

# GLOBAL TENANT



INTERNATIONAL UNION OF TENANTS' QUARTERLY MAGAZINE January 2007



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THEME: AUSTRALIA



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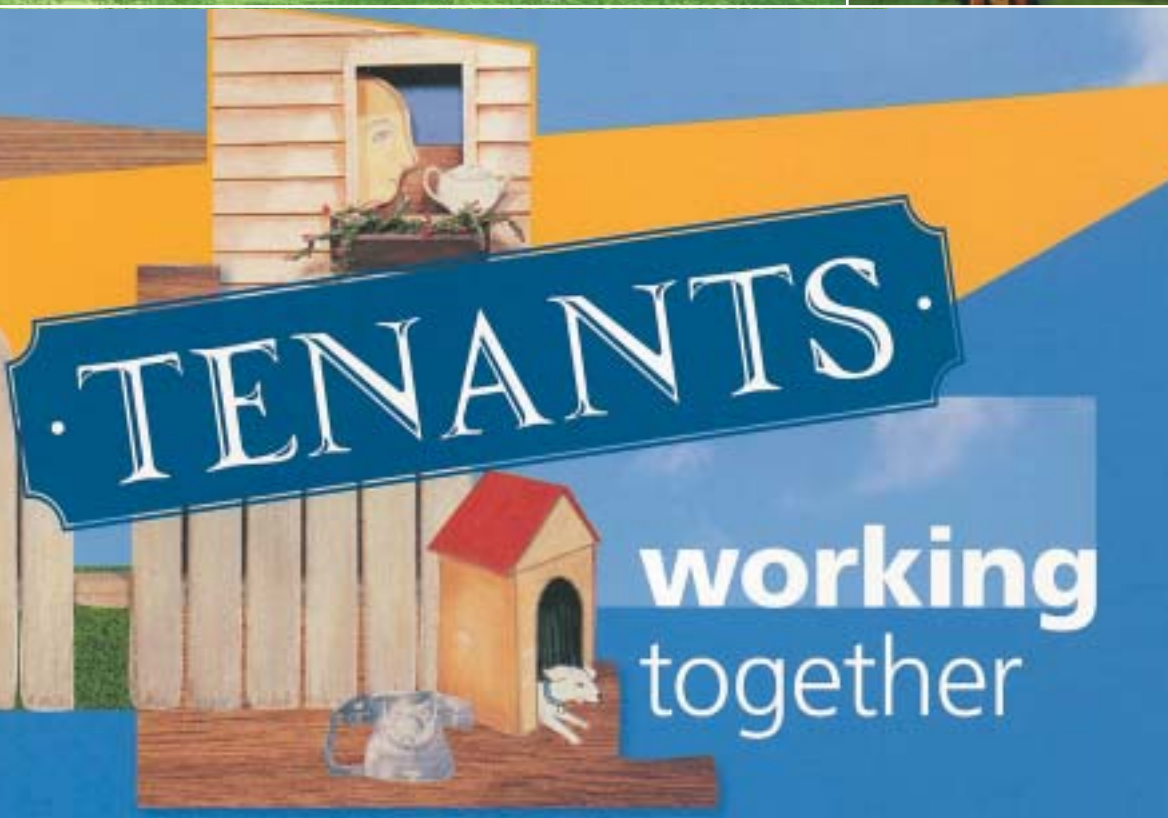
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P.O. Box 7514  
103 92 Stockholm, Sweden  
Tel +46-(0)8-791 02 24/791 02 25  
Fax +46-(0)8-20 43 44  
E-mail: [info@iut.nu](mailto:info@iut.nu)  
Website: [www.iut.nu](http://www.iut.nu)  
Publisher and  
Editor: Magnus Hammar  
January 2007  
Publication Design: Cinna Gross

## Outdated tenancy laws in Australia

It is easy to assume that all developed countries have strong and protective laws respecting tenants' rights. Australia just recently received a visit from the IUT Secretariat in Sweden, and the stark contrast in tenancy rights and housing systems was brought home to us all.

Amongst other engagements, Magnus Hammar addressed a room full of Queensland tenant advocates on the issue of security of tenure. Many of us sat in awe of the security of tenure of some of our European counterparts, eg. Swedish tenants, whose tenancies are subject to succession laws. In Queensland, a tenant can be evicted 'without grounds' and at relatively short notice. For example, at the end of a fixed term agreement a tenant can be given a two week 'without ground' notice to leave, or, if they are on a month to month agreement, with two months notice.

Further, private rental market properties interchange with owner occupied properties. This means, if a tenant's home is sold, the new owner may evict them if they wish to move into the property. The only protection for a tenant in this situation is that they cannot be asked to leave if they are on a fixed term agreement. Again, this contrast to some European countries where caveats prevent rental market property becoming owner occupied.

Home ownership has always been known as the 'Great Australian Dream', but this dream is slipping out of the reach of many people as affordability declines. The private rental market has now become the long term or permanent tenure for particular groups of renters, some unable to get into homeownership, others unable to access social housing as it becomes highly targeted and welfarised. Our tenancy laws are outdated, and reflect a time where the Australian private rental market was a stepping stone from one's parental home and into homeownership. We must reform our laws.

However, tenant advocates have strong opposition from property owners and the real estate industry. At a recent meeting, the industry proposed reducing all notice to leave time periods to two weeks, regardless of who was serving the notice.

The Tenants' Union of Queensland will be lobbying hard for the removal of without ground evictions in the current review of our Residential Tenancies Act!



Penny Carr  
*Statewide Co-ordinator, Tenants' Union of Queensland*

## Calendar

- Jan 31-Feb 1:** Social Housing: A tool for EU cohesion. CECODHAS, Brussels  
**February 7:** Measurement of Homelessness at EU level. European Commission, Brussels  
**March 28-31:** Informal Settlements. Organised by UN-ECE. Athens, Greece  
**April 10-11:** Rental Housing Educational Conference and Expo. Santa Clara, California, USA  
**April 18:** Housing policy as a driving force. Organised by EHF and FEANTSA. Dublin, Ireland  
**May 28-30:** Annual meeting of the Swedish Union of Tenants, Kiruna.  
**May 31 - June 1:** National Assembly of the German Tenants' Union, in Stuttgart.  
**June 25-28:** Sustainable Urban Areas. ENHR conference. Rotterdam, the Netherlands  
**August 3-5:** TPAS Annual Conference. Birmingham, England  
**Aug 30 - Sept 1:** APNHR: Transformations in Housing, Urban Life and Urban Policy. Seoul, Korea  
**September 12-14:** The 7th Australasian Residential Tenancies Conf. Melbourne Australia  
**September 17-19:** 68:th Session Committee on Housing and Land Management, UN-ECE, Geneva  
**September 21-23:** IUT Congress, Berlin Germany, see page 16

**For more information:** [www.iut.nu/conferences.htm](http://www.iut.nu/conferences.htm)



# Australian Rental in Context

Prof. Terry Burke, Swinburne University of Technology

## Historical Origins

Australia's history of white colonisation and settlement is very recent. In 1788 there was no white population and no fixed settlements or housing as conventionally thought of.

The growth of the Australian colonies was focused on city ports that serviced the expanding rural and mining sector. Contrary to 'outback' images, Australia from its colonial inception has always been a highly urbanised society with its demographic growth fuelled by international migration. Without the baggage of historical privilege and entrenched property ownership found in other societies, and with a hinterland rich in rural and mineral resources, the Australian economy boomed in the nineteenth century. By 1900, along with Canada and the USA, it was one of the richest countries in the world in

terms of per capita income. Moreover, the dispersion of wealth and income was broad by the standards of the time, with a smallish industrial proletariat.

The housing system that emerged in the colonial cities of Sydney, Hobart, Melbourne, Adelaide, Brisbane and Perth was therefore one which adapted to the lack of existing landownership arrangements, this urban dominance, rapid population growth, and an affluence created less by a burgeoning manufacturing sector than by mining and rural development and the associated financial and related services which they required.

## Everyone invested in property

In terms of housing form, this meant that there was no requirement for ten-

ement housing to serve a poor manufacturing working class. The typical working-class housing in nineteenth century cities was single or two storied terrace housing, while middle-class - and a growing proportion of affluent working-class - housing was single detached and remained so into the twentieth century. In 1933, for example, only 4.8 percent of the national stock was apartments or flats. This has important implications for the nature of Australian private rental. The entry costs for investment in a single cottage are very different to those of a block of tenements in New York or Glasgow or apartments in London, Paris, Stockholm, or Berlin. The former meant that investment was possible by people of relatively modest means where the latter meant you had to be rich or a company investor. ►

Public governmental housing in Melbourne



	1911	1933	1954	1971	1981	1991	2001
<b>Private rental</b>	42	40	30	22	19	20	23
<b>Home Ownership</b>	46	54	63	69	68	72	68
<b>Public Housing</b>	0	0	4	6	5	6	5
<b>Other</b>	12	6	3	3,5	8	2	4,5

Table 1. Tenure trends, Australia 1911 - 2001, Source ABS

## Private rental seen as secondary to ownership, from the start

The general affluence of Australians also affected tenure. Thus as early as 1880 at least half the housing stock was owner occupied, a proportion not reached in most other urban societies until the second half of the twentieth century. This tenure arrangement was fuelled by the lack of a gentry, which meant that the abundant land was an 'open go' area for property speculation and development. Facilitating this speculation was the emergence of financial institutions (building societies) that promulgated for the affluent working class a notion of a home owning democracy. Many new immigrants also saw ownership as a symbol of escape from the insecurity and harassment of private rental in the squalid industrial cities of Britain from which they came.

The effect of this was to cast private rental into a secondary status to ownership, almost from the inception of the Australian housing system. It can be argued that this reduced the political potency of any problems in the private rental sector – tenant issues being largely neglected – and minimized the interventions that have characterized the sector in Europe or even the USA. In fact, with the exception of relatively minor periods of rent control during the two World Wars, the major policy interventions have only evolved in recent times, and are not designed to control any perceived problems inherent to the sector but to actually facilitate its sustained provision, e.g., negative gearing, strata titling.

Table 1 trace the private rental sector's declining importance from the nineteenth century up to the 1980s when its relative tenure position began to improve. Although private rental by 1981 had declined to a low of 19 per cent, it remained a robust part of the

Australian housing system, with little of the debate that has occurred in parts of Europe – particularly the UK – on how to revive the sector or what was its appropriate role. While the decline in private rental in the early post-war years echoes similar trends for the UK and parts of Europe, although not to the same degree, it was not necessarily for the same reasons.

## The Institutional context

The characteristics of the Australian private rental sector, as with any other country, is moulded by the nature of the institutional environment in which it operates. At the macro level the two key institutional contexts are that; Australia is a market liberal society with an emphasis on the market, small government, low taxes and individual property rights and consumer choice and secondly a federal system of government.

At a more micro level, this institutional environment takes in the regulatory, and policy environment relating to taxation, planning and building regulation, the legal system, including residential tenancy legislation, the welfare systems (e.g. the nature of benefits), the finance system and the characteristics of exchange agents such as real estate agents.

## Private rental overruns public rental

As a market liberal society, Australia places considerable faith in the market and is highly protective of individual property rights and relatedly of home ownership which, it is argued, promotes values of individualism self-help and conservatism consistent with the requirements of such a society.

The implications for the private rental sector of being embedded in such a society include;

– Firstly, that the social housing sector has never been allowed to expand beyond a residual level, around 5 per cent, and even this is considered to be too high by some property interests. This means that, unlike in many European societies, private rental does not have to compete with social landlords. Its real competitor being the home ownership sector.

– Secondly, it means that interventions – whether in the form of residential tenancy legislation, rent controls, and taxation or housing allowances – in the sector have been limited by international standard and weighted in favour of property interests.

– Thirdly, it means that the behaviour of both tenants and landlords is mediated through labour markets, welfare systems and finance systems that are structured around the requirements of market liberalism.

## No federal housing policy

In any analysis of Australian housing, it is important to recognise that Australia has a federal system of government but unlike the USA, Canada or Germany it is one where the third tier, the local government level, has a much smaller role. The federation of the colonies in 1901 created a constitutional environment of significant implication for the housing system and for the private rental sector. The federal constitution has meant that most of the laws applying to housing – for example, residential tenancy legislation, property law, building regulations and planning controls – are state or local government based, with the states protecting their rights vigorously.

Unlike in the USA or Canada, there is no largish federal agency responsible for policy directions in housing, with the result that there is nothing which resembles an Australian housing policy, either generally or for private rental. One reason for the larger federal government role in Canada and the USA is the larger local government role including much housing provision. While provided at the local level it is federally funded.

Moreover, as most of our states are of enormous size – the state of Western Australia is five times as big as



Spain, Queensland is three times the size of France – it is difficult to talk about the Australian rental market, as it really is one of market diversity based around the distinctive attributes of each state.

## Households on the poverty line

As a market liberal society, Australia has a lean welfare system by international comparisons, with pensions and benefits providing the most minimal safety net. For example, 2004 OECD data on unemployment benefits as a percentage of the average worker's income shows Australia near the bottom with benefits equivalent to 24 percent, compared to 56 percent in Canada, 59 percent in Germany, and 70 percent in the Netherlands.

Traditionally this has meant that a high proportion of households exist on, or just above, the poverty line, the bulk of whom – given a residual public housing sector – live in the private rental sector. Since the early 1980s rental assistance has been introduced to top up the minimal incomes provided by pensions and benefits, but this assistance is far from generous and still leaves most low income renters well short of the 30% rent to income affordability benchmark.

## Massive increase in need for rent assistance

Rent assistance in Australia had its origins in 'supplementary assistance' which was introduced in 1958, but with very limited eligibility, mainly widows and single aged pensioners. In 1963 there were only 9,518 recipients of rent assistance. At the time, this approach was seen as a cheaper option than a more general pension increase. The scheme remained in place until 1983 when the newly elected Labour government expanded it to include almost all social security pensioners and other beneficiaries, as well as making it an entitlement rather than a discretionary scheme. Rental assistance is not designed to reduce rental outlays to some benchmark – for example, 25 per cent of income – but simply to improve rental affordability for social security recipients.



New roads for Australian housing policies?

With the 1980s coinciding with a growth in numbers of old age pensioners and supporting parents – and, towards the end of that period, a sharp increase in unemployment – the numbers of recipients expanded almost exponentially. In 2005 total outlays of the rental assistance program were A\$ 1.8 billion compared to A\$210 million in 1984.

## Low income households directed to private rental

Effectively, private rental assistance has now replaced public housing as the major platform for low income housing assistance in Australia. However, because it is not overly generous, many recipients are still likely to be in or near poverty even after its receipt. Importantly, it is seen and managed as an income support program; unlike rental assistance in Canada, the USA (Section 8) and most Northern European pro-

grams there is no link to any supply side subsidies.

## Exchange Agents

About 60 per cent of rental properties are managed by private estate agents, with the remainder being self-managed, that is, landlord managed. Estate agents have two functions. The first and dominant one is to match sellers and buyers of residential property. The other is to manage the rent roll for individual landlords who pay a fee of around 7 to 9 per cent of the gross rent for this service. To be an estate agent requires minimal education and training, and what training there is largely focuses on the sales role rather than the rental role. In many cases, this means that private rental sector manager, in contrast to the professional property managers in the USA or Europe, tend not to be particularly professional, and many are indeed amateurish in managing this complex and fraught housing sector.



Prof. Terry Burke speaks at the 20th anniversary of the Tenants' Union of Queensland, flanked by Robin Zakharov from the Policy Practice

## Contract termination without reason

The short-term leasing that characterized nineteenth century English law still holds today. Leases are rarely longer than a year, typically six months, with notice to quit ranging from two weeks to three months. They can be terminated for any reason, so long as the minimum notice is given. Tenants normally have the right to give notice at any time before the expiry of the contracted lease, but may have to pay for any costs incurred because of this, for example, vacant rent periods. They must lodge a bond equivalent to four weeks rent prior to moving into the property, which is returnable upon a condition report at the end of the lease. This has been and still is a major source of conflict, as many landlords and estate agents concocted a rationale for not returning a bond which they held in trust on behalf of the tenant. Most states have now established rental bond boards, which are independent authorities for managing bonds.

## Tribunals service landlords

In most states, rental dispute is handled by special tribunals rather than traditional courts, for example, magistrate's courts. The objective where possible is to deal with conflict through mediation rather than tribunal rulings. Despite beliefs that such tribunals would be used by tenants to make the life of landlord harder, the bulk of residential tenancy appeals in Australia are made by landlords, and then largely to terminate possession.

# Conclusion

For those of social democratic persuasion, the sector appears to be fundamentally flawed. The large numbers who are experiencing an affordability problem, the discrimination (sometimes linked with the lack of professional management), the non-targeting of tax subsidy, the related inability to ensure supply of lower end rental housing (particularly in non-metropolitan and fringe urban areas) and the gentrification of stock in inner urban areas are used as evidence to indicate that it is a problem sector.

More saliently, its very growth can be pointed to as a problem, given that this has occurred concurrently with greater after-housing poverty. The opportunity cost of an expanded private rental sector, with all its tax subsidies and rental assistance, may be seen as one of forgone social housing. Would there have been less poverty, fewer affordability problems and less discrimination if the social sector had been encouraged to expand over the last two decades rather than considerable indirect subsidy of private rental? Further the ontological security provided by ownership and public housing is removed by private rental growth and replaced by the uncertainty of short-term leases and the trade-off of renting in amenity rich areas versus owning in amenity poor areas.

## Seduced by globalisation

It can be argued that the resurgence of private rental is symbolic of a recasting of the housing system into one more suited to the Commonwealth government's objective of making Australia a globalised market liberal economy. Like all industrialised capitalist societies, Australia has been seduced by the imperatives of globalisation and the need to restructure to create greater international competitiveness. In a market liberal society like Australia, this has meant financial and labour market deregulation, weakening of trade unions, privatisation, substantial restrictions on the role of government, including tighter targeting of welfare, and greater dependence on private finance and free markets. Housing systems can complement or weaken the ability to implement such strategies, depending on the form of the system. Private rental may be seen as the post-modern tenure form – the one that meshes best with the flexibility and diversity of a globalising post-industrial society. By contrast, home ownership and public rental can be seen as representing modernist tenures which have outlined their usefulness.

## Flexibility, for whom?

There is little doubt that the private rental sector is the most flexible housing tenure in terms of consumption and investment; both consumers and investors can exit and enter it more readily than either home ownership or social housing. While investors appreciate such flexibility, there is doubt about all tenants want such flexibility. For affluent professionals of the information society, private rental may suit their need for a global lifestyle, unlike the more inflexible ownership sector. For the other tenants of a restructured economy and society who are already experiencing substantial job insecurity, what they want is housing security. But, because of the institutional structure of the private rental sector, security is not an option. Nor is adequate housing affordability, given the low levels of rental assistance. Greater attention has to be given to resolving the affordability and security problems of the sector.

Extract from Professor Terry Burke's presentation for the Tenants' Union of Queensland's 20th anniversary conference, October 2006.



## Tenant protection, and degree of security of tenure, Private tenure

Country	Notice to quit		Length of lease	Landlords reasons to give notice to quit:
	Landlord	Tenant		
AUSTRALIA, W. Australia	L: 60 days		6 – 12 months, then month to month lease	Without grounds
AUSTRALIA, Queensland	L+T: 2 weeks – 2 months		6 – 12 months, then month to month tenure.	Without grounds
AUSTRALIA, Canberra, ACT	L: 8 – 26 weeks		6–12 months	Without grounds
AUSTRALIA, Victoria	L: 14 days / 60 d / 120 d T: 14 / 28 days		12 months, then month to month lease	Without grounds
Austria	L+T: min. 1 month, average 3 months		min 3 years	Rent arrears, misconduct and family use.
Belgium	L+T: 1 month		3, 6 or 9 years	Without grounds
Czech Republic	L+T: 3 months		3 years – unlimited	Misconduct, rent arrears, family use, posses more than one flat, etc.
Denmark	L: 12 months T: 3 months		Continuous prolonging	Personal or family use, rent arrears, demolition, misconduct, .etc.
England	L: 28-112 days T: >2 year lease: 28 – 56 days		3 or 6 months, renewal	Anti Social Behaviour, rent arrears, misconduct.
Finland	L: 3-6 months		fixed term, often 1 year	L-lord selling of flat, family use, misconduct, break of contract rules.
France	L: 6 months ( 3 year lease) T: 3 months		1 – 3 years	Rent arrears, misconduct and family use.
Germany	L+T: 3 months		Continuous prolonging	Personal or family use, or more econ. profitable use.
Netherlands	L+T:3 months		Continuous prolonging	No termination, except for rent arrears and misconduct.
Slovenia	L+T: 60–90 days		1 year, or unlimited	Rent arrears, misconduct + 13 more reasons for eviction.
Sweden	L+T: 3 months		Continuous prolonging	No termination, except for rent arrears and misconduct.

## Naming and shaming by M. Hammar, IUT

Table shows the level of tenant protection in Australia compared with a selected number of countries in Europe. The row “notice to quit” gives the days and months for fixed term longer contracts (1 year >), or short term contracts (1, 3, 6 months). Tenants in countries like Sweden, Netherlands, Germany and Denmark enjoy continuous prolongation of the contract, both in private and social rental.

For reasons already described in Prof. Burkes’ article, the level of tenant protection, and security of tenure, is very weak in all of the eight Australian states. It is clear that the Australian housing policy favours homeownership, as no one would voluntarily chose to live as a tenant under such insecure conditions. For most Europeans it is hard to imagine how it would be like to live under these short-term conditions, with 6-12 month leases, and never be sure whether if you will be allowed to stay for another year. Maybe it is ok for a student, or for someone working in Australia for a shorter period, but never for households – from one person households to families with children. And with contracts that allow the landlords to terminate the contracts without grounds – it is not difficult to imagine what kind of relationship there is between tenant and

landlord; Not too many question asked and you definitely don’t want to been seen as a troublemaker – even if it is just asking the landlord to repair the railings or to clean the common premises from garbage.

Also, it is a bit surprising to learn, from Prof. Burks’s article, that the rent tribunals are not used by tenants, but rather by the landlords – to terminate rental contracts!

### Tenant protection

So, tenants in Perth, Brisbane or in Melbourne are quite exposed species. But helping hands are available even in the jungle. There are tenant organisations in all eight Australian states. They differ slightly from each other, but all provide services for and tenants such as consultation, on telephone or by appointment. As being a very large country, each organisation also run local or regional tenant advice services.

[www.iut.nu/members/australia.htm](http://www.iut.nu/members/australia.htm) gives you contact information to all eighth Australian tenant organisations, and also a link to public housing in Australia 2005/2006, data report.

Also, a more detailed of the above table is found on the IUT website, under Fact & Figures.

# Tenant protection in the Capital

By Deborah Pippen, Canberra

**The Tenants' Union (TUACTION) is one of the primary providers of information, advice and education to tenants in the Australian Capital Territory, ACT.**

Tenancy issues have been important for ACT residents for many years. However, in relation to other jurisdictions tenant activists were late in forming an organisation. In 1990, galvanised by impending legislation to set up the Rental Bond Office, a community meeting of tenants and other concerned people decided to establish a group to represent public and private tenants in the ACT. In 1993 the TU became incorporated.

The first major achievement for the TU was success in obtaining a small seeding grant that allowed the organisation to rent some premises, publish some information leaflets and begin to think seriously about opening for business. Then the Capital Territory Government agreed that interest earned on tenant bonds should be spent for the collective good of tenants, and that an independent tenants' advice service would be an appropriate use for the money.

## Perseverance does it!

The opening of the Tenants' Advice Service in August 1994 represented the culmination of a lot of hard work behind the scenes. Since 1994 the TAS has provided the focus for much of TU work, with TU employing staff as TAS workers. TU membership consists of private, public and community housing tenants, occupants of other forms of accommodation as well as individuals interested in tenancy issues.

## Funding from rental bonds

The TU is a community legal centre providing information, advice and referral through our part-time phone advice line. We also undertake community legal education, produce written information, conduct workshops and coordinate annual week of activities linked to

International Tenants' Day. Another important aspect of our work is general advocacy and law reform. We are funded through the Department of Justice and Community Safety, by a proportion of the interest earned from bonds lodged with the Office of Rental Bonds.

## NATO, for national housing influence

The TU is a member of the National Association of Tenants' Organisations, NATO. NATO is an unfunded group, network, with members from most states, whose objective is to assist one another, which is a vital aim considering that many tenants groups are seriously under-funded and under-resourced.

NATO's objective is also to develop consistent national strategies regarding tenancy and respond to national initiatives impacting on tenancy. Through NATO Australian tenant organisations work towards providing a coherent voice for tenants on national issues.

## Weak security of tenure in ACT

As the Narrabundah issue highlights (see separate article) lack of security of tenure is significant ongoing problem for people renting in the ACT. Our legislation provides for termination without cause for leases not in a fixed term, the amount of notice is quite long, 26 weeks, however this does not avoid many problems for tenants. Disreputable landlords and their agents can use the threat of termination

as a way to get tenants to sign new leases or agree to high rent increases. Tenants are also fearful of taking any action against landlords because of the possibility of retaliatory eviction. Additionally, a landlord can terminate a periodic tenancy if they, or a family member, or someone they know, want to move in to the premises, or they

Advice worker  
Helen Sexton,  
Deborah Pippen  
TU-ACT co-ordinator  
and Shae McCrystal,  
TU-ACT President







wish to sell or renovate the property. The tenant receives 4 weeks notice and has to find a new home in our very tight and expensive rental market. The tenant has no recourse, the lease will terminate and if they don't move they will be evicted.

## Bond money causes conflicts

Our clients come from a diverse range of backgrounds ranging from people from very poor disadvantaged circumstances in public housing and substandard private rental to well educated, well resourced tenants in top end rental housing. The most common issues are disputes in relation to: bond, repairs, rent increases, tenant's liability when terminating early and termination by the landlord or their agent. The advice calls are often long and the issues complex.

## Public housing well above the average

In 2004 the altogether 342,300 residents in the Capital Territory occupied more than 123,000 private dwellings. Of these, 29 % were rented properties; the national average was 26%. In 2004 the average household size in the ACT was 2.5 people. Using this figure we can estimate that there were approximately 89,000 people in rental accommodation in Canberra.

In June 2006 public housing comprised approximately nine per cent of all dwellings in the ACT, which is almost twice as much compared to other Australian States. Housing ACT Company managed some 11,500 properties, approximately 32 per cent of rental stock. Other tenures covered by our tenancy legislation include people in caravan parks, boarders and lodgers and those in student accommodation. It is hoped that next year we will have reliable figures for these groups.

## Tenancy Tribunal, but not for tenants!

Tenancies are regulated by The Residential Tenancies Act 1997 and tenancy disputes go to the Residential Tenancies Tribunal. Unfortunately our Tribunal figures reflect the rest of Australia and very few tenants access the Tribunal – only five per cent of cases are applications from tenants.

## Small, but effective

TU is a small service with two Advice Workers together with an Executive Officer and a part-time Administrative Officer. In the last year, 2004/05, our service reported 3,300 phone contacts with ACT tenants on tenancy/housing issues. In addition to this we have direct contact with a significant number of people renting via our other activities.

Deborah Pippen is the Executive Officer, Tenants' Union ACT, Canberra.



## Narrabundah Long Stay Caravan Park

An issue that received a significant amount of community interest this year was the future of the Narrabundah long stay caravan park. The issue emerged when over 100 residents of long term park, previously owned by ACT Government, was "sold" to community organisation, for just A\$1 in 2000. The Park was then resold to developer for over A\$2 million.

The developer immediately issued Notices To Vacate to all residents. Residents sought help and were very proactive, and they generated a great deal of community support through networks and the media. The protesting residents were able to get support from the ACT Community Legal Centre network to fight the evictions. However in the last two weeks prior to the first action, the Government was successful in negotiating a land swap with the developer and the park will revert to ACT Government ownership again. We are still to see final details, and are currently working with the residents on finalising their occupancy agreements. But it looks like a win for this unique ACT community!

## Weak security of tenure

As the Narrabundah issue highlights, lack of security of tenure is a significant ongoing problem for people renting in the ACT. Our legislation provides for termination without cause for leases not in a fixed term, the amount of notice is quite long, 26 weeks, however this does not avoid many problems for tenants. Disreputable landlords and their agents can use the threat of termination as a way to get tenants to sign new leases or agree to high rent increases. Tenants are also fearful of taking any action against landlords because of the possibility of retaliatory eviction. The TU consistently urges the need to remove termination without cause.

Additionally, a landlord can terminate a periodic tenancy if they, or a family member, or someone they know, want to move in to the premises, or they wish to sell or renovate the property. The tenant receives 4 weeks notice and has to find a new home in our very tight and expensive rental market. The tenant has no recourse, the lease will terminate and if they don't move they will be evicted.



# West Australian Perspective

By Rob Spinks, Executive Officer, Tenants Advice Service, Perth

**Western Australia, WA, has an area roughly equivalent to continental Europe. Although WA covers 1/3 of the area of Australia it only holds 1/10 of the total population.**

About 70 percent of WA's population lives in the capital city Perth or in large regional towns, mostly along the coast line. Outside the cities and regional towns, people are generally involved in farming or mining. While many indigenous people live in large centres there are also many who live in small communities in very remote areas of the state.

## Negative impact from financial boom

Ironically, the issues of greatest concern to tenants in WA relate to the very strong resources boom that WA is currently enjoying. Global sales of iron-ore, gold, nickel and other minerals has led to the boom and in turn led to an influx of new interstate and overseas residents and a shortage of housing.

