

When Minto met Macquarie Street

When the bulldozers moved into Minto to begin redevelopment, the community took up the fight to have their concerns heard. The fight took them all the way to Macquarie Street.

Housing NSW has been redeveloping a number of public housing estates around the state. Some of these redevelopment projects affect whole estates (or large parts of them) and mean that hundreds of tenants and their families have to move and leave behind friends and support networks. The grief and loss is enormous. The estates at Minto and Airds-Bradbury in south-western Sydney are two of the larger estates that have been undergoing redevelopment.

Different parts of the department are in charge of different projects and each seems to have its own way of working and communicating with tenants. At

times, it can be hard to know what is going on – this can increase stress in the community. Tenant action groups have led the community in places like Minto and Airds-Bradbury in supporting each other, sharing information about what is happening and taking action together.

Minto Residents Action Group

The Minto Residents Action Group (RAG) was formed in 2002 when the community suddenly found that around 1,000 families were to be moved for the redevelopment of the estate. Tenants were not consulted about relocating nor given information about their rights.

People were given few choices and co-ordination was poor. The RAG provided the community

with a voice, a place where their concerns could be heard and where they could plan to take effective action and develop networks with supporters.

The RAG is a diverse group which includes men and women, people with disability, people from diverse ethnic backgrounds and people with health issues. The group has about 200 people on its mailing list and about 15 regularly attend its meetings.

Housing NSW provides a small amount of funding to the group. Burnside UnitingCare auspices the funds and the RAG has support from the Animation Project of the St Vincent de Paul Society and the South West Regional Tenants Association (SWRTA). However, the RAG prides itself on being independent and tenant-run.

Members of the Minto RAG and friends at NSW Parliament



The RAG's activities and achievements are impressive – too many to list here. They include:

- hosting two public meetings attended by over 200 people – Housing NSW was invited
- sending delegations to the Minister for Housing and the Director-General of Housing
- gaining an apology from Housing NSW and acknowledgement that the first relocation of tenants was done badly
- co-hosting a conference 'More than bricks and mortar',

which looked at the social impact of the redevelopment (300 attended) and led to recognition of the social and emotional issues stemming from the relocation of tenants. Tenant presentations from this conference were also given to NSW Members of Parliament and their guests at Parliament House

- commissioning university research about tenant views and experiences of the redevelopment which influenced government policy (see 'Leaving Minto' at www.ncoss.org.au/bookshelf/conference/perspectives-on-poverty.html for more on this)

- hosting farewell events that recognise the strengths of the community and acknowledge the difficulties associated with being relocated
- seeding and supporting a community arts project – a book and website called *Remembering Minto* (see www.rememberingminto.org.au)
- making two short videos on life in Minto that were used as a campaign tool and as a memento for tenants leaving Minto.

With thanks to Robyn Stafford and Yvonne Sayers from Minto RAG and to Julie Foreman from the TU.

Airds-Bradbury: the community skills up



Jen Rignold

My name is Jen Rignold and I am a member of the Board of Directors of the TU. For the past 25 years I have lived in a public housing estate in Airds and for most of that time I have volunteered in my community. Currently I am the Chairperson of the Airds/Bradbury Masterplan Group. This is a tenant-run group that works with Housing NSW on the redevelopment of our estate.

Housing NSW have been talking about making changes to our homes for over 10 years and many residents have felt helpless and frustrated at the process. About five years ago we formed the Airds/Bradbury Masterplan Group.

At first, the answers we were given would constantly change and there was never any real timeline as to when the masterplan would officially begin.

Since then, we have developed a good working relationship with Housing NSW and can talk openly with them about our concerns about the redevelopment.

This has not been an easy process. Over the years we have had to deal with insensitive staff, rumours, negative tenants and in particular the policies of Housing NSW.

We liaise closely with the community. For example, we conducted surveys of tenants most affected by the redevelopment and have held information BBQs.

We have volunteered at the local schools, with Youth Off the Streets and in a variety of community groups. These experiences taught us many skills in dealing with people and problems that at first appear too hard.

We are doers. If we think something needs to be done then we go ahead and do it. We don't sit around dissecting and finding

problems. We simply do. If it works, great. If it doesn't, then we have learnt something from the experience.

We approached Housing NSW and asked them to give us some training – which they did. We learnt how to run meetings, take minutes, resolve conflicts and approach and talk to tenants in all kinds of situations. We covered issues such as confidentiality, safety and referring people to other services.

We have also done courses in advocacy, writing and even public speaking with non-government organisations. We each bring our own particular skills and together we can and do achieve many things.

But we must continually stress that we are first and foremost tenants and all the training and work we do is for the benefit of our neighbours and community. We will stand beside them and support them to do what they need to do for themselves.

In this issue

When Minto met Macquarie Street	1
Airds-Bradbury: the community skills up	2
Who is my Aboriginal housing provider?	3
Residents can sell their moveable dwellings on-site	5
Tenancy tips Q & A	6
Profile: Sydney Duty Advocacy Program	6
Contacts	8

ABORIGINAL TENANTS

Who is my housing provider?



Nassim Arrage

It can sometimes be very confusing what additional rights you may have as a tenant in Aboriginal housing.

You may have more responsibilities (such as providing your landlord with details of your household income) and you may also have more rights (such as the ability to ask for a transfer or get modifications made to your home).

You will always have most of the same rights and responsibilities of other tenants. For example, all tenants have to pay rent and all tenants can expect that their landlord will do repairs. This is because the *Residential Tenancies Act 1987* governs all tenancy agreements in New South Wales. However, some of your rights and responsibilities can differ depending on who your landlord is.

Aboriginal tenants can have many different kinds of landlords. Apart from private rental, some of the main ones are discussed here.

Aboriginal Housing Office (AHO)

The AHO is a government body set up to provide housing for Aboriginal people both directly (as a landlord) and indirectly (through funding other Aboriginal housing providers). Note that most AHO properties are managed by and subject to the same or similar policies as Housing NSW properties.

Housing NSW

Housing NSW (formerly the Department of Housing or the Housing Commission) is a government body set up to house low-income tenants in New South Wales. Housing NSW also houses Aboriginal tenants. Housing NSW has many policies that give tenants both more rights and more responsibilities than other tenants.

Community housing

Community housing providers are non-government organisations that are funded by government to house tenants in particular geographical areas or to house a particular group of tenants. (For example, Women's Housing only houses single women.) Some community housing providers only house Aboriginal tenants. Each community housing provider is different (although there are some similarities) and each has its own set of policies.

Land councils

There is a land council for most geographical areas in New South Wales. Some of them cover large areas and some of them are quite small. Many former missions became land councils as part of the land rights movement.

Local Aboriginal communities manage their local land council through a democratically elected board. Many land councils provide housing to their members. The NSW Aboriginal Land Council oversees the management of local land councils.

Corporations

Aboriginal people can form companies under mainstream corporations law or they can form an Aboriginal corporation under special laws not available to non-Aboriginal people.

Mainstream companies must be registered with the Australian Securities and Investment Commission (ASIC).

Aboriginal Corporations must be registered with the Office of the Registrar of Indigenous Corporations (ORIC).

Both kinds of corporations may provide housing to Aboriginal people.

Co-operatives and incorporated associations

Co-operatives and incorporated associations are community organisations that may or may not receive government assistance. Your landlord might be one of these.

If the landlord is a co-operative, you must usually be a member of the co-operative to be provided with housing.

If the landlord is an incorporated association you must usually fall within a particular target group to be provided with housing.

Contact your local Aboriginal Tenants Advice and Advocacy service with any questions.

Find out more online

AHO

www.aho.nsw.gov.au

Housing NSW

www.housing.nsw.gov.au

Community housing

www.communityhousing.org.au

Aboriginal land councils

www.alc.org.au

Mainstream corporations

www.asic.gov.au

Aboriginal corporations

www.orasic.gov.au

Co-operatives and associations

www.fairtrading.nsw.gov.au/co-operatives_and_associations.html

Some questions you can ask to find out more about your rights and responsibilities:

Who is my landlord?

Sometimes this question can be hard to answer because the person or organisation who manages the properties might not be the landlord. For example, Housing NSW manages most AHO properties so although all your dealings might be with Housing NSW your landlord is still the AHO. A good way to find out the answer to this question is to have a look at your tenancy agreement (if you have one) and see what the name of the landlord is there.

What are your 'rules of association' or 'objects'?

If your landlord is not a government body and is not a private landlord it will have rules of association or objects that will help you work out what kind of housing your landlord is meant to provide and whether you have extra rights and responsibilities.

Do you have any policies?

If your landlord is not a private landlord they will almost always have a set of policies that say what your further rights or responsibilities are. Ask your landlord for a full copy of any policies. Sometimes you can find copies of these policies on your landlord's website.

CTTT Aboriginal forum

Earlier this year, Linda Burney, the then Minister for Fair Trading, announced the establishment of the Aboriginal Consultative Forum for the Consumer Trader and Tenancy Tribunal (CTTT).

