staying put, while those outside are being asked to pay very high rents. ★

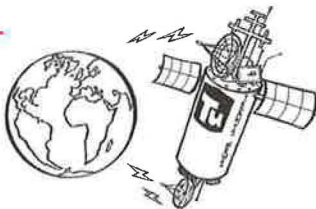
Graph 1



Graph 2



International news



in brief

DUBAI

Benchmarks for rents to be published

Dubai's Real Estate Regulation Authority is soon to publish a new house rent index. The index will suggest benchmark rents for all communities in Dubai and will include prices for studio, one-, two- and three-bedroom apartments and villas. The published prices are to help landlords and tenants benchmark their rents in case of disputes.

Source: gulfnews.com

UNITED STATES

Property rights initiative could hurt renters

A property rights initiative soon to go before voters in California could end local government rental controls in some of the most expensive areas in the county. 'Proposition 98', introduced by property owners to limit government seizure of private property for private use, also includes the phasing out of existing and new rental controls.

Source: contracostatimes.com

WALES

Landlord and tenant community work recognised

Tenant participation organisation TPAS Cymru recently hosted the 'Participation Awards' in recognition of the efforts of social landlords and tenants working together to improve services and neighbourhoods. Awards were given in such categories as communication in housing, sustainable and effective service, and effective engagement of hard-to-reach groups.

Source: tpascymru.org.uk

SLOVAKIA

Rents on restitution property to stay capped beyond 2008

The Slovak government will keep regulating the rents of residences that were returned to their original owners, whose property seized by the former regime. The regulation will continue until at least the end of this year.

Source: *The Slovak Spectator*. Reprinted from *Global Tenant*

QATAR

More rent cases filed after the new rent law

Tenant-landlord disputes over rent hikes have not ceased after a new law was enforced in February freezing rent increases until early 2010. According to lawyers, one of the major factors behind the increasing number of litigations is a lack of understanding of the new rent law among both the property owners and the tenants.

Source: *The Peninsula Daily*. Reprinted from *Global Tenant*

OMAN

New laws on rental contracts

New laws regulating the relationship between tenants and landlords were recently announced in Oman. The Minister for Housing explained that Royal Decree 72/2008 was aimed at safeguarding the rights of both parties to rental contracts and balancing their interests. The new laws include limits on the rate and timing of rent increases and restrictions on the circumstances under which tenants may be evicted.

Source: gulfnews.com

NEW RESOURCES

Tenancy check: Rights and responsibilities of tenants in New South Wales

This DVD for newly-arrived migrants from Africa gives clear information about tenants' rights and responsibilities in these languages:

- Arabic
- Juba Arabic
- Dinka
- Kirundi
- Swahili.



Produced by Fairfield Migrant Resource Centre (with support from South West Sydney Tenants Advice and Advocacy Service).

Available from the centre: phone 02 9727 0477.

■ repairs
 ■ bonds
 ■ rent increases
 ■ access & privacy
 ■ eviction
 ■ rent arrears
 ■ locks & security
 ■ tenant databases

NSW Tenants Advice and Advocacy Services

**TENANTS
ADVICE
AND ADVOCACY
SERVICE**

Need tenancy advice?

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 and 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 Hotline Mon–Fri 9:30am–1:00pm and 2:00pm–5:00pm 1800 251 101

www.tenants.org.au

- Download factsheets and sample letters.
- Keep informed about issues affecting tenants and the work of the Tenants' Union.
- Find your local Tenants Advice and Advocacy Service.