House prices have risen 40% in the last year, rental prices have risen accordingly and there is enormous competition for the limited vacant rental properties. From June 2005 to September 2006, median rents in Perth increased from A\$189 to A\$250 per week, or from 115 to 152 Euro. And by the end of 2007 tenants are expected to be paying A\$300 per week, or 182 Euro, or almost a 60 percent in-

crease since 2005! The consequence is that the most vulnerable in our society, those on low incomes, are having real difficulty securing and maintaining reasonable accommodation.

Indigenous people are the worst hit. In 2005 Shelter WA reports that indigenous people accounted for more than a third of homeless persons and more than a quarter of homeless households.

## Modest demands for more public housing

This situation is exacerbated by a decrease in public housing stock, which would normally be targeted to vulnerable people. TAS and a number of other community service agencies are currently lobbying the government to redirect some of the monies received through the boom to restoring public housing to 6% of total housing stock.

## Remote "control"

This combination of geographic and demographic features makes it a challenge to equitably deliver effective services to tenants. The main strategies used to overcome this include a state-wide telephone advice line, the provision of relevant publications and structured training to generalist community workers who assist tenants across the state. Tenant advocates from remote regions sometimes fly to Perth for training and meetings but this can be very costly. TAS conducts training for workers in remote regions. Technology is also used

to assist with the professional development of workers throughout the state (e.g. teleconferencing, video conferencing, computer bulletin board systems).

Tenants Advice Service Inc (TAS) is the oldest specialist community legal centre in Western Australia. Since it opened in 1979, TAS has grown from a small centre situated in a modified suburban house with one paid staff member, to a community legal centre in Perth with nine permanent staff and numerous casual staff and volunteers operating from offices that are well suited for the purpose.

## TAS and funding

TAS carries out education workshops to tenants and provides legal advice by telephone and training to community workers who may deliver tenancy information as part of their role. TAS also provides legal support by TAS tenant advocates and/or the TAS solicitor to community workers. Also, TAS offers direct advocacy and court representation and support 12 specialist tenancy advocates across the Western Australia.

TAS receives about A\$550,000, or 335 000 Euro, annually in government grants. The major grant comes through the State Department of Consumer Protection from a trust fund that holds tenants' bond monies. The interest from tenants' bonds is used to fund services that benefit tenants – including TAS. Commonwealth Legal Aid provides the remainder of the funding.



TAS Staff from left:  
Taryn Benn, Debbie Wardle, Rob Spinks, Toby King, Mia Jeffrey, Rebecca Hall.  
PHOTO: TAS

## Mistreatment and injustice is the origin and fuel of strong tenant organisations!

The Tenants Union of Victoria (TUV) had its origins in a protracted dispute between the tenants of Royal Court, an apartment complex in an inner city Melbourne suburb, and their landlord over increasing rents and the landlord's failure to carry out repairs during the 1970s. The disgruntled tenants formed a tenants' association to face their landlord with a united collective front, but soon realised that the underlying problem was the archaic legislation regulating the landlord-tenant relationship that did not adequately address residential tenancy issues in a modern urban context.

### Rental seen as a transitional tenure

The Royal Court dispute garnered considerable coverage in the media, which raised the profile of tenancy as a legitimate form of tenure worthy of appropriate protection. Even though approximately one-quarter of Victorian households were renters, tenancy issues had been substantially ignored by law and policy makers. It was (mistakenly) believed that rental in the non-government housing market was a transitional tenure, comprised mainly of young households saving to buy their own homes. While most households would eventually purchase their own homes, the Victorian private rental market has always been the source of long-term housing for the majority of low-income families and single people in Victoria.

### Joining forces in the 70's and 80's

The TUV in its first incarnation as an informal legal and advisory service for tenants – was established in 1974. Small government grants funded a number of smaller branches across Victoria. However, once formed, TUV joined forces with a number of other community organisations to lobby government to establish the Community Committee on Tenancy Law Reform, a process that eventually resulted in the first piece of legislation specifically dedicated to residential tenancies in 1980.

The promotion of tenants' right in Victoria was given considerable impetus by linking it with broader consumer rights movement. By the mid 1970s, consumer rights had gained acceptance in public policy, and positioning tenants as consumers made supporting basic protections for them much easier.



Strong sentiments in the Royal Court dispute, in 1972.

### Secure funding, with the "right" government...

From the early 1980's onwards the TUV had received grants for both the State and Federal Government to undertake a number of its activities. We currently receive funding from the State Government departments responsible for consumer affairs, housing and legal aid. This funding is provided for both direct assistance to tenants, and for policy and advocacy of on behalf of all tenants. By contrast, fees from members contribute only a small amount. This funding relationship has always had its constructive tensions. It has enabled the organisation to continue to provide a broad based service but can be difficult when our advocacy is at odds with Government policy.

### Tenants in a variety of accommodations

Since its inception, TUV has grown to provide advice to tenants in government housing, the private rental market, caravan parks and rooming houses. We advise approximately 19,000 clients across the state each year. TUV also seeks to achieve lasting social change to the benefit of tenants. Our policy, liaison, research, project and publications activities all enable us to raise issues with decision makers and the general public. We build on these efforts to effect legislative, policy and procedural change to benefit tenants and residents.

By David Imber, Policy and Liaison Worker.  
Tenants Union of Victoria

TUV staff.  
Sitting are David Imber, Mark O'Brien, (CEO), Magnus Hammar, IUT and David Keaton.



# Tenants in Queensland celebrates 20 years of increased tenant protection

by Penny Carr, state wide coordinator of TUQ

**The Tenants' Union of Queensland, TUQ, was established in 1986 – yes, we turned 20 this year! – at a time when there was very limited rights for tenants. Those rights tenants did have could only be enforced in a jurisdiction which was virtually inaccessible, due to its complexity, costs and the lack of a timely response.**

The Tenants' Union of Queensland is a community based tenant organisation providing services for and representing the interests of residential tenants across the state. We work to protect and improve the rights of all people who rent their home, including those living in marginal tenures which may be excluded from coverage under tenancy law.

## Personal approach by telephone service

The Tenants' Union's role is two fold, working directly with tenants as well as working with local or regional tenant advice services, which aid tenants in a distinct part of the state. Our work with tenants is predominately delivered through our full-time telephone advice service. This service aims to inform, advice and empower tenants to deal with their own tenancy issues. TUQ also run a small legal casework service where we act for tenants with complicated tenancy related legal issues.

## Continuous training

Our work with tenancy advice services aims to develop their capacity in responding to tenants' issues. To do this, we provide training and professional development on tenancy legislation and client issues; a regular tenancy law email publication to keep services informed of new developments; provide a 'help-



desk' to assist workers with tenancy advice issues, and provide support for their activities etc. If a tenant calls the Tenants' Union's phone advice service but they are unable to self-advocate, for example, due to literacy issues or if English is their second language, we will refer the to the local tenant advocate so they can be assisted face to face.

The Tenants' Union has a specific Indigenous Tenant Education worker based in our North Queensland office and we target other activities to newly arrived migrant and refugee communities.

## Successful lobbying against tenant databases

Law reform has been a major part of the Tenants' Union of Queensland's work. We have been key and active player in all of the changes and reviews regarding Queensland tenancy law and rights. After many years of lobbying, we were recently successful in gaining protections in tenancy law from unfair listings on tenant databases. These listings virtually exclude a person from the private rental market.

## Funding generated indirectly from tenants

The majority of funding for the Tenants' Union Queensland comes from the interest generated from tenants' bonds, deposits of one months rent, held in trust by a government authority. Some of these interest funds are provided to a government department to disperse to community organisations, under the Tenant Advice and Advocacy Services Program (TAASQ). The Tenants' Union also receives some monies through the State and Federal departments of Justice, which funds our legal casework service.

## Bond interest belongs to tenants

The Tenants' Union consistently reminds government that these funds are generated from tenants' bond interest. Individual tenants do not receive any interest on their bonds, forfeiting them for the universal benefit to tenants of providing tenancy advice services, but also to the benefit of lessors and agents who receive services through the Residential Tenancies Authority. We believe it important that the use of these monies is targeted to the benefit of tenants, rather than be used as consolidated revenue.

TUQ has only one line in for our telephone advice service, which limits the number of calls we can take. Among the 6500-7000 advices annually that TUQ does, almost 20 percent was about bond money. Problems often occur when a tenant moves out and claims the bond back.

## Coarse-meshed legislation for 1/3 of the households

Queensland is the northern most state on the Eastern sea board of Australia. According to Census 2001, around 32.5% of Queenslanders identify as



renters – slightly higher than the national average. Of these renters, about 28% are renting from the private rental market and just under 4.5% in public or community housing (most in public). The vast majority of the other 67.5% of households are homeowners or home purchasers.

## 2 weeks notice – without grounds!

Of particular note in Queensland tenancy law, indeed in all or most Australian jurisdictions, is the ability to evict tenants without grounds. Queensland allows lessors and agents to give tenants two weeks notice to end a fixed term tenancy agreement, without grounds. If a tenant is on a periodic (month to month) agreement, the lessor can give them a notice to leave, without grounds, with two months notice.

## Remove the possibility to evict “without grounds”!

Currently, the Queensland Residential Tenancies Act is under review. We will be campaigning to remove the availability of eviction ‘without’ grounds’, as these sorts of terminations, undermine tenants’ willingness to enforce other right such as the premises being kept in good repair. However, we will face strong criticism and opposition from the real estate industry and rental market investors in this endeavour.

## Australia needs to catch up with today’s realities

The need for change in this legislation, reflects the change in the role of the rental market in Queensland, indeed, Australia. In the past, the private rental market was a tenure of transition, between leaving one’s parental home and moving into home ownership. Unfortunately, with spiraling house prices and a decline in and higher targeting of social housing, the private rental market is becoming a permanent or long-term tenure for particular pockets of renters. This changing environment requires a change of laws to offer further protections for tenants.

The Tenants’ Union of Queensland’ website address is [www.tuq.org.au](http://www.tuq.org.au)



Mavis Metropoulos, left, with her neighbour Shirley Davidson.

**Mrs Metropoulos and Mrs Davidson are two of the approximately 450 000 men and women that represent the aboriginal population in Australia. Mavis Metropoulos was born in Maryborough and now enjoys retirement, living in a government assisted house in Eight Mile Plains, outside Brisbane.**

**Mrs Metropoulos: “I was raised by grandparents in Cherbourg, some 250 kilometres north-west of Brisbane. At the age of nine I came to live in Brisbane with my mother. I left school at the age of 15 to go to work in clothing factory. I was the supervisor of the quality control section. I got married when I was 21 and raised two sons.**

**I also worked for the Aboriginal and Torres Strait Islander Commission, ATSIC. This was the Australian Government body through which Aboriginal Australians and Torres Strait Islanders were formally involved in the processes of government affecting their lives. ATSIC closed down in 2005.**

**I did have my own home. When I lost my mother and brother I sold to live with one of my sons.**

**I learned to play squash at the age of 40. I also enjoyed playing 10-pin bowling. Now I like to relax with swimming and fishing, and I enjoy looking after my three grandchildren.”**



**Facts:** Indigenous peoples in Australia account for 2-3 percent of the Australian population, of around 21 million. Only 30 percent live in urban centres, compared to 70 per cent of all Australians. As a result of severe social problems and housing need, Aboriginals are over-represented in social government assisted housing, and accounts for 19 per cent of the Aboriginal population, and Aboriginal community managed housing funded by government accounts for another 13 per cent.

Only 28% of Aboriginal families own their own home compared to 67% of all Australian families.

# United Nations Special Rapporteur on Adequate Housing points out severe **shortcomings** in Australian housing conditions

**On his mission to Australia, 31 July – 15 August 2006, UN Special Rapporteur Mr Miloon Kothari has come to believe that there is a serious hidden national housing crisis in Australia. This crisis affects many sections of the population, and though having a critical and direct impact on the most vulnerable groups of the population, its impacts also on other segments of Australian society especially on the households with low-income.**

**Unfortunately, there seems to be a lack of reliable disaggregated data on the number of people affected by these issues.**



Miloon Kothari

The Special Rapporteur is puzzled that, while the housing problems that he encountered have been present for decades, no efficient result has been achieved on these issues. He fails to understand why housing is not considered as a national priority.

Mr Kothari would like to once again stress that poor housing conditions has a direct effect on many aspects of other rights of those affected including the right to health, to education, to safety, to public participation, to exercise of civil and political rights, access to justice and the right to be free from discrimination – all of which Australia has committed itself internationally to protecting and promoting.

## Limited access to public housing for the needy

Whilst the demands for public housing and waiting lists are up to ten years in some States, the authorities have not responded by increasing or adequately maintaining the stock they possess. To the contrary, some of the stock has been sold to the private market and not replaced<sup>1</sup>. The response to the inadequate demands and lack of public housing stock has been a constant tightening of the eligibility process to the authorities resulting in significant numbers of

people unable to access public housing in a timely manner.

Legislation gives little regard to the rights of tenants and legislations. Tenancy laws or the antidiscrimination acts are difficult to use due to the pressure of the market (fear of retaliation) and the existence of “black-list” databases. Other legislations, such as the anti-social behaviour amendments to the Residential Tenancies Act (NT), clearly do not address the root causes of the problem.

## Indigenous communities

The Special Rapporteur was particularly disturbed by the adverse housing conditions in the Indigenous communities he visited. The Indigenous communities in both urban and rural areas in all States visited, are facing a severe housing crisis. This is occurring with respect to the unaffordability, the lack of appropriate support services, the significant levels of poverty and the underlying discrimination.

The Indigenous Peoples experience substantial discrimination in Australia including in accessing adequate housing and private housing market. The Special Rapporteur notes that the so-called “shared responsibility agreements” are very likely to be discriminatory and contrary to international human rights standards.

Read the full report: [www.ohchr.org/english/issues/housing/docs/preliminary\\_observations\\_230806.doc](http://www.ohchr.org/english/issues/housing/docs/preliminary_observations_230806.doc)

Truth of today about the housing crisis in the Northern Territory

On 21st February 2006, the Northern Territory Minister for Housing, Mr Elliot McAdam, made a statement to the Northern Territory Parliament on Indigenous housing.

*'I know the word "crisis" is often ill used, but in speaking out today on Indigenous housing in the Northern Territory, I cannot think of a better term.'*

**BSHF World Habitat Award 2007**

This Award seeks to identify practical and innovative solutions to current housing needs and problems. Two awards are given; one to a housing project from the global South, and one from the North. An award of £ 10,000 to each of the two winners.

More information: [www.bshf.org](http://www.bshf.org)

**Swedish Public Housing up for sale**

In Stockholm only, 100 000 flats are up for sale. The new government says that they want to have a mix of rental and ownership flats, particularly in the suburbs. Most public flats in the inner city have already been sold out, and now it is mainly flats in the large multi family houses built in the 1960's that are out for sale. The Swedish Union of Tenants warns tenants to buy, as many of the houses are in urgent need for repairs.

**Queens' medals**

Mr Kevin M. Reilly, Co-ordinator of the Manawatu Tenants' Union, New Zealand, has been rewarded the Queens' Service Medal for voluntary work in hou-

sing, ethnic and social issues. Another medallist is Mrs Cora Carter, chair of KFTRA, and Secretary of Tenants and Residents Organisation of England (TA-ROE), who was rewarded, a few years back, the Medal of the British Empire (MBE) for services to housing tenants. See, voluntary work is rewarding!

**France endorses housing as a legal right**

Having a decent home should be a legal right like healthcare and education, the French government announced on January 3. About 86,500 people are homeless in France, according to official figures from 2001. Aid groups say more than 3 million people have serious housing problems

"It will be possible to implement the legal right to housing from the end of 2008 for people in the most difficult situations, notably the homeless but also poor workers and isolated women with children," Prime Minister Dominique de Villepin told a news conference. Villepin also said that the right would be extended to other people, such as those in inadequate public housing, in 2012.

Source: [www.liberation.fr](http://www.liberation.fr)

**Brick Out!**

Time for a break? Why not try out the computer game Brick Out, from the Social Housing Foundation, South Africa. Check out [www.shf.org.za/brickout](http://www.shf.org.za/brickout)

**EU Housing Charter, and ahead**

In April 2006 the EU Urban and Housing Intergroup approved of the European Housing Charter, as drafted by MEP Alain Hutchinson. The task of the Housing Charter has now been left to Italian MEP Mr Alfonso Andria, who is to prepare the road for a possible approval of the Charter by the Parliament. Before a possible approval, Mr Andria prepared an "own-initiative report" titled "Housing and Regional Policy" for the Parliament's Committee on Regional Development (REGI). This working document, or "own-initiative report", became a "draft report" on January 9; PE 382.449v01-00. The REGI Committee will vote on the draft report on February 27. Any finished report would be approved by the Parliament's Plenary in April 2007.

Andria's report of January 9 is available in all EU-languages: [www.iut.nu](http://www.iut.nu)

**Privatisation and Capitalisation of Rental Housing – Future of Rental housing**

**IUT XVII Congress, Berlin September 21-23, 2007**



We invite IUT Members to come to Berlin and meet with colleagues and friends!

This 17<sup>th</sup> congress is a joint event between the IUT and German Tenants' Union, Deutscher Mieterbund, DMB.

**ON THE PROGRAM:**

- **presentations of the housing situation in different countries**
- **work shops on different housing related issues**
  - **study visits**
  - **social activities**
  - **a panel debate, on**

**– Privatisation and Capitalisation of Public Housing,  
– Is there is European Housing Policy**

**with**

**MEP Alain Hutchinson, vice chair of the EU Urban and Housing Intergroup**

**MEP Göran Färm**

**Wolfgang Förster, City of Vienna**

**Daniela Grabmüllerova, Ministry of Regional Dev., Czech Republic**

**and from CECODHAS, England and Poland**

For more information: [www.iut.nu/conferences.htm](http://www.iut.nu/conferences.htm)