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Editorial: *Community Housing*

Karel Eringa

Community housing in Western Australia has long been under funded and under resourced compared to public housing. However, recent developments both here and interstate suggest this may be about to change. In Victoria, the Labor government has broken the trend of decreasing capital funding for social housing by committing \$94.5 million to its Social Housing Innovations Project (SHIP).

One of the objectives of the Initiative is to enhance "the capacity and sustainability of the community housing sector". The Consultants Report for the SHIP recommends using the \$94.5 million for community rather than public housing. In addition, the Report recommends transferring one third of public housing stock to community housing providers in order to create a viable and growing sector.

Closer to home, the WA State Government's housing policy states that "Labor will increase public rental housing by supporting community housing associations [and] will allow community housing providers to apply for transfers of suitable Homeswest stock to make them viable. Community housing providers with appropriate managerial and commercial expertise will be able to bid for up to an additional \$10 million from the current funding provided to Homeswest."

With housing options for people on low incomes rapidly decreasing in the private rental market and Homeswest stock continuing to fall, Shelter WA supports any initiative that increases affordable low income housing stock in general and social housing stock in particular. However, both the Victorian initiative and the Western Australian policy aim to grow community housing by reducing public housing funding and stock. This warrants a closer look at the advantages and drawbacks of community housing.

Community housing has some important advantages over public housing, including:

- Tenant participation in management allows tenants to develop valuable skills
- Links to the local community allow community housing providers to build social capital
- Ability to attract private capital allows community housing to grow more quickly than public housing with the same outlay of government funds
- Their relatively small size allows community housing providers to be responsive to tenants' needs and the needs of the local community
- Community housing tenants have access to Commonwealth Rent Assistance, increasing the income streams of community housing providers at no cost to tenants.

The main problems associated with the community housing sector in WA are:

- Lack of access: there are some 250 community housing providers in Western Australia managing around 3500 dwellings. Each provider has a unique application system and clientele. Since there is no common access point for community housing, many low income tenants have experienced difficulties in identifying and accessing community housing providers.
- Lack of minimum standards: at present, there are no legally enforced minimum standards for community housing providers. There is anecdotal evidence of poor tenancy management standards, particularly among smaller providers.
- Lack of flexibility for tenants: two thirds of community housing providers manage fewer than ten dwellings. When a tenant's housing requirements change, it is unlikely that these small providers will be able to offer alternative, more suitable accommodation. For the tenant this means a choice between security of tenure in an unsuit-

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able dwelling, or finding more suitable accommodation with another provider.

In general terms, community housing providers face an inherent tension between on the one hand size, flexibility and viability, and on the other hand social objectives such as housing those most in need, opportunity for tenant participation and input in the community. For instance, a community housing provider that chooses to focus on financial viability and efficiency is likely to grow more quickly, thereby offering tenants more housing options. It will also have more resources to spend on training to raise its management standards. However, such a focus on viability is likely to come at the cost of housing fewer high need tenants and a reduced amount of resources available for optimising potential benefits for tenants. This is particularly the case where community housing providers use private (debt) finance to increase their stock.

A good example of these tensions is the Eastern Metropolitan Community Housing Association in Midland. This organisation has tenant participation on its management committee, is an important part of the local community and has worked on housing low income Aboriginal people. However, it after four years of existence it remains relatively small (48 dwellings with 8 additional units approved this year) and has limited capacity to attract private finance.

There is no easy way to resolve these tensions. Each community housing provider will need to strike its own balance. However, the issues around access and accountability need to be addressed before community housing can be regarded as a suitable alternative to public housing for limited capital funding or stock transfers. The SHIP Consultants Report identifies three steps to achieve this:

- "The adoption of the *National Community Housing Standards* and the implementation of an accreditation system accompanied by strategies to support quality improvement" (p.85), including an independent appeals mechanism. It should be noted that such a system will take considerable time and resources to establish and administer.
- A body "with the responsibility to accredit community housing providers and monitor their prudential performance and service standards. The regulator will have powers of intervention to ensure providers meet service standards and remain solvent." (p.42) Again, establishing and administering such a body will require considerable time and resources. Care would need to be taken to ensure the body has the flexibility required for growth, yet retains enough control to ensure that providers meet minimum standards.

In the Western Australian context, it will also be necessary to facilitate access to community housing providers. This will require some form of common entry point for

community housing, preferably combined with public housing. This common entry point could take many forms. At the one extreme, a combined community and public housing waiting list would solve all accessibility problems. However, this would also take away applicants' choice of not wanting to be housed by either public or community housing.

At the other extreme, a common entry point could simply provide information about community housing providers to prospective public housing tenants, and vice versa. However, given the sheer number of community housing providers, applicants would still face significant barriers in accessing a sizeable proportion of community housing. Between these two extremes, there is likely to be a compromise that strikes the optimal balance between accessibility and choice for tenants, such as a common register. However, the features of such a register would need to be worked out in consultation with the relevant stakeholders.

In 1996, Michael Darcy wrote a National Shelter Research Paper entitled *Community Housing: The consumer perspective*. In this paper, Darcy identified community housing as an important alternative to public housing, but "some structural barriers [prevent] the achievements of the best outcomes for tenants ... before advocates of housing justice can feel entirely comfortable about the place of community provision in the future of social housing".

