

Item No: Item 8

Subject: Rental Housing Issues

Prepared by: Strategic Reference Group Member, Julia Murray

SUMMARY

The SRG requested that this item be included on the agenda for the June meeting.

A report has been prepared by SRG member Julia Murray on key rental housing issues and will be forwarded separately to members for consideration at the 26 June meeting.

Key issues flagged by the SRG for consideration included:

1. No cause evictions
2. Annual rent increases above 10% and actions that can be undertaken by Council, such as reviewing rental data and rising rents over the past 10 years
3. The important role of shared rental housing
4. Supply vs demand for housing

RECOMMENDATION:

THAT the Housing and Affordability Strategic Reference Group recommends that Inner West Council supports the *Make Renting Fair* campaign, coordinated by the Tenants Union of NSW and with more than 30 signed up organisations, to advocate to the NSW State Government to take action to make renting fair and ensure renters in NSW are protected against unfair evictions.

1. No Cause evictions

Landlords currently have the ability to issue a notice of termination when a fixed term agreement has ended without giving a reason (these are known as 'no grounds notices').

The consequences for tenants receiving an eviction notice are significant. Finding a new home is a costly, stressful and time consuming process. Families are often dislocated from their communities, schools and support networks as a result. The fact that these arbitrary notices exist essentially undermines every other right a tenant theoretically has.

Whether it is the landlord failing to give proper notice when they attend the property; a dispute about repairs; or challenging a rent increase, tenants find themselves 'thinking twice' before raising or pursuing an issue for fear of the potential consequences.

Extensive submissions have been made to the recent Residential Tenancies Act review seeking a change to the law to require landlords to give a reason when they issue a termination notice. These representations have yet to translate to tangible proposals for change.

A change to the law requiring landlords to give a reason when they want to end a tenancy wouldn't have an impact on landlords who are currently doing the right thing. The only impact of the removal of no grounds notices would be to ensure that the 'bad apple' landlords couldn't upend the lives of tenants in retaliation for a tenant asserting their rights.

The utilisation of 'no grounds' notices extends across both the private and public rental sectors. Social housing providers frequently engage in 'leasehold' arrangements, where they rent a property in the private market and sublet the property to a tenant for whom they are unable to provide a property within their own housing stock. Under these arrangements it is common for social housing providers to receive a 'no grounds' notice and to expend precious resources attempting to secure a new property to house their tenants.

No grounds notices have emerged as an issue in the Inner West as people who have grown up in the area are often forced to move out of their homes and away from their local community, posing a threat to the valued diversity of the area.

A campaign titled '**Make Renting Fair**' has formed with the aim of convincing the NSW government of the need for better protections for renters. In the lead up to the website going 'live' a coalition of over 30 community organisations, unions and faith-based organisations have signed up to endorse the Make Renting Fair campaign. This campaign hopes to convince the NSW State Government it must take action to make renting fair and ensure renters in NSW are protected against unfair evictions. The campaign sign on statement is at Attachment 3.

Any legislative amendments to the Residential Tenancies Act arising from the review are likely to be introduced to NSW Parliament in around September this year. It is understood that most of these key issues will remain unaddressed in the changes.

2. Rent increases

There is currently no legal limit on the frequency or magnitude of a rent increase outside of a fixed term tenancy agreement. Nor is there any protection against 'retaliatory' rent increases. This is another key area where submissions have been made to the Residential Tenancies Act review, seeking improved protections against unreasonable conduct. However, there is no indication that this area will be addressed as a result of the review.

The unregulated approach to rent levels goes to the heart of rental affordability and is a further factor affecting the diversity of the Inner West community.

3. Shared rental housing

An increase in shared rental housing is a predictable consequence of the increasing pressures on affordability for individuals in the rental market. Large numbers of people, increasingly outside of the traditional cohort of students and younger renters, are finding share housing as the only viable solution to the affordability barriers faced in the private rental market.

Legislative protections for share housing tenants have been weakened by the removal of coverage of sub tenants in share housing without a written tenancy agreement. Concerns have been raised during the Act review process regarding the lack of protections for these and other marginal renters, including renters not currently covered by any legislative regime.

Whilst further discussions have been undertaken in relation to more appropriate coverage for share housing, there is no current concrete proposal to address the Act's shortcomings.

4. Supply vs demand for housing

In the post WWII period there was a flourish of building activity which saw the birth of modern social housing. During this 'golden' period the spectrum of tenants in public housing spanned working people through to those on government benefits. However the decades since have seen significant population increases with no corresponding government investment in the social housing system, resulting in demand hopelessly outstripping supply.

