

Increase tenants advice services funding now!

Tenants Advice and Advocacy Services (TAAS) are unable to assist all tenants who need help in exercising their rights. Demand for TAAS has grown significantly over the past 10 years while funding has not. In fact, baseline funding for TAAS has not increased at all in those 10 years!

Since 2002, there has been a 24 percent growth in the number of tenancies and a 25 percent growth in disadvantaged households in the rental market. Workloads over this period have increased by 45 percent. TAAS are stretched to breaking point.

TAAS are funded under the Tenants Advice and Advocacy Program (TAAP), which uses monies from the Rental Bond Board (RBB), the Property Services Statutory Interest Account and NSW Fair Trading.

In recent years, NSW Fair Trading commissioned two independent reviews of TAAP. Both recommended substantial increases in funding to the program. To date, Fair Trading has refused to implement the recommendations of the reviews. This is surprising given that funds are available – the RBB had a

Tenants paying for their own justice system

The interest on tenants' bonds funds 50 percent of the administrative costs of the "tenancy functions" of the Consumer, Trader and Tenancy Tribunal. This arrangement is unique – no other tribunal or court is funded out of the pockets of its users.

Private tenants are among the most vulnerable in our housing system. Through the tribunal, they are subject to eviction by landlords without reasonable grounds. By funding the tribunal, tenants are themselves paying for their access to justice.

\$10.42-million surplus at 30 June 2011.

Many tenants will also be surprised to learn that only a small amount of the interest earned on their rental bonds goes toward services specifically for tenants.

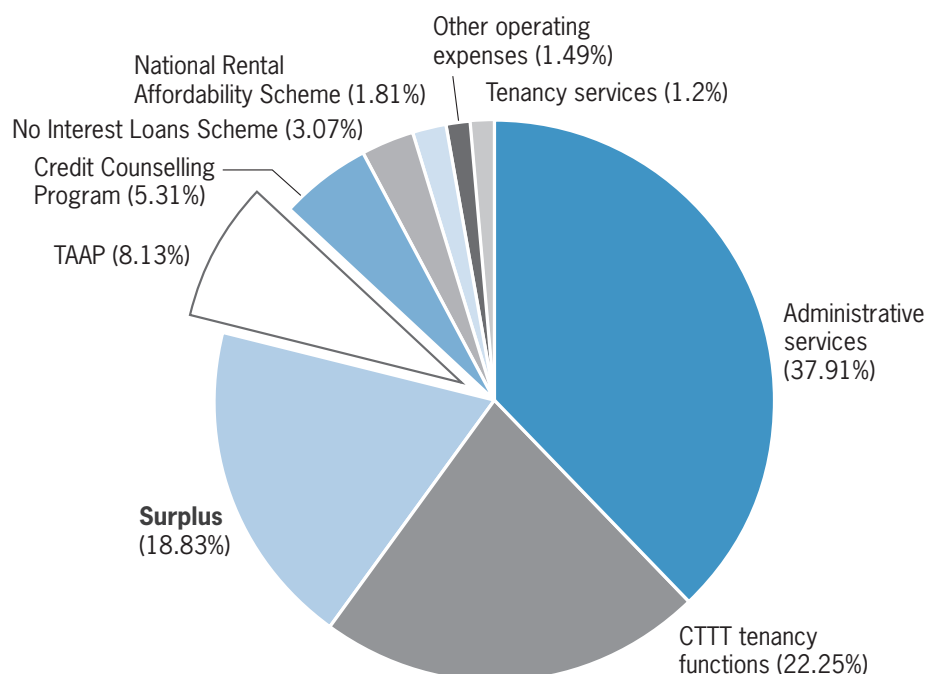
The RBB was established as "an independent and impartial

custodian of rental bonds on private residential tenancies in New South Wales" (RBB annual report 2010–11). The RBB's income comes from the interest on investment in trust funds and retained earnings.