These 'structural issues' were rent payable, accountability, access and eligibility, appropriateness and security of tenure. Five years on, community housing providers in WA generally charge the same rent, provide security of tenure and have similar eligibility criteria to Homeswest.

The issues of accessibility, accountability and minimum standards remain as significant barriers to the growth of the sector. However, with a coherent strategy and appropriate resources, these issues may be resolved within the next five years, clearing the way for community housing as a suitable alternative to public housing.

This newsletter contains articles by the Community Housing Coalition of WA, Tenants Advice Service and the Department of Housing and Works about their views on community housing. These views are their own and are not necessarily endorsed by Shelter WA

COMMON WAITING LISTS SO WHAT'S THE PROBLEM?

Mike Newbiggin—Community Housing Coalition of WA

Access to community housing is available on an uneven basis throughout the state. This patchiness is a product of the quantity, location, target groups and management style of community housing providers. Against this backdrop is a discussion on a common waiting list for all social housing providers.

The idea of a common waiting list was first raised through the WA Bilateral Strategic Plan for the CSHA (1999/00 – 2002/03). This agreement called for the establishment of “a common waiting list and data sharing arrangement in consultation with the sector to enable customers to access a single point of entry into public or community managed housing.”

The State Labor Government's policy for community housing similarly includes an express desire for the implementation of a common waiting list. Any system developed to jointly collect data on waiting lists and waiting times, would require a capacity for regular review and validation in order to ensure that they remained an accurate account of all social housing applicants.

Similarly, any 'common waiting list' would need the facility to monitor equity issues between applicants, collect the data needed to follow up and evaluate policies, and provide information about the past and current waiting list situation to all parties involved in housing decisions, that is: the public; government, applicants and providers.

Further, applicants would have an entitlement to adequate information on waiting lists and waiting times in specific settings and be able to obtain guidance and assistance when interpreting such information.

Community housing has developed over the last twenty years for a number of reasons. First and foremost among these, is the capacity of community housing providers to respond to local needs. It is as a result of this responsiveness that community housing has developed its' diversity. Because of this diversity, organisations within community housing don't have the same information requirements or the same capacity to monitor waiting lists and waiting times.

The question is, who would manage 'a common waiting list' and what resources are required? If the solution is simply for community housing providers to cease operating their own waiting lists, and take applicants from a Homeswest run list, the capacity to respond to local needs is lost. Also lost in such a move, is the autonomy of community housing providers to house people who cannot or do not want to be housed, for a variety of reasons, through Homeswest.

The Community Housing Coalition views the concept of a 'common waiting list' as a solution arrived at before the essential problem has been adequately defined. Whilst Government has not explicitly defined the essential problem, it would appear there are two broad

policy objectives, firstly - to enable government to identify the total express social housing need in WA, (thus avoiding overstatement) and secondly - to ensure that the joint policy objectives of targeting and equity are achieved. It is with this understanding that CHCWA is developing its' position.

What policy framework would meet governments' implicit policy agenda, and, could it also allow for different organisational capacity and styles?

Whilst no framework exists, if developed it would at least need to tackle the following issues:

- goals for the accessibility and access to waiting lists;
- responsibility for the allocation policies;
- differing organisational capacity;
- differing organisational management styles;
- definition of priority housing, and the process to be followed;
- selection of applicants for housing and flexibility guidelines;
- structure of the waiting lists, including necessary data collection and sharing protocols;
- review and validation processes;
- publication and reporting of waiting lists and waiting times;
- how to handle applicants who have been on a waiting list for a long time;
- recommendations on how to solve waiting list problems, that is, if objectives can not be reached, what action should be taken; and
- arrangements for the evaluation of the policies.

This is clearly a broad ranging agenda with an inherent need to properly understand the current situation and, based on this, enter into an informed and collaborative discussion between all stakeholders. As yet, government has flagged no such approach.

In the meantime, the Community Housing Coalition agrees that in principle, some level of data matching is desirable. There is also room to negotiate over Homeswest exercising a level of allocation rights over community housing. Importantly, general agreement exists among providers that applicants should have access to information about housing choices. The form of this information and the implications for community housing providers are yet to be discussed.

The success of any policy initiative relies on clear objectives, mechanisms to carry out those objectives and the resources to finance the policy. At this time these are unclear and so to is the direction of the 'common waiting list' policy.

S 64 OF THE RESIDENTIAL TENANCIES ACT: CAN IT BE USED BY PUBLICLY FUNDED HOUSING PROVIDERS TO EVICT TENANTS?

By Ian MacFarlane - Tenants Advice Service Lawyer

The purpose of this paper is to analyse Section 64 ("s 64") of the *Residential Tenancies Act 1987 (WA)* (the "Act") in relation to its use for evictions by publicly funded housing providers. Unfortunately, as s 64 has not been judicially considered in Western Australia, it is necessary to consider the way in which the New South Wales (NSW) judiciary has analysed almost identical legislation.

This paper will outline s 64 and analyse the NSW cases of *Glen Nicholson v New South Wales Land and Housing Corporation also known as The Department of Housing BC9102676* (Unreported) ("*Nicholson*") and *Aboriginal Housing Company Ltd v Nicholls, Diana [1992] NSWRT 13 (10 February 1992)* ("*Nicholls*") and related case law. It will be concluded that s 64 of the Act cannot be used to terminate a periodical tenancy by a housing organisation which is funded with public funds if natural justice has not been afforded to the tenant.