The minister said of the forum: "Its aim is to forge links between the Tribunal and Aboriginal leaders so that the Indigenous community can be made aware of Tribunal services, in particular around tenancy issues."

Among the forum's members are Murra Mia – Southern NSW Aboriginal Tenants Service and Dtarawarra Aboriginal Resource Unit – the resource body for NSW Aboriginal Tenants Advice and Advocacy Services.

Residents can sell their moveable dwellings on-site!



Samantha Fradd

The TU has been receiving lots of queries about whether caravan park residents can sell their dwelling on-site. Residential Parks Legal Officer, Samantha Fradd explains.

Does a resident have the right to sell their dwelling on-site?

Generally, the answer is yes! Residents are entitled to sell their dwelling on-site unless they have a term in their residential tenancy agreement that makes it clear that they cannot. This is called an express term.

The express term must also have been included in the questions and answers document that a park owner must give a resident when they move in. If that express term is not in the questions and answers document, then the park owner cannot enforce that term of the agreement and the resident can sell their home on-site even though their agreement says they cannot.

The only exception is if the resident lives in a caravan park that is on a Crown reserve or in a national park. These residents should seek advice about their rights if they want to sell their dwelling on-site.

Does a park owner have to sign a new residential tenancy agreement with the buyer of a resident's dwelling?

The answer is no. A park owner does not have to enter into a new residential tenancy agreement with the buyer.

The park owner can enter into a new residential tenancy agreement with the buyer, and if they do, then the park owner and the buyer will negotiate the terms of that agreement, including the rate of rent.

The park owner may not agree to enter into a residential tenancy agreement with the buyer, and may only agree to enter into a casual occupation agreement with the buyer.

This means that the buyer is only allowed to stay in the dwelling on a casual basis and cannot live there all the time. Park owners can do this even if the resident who is selling the dwelling has been living in the park as their principal place of residence.

If the park owner will only enter into a casual occupation agreement with the buyer, this may affect the value of the dwelling as the buyer may not want to pay the resident's price if they cannot live there.

Does a resident have the right to assign their residential tenancy agreement to the buyer?

The answer is yes, so long as the resident has the park owner's prior consent. The resident can assign their residential tenancy agreement to the buyer. The buyer then takes over all the rights and responsibilities of the resident under the agreement.

When an agreement is assigned, all of the terms stay the same, including the amount of rent that is paid, and that the buyer has the right to live there as their principle place of residence and the permission of the park owner to do so. The only thing that changes is the name of the resident on the agreement.

Park owners are not allowed to unreasonably refuse to consent to an assignment if the resident



owns a manufactured home or a caravan with a rigid annexe attached.

Can a resident apply to the Consumer, Trader and Tenancy Tribunal for help?

The answer is yes. If a park owner interferes with the sale of a dwelling, such as stopping potential buyers from coming into the park, or unreasonably refuses to consent to the resident assigning their agreement to a buyer, then a resident can make an application to the tribunal.

The tribunal can make various orders, such as:

- ordering the park owner not to interfere with the sale
- ordering the park owner to consent to the assignment
- ordering the park owner to pay compensation to the resident for the economic loss they have suffered because of the park owner's behaviour.

An example of the resident's loss might be where the resident has paid to advertise the dwelling for sale in a local newspaper. For this reason, the resident should always keep any receipts or other documents showing how much they have spent in trying to sell their dwelling.

Any resident who is thinking about selling their dwelling or who wants a sample Deed of Assignment should contact their local Tenants Advice and Advocacy Service for information and advice.

TENANCY TIPS



I have received a letter from the real estate agent saying that I have to pay my rent by an electronic rent card system. The document she wants me to sign says that I have to pay a fee every time I pay the rent. And, if it goes wrong, there are "default fees". Is this legal? We have been paying rent into the agent's bank account for a couple of years and had no trouble.



A You do not have to change the way you pay rent. Contract law says that changing the terms of a contract needs agreement of both parties.

Changing the way you pay rent is changing a term of your tenancy contract. Therefore, if it is to change, you have to agree to change it.

If you were starting a tenancy, you may be manoeuvred into using a rent paying service. Agents cannot offer such a service as the only option. But tenants are being offered other options that are not attractive, like bank cheque or postal order.

These rent payment services skirt the tenancy law prohibition on extra charges by the charges being paid to a third party, not the landlord. It is a way for the agent to outsource the administration of rent payments and have someone else pay for it.

Rent payment services are an attractive idea to some tenants. If your bank account balance is consistently above the amount of the rent payment, the fees may be good value for the convenience of the rent being paid automatically. However, if your bank account is ever a bit short, the default fees take money that both you and the landlord would rather be used for rent.

PROFILE

Sydney Duty Advocacy Program

Elizabeth De Freitas and Julia Murray, Inner West Tenancy Advice Service

The Sydney Duty Advocacy Program helps tenants at the Consumer, Trader and Tenancy Tribunal who have not sought assistance from a Tenants Advice and Advocacy Service beforehand and who might otherwise 'slip through the net'.

The program is a joint initiative of four Sydney Tenants Advice and Advocacy Services: Inner City, Inner West, Northern Area and Eastern Area. Each service provides a Duty Advocate at the tribunal's Sydney Registry for half a day once a fortnight for the Wednesday 9:15am, 11:15am, 1:15pm and 3:15pm hearing lists.

Duty advocates assist tenants by:

- advising on rights and responsibilities under the *Residential Tenancies Act* and related legislation
- looking over documents and to assess the strengths and weaknesses of cases
- advising on tribunal procedure
- seeking adjournments, where appropriate
- referring them to the relevant Tenants Advice and Advocacy Service for further help if an adjournment is granted
- advocating for them during conciliation
- representing them before the tribunal, where appropriate.

Duty advocates make themselves known to tenants by wearing a badge and by offering free assistance during the conciliation process. They are sometimes introduced by Tribunal Members.

Program unfunded

Despite overwhelming success, the program receives no funding from the Office of Fair Trading (OFT) and the services do not have the resources to expand it to five days. We therefore urge OFT and the tribunal, who have recognised the vital service duty advocates provide, to support the program and its expansion.

Duty advocate wards off end to tenancy

A tenant was taken to the tribunal to have her tenancy ended because she was behind in the rent. The duty advocate found her in the waiting area, where she was having a panic attack. She was having trouble talking and was not able to go into the hearing room.

The duty advocate stepped in and was able to negotiate an agreement for the tenant to pay off the arrears in instalments and for her tenancy to continue.

Without the duty advocate, this tenant would likely not have gone into the hearing room, the matter would have been heard in her absence and her tenancy ended.

Join the Tenants' Union

Membership application (tax invoice)

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

First name

Last name

Position

Organisation

Postal address

Suburb

State

Postcode

E-mail

Phone (W)

Phone (H)

Membership type:

☐ tenant

☐ tenant organisation

☐ non-tenant

☐ non-tenant organisation

☐ other (please specify):

Fees: (all include GST) • unwaged \$8.00

• waged \$16.00

• organisation \$32.00

Annual fee runs 1 January–31 December.

New members can pay half fees after 30 June.

First membership fee covers cost of share.

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

Membership \$

Donation \$

Total \$

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

Signed

Date

Return with payment to Tenants' Union of NSW
1 Buckingham St, Surry Hills NSW 2012

CONTACTS

NSW Tenants Advice and Advocacy Services



Inner Sydney		9698 5975
Inner Western Sydney		9559 2899
Southern Sydney		9787 4679
South West Sydney	1800 631 993	4628 1678
Eastern Suburbs		9386 9147
Western Sydney	1800 625 956	9413 2677
Northern Sydney		9884 9605
Central Coast		4353 5515
Hunter	1800 654 504	4969 7666
Illawarra/South Coast	1800 807 225	4274 3475
Mid North Coast	1800 777 722	6583 9866
Northern Rivers	1800 649 135	6621 1022
North Western NSW	1800 836 268	6772 4698
South Western NSW	1800 642 609	

Specialist services

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

Aboriginal services

Greater Sydney	1800 772 721	9282 6727
Western NSW	1800 810 233	
Southern NSW	1800 672 185	4472 9363
Northern NSW	1800 248 913	6643 4426

Tenants Hotline 1800 251 101
Monday–Friday 9:30am–1:00pm and 2:00pm–5:00pm

Tenants NSW online: www.tenants.org.au

- View and print factsheets and sample letters.
- Keep informed about tenancy issues and the TU's work.
- Find your local Tenants Advice and Advocacy Service.



Tenant News
ISSN-1030-1054

Editorial team: Jo Daniels, Sue Scott

Contributors: Grant Arbuthnot, Nassim Arrage, Patrycja Arvidssen, Elizabeth De Freitas, Julie Foreman, Samantha Fradd, Julia Murray, Jen Rignold, Yvonne Sayers, Robyn Stafford

Views expressed by contributors are not necessarily those held by the Tenants' Union.

Coordination/layout: Luke O'Connell

Copyright of *Tenant News* remains with the Tenants' Union and individual contributors. Cartoons and drawings are not to be reprinted without permission.

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 over 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.

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