

2 January 2013



Principal Policy Officer
Tenancies Act Review
Residential Tenancies Authority
GPO Box 390
BRISBANE QLD 4001

By email only: review@rta.qld.gov.au

Dear Sir/Madam

Review of the Residential Tenancies and Rooming Accommodation Act 2008

Thank you for the opportunity to respond to your discussion paper, *Review of the Residential Tenancies and Rooming Accommodation Act 2008 (the RTRA Act)*.

The Queensland Public Interest Law Clearing House Incorporated (**QPILCH**) coordinates a range of legal services which provide people experiencing disadvantage with access to justice in civil law matters, drawing on pro bono and student resources. The Homeless Persons' Legal Clinic (**HPLC**) is a partnership between QPILCH, private law firms and community organisations, and delivers the only targeted civil legal service to people experiencing homelessness in Queensland.

Since it was established in 2002, the HPLC has provided legal representation to over 3,500 homeless Queenslanders. Tenancy matters have always constituted a significant proportion of our casework, with 17% of our 507 new clients in 2011-12 presenting for tenancy law assistance.

Housing context

The HPLC recommends that any proposed reforms to the RTRA Act be considered in the context of homelessness and issues surrounding housing affordability and availability.

In the 2006 Census, there were over 105,000 people experiencing homelessness in Australia.¹ This national figure includes over 16,300 people sleeping rough or in squats, almost 20,000 in crisis accommodation and refuges (up from approximately 14,000 in 2001), almost 21,600 in boarding houses, and nearly 47,000 people staying temporarily with friends or relatives.² A further 17,500 people across Australia reside temporarily in caravan parks.³ We submit that since 2006, with the advent of the global financial crisis and the housing crisis, there has been a considerable increase in the number of people experiencing or at risk of homelessness.

¹ Chamberlain, C. & McKenzie, D, Counting the Homeless 2006 Victoria (2008).

² Ibid at page 21.

³ Ibid at chapter 7. It is important to note that Census data only captures those people who respond to the Census survey and identify as homeless. Research shows that, for example, while many young people and Aboriginal and Torres Strait Islander people may fall within the above definition of homeless, in that they have no fixed address and seek transitory accommodation from friends and extended family, they may not actively identify as homeless. It is therefore reasonable to assume that the actual number of Australians experiencing homelessness exceeds the official figure.

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Queensland Public Interest Law Clearing House Incorporated

incorporating the Homeless Persons' Legal Clinic, Self-Representation Service, Refugee Civil Law Clinic, Administrative Law Clinic, QLS Pro Bono Service, Bar Pro Bono Service, Mental Health Law Practice, and the Magistrates Court Service.

In Queensland, 38,930 applicants are waiting for public housing as at December 2012.⁴ Coupled with the existing housing shortfall, Queensland's growing population will place an even greater pressure on the rental market, for which the vacancy rate is critically low at 3.1%.

In such a context, the margin in which people can fall into homelessness expands. Further, as homelessness expands, so too do the numbers of people who experience the broad range of associated forms of disadvantage.

Support of TUQ submission

We have had the benefit of reading the submission prepared by our colleagues at the Tenants' Union of Queensland Incorporated (**TUQ**) in relation to your current review of the RTRA Act. The HPLC strongly supports the recommendations of TUQ as set out in their submission.

Drawing on our experiences and the issues faced by our clients, we have a particular interest in the following discussion points:

- **Option 1.15: Amendment to section 355-365 of the RTRA Act**

We note that the discussion paper does not differentiate between rooming accommodation and residential tenancy agreements in the discussion of Option 1.15.

We would strongly oppose any reduced obligations on lessors and providers when dealing with abandoned goods, particularly in relation to rooming accommodation agreements. When faced with immediate eviction, rooming accommodation tenants often have no choice but to abandon some or all of their goods. We often assist tenants in those situations who are struggling to find alternative accommodation, cannot pay for private storage and have no recourse to challenge their eviction.

Similar comments can be made in relation to residential tenancy agreements. We note that the current notice period for a notice to leave without grounds is 2 months. Given the difficult housing market, this time frame is often insufficient for low-income families and individuals to secure alternative accommodation.

Any shortening of time frames in relation to the storage of abandoned goods would only further compound the disadvantage faced by already vulnerable Queenslanders.

- **Option 1.17(a): Application by co-tenant for bond refund**

We strongly oppose Option 1.17(a). A provision such as this would disproportionately impact those who are disadvantaged and increase the likelihood and risk of homelessness. No-income and low-income earners already face substantial difficulties in raising enough funds to pay a bond. These difficulties would be exacerbated if they were unable to access a refund at the time they exit a premises.

⁴ Australian Institute of Health and Welfare, *Housing Assistance in Australia: 2012* (2012) at page 16.

- **Options 1.18(a) and 1.18(b): Removal of immediate eviction provisions for rooming accommodation**

We support both Options 1.18(a) and 1.18(b), with a preference for Option 1.18(a). While we acknowledge its implementation will involve an increased workload at the Queensland Civil and Administrative Tribunal (**QCAT**), as well as having other resource implications, we consider that those costs would be adequately off-set by the increased security of tenure for people accessing rooming accommodation.

In any event, rooming accommodation agreements should not be subject to immediate eviction provisions and a QCAT order along with a warrant of possession should be required for any opposed ending of an agreement.

- **Option 1.19(c): Abolish notice to leave without grounds provisions**

We strongly support the removal of the ability for lessors to end a residential tenancy agreement without grounds. We submit that disadvantaged people are often subject to discrimination and unfairly labelled as 'problem tenants', even though they may not be in breach of their agreement. In our opinion, these amendments would assist in balancing the competing, disproportionate interests of lessors and tenants.

- **Options 1.24(a) and 1.24(b): Amendment of section 345 of the RTRA Act and Acceptable Behaviour Agreements**

We are strongly opposed to both Options 1.24(a) and 1.24(b). Social housing tenants have complex needs that can only be adequately addressed through on-going, holistic assistance, of which housing support is just one component. We submit that housing is a fundamental human right and the government has an obligation to ensure that all citizens have appropriate and secure housing. It is reasonable for consideration to be given to future accommodation options when a person is facing removal from social housing.

We also submit that the introduction of Acceptable Behaviour Agreements would place an unnecessary additional burden on disadvantaged Queenslanders. Eviction on the basis of unreasonable behaviour is already available under section 345 of the RTRA Act and tenants of social housing already need to comply with various codes of conduct, in addition to the requirements of their tenancy agreements.

If you would like to discuss any of the above matters in further detail, please contact me on (07) 3846 6317.

Yours faithfully



Cameron Lavery

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