S 64 of the Act is a piece of legislation which allows a landlord to terminate a periodic tenancy without any reason whatsoever. The terms of s 64 of the Act are: (1) an owner may give notice of termination of an agreement to the tenant without specifying any ground for the notice; (2) where an owner gives notice of termination under this section, the period of notice must be of not less than 60 days; and (3) this section does not apply in relation to an agreement that creates a tenancy for a fixed term during the currency of that term.

In sum, if a tenant does not have a lease for a fixed term tenancy, the landlord can give notice of not less than 60 days for a tenant to vacate the premises without having to provide a reason for the termination. Furthermore, it would appear that there is no scope within section 71 of the Act for a magistrate to do anything other than 'rubber stamp' an application that a landlord may bring pursuant to s 64.

By way of a background, the Act was proposed to establish the principles of fair dealing between landlords and tenants to provide a cheap, speedy

mechanism for resolving disputes.

The Act was modeled on the South Australian (SA) *Residential Tenancies Act 1978*. It is interesting to note that the SA equivalent of s 64 exempts a residential tenancy agreement between a registered housing co-operative and a member of the co-operative from being terminated without reason. As such, it may be that those in the legislative assembly who supported this piece of legislation, in the form in which it was finally enacted, had not fully considered the impact that it may have on the tenant. However, the NSW judiciary did consider the impact of the equivalent of s 64 on the tenant (particularly publicly housed tenants) in *Nicholson* and *Nicholls*.

Before proceeding with an analysis of the case law it is important to note that if a landlord has a legitimate reason for terminating a tenancy there are provisions in the Act to assist him/her/it to terminate: see s 62 (breach of term of agreement); s 63 (sale of premises); s 69 (frustration); s 72 (after fixed term agreement expires); s 73 (damage or injury); s 74 (hardship); and s 77 (abandonment).

Nicholson

Nicholson is a case considered by Badgery-Parker J in which the Department of Housing in NSW ("DoH"), constituted under the Housing Act 1985 (NSW) for the purpose of providing low cost housing, rented a house to a tenant and then attempted to evict the tenant pursuant to s 58 of the 1987 *Residential Tenancies Act (NSW)* (the equivalent of s 64 WA).

Badgery-Parker J found for the tenant that natural justice bound DoH not to take an adverse decision against the tenant on the basis of adverse material known to it but not to the tenant, without giving the tenant an opportunity to comment on and if possible rebut such materials. DoH did not afford the tenant that right, and by that omission, deprived him of natural justice.

Section 64

The legal principle to be taken from *Nicholson* is that it is incumbent on a government department to allow a person, who may suffer a detriment, natural justice and that there is a legitimate expectation that they will be afforded procedural fairness to address the effects of any such detriment. This administrative law principle was followed in *Nicholls*.

Nicholls

Nicholls extends the administrative law principles of *Nicholson* to bodies which are not government bodies, but have use of government monies to provide low cost and subsidised housing. The basic facts in *Nicholls* are that the Aboriginal Housing Company Ltd (AHC) is part of an ATSIC funded grant through the National Aboriginal Health Strategy Program whose tenants have rights to exclusive use of subsidised housing. AHC issued an eviction notice to the tenant for non-payment of rent. The main issue in this case was the interpretation of the phrase "in all the circumstances" as provided for under s 64(2)(c) of the NSW RTA, which has no equivalent in the WA *Act*. Nevertheless, in analysing "in all the circumstances" it was stated in *Nicholls* that *Nicholson* would be relevant to *public tenants and tenants of organisations* such as AHC and that a tenant, as a public tenant, should have a legitimate expectation of security of tenure.

Swain

It must also be pointed out that *Nicholson* was not followed in *Roads and Traffic Authority v Joy Swain and Terrance Gold and Tenancies Tribunal of New South Wales (95040165)* ("*Swain*"). However, it was held that the error in *Nicholson* was in relation to the way in which section 64(2)(c) of the NSW RTA was interpreted and only to that extent is the decision inconsistent. S 64(2)(c) states that

Update (added 31 May 2002)

The question of whether the Residential Tenancies Act can be applied differently to publicly funded housing providers in relation to the use of s64 was considered in Whole Earth Housing Collective Inc v Lennie Zuni (RT409/01, 21 January 2002). Mr J. Packington, S.M. found that "overriding consideration of the circumstances of the case, which has been held in New South Wales ... is not in the West Australian legislation and, in fact, ... the use of, 'the consideration of all the circumstances' is not available where a notice under section 64 is being relied upon." (p.5) He continued to say that "the magistrate has only to be satisfied that notice of termination was given and that it complied with and was given in accordance with the Act, and there is no scope under section 71 of ... the West Australian Act, for the magistrate to concern himself, or herself, with any other matters." (p.7)

the Tribunal shall, on application by a landlord under this section, make an order terminating the agreement if it is satisfied, that having considered all the circumstances of the case, it is appropriate to do so.

