

news *letter*

May 2001

Homeswest's Bankruptcy Policy Review

This article is the executive summary of a report prepared by Erin Gauntlett for Shelter WA

Background

The impact of Homeswest's bankruptcy policy has been raised in a number of contexts in recent years. In particular, community workers have consistently argued that the policy contravenes the Bankruptcy Act, 1966 and the Residential Tenancy Act, 1987 and acts to deny access to housing for some of the most disadvantaged people in society.

The link between adequate housing and a range of other social, economic and cultural outcomes has been explored in a range of literature. The Human Rights and Equal Opportunity Commission (as cited in TAS, 2000) states that "without housing, an individual's education, economic and socio-cultural development are severely curtailed." Further, the Australian Institute of Health and Welfare (as cited in Shelter WA, 2001) refers to a strong correlation between inadequate housing and a range of poor social outcomes including poor health status, poverty and generally low living standards.

Western Australia mirrors the national trend towards an increasing reliance on the private market to meet the needs of low-income people both through private rental and an increased emphasis on home ownership. At the same time, public housing is being delivered in an environment of a more stringent application of eligibility criteria and more rigorous debt management practices.

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Survey Results

The overwhelming majority (81%) of respondents reported that at least some, if not all, of the bankrupt clients seen in the last 6 months also had a debt to Homeswest. There are therefore significant numbers of bankrupt clients who are potentially denied access to Homeswest housing as a result of current policies and practices. This was further supported by specific examples provided as part of respondents' general comments.

Just over half of the respondents (51%) indicated that at least some, if not all, of their bankrupt clients are either homeless or at risk of homelessness. This was supported by comments from respondents that being denied access to public housing leads to increased homelessness and associated poor social outcomes including health problems and family breakdown.

Legal and Social Implications

There are a range of legal opinions relevant to Homeswest's bankruptcy policy, with several indicating that the policy contravenes the Residential Tenancy Act, 1987 and/or the Bankruptcy Act, 1966.

While it is understood that the Ministry of Housing has obtained its own legal advice regarding the application of Homeswest's Bankruptcy Policy, this has not been made available. It is therefore unclear as to the legal basis for Homeswest's continuing application of the bankruptcy policy (Tenants Advice Service, 2000a).

The Tenants Advice Service reports significant community concern regarding the effect of Homeswest's bankruptcy policy. In particular, it is argued that the policy exacerbates homelessness through families being locked out of public housing and for whom the private rental market is not a viable option due to the discriminatory nature of this tenure (Tenants Advice Service, 2000a).

Homelessness is by far the most severe consequence of being denied access to adequate housing. In terms of costs associated with homelessness research by Neil and Fopp (1992), Dixon (1993) and Pinkney and Ewing (1997) highlight the far-reaching consequences of the absence of housing. Examples of social costs include:

- Marginalisation
- Recurring cycles of dependency and/or antisocial behaviour
- The loss of potential for people to contribute to their communities and the broader community.

Economic costs have been cited to include:

- Lost productivity
- Lost capital accumulation

- The extra demand for community, health and legal services
- Lost tax revenue
- Unemployment benefits (based on the assumption that homeless people are unemployed).

General Comments

Homeswest argues that the bankruptcy policy was developed “in response to an increasing trend by its clients to declare bankruptcy in order to avoid repaying their debts to Homeswest”. However, information from the Insolvency Trustees Service Australia (ITSA) states that people’s reasons for petitioning for bankruptcy are much more likely to be linked to unemployment than any other issue with the amount owed to State Housing Authorities representing only 0.3% of the total bankrupt debt. It is therefore unclear as to the basis on which Homeswest formed the view that people were going bankrupt to avoid debts to Homeswest. In addition, Homeswest has not provided any evidence to suggest that this reflects the current situation.

A fundamental aspect of Homeswest’s bankruptcy policy is the extent to which Homeswest believes “that the application was made to avoid the repayment of a debt to Homeswest”. It is both unclear as to the basis on which any such assessment is made and it fails to address Homeswest’s social and moral obligation to provide housing to some of the most disadvantaged people in society.