One of the RBB's objectives, is to enable "access to information and consumer help in the area of residential



Piggy bank © 401K (401kcalculator.org)



Application of total Rental Bond Board income
(source of data: Rental Bond Board annual report 2010–11)

Key: CTTT – Consumer, Trader and Tenancy Tribunal; Tenancy services – “information, mediation and education services to tenants, village residents, landlords, their agents and village management”

tenancy”. To fulfil this, the RBB funds a proportion of:

- administrative costs of the Consumer, Trader and Tenancy Tribunal’s “tenancy functions”, which includes the tenancy, social housing, retirement villages and residential parks divisions
- Credit Counselling Program
- No Interest Loans Scheme
- The Aged-Care Rights Service – to provide information and advice to

older people in supported accommodation

- TAAS – through TAAP.

Of these, only TAAS provide negotiation, advocacy and representation to “tenants who are having difficulty acting on their rights”.

In 2010–11, the interest on rental bonds was \$55 million. Only \$4.5 million (8 percent) of this was provided to TAAP. Increasing TAAP funding from the RBB’s surplus would come at no cost to other services.

TAAS need your help to help tenants

Please send letters in support of increased TAAP funding to:

- Mr Anthony Roberts, MP, Minister for Fair Trading, and
 - Mr Mike Baird, MP, Treasurer
- at Level 36, 1 Farrer Place, SYDNEY NSW 2000
- your local MP (see www.parliament.nsw.gov.au).

Download a letter from www.tenants.org.au.

Meet the TU Board

Jessica Abi Khattar

Over 3 years experience as Tenant Advocate at Western Sydney Tenants Service, Macquarie Legal Centre.

Nassim Arrage

Director of Planet X Housing Co-op for 6 years.

Board member of Common Equity NSW.

Principal Legal Officer, Marrickville Legal Centre.

Brendan Edgeworth

Lecturer and author in property and housing law, University of NSW.

Dominic Grenot

Twelve years working with public housing communities.

Community development, policy and advocacy experience.

Public Housing Liaison Officer, Social and Community Support Division, City of Sydney.

Charmaine Jones (Chair)

Works in tenant participation resource roles and training.

Media and journalism experience.

Executive Officer, Inner Sydney Regional Council for Social Development.



Staatsrat © Jonas K. (flickr.com/jonask)

for 2012

Pat McDonough
(Treasurer)

Long-term experience as a solicitor in tenancy law.

Gemma McKinnon

Lawyer with Arts/Law degree.

Past Aboriginal Paralegal at the TU.

Director of Ngalaya Aboriginal Corporation.

Sits on the TU's Aboriginal Advisory Committee.

Meredith Osbourne

Over 20 years work in the justice sector (government and community) in education, policy, conciliation and management.

Bachelor of Arts, Bachelor of Laws.

Community Legal Education Project Officer, Legal Aid NSW and learning development consultant.

Paula Rix (Secretary)

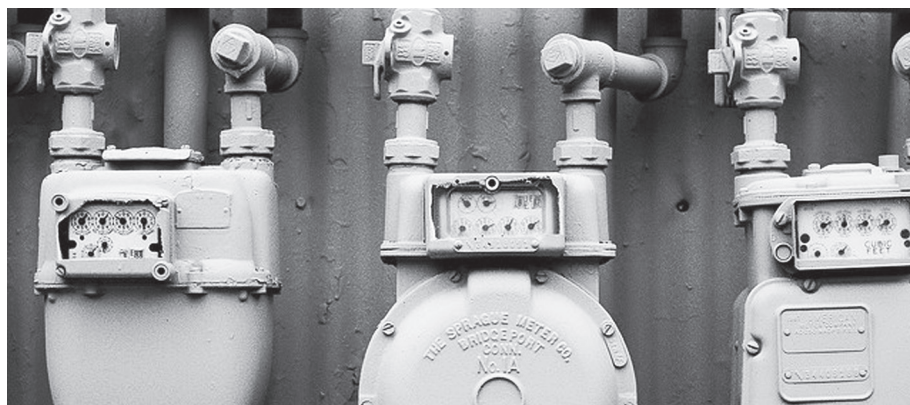
Senior Policy Officer, Shelter NSW.

Policy, research and education experience in housing and law.

Served on the boards of Down Syndrome NSW (4 years as president), Intellectual Disability Rights Service and the Ella Centre.



Who pays for water usage?



20090617-DSC_0058 © Benjamin Chan (flicker.com/hensever)

From 31 January 2012, privately rented premises must meet certain conditions before the landlord can charge for water usage. When a landlord does charge for water, they must bill the tenant correctly.

The premises must have their own water meter, or if they are not connected to the main supply, water is delivered by vehicle.

Furthermore, the premises must be 'water efficient'.

If both these conditions are met, the tenant will pay water-usage charges. If not, the landlord must pay.

Water-efficiency measures

The *Residential Tenancies Regulation 2010* prescribes measures for water-efficient premises. These are:

- a maximum flow-rate of 9 litres per minute for
 - all internal cold-water taps and single mixer taps for

kitchen and bathroom sinks

- all showerheads

- no leaking taps at the start of the tenancy or when water efficiency measures are installed – whichever is later.

Billing for water usage

A tenant is only required to pay for water usage if the landlord:

- gives the tenant a copy of the bill from the water supplier (or other evidence) showing the cost of the water used
- gives the tenant at least 21 days to pay
- requests payment within 3 months of receiving the bill from the supplier.

Social housing tenants

Ask your housing provider for a copy of their water usage policy.

Raising awareness about rights in share housing

Sarah Drury, Learning and Development Coordinator

The TU and NSW Tenancy Advice and Advocacy Network are running a statewide community education campaign on the rights of sub-tenants.

Under section 10 of the *Residential Tenancies Act 2010*, sub-tenants without written agreements are excluded from the Act's coverage. The TU and the Network collaborated to develop printed materials – a poster and leaflet – to raise people's awareness of this shortcoming in the Act.

The leaflet includes a sample sub-letting agreement. By providing this, we hope to make it easy for sub-tenants in share housing to get their agreements in writing.

Many students live in share housing and so we started distribution of the materials at universities over orientation week.

We drew up a distribution plan, allocating different tenancy services with the universities in their catchment areas. Each service was responsible for contacting the university and figuring out the best method of distribution.

Distribution methods included organising an information stall, sending the materials to the university and contacting TAFEs and other institutions. Some services ran community education sessions on the issue with local and international students. Others had the issue mentioned in student newspapers.

The universities have enthusiastically received the materials. Some now want to collaborate with the National Union of Students in their own statewide campaign around the issue.

The campaign need not stop here. We can distribute the materials to community organisations and real estate agents. We may develop another leaflet highlighting the benefits of co-tenancy and the possibilities of transfer of tenancy under the Act.



Poster design by Pro Bono Publico

The message: Secure your tenancy

Step 1

Write up your own agreement (or use the sample agreement).

Step 2

Sign the agreement and give it to your head-tenant to sign.

Keep a copy for yourself.

You can download the sample sub-letting agreement, leaflet and poster from **www.tenants.org.au/publish/publications/share-housing-agreement.php** or call the TU on 02 8117 3700.

Only Sheriff with warrant can take possession

Grant Arbuthnot
Principal Legal Officer

A tenant recently phoned the TU complaining that the landlord's agent had changed the locks. The tenant had been away working for some weeks. His arrangements for paying the rent had not worked and he was several weeks in arrears.

The agent had been to the Consumer, Trader and Tenancy Tribunal and obtained orders for termination of the tenancy agreement and possession of the premises to be given to the landlord. This is the usual form of eviction orders in New South Wales. While an *order* for possession was made, a *warrant* for possession had not been issued.

The warrant is a document issued by the tribunal registry if the tenant does not obey the order for possession. It commands the Sheriff to take possession of the premises and give possession to the landlord (or agent). Only an officer of the Sheriff can execute such a warrant.

A landlord or agent who takes possession themselves can be fined up to \$22,000. (They can take possession without a warrant, but only if the tenant has abandoned the premises.)

In this case, after a discussion with the agent, we arranged for the tenant to pick up the keys and get back into the premises. We told the tenant that:

- the agent could still have him evicted
- he could avoid eviction by paying all the rent owing including rent in advance.

This case highlights a couple of changes in the law from the old *Residential Tenancies Act* (1987) to the new (2010).

First, landlords and their agents cannot take possession of premises without a warrant for possession and the participation of the Sheriff.

Second, if the tenant pays all the rent owing according to the tenancy agreement – including rent in advance – before a Sheriff's officer executes the warrant, the termination order is no longer effective – the tenancy is reinstated.

We call this the 'pay-to-stay system'. It is an improvement in the law that saves tenancies, remedies rent arrears and puts both landlord and tenant in better positions.

Further information

- Tenants Rights Factsheet 05: *Rent arrears*
- Your local Tenants Advice and Advocacy Service

Find them both at
www.tenants.org.au.



New door locked © Mel-and-Jym (flickr.com/mel-and-jym)

Strata laws under review

The TU has provided input to a NSW Fair Trading online forum about the review of strata laws. Senior Policy Officer, Chris Martin, contributed to the discussion.

Strata laws affect everyone in the scheme, even renters. We at the TU say it is about time tenants' rights were taken into account by strata regulations.

Strata schemes are, in a sense, Australia's fourth level of government.

A strata scheme's by-laws, and the way they are enforced by the owners corporation, can have a direct and pervasive effect on the day-to-day lives of the people living there.

It's a familiar democratic principle that if people are to be responsible for complying with laws, they should also participate in the process for making them.

But in strata schemes, a large proportion of people – that is, tenants – are excluded from the owners corporation, and so have no say in the rules that affect their lives.

Perhaps they should. At the TU, we're aware of cases



20090617-DSC_0058 © Benjamin Chan (flicker.com/hensever)

where tenants have been seriously affected by a change in strata by-laws (for example, from being allowed to keep a pet, to being prohibited from keeping one) without being allowed a say. We're also aware of cases where it appears the owners corporation takes a hard line on enforcing by-laws against a tenant, but not against owners – effectively one rule for some residents and one rule for others.

So we're interested in the question of tenant participation in strata schemes. Should tenants have a vote in some aspects of the operations of owners corporations (for example, in the making of by-laws about

people's conduct, but not in financial matters)?

Or should they have a right to attend and be heard at meetings, if not actually vote? Or should we go the whole way and have 'residents corporations' rather than 'owners corporations'?

Alternatively, it may be desirable to have some legislated limits on the by-law-making power of owners corporations, to protect the interests of the minority – and in many cases, majority – of residents do not get a say in the making of the rules.

The TU welcomes the discussion about reform of strata legislation and looks forward to contributions of everyone – especially tenants – with an interest in strata living.

You can register online to keep up-to-date about the review at:
http://surveys.fairtrading.nsw.gov.au/Strata_and_community_law_review_registration.asp

Parks register established

The Residential Parks Amendment (Register) Act 2011 became law on 13 September 2011. The amendment provides for the establishment and maintenance of a residential parks register and related matters.

It inserts into the *Residential Parks Act 1998* a new part 13A. Section 142A will require park owners or managers to provide certain information for entry in the register.

The obligation to provide this information will apply once the owner or manager receives a written request and registration form from the Commissioner for Fair Trading. Owners and managers have 30 days to register.

Information to be provided includes:

- how the sites are used in each park (e.g. how many are occupied by permanent residents)
- how many people live on those sites
- how many residents own and how many rent the dwellings.

NSW Fair Trading will use this information to consider whether to introduce compulsory licensing and mandatory education for owners.

Section 142B requires owners or managers to notify NSW Fair Trading within 30 days if they open a new park or if there is a significant change to the information registered (such as change of a park's name, a change of owner or if a park closes). This is to ensure that the register is kept up to date.

Residential Parks Act review

NSW Fair Trading circulated a discussion paper on review of the Residential Parks Act 1998 in November 2011. The discussion paper included proposed models of legislative reform for residential parks.

Important proposals in the discussion paper include licensing of park operators, education of new operators and improved information disclosure requirements for operators.

The TU and Park and Village Service (PAVS) support improved disclosure requirements for park operators in particular. Currently, many incoming residents are only given required information at the same time as a site agreement or tenancy agreement.

Also covered in the discussion paper were:

- the contentious issue of park rules that form part of a resident's agreement
- sale of dwellings and assignment of agreements
- rent increases.

The TU is concerned about the parks industry's proposal that "assignment is often misunderstood and that the ability to assign an agreement could be removed". This would not be a pro-consumer reform and would be to the detriment of the home-owning park resident.

See the PAVS newsletter Outasite Lite #6 for a full analysis of the issues. Download the newsletter at www.cpsa.org.au/pavs or call 9566 1010.



Congratulations to Western Sydney Tenants Service on winning a ZEST Award. WESTS won in the Exceptional Project within a Not for Profit Organisation – Service Capacity category. The awards celebrate the work of community organisations in Western Sydney.

Call for website users. We are looking for volunteer website users as part of a review of the Tenants NSW website. If you are interested in being involved, please contact Luke O'Connell on 02 8117 3700 or luke_oconnell@clc.net.au.



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tunswblog.blogspot.com.au

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JOIN THE TENANTS' UNION

Support us in our work for safe, secure and affordable rental housing for people in New South Wales

Membership application

(Tax invoice ABN 88 984 223 164)

I apply for membership of the Tenants' Union of NSW Cooperative Limited as:

- ☐ individual tenant ☐ individual (non-tenant)
☐ tenant organisation ☐ organisation (non-tenant)

Name

Address

Suburb

State Postcode

Phone

Email

Fees (GST included)

Annual fee covers 1 January–31 December

- individual low wage / pension / benefit \$ 8.00
- individual waged worker \$16.00
- organisation \$32.00

Payment

Membership fee \$

Donation \$

TOTAL \$

Signed Date

Payment method: Please tick

- ☐ Enclosed cheque or money order made out to Tenants' Union of NSW
- ☐ Deposit into our bank account:

Account name Tenants' Union of NSW
BSB 062-004 Account No. 802624

For online deposits, please give the reference "MEM" plus your surname

Please post this form to: (no stamped needed)

Tenants' Union of NSW
Reply Paid 85479
Surry Hills NSW 2010

CONTACTS

NSW Tenants Advice and Advocacy Services



Inner Sydney	9698 5975
Inner Western Sydney	9559 2899
Southern Sydney	9787 4679
South Western Sydney	1800 631 993 4628 1678
Eastern Sydney	9386 9147
Western Sydney	8833 0911
Northern Sydney	9884 9605
North Western Sydney	1800 625 956 9413 2677
Blue Mountains	4782 4155
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

Aboriginal services	
Greater Sydney	9569 0222
Western NSW	1800 810 233
Southern NSW	1800 672 185 4472 9363
Northern NSW	1800 248 913 6643 4426
Older persons (statewide)	1800 131 310 9566 1120



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Disclaimer: Legal information in this newsletter is intended as guide to the law and should not be used as a substitute for legal advice. It applies to people who live in, or

are affected by, the law as it applies in New South Wales, Australia.

Tenants' Union of NSW

- A community legal centre specialising in NSW residential tenancies law.
- Peak resourcing body for the NSW Tenants Advice and Advocacy Program.

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