Section 84

While there is no similar provision to s 64(2)(c) of the NSW RTA in the WA *Act*, section 84 does empower a magistrate, if he or she considers it is necessary or desirable in the circumstances, to order that a provision of the Act shall not apply or shall apply in a modified manner. As such, it is argued that a magistrate has the power to 'apply in a modified manner' s 71(2) so that natural justice can be considered prior to ordering any eviction by a public funded housing provider under s 64.

Conclusion

The basis of s 64 is that a landlord can terminate a periodical tenancy, without giving a reason, by giving a tenant at least 60 days notice. Although s 64 has not been judicially considered in WA, there is a series of NSW cases which give authority to the principle that, because of the administrative law principles of natural justice and a legitimate expectation of procedural fairness, any body which operated with a grant of government monies to provide low cost and subsidised housing is judicially estopped from using s 64 to terminate tenancies, unless natural justice has been afforded to the tenant. Given the significance of low cost and subsidised housing for any tenant, it would be reasonable for the WA judiciary to take a similar view if it has cause to consider s 64. This argument is strengthened when the provisions of section 84 of the *Act* are considered.

COMMON WAITING LISTS AND STOCK TRANSFERS

Bob Thomas, General Manager, Homeswest

The subject of common waiting lists has now been around for some time and is part of the bilateral strategic plan for the CSHA and an issue which I have been promoting for some time.

Whilst there are models of common waiting lists operating in other States with varying degrees of success, I believe there are some benefits for all stakeholders in working through the issue in terms of what it actually means and how it could operate within Western Australia.

Firstly, I think it is fair to say that the community sector generally is concerned about the motives of the Department in promoting a common waiting list and suggestions there will be interference with allocations, breaches of confidentiality and restrictions placed on Community Housing organisations with perhaps a suggestion they should operate under the same guidelines as does Homeswest. I assure you this is not the case. I do not believe that it would be in the interests of Community Housing or Homeswest to go down that track as there are obvious benefits in both housing models which we should work to enhance and promote.

My initial raising of the matter was based on a concern I had about accessibility in terms of how our mutual customers know where to go to access housing and the establishment of Regional Housing Associations has assisted that by developing more defined entities which are able to promote themselves as good social housing managers. However, there is still a proliferation of avenues which people can go to access housing and from my reading of Community Housing around the world this has proven to be a concern.

Therefore, the issues which I think need to be addressed and discussed are:

- Fairness and equity in allocations across all eligible public housing (social housing) applicants.
- Ease of accessibility to both mainstream rental and Community Housing from eligible customers.
- Targeting those most in need across the various programs as required under the CSHA, in

particular, Aboriginal people.

- Assessing the actual demand for public housing through some form of common waiting list or data matching.
- Dealing with the homelessness and priority housing requirements of eligible applicants by using the total social housing stock available.
- Continued growth of Regional Housing Associations to ensure viability of the sector.
- A more concerted effort towards consolidation of the sector by reducing the number of providers.

In talking about trying to tie down the actual waiting list for the State there is no intention of imposing any restrictions on Regional Housing Associations. To me it is simply a matter of trying to have some sense of the real number of people waiting for assistance, how they can better access the different housing options available and how we can ensure fairness and equity by targeting those most in need.

The Department would certainly not want to create a massive bureaucratic system to co-ordinate a common waiting list, however, I think there is a need for us to look at how we could match our waiting lists so that where there are "duplications" we are aware of those and can then reflect more accurately what the true demand is. This will assist the Department in its endeavours to seek additional funding through the CSHA to meet the increasing demand which we have.

The other issue which is being debated in the sector is stock transfers and the need for public housing stock to be transferred across to Regional Housing Associations to make them more viable. Traditionally the Department's view has been that this not a viable option for us and I think there would need to be some concessions if the Department was to go down that track.

To me some of the issues would be:

- Common waiting list – Homeswest is currently

the accountable authority in terms of justifying the number of applicants on the waiting list and waiting times and unless we had some system to co-ordinate all of our allocations then there would be no benefit in us giving stock to Regional Housing Associations.

- Much of this stock has a debt over it and to hand it to Regional Housing Associations for no return is not financially viable. This is the issue of some return to Homeswest for stock provided to Housing Associations (with that return going back into the program). I think that this would need to happen if any stock transfers were considered. Despite some criticism from the community sector, there is rent paid under the CDHP model because they are able to obtain Commonwealth rent assistance and are still viable. Therefore there is an inequity in the CHP model. It is fair to say the decision to seek a return through surpluses has failed dismally in that only one provider has returned a surplus to the programs to date. This is not to discount or undervalue contributions towards joint ventures which runs at around \$1M p.a.
- The implication from the sector is that if there were stock transfers you would only want the better stock which again is not a viable option. The Department would only consider stock

transfer if there was a broad cross-section of accommodation types transferred. Many of these may have existing tenants and we would have the expectation they would be taken on with the property.

- An agreed administrative and financial process would be set up in terms of the number of stock managed by the Property Managers, the amount of maintenance spent on properties, etc. (which, from my observations, indicate that Community Housing providers tend to spend more on maintenance than Homeswest, who already spends twice as much as the private sector).

In summary can I then say that from my perspective I believe that Community Housing is a valuable resource and alternative management model to that of the mainstream Public Housing and is vital to our mutual customers. To me the two issues are open for further discussion and debate and some of the issues of concern which the Department has and those which the sector have are not insurmountable and we can work through these to the mutual benefit of all stakeholders. I therefore look forward to further discussions with the sector in respect to these issues.

SHELTER WA RECEIVES LOTTERIES COMMISSION GRANT

If you've ever dropped by our salubrious workspace you may have marvelled at the ergonomics of our 3^{1/2} swivel chairs, or been intoxicated by our impeccable taste in cardboard box décor. Well no more! Thanks to the many Karel-hours that went into writing a grant application to the Lotteries Commission, we recently were the proud recipients of \$13,998 that will provide:

- A new 1.5 Gig (i.e. fast) computer for even better desk-top publishing;
- PageMaker 6.5 desktop publishing software
- Adobe graphics software
- A scanner
- A CD Writer

The techno-side of the grant will allow us to produce more publications in-house rather than out-

source this work and is therefore more efficient in the long term.

Regarding office furniture, we'll all be getting new ergonomic desks and the author will receive a level chair devoid of screws protruding through the foam base.

A new storage/shelving system will allow for efficient use of space for our expanding library. The better use of space will also make room for a small meeting area so we'll be less reliant on booking meeting space in our building.

Overall we're very pleased with the outcome and are looking forward to be able to do what we do better and faster.

THE RTA - ISSUES FOR COMMUNITY HOUSING

Mike Newbigin with thanks to research undertaken by Lou Kyle

With a review of the RTA currently due, an examination of the interaction between this Act and community housing is timely.

Rent to income

A basic principle of community housing requires rents to be tied to the capacity of the individual to pay. This principle, both borrowed and a requisite of the Department of Housing and Works (DHW) diverges from Section 30 of the Residential Tenancies Act 1987 (RTA).

Section 30, of the RTA, provides for 60 days written notice of rent increases and a minimum of six months between any increase. Community housing providers are expected, through DHW funding agreements, to charge rents linked to income similar to those of public housing tenants. This has to be achieved without the exemption from Section 30 of the RTA enjoyed by Homeswest.

What issues does this pose for community housing providers and their tenants? With rents variations linked to the tenant's capacity to pay, a potential loss of flexibility for both tenant and provider exists. Rents can be decreased if for example, a tenant suffers a temporary reduction in income, but increases cannot similarly occur if income levels are restored. This anomaly creates a disincentive for community housing providers to vary rents if they can be seen to be of limited duration. Tenants with an understanding of this situation can exploit this situation.

Community housing providers are mindful of their financial viability as well as their obligations to tenants. A reduction in flexibility of community housing providers' rent setting practices exists as a result. Policies, such as income averaging over three to six month periods, can and do undermine the equity and affordability principles aimed for through varying rent to income.

Some community housing providers do however operate outside the framework of the RTA in setting rents. Agencies which point to this 'illegal behaviour' whilst technically correct, fail to take into account the basic principles of social justice and equity involved. The impact of Section 30 not only disadvantages community housing providers but also the tenants and clearly needs resolution in the RTA review process.

Other states in Australia have already taken into account these needs through their respective tenancy legislations.

The approach taken in NSW, the ACT and SA, in resolv-

ing this variation of rent problem is to consider tenants of community housing as paying full market rent with a subsidy. The level of subsidy is based on variations of the tenant's income and an increase in the amount payable because of a cancellation or reduction in rent subsidy is not considered a rent increase.

Special Clauses in tenancy agreements

At a joint Community Housing Coalition of WA (CHCWA) and Shelter forum on the RTA in July 2001, discussion took place on specific clauses within the tenancy agreements of community housing providers'.

These clauses take the form, for example, of a requirement that tenants maintain support agreements with external agencies (a Health Department requirement to access the Independent Living Program) - or maintain membership of the association (as is the case in a housing cooperative).

The status of such clauses is unclear under the current RTA. It has been argued that a breach of such clauses within a tenancy agreement falls within Section 62 (1). Under this Section an owner may "give notice of termination of an agreement to the tenant upon the ground that the tenant has breached a term of the agreement and the breach has not been remedied."

A difficulty arises in the operation of, and level of discretion exercised by magistrates operating in the Small Disputes Division. In the case of housing cooperatives, it is argued that once membership has been terminated and a breach notice issued, remedying such a breach is not possible and therefore a clause requiring membership is unenforceable and illegal under the RTA. (It should be noted that the clause within the standard co-op tenancy agreement was developed and approved by Tenants Advice Service.)

It is also arguable that this clause is intended to allow a housing cooperative to access Section 64. (This section allows for a landlord to give notice without specifying any grounds.) However, in using Section 64 in these circumstances, a housing cooperative does have a cause. The tenant will also have received procedural fairness and natural justice, through the processes involved in terminating membership.

The reason for using Section 64 in these circumstances, results from a lack of alternative paths to achieve resolution. To call for a wholesale denial of access to this section fails to recognise this lack of alternatives.

Housing co-ops don't fit neatly into the "villainous land-

The RTA and Community Housing

lord/victimized tenant" model. Security of tenure is not without its' reasonable limits and to reject this premise on the basis that co-op housing fulfills the 'last resort' welfare model of housing, crosses the line between subjectivity and subjection. Such a narrow position would have co-op tenants performing government services for free and, if ascendant, would act to reinforce the a passive welfare recipient model where tenants are incapable of responsible self management.

