



**Brotherhood
of St Laurence**

Working for an Australia free of poverty

ABN 24 603 467 024

Brotherhood of St Laurence
67 Brunswick Street
Fitzroy 3065 Victoria Australia
Telephone: (03) 9483 1183

24 June 2016

Consumer Affairs Victoria
121 Exhibition Street
Melbourne
Vic. 3000
Email: yoursay@fairersaferhousing.vic.gov.au

Dear RTA Review Team

Review of the *Residential Tenancies Act 1997*: Dispute Resolution issues paper

The Brotherhood of St Laurence welcomes the review of the Residential Tenancies Act (RTA). It offers an important opportunity to make a real difference in the lives of the increasing numbers of people and families in Victoria who rely on rental accommodation.

This letter, which specifically responds to the issues paper on dispute resolution, builds upon the substantive submission made by the Brotherhood at the initial stage of the Review, *Rental properties are people's homes* (August 2015), and the shorter letter-form submission made in response to the issues paper on security of tenure (December 2015).

Residential tenancies reform is a critical piece of the bigger puzzle that the Victorian Government needs to address to tackle declining housing security and affordability. The RTA needs to be substantially reformed to reflect the reality that more people and families are renting for longer periods – and that many low-income and vulnerable households are likely to be moving between private rental properties for their entire lives.

The next iteration of the RTA ought to provide a framework that reduces the incidence of frequent and unplanned moves which have adverse social and economic costs for the affected households and the broader Victorian community and economy. Enabling tenants to enjoy their rights under the Act and providing for the fair, speedy and effective resolution of disputes between landlords and tenants is pivotal to this.

To support an improved approach to dispute resolution, we recommend that:

- a Residential Tenancies Ombudsman be appointed to provide a fair, fast and easily accessible mechanism for resolving grievances
- access to tenancy advice, support and advocacy services be improved for low-income and vulnerable tenants
- termination without reasonable grounds be disallowed so that tenants can feel secure and confident to exercise their rights.

1. Establishing a free and accessible mechanism 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. This leaves a considerable gap in the compliance regime. 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-like scheme could provide tenants and landlords with free and fast access to independent support to resolve disputes. It would support tenants to have critical issues such as neglect or delay in addressing urgent repairs speedily dealt with. The Ombudsman would provide advice, facilitate discussions between the parties and ought to be empowered to make determinations.

Operating independently of the regulator and policy makers, the Ombudsman could identify systemic issues in tenancy disputes that would benefit from a broader policy or regulatory response.

Victorians are familiar with independent dispute resolution schemes, with structures like the Public Transport Ombudsman, the Health Commissioner and the Financial Services Ombudsman providing potential models. These schemes have helped consumers to exercise their rights and to have confidence in processes to resolve grievances.

2. Strengthen access of vulnerable and low-income tenants to tenancy advice and advocacy services

Access to advice and advocacy services is fundamental for tenants to effectively exercise their rights under the RTA. While recognising the Victorian Government invests in providing information, advice and support through a range of avenues (Consumer Affairs Victoria, Tenancy Advice and Advocacy Program, Dispute Settlement Centre of Victoria, and the Office of Housing and Ombudsman for public housing tenants), we are aware that some key services are unable to meet the demand.

For example, the Tenants Union of Victoria offer personalised advice and support to low-income and vulnerable tenants, but have advised us that they are unable to meet demand. The telephone advice line has a 45% call abandonment rate on account of the long waiting times; around half of the email inquiries received each day are blocked by the email gateway because there is no capacity to respond. Hundreds of tenants are turned away from the drop-in advice service each year; others wait for hours to receive advice.

3. Require reasonable grounds for termination

Our research indicates that 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. This is exacerbated by the ability of landlords to act without cause to terminate month-to-month tenancies, or not renew a lease at its expiry.

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 serious breach by the tenant. This would enable tenants to remain in a property so long as it is on the rental market, unless they choose to leave or there are 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:

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

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

Robert Hudson
Group General Manager, Policy & Programs
Ph. (03) 9483 2430
rhudson@bsl.org.au