



Brotherhood
of St Laurence

Working for an Australia free of poverty

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Dear Minister

Review of the Residential Tenancies Act: Security of Tenure Issues Paper

The Brotherhood of St Laurence welcomes your review of the Residential Tenancies Act. It provides a rare opportunity to make a real difference in the lives of the increasing numbers of people and families in Victoria who rely on rental accommodation.

Reforming the Residential Tenancies Act is one critical piece of the bigger puzzle that the Victorian Government needs to address as part of tackling declining housing security and affordability. Related challenges include responding to rapid population growth and a housing market which is effectively reinforcing labour market disadvantage by pushing low-income households to the outskirts of Melbourne or to regions where jobs, infrastructure and support are limited.

This letter, which specifically responds to the Issues Paper on Security of Tenure, builds upon the substantive submission made by the Brotherhood at the initial stage of the Review, *Rental Properties are People's Homes* (see attached). The Brotherhood is particularly concerned that future reforms foster longer term security of tenure and therefore housing stability for low income and vulnerable households.

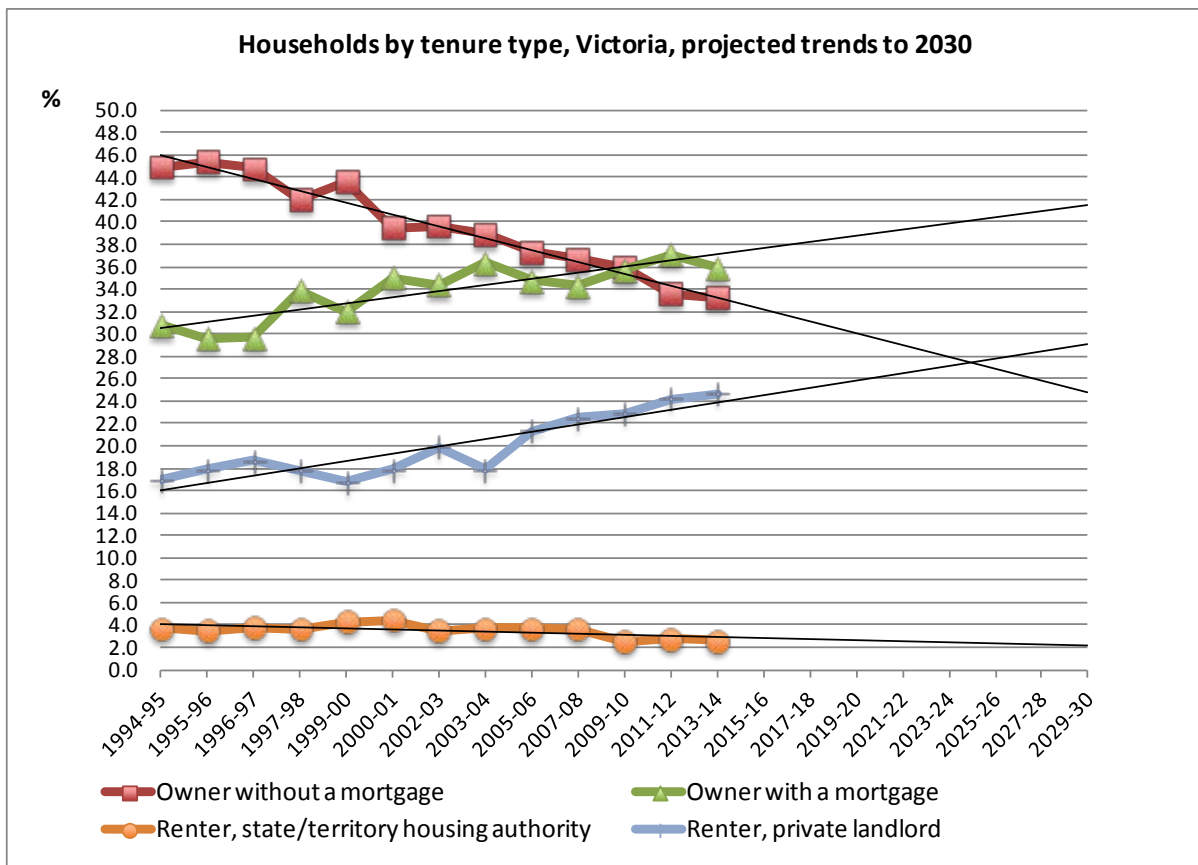
Low income and vulnerable households are increasingly reliant on the private rental market – some for their whole lives

For many households, private rental is a long-term rather than a transitional arrangement. AHURI's 2013 report *Long-term private rental in a changing Australian private rental sector* shows that around a third rent for more than 10 years. These long-term renters include a

growing proportion of families – particularly single-parent families and older middle age Victorians. Nearly half (46%) of all long-term renters have household incomes in the two lowest quintiles and 57% receive government income support payments.

Victoria's strong population growth has not been matched by growth of social housing stock. With public housing waiting times too long for all but those with the most complex needs, an increasing proportion of low-income and vulnerable people are reliant on private rental. The AHURI report also reveals that long-term private renters now outnumber all public housing renters.

More broadly, private rental is the fastest-growing form of tenure. The Brotherhood's extrapolation of Australian Bureau of Statistics 2015 data for Victoria shows that on current trajectories over 29% of households will live in private rental accommodation by 2030, with those in social housing declining to 2%.



Source: Based on ABS (2015) Cat No 4130.0 (Table 18).