To this end, it becomes essential that within the review of the RTA the status and enforceability of special clauses are made explicit. Other states have allowed for the inclusion of these clauses, either through making them explicit in the Act or through a process of registration.

Clearly the place of special clauses in community housing tenancy agreements requires careful consideration and a collaborative approach from stakeholders to find appropriate and workable solutions. Community housing providers share a commitment to secure tenants rights and ensure natural justice and procedural fairness. A wholesale denial of access to Section 64 for community housing providers, without some parallel recognition of the needs of both providers and programs, fails to recognise the often unique relationships existing between tenants and community housing providers.

A sector wide appeals process

Calls from various quarters have been made to have a uniform appeals process available to all community housing tenants. Within public housing, appeals processes have a limited mandate usually involving allocations and transfers. Appeals processes, where disputes may result in termination, are problematic as they are not recognised as having legitimacy in the Small Disputes Division.

A universal disputes resolution process also has practical problems owing to at least two factors One is the autonomous nature of community housing providers and therefore the status of any decisions made by an external body and secondly, the differing policies applied and the attendant administrative problems of such a system.

This is not to presuppose that the difficulties are insurmountable or indeed the outcome undesirable, but simply to maintain focus on the need to be clear on the objectives and outcomes sought.

Any strategy developed must keep in focus a fundamental principle that community housing developed to identify and respond to local need. Moves to a centralist system must not lose sight of this.

Information & Resources

The following publications have recently been added to the Shelter WA library:

- Ministry of Housing 2000/2001 Annual Report
- Wulff, M., J. Yates, T. Burke, 2001. *Low Rent Housing in Australia 1986 to 1996*. Australian Housing Research Fund.
- Community Housing Coalition of WA Annual Report 2001
- Shelter WA Annual Report 2000/2001
- Queensland Department of Housing - 1999 *Community Housing Plan 1999-2004*
- 2000 *Improving people's Lives through Housing*
- 2001 *Report on the Interagency Collaborative Improvement Project*
- City of Perth, 2001. *Homelessness Seminar: Working Group Report*
- Social Policy Research Centre, UNSW, *2000 Annual Report*
- Queensland Shelter et al. 2001. *Report on the Housing Forums: "The Role of Government in Housing"*
- Community Housing Federation of Australia, 2001 *Policy Directions for Community Housing in Australia*

Agency Profile

THE EASTERN METROPOLITAN COMMUNITY HOUSING ASSOCIATION

By Tim Davis

In this our second agency profile, we asked Kathleen Gregory of EMCHA to outline some of the association's structure and work.

What is EMCHA's core business?

EMCHA is a not for profit community housing organisation that provides long term rental housing for people on low to moderate incomes living within the local government areas of Swan, Mundaring, Kalamunda, Belmont, Bayswater and Bassendean.

While EMCHA's primary focus is the provision of good quality, affordable and appropriate long term rental housing the organisation has also developed an important role within the region as a lead agency in the identification of and response to housing issues and needs.

From where and how is EMCHA funded?

EMCHA currently receives a small amount of funding from the Department of Housing and Works for the development of the organisation. This infrastructure grant is granted on an annual basis with the expectation that EMCHA will no longer require the grant after an initial establishment period. EMCHA has also received a one off grant of \$10,000 to assist with the employment of an Indigenous Tenancy liaison worker.

The primary source of income for EMCHA is rental income. This income is used for maintenance of the properties, insurance, rates and taxes, employment of staff and administrative costs. As EMCHA increases its property portfolio, it is anticipated that surplus income will be generated that can be invested in more housing stock.

What kind of networks is EMCHA part of?

EMCHA staff have developed and work hard to maintain strong links with community based support agencies that can provide support and assistance to our tenants.

EMCHA is part of the Family Support Network which is a formal network of over 100 agencies working with families in the eastern Metro region,

this group meets every 6 weeks or so.

EMCHA provides a leading role in the region for the identification and development of responses to local housing needs.

In terms of community housing generally EMCHA is an active member of the Regional Housing Association Network which meets regularly to discuss issues, make policy recommendations and inform the work of the Community Housing Coalition of WA. Until recently EMCHA was represented on the board of the CHCWA and was a member of the National Community Housing Forum's policy advisory committee.

EMCHA is also actively involved, as and when resources permit, in networks and forums which are concerned with broader social housing issues in WA. These currently include Shelter, State Homeless Taskforce forums and discussion around the State Housing Strategy.

What recent developments have impacted on EMCHA's work?

Same old, same old.

What are the major challenges facing EMCHA in 2002?

The continuing major challenge for EMCHA is the achievement of financial viability while meeting the significant housing needs in the region. The overwhelming demand for EMCHA housing comes from families who are currently homeless or have a history of failed tenancies. The costs in housing these families are significant and unsustainable for a small organisation that relies almost exclusively on its rental income to maintain its operations. The lack of funding for long term support for these families to make progress toward dealing with the issues that contribute to their ongoing cycle of homelessness severely restricts the number of these families that EMCHA is able to house.

The opportunities for development of new housing stock is limited. Competition for the small amount of funds available through the Department of Housing and Works for Community Housing, in-

cluding Joint Ventures is strong. At best EMCHA would hope for an allocation of about 10 new properties for 2003/2003 financial year.

As a small housing association with limited housing stock and a high number of "high risk" tenancies EMCHA's opportunities for generating sufficient surplus income to invest in housing is not a

reality.

How can EMCHA be contacted?

Phone: 9250 6863

Fax: 9374 0063

Email: emcha@git.com.au

SUNSET TIME FOR THE CHSC

By Mike Newbigin, CHCWA

When the Community Housing Standing Committee (CHSC) was established in the middle of 2000, a sunset clause was included requiring it to undertake a review within eighteen months.

The CHSC is a standing committee of the Housing Advisory Committee (HAC) and has a role to make recommendations on policy through the HAC to the Minister and Department of Housing and Works.

The Terms of Reference for the existing CHSC are:

- To advise through HAC, the Minister for Housing and Managing Director, Ministry of Housing on community housing policy and other related matters.
- To develop and monitor the implementation of the Western Australian Community Housing Development Plan 2001 to 2004.
- To participate in the development of Ministry of Housing, community housing policy and program initiatives.
- To advise on and recommend research and the development of new policies and guidelines in areas of perceived housing need.
- To assist in identifying housing needs in the community.
- To encourage communication and co-ordination between Departments associated with the provision of community housing.
- To facilitate strategic alliances to establish alternative funding sources for community housing post the CSHA 1999 to 2003.

Among the many issues already identified during the review process, is a lack of a clarity of pur-

pose for the Committee. Part of this frustration is a result of the failure of the Committee to develop a Strategic Plan for community housing.

Whilst the development of a Strategic Plan was a major part of the Terms of Reference, a key problem faced by the CHSC was if developed, who would own and implement it? The CHSC, in its own right, has limited capacity and authority to implement any plan it may develop.

The CHSC commenced its review process through face-to-face interviews with individual members of the Committee. The Committee then met and considered the feedback from interviews and worked on incorporating it into changes to the Terms of Reference.

What resulted from this process is a proposal to reduce the number of the Terms of Reference from seven down to three. To ensure that the review is finalised, a Working Group has been formed to draft the wording of the proposed changes.

Once finalised, the CHSC has decided to circulate this revised wording to all stakeholders, before finalising the proposed Term of Reference at the January meeting of the CHSC.

Will anything really change as a result of the review process? Well outside factors may be influencing the CHSC's role post the review process. There seems to be a stronger desire from Government to develop a Strategic Plan for Community Housing and CHSC sees that it should be a key driver of the process.

If you have any questions about the CHSC please contact Mike Newbigin at CHCWA.

COMMUNITY SECTOR SERVICES

by Mike Newbigin, CHCWA

A number of significant national and global events are leading to increases in reinsurance costs. The combined effects of the collapse of HIH Insurance earlier in the year, recent terrorist attacks in the USA, a global increase in the number and severity of natural disasters and a possible global recession will place pressure on premiums as insurers pass on increased reinsurance costs.

Reinsurance is the insurance companies' insurance, which enables them to spread their risk by paying premiums to other insurers.

The world's reinsurance companies are faced with massive losses, after the attacks in the US, and the costs reinsurers charge insurers are expected to rise significantly as a result. According to Brendon Durrant, from Hammond Insurance Broking, the full impact will start to be felt during the first part of 2002, as reinsurers begin to renegotiate prices with insurance companies.

The impact on the community sector of these increases is unclear, early indications are the increases are starting to bite, adding to the problems of already tight budgets.

Another issue emerging is the resulting difficulty brokers are facing to gain quotations for certain insurance covers. Brendon Durrant from Hammond Insurance Broking said "many insurers are now taking up to four (4) weeks to provide quotations, particularly for 'higher hazard' or 'specialty line products (such as Association Liability)'. This is impacting heavily on our CSS client's, as they all require Association Liability and many are classified (rightly or wrongly) as 'higher hazard'."

Hammond Insurance Broking is the nominated broker for Community Sector Services, (an initiative of the peak bodies aimed at addressing the costs and complexities of administrative services in the community sector). Insurance premiums were identified as being a high cost area for organisations and where potential savings could be best achieved through a cooperative initiative.

To achieve this aim CSS, tendered for the services of an insurance broker, resulting in the selection of Hammond Insurance Broking in March 2000 for a

period of three years. The aim of the appointment was for Hammonds' to provide CSS members with professional insurance advice and to help reduce the cost of individual organisations insurance programs.

"An insurance broker" explains Brendon Durrant, "is an independent professional, acting on their clients behalf to negotiate the most suitable range of insurance policies for their clients at the most competitive premiums available." As brokers' for CSS Hammond Insurance is also required to provide assistance with the management of claims to ensure organisations receives all entitlements allowed under the policies.

"Hammond Insurance Broking is committed building a strong relationship with Community Sector Services and it's members", Brendon explained. "We have forged strong relationships with a number of insurance companies who provide us with significant discounts for CSS Organisations."

Cathcart Weatherly, the Chairperson of CSS said, "As the number of CSS organisations we manage increases, so to does our bargaining power. At present we have around \$870,000 worth of premiums under the CSS insurance arrangement and insurers are now showing real interest."

Work has been progressing on the development of master policies with insurers who are willing to pick up policy coverage at agreed rates. A clear idea of the success of this approach will be known around the end of this year.

At an organisational level CSS has recently undertaken a strategic and business planning exercise to assist in the process of clarifying the direction for the organisation. Major outcomes of the planning process included the setting of broad strategic directions which include working to provide quality, ethical, accountable services to the community sector that endeavour to maximise available funds for service provision.

For more information on CSS contact the Community Housing Coalition of WA, or to speak to Hammond Insurance Broking Pty Ltd ring 9390 5711.

REFLECTIONS ON THE NATIONAL HOUSING CONFERENCE, BRISBANE, 2001

by Tim Davis

Between 24-26 October I joined about 850 delegates in attending the 2001 National Housing Conference in Brisbane. Co-sponsors were the Queensland Department of Housing, the Australian Housing and Urban Research Institute and the Commonwealth Department of Family and Community Services.

No doubt there were as many impressions of the conference as delegates. However, from subsequent conversations it appears I wasn't alone in picking up a recurring theme to do with the integration of housing provision and the planning and delivery of other community development programs.

In his keynote address, *Putting Housing in it's Place*, Prof. Duncan MacLennan (Glasgow Uni.) overviewed the place of social housing in developed economies. Social housing is off the political agendas of most developed economies partly because its delivered to the marginalised minority. Most western economies are:

- strengthening global connections and hence becoming increasingly competitive;
- reducing public budgets; and
- presiding over increasing economic and spatial inequalities.

Prof. MacLennan noted that the impact of globalisation on national sovereignty has in some cases led to increased difficulty in developing integrated housing systems. As any system, including housing, integrates economies and societies, governments must recognise this and prioritise social housing policy. In order to convince politicians of the importance of social housing the sector needs to personalise the community development role of, and need for, affordable housing.

In recognition of the linkages between housing and other indicators of community well-being, Peter Phibbs (Sydney Uni.) presented a paper titled *Housing Assistance and Non-housing Outcomes*. Early findings "... highlight the large differences housing can make on peoples lives, and the need for appro-

priate housing solutions to maximise the positive impact of public expenditure". This work promises to be a useful tool, both in lobbying for increased social housing expenditure and to integrate social housing into a broader community development framework.

Since the mid-nineties some Australian State Housing Authorities (SHS's) have been developing programs that put legs on the kinds of integrated approaches mentioned above. All SHS's have to a greater or lesser degree been busily refurbishing and/or selling off old, non-viable dwellings - with some clear social benefit. However redevelopment also comes with a number of social costs and cannot address some of the more endemic social problems faced by social housing tenants. In response to these realities, the Queensland Department of Housing, through its *Community Renewal Program*, has sought to integrate physical refurbishment and socio-economic revitalisation:

The Community Renewal program sits alongside the ... Urban Renewal Program.. As a result there is urban renewal expenditure in most of the Community Renewal areas because they contain a large amount of public housing stock. In contrast Community Renewal addresses issues relating to the social and economic wellbeing of particular communities and their physical environment beyond the front fences of public housing.

[From a Departmental information paper]

Apart from the clear social benefits of this approach, community renewal has a number of financial benefits for SHA's including reductions in:- rental arrears, wilful damage, anti-social behaviour, crime, vandalism and staff burnout/turnover.

I left the conference with a clearer sense of the importance of integrating the provision of social housing with other forms of social service provision; both as a means of improving consumer outcomes and in order to revive the political relevance of the sector as a whole.



ABN: 66 496 603 178

NATIONAL HOUSING ACTION HOUSING FUTURES EDITION

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- *A national peak for the Indigenous housing sector*
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- *Deinstitutionalisation in Australia*

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A House Shower



It's a miracle, thought Dotty, a house for everyone who needs one.

The Staff and Management Committee of Shelter WA wish all *newsletter* readers a happy and relaxing Christmas & New Year!

Role of Shelter WA

Shelter WA is a peak community managed housing organisation established in 1979, which seeks to represent the views of consumers and community groups on major housing issues. Shelter WA aims to ensure that every person has access to affordable, appropriate, secure and safe housing that is free from discrimination.

This is done through:

- Coordinating and representing community sector views to government;
- Developing and responding to policy
- Providing education and information; and
- Promoting alternative housing models.

Shelter WA Staff

Policy Manager	Paul Pendergast	email: paul@shelterwa.org.au
Development Manager	Karel Eringa	email: karel@shelterwa.org.au
Project Officer	Tim Davis	email: tim@shelterwa.org.au
Administrative Officer	Glynis Menezes	email: admin@shelterwa.org

Newsletter Production

Publisher Shelter WA

Contributors Karel Eringa
Tim Davis
Ian MacFarlane (TAS)
Mike Newbigin (CHCWA)
Bob Thomas (DH&W)
Kathleen Gregory (EMCHA)

Editor Tim Davis

The views expressed in this newsletter do not necessarily reflect those of the Editor, Publisher or Shelter WA policy.

Phone: (08) 9325 6660 Fax: (08) 9325 8113

Email: shelterwa@shelterwa.org..au

Website: www.shelterwa.org.au

Claisebrook Lotteries House, 33 Moore Street EAST PERTH WA 6004