The increased demand for social housing has led to tightening of eligibility criteria over time, to the point where we are now in a situation where the vast majority of social housing tenants are increasingly benefit reliant. Because the rents paid are income based, this further shrinks the income able to be generated by public housing. Rents collected from tenants are insufficient to pay for repairs to crumbling existing properties, let alone purchase badly needed new stock.

The further tightening eligibility criteria for social housing ensures that only people experiencing extreme circumstances of vulnerability are able to reach the top of the ever expanding waiting list (more than 60,000 people are currently on the waiting list in NSW). Even those approved for 'priority housing' (being actively currently homeless and unable to meet their needs in the private market) face an expected wait time of years. People on the 'general' wait list are continuously pushed further down the waiting list by people with more urgent circumstances entering above them.

There continues to be an expectation from successive NSW governments that social housing should be 'self-sufficient'. In response, the public housing system is selling off increasingly valuable land simply to pay for its day to day operations. The sale of social housing properties further exacerbates the pressures on the waiting list. Every time properties are sold, the tenants from those properties are involuntarily catapulted to the very top of the waiting list, condemning all those below them to a longer wait to be safely housed.

This crisis in the social housing sphere has a consequent flow-on impact upon the whole of the housing system, most acutely for those in lower income brackets, as competition increases for the scarce supplies of affordable properties.



MAKE RENTING FAIR – UNFAIR EVICTIONS HURT US ALL

Campaign Sign On Statement, June 2017

Will you join with other community and local organisations to support the campaign to improve security for renters in NSW?

Bringing together a strong coalition of local community organisations, unions, and faith based organisations to endorse the campaign, we hope to convince the NSW State Government it must take action to make renting fair and ensure renters in NSW are protected against unfair evictions.

Please join with us. Add your organisation's name to publicly support the campaign and encourage others to do the same!

MAKE RENTING FAIR – UNFAIR EVICTIONS HURT US ALL

Over 2 million people or over a third of all households rent their homes in NSW.¹ Many of these are families – over half of single parent families and third of couples with children are now renting in the private rental market. Renters face great uncertainty and constant upheaval due to the lack of security they face in the private rental market.

What does 'lack of security' look like in practice?

- Renters get evicted unfairly

A significant number of renters are evicted unfairly, some for simply asking for repairs or questioning a rent increase. Others because of discrimination or where the landlord had decided they just don't like them. It is very hard for a renter to challenge this kind of unfair eviction.²

- Renters don't complain

Lack of security means renters are much less likely to assert their rights because they are worried about repercussions. When the Tenants' Union of NSW surveyed tenants in 2014, more than three quarters of

¹ Australian Bureau of Statistics Census 2011

² Existing provisions against 'retaliatory evictions' within current tenancy legislation are notoriously weak. There are only 10 reported decisions on this issue at the relevant Tribunal - and all but one of these cases was decided in favour of the landlord.



respondents told us they had put up with a problem, or declined to assert their rights, because they were worried about an adverse consequence.³

- Renters are forced to move more often.

One in three renters are likely to have moved home in the last year, and even more (closer to 40%) have moved three or more times in the past 5 years.⁴ Many of them – again around a third of renters – are moving because they have been forced to do so, and often face significant personal, social and financial costs as a result. When they are evicted renters talk about the impact in terms of being hit with huge moving costs, having to pay higher rent in their next property, and being forced to move further and further away from work and family each time they are evicted.

For vulnerable tenants – those on low incomes or with complex needs – the consequences can be grim. They may be forced to accept less stable, less secure, unsuitable or substandard accommodation. They are at a much higher risk of being evicted directly into homelessness.

What can be done?

We call on the NSW Government to improve security for renters in NSW by requiring landlords to provide a good reason if they want to evict someone from their home.

Currently in NSW renters can be evicted without being given a reason ('no grounds' termination) under sections 84 and 85 of the *NSW Residential Tenancies Act 2010*.

We call on the NSW Government to remove these provisions in the Act, and in their place provide landlords with an expanded list of 'reasonable grounds' for ending an agreement. This would require landlords to be transparent about their reasons for ending a tenancy, and give renters the chance to challenge an unfair eviction.

Endorsed by:

³ Cutcher and Patterson Ross, *Affordable Housing and the New South Wales Rental Market: 2014 Survey Report*, Tenants' Union NSW, 2014

⁴ Australian Bureau of Statistics, *Survey of Income and Housing, 2007 – 2008*