Private renters often face frequent and unplanned moves, resulting in significant social and economic costs for them and the broader Victorian community

Private rental households experience higher levels of mobility than other tenure types. ABS survey data (Cat. no. 4130.0) from 2014 shows that 55% of private renters have been living in their dwellings for one year or less. Earlier data (ABS 2007–08) showed nearly one-quarter (22.8%) had moved house at least five times in the previous five years.

Both adults and children need the opportunity to settle in a place, and build stable connections with schools, their surrounding community and the job market. Research by AHURI shows that the level of unplanned and involuntary moves by low-income households adds to their financial hardship through the costs associated with searching for accommodation, moving and establishment. Unplanned moves can significantly disrupt education and employment. It causes dislocation from social networks and support and may cause psychological distress. The high rates of residential mobility in the private rental sector flow onto broader adverse consequences for Victorian communities and our state's productivity.

In contrast, stable tenure contributes to social inclusion, economic participation and family wellbeing. A 2014 AHURI report *Wellbeing outcomes of lower income renters* found that 'duration in a residence lifts wellbeing, increases the odds of being employed and satisfaction with safety and the neighbourhood, which is likely to reflect the greater capacity to develop social ties and attachment to an area' (p. 4).

The RTA does not adequately cater for private renters

The current RTA does not reflect the reality that more people and families will be renting for longer periods – and that low-income and vulnerable households are likely to be moving between private rentals for their entire lives. The legislation fails to offer renters certainty or protect them against unplanned and unnecessary moves.

The next iteration of the RTA ought to recognise and protect the public good associated with stable housing and respect the fact that rental properties are people's homes.

Key reforms that could improve security of tenure include:

1. Requiring reasonable grounds for termination

The capacity of landlords to act without cause to terminate month-to-month tenancies, or not renew a lease at its expiry, undermines security of tenure and is out of step with international best practice. Our research indicates tenants are reluctant to make or pursue requests for maintenance or repairs, or to make any complaints about the property, out of concern that landlords may retaliate by termination.

The Brotherhood recommends introducing a prescribed list of circumstances in which a notice to vacate can be given, such as when the landlord is moving in; when the property is sold and the new owner requires vacant possession; when the property is undergoing major structural repairs or renovation; or when there is a significant breach by the tenant. This would enable tenants to remain in a property so long as it is on the rental market, unless they elected to leave or there were legitimate reasons for the landlord to require them to vacate.

We suggest that key stakeholders be brought together to work through the implications of longer tenancies that would flow from this approach including:

- what are the appropriate grounds for termination;

- whether access rights for landlords to inspect and maintain their property need to be improved; and
- whether the notice period applying to tenants who elect to vacate a property ought to be extended.

2. Providing effective protection against excessive rent increases

Private renters are shouldering increased levels of housing affordability stress. ABS data (Cat 4130.0) indicates that 42% of low-income households pay more than 30% of their gross income on rent. This equates to around 276,500 Victorian households.

Tenants are currently protected from having their rent increased more than once every six months, but there is no restriction on the amount of each increase. The Act enables tenants to have their rent assessed and to seek recourse through VCAT for excessive rent increases but this can be a daunting process that may ultimately put their tenancy at risk.

Tenants may face unfettered rent increases every six months, may jeopardise their tenancy if they question a rent increase, and in a competitive rental market, may find it hard to secure a comparable property in the same neighbourhood.

If the RTA is to play its part in a broader affordable housing strategy, current rental increase provisions need to change. We recommend an explicit requirement that rents not be increased beyond an objective measure be introduced. Where a landlord seeks to increase the rent beyond this measure, the onus should be on the landlord to establish this is reasonable (for example to pay for renovations that improve the property's amenity).

International comparison shows that many countries have provisions to more fairly balance the interests of renters with landlords. For example, Austria limits rent increases to CPI with a frequency of one increase per annum.

3. Establishing a free and accessible mechanisms for resolving grievances, such as a Residential Tenancies Ombudsman

Access to effective grievance procedures is essential for tenants to effectively exercise their rights under the RTA, yet tenants rarely turn to VCAT for redress. In his 2009 report, Justice Kevin Bell, then President of VCAT, stated:

In the residential tenancies jurisdiction the tribunal has been very successful in delivering access to justice to landlords but tenants are not exercising their rights to the same extent. About 95% of applications are initiated by landlords.

The establishment of a more accessible avenue for redress, such as a Residential Tenancies Ombudsman, warrants consideration. An Ombudsman could provide tenants and landlords with free and fast access to support to resolve disputes, by providing advice, facilitating discussions between the parties and providing non-binding recommendations. The Ombudsman could also identify systematic issues in tenancy

disputes that require a broader policy response. An Ombudsman would be complementary to VCAT, which would retain its capacity to make binding determinations.

The Residential Tenancies Ombudsman could be modelled on the Financial Ombudsman Service, which is industry backed and is governed by independent board of consumer and financial services industry representatives. Inspiration could also be drawn from Building Advice and Conciliation Victoria – a joint initiative of Consumer Affairs Victoria and the Victorian Building Authority, which offers free advice and conciliation services in domestic building disputes.

Please feel free to have your staff contact me to discuss this letter further. The Brotherhood is committed to improving the plight of low-income and disadvantaged households, and we stand ready to assist you in driving much-needed reforms to the Residential Tenancies Act.

Yours sincerely

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