Regardless of whether Homeswest’s bankruptcy policy is deemed to contravene the Residential Tenancy Act, 1987 and/or the Bankruptcy Act, 1966, there is a much larger question at hand as to whether Homeswest, as the houser of last resort, should adopt any policies and/or practices which have the effect of exacerbating homelessness. This is particularly pertinent when considered in the context of access to adequate housing being seen as a basic human right.

Finally, Homeswest policies and practice have the effect of treating at least some bankrupt applicants (i.e. those who are deemed to have gone bankrupt in order to avoid paying their debt to Homeswest) in the same manner as other applicants with a debt to Homeswest. This raises a much broader issue about the legal and moral implications of requiring an applicant to repay a debt prior to being provided with housing assistance. However, given the terms of reference of the current review, this report only refers in passing to issues regarding further assistance for applicants with a debt. This issue warrants a more detailed exploration which would be best undertaken as part of a broader review of debt management policies and practices.

Recommendations

1. That the existing Homeswest bankruptcy policy be abolished.
2. That the Homeswest debt management policy contain a clause to the effect that "Homeswest cannot take action to recover a debt incorporated in an application for bankruptcy".
3. That there be a full review into Homeswest's debt management policies and practices.

* * *

Forums



Mental Health

The WA Association for Mental Health and Shelter WA jointly hosted a Mental Health Housing Forum on Tuesday 1 May, at City West Lotteries House. The Forum aims were:

- Develop strategies to respond to housing issues for people affected by mental health problems and;
- Establish ongoing links between Shelter WA, WAAMH and other relevant agencies.

A report on the forum is being produced. For information or to receive a copy of the report please call Paul Pendergast at Shelter WA on 93256660.

Kimberley

Planning is underway to hold a Housing Consultative Forum in the Kimberley region in June 2001. We intend to consult as widely as time and resources allow and will provide further information once the details are finalised.

State Election Housing Forum Final Report

By Camille Inifer

BACKGROUND

In October 2000, and with the forthcoming State election in Western Australia, Shelter WA decided to hold a pre-election housing forum and to invite politicians from the key political parties to speak on their social housing policy platform.

It quickly became evident that there was interest in the forum and the timing could not have been better. Politicians from the Liberal Party, Australian Labor Party, Australian Democrats and the WA Greens had agreed to speak and people were travelling from regional WA to attend. Was housing on the political agenda? Certainly the written media was showing some interest.

OVERVIEW

Whilst there has since been a change of government, we should be encouraged by the fact that key commitments were consistent albeit at differing levels. There was support from each speaker for the ongoing maintenance of public housing to current levels and the increase of community housing and that this be achieved through a review of current programs and lobbying for the next round of the CSHA.

There was also consensual support for the development of a State Homelessness Strategy, to work towards resolving the homelessness problems in WA, particularly for the most marginalised including people living with mental health issues and/or substance dependence, refugees on temporary visas, young people and Aboriginal people.

Also the promotion of a review of the residential tenancies legislation in WA was keenly supported with particular consideration for legislation for boarders and lodgers. The need to work inclusively with an across portfolio approach to the delivery of social housing was acknowledged as was the link between adequate and appropriate housing and community wellbeing.

SUMMARY OF SPEECHES

Shawn Boyle, Executive Director, WA Council of Social Service (WACOSS)

Shawn introduced the forum to the broad picture debate in terms of the links between housing and a range of social and economic factors in the context of stronger, healthier communities.

He referred to the release in late 2000 of the WACOSS report '*Healing the Social Divide*'. The key elements referred to in that report was of building a community partnership whilst improving people's health and wellbeing, valuing families and children and investing in crime prevention and justice.

Shawn stressed the current '*bankrupt approach*' of getting the economics right then fixing the social issues was making it difficult for the sector to cope with resolving the social issues and assisting need. He stated policy is about '*inter-connectiveness*' between social and economic factors. That the impact of recent reforms such as accountability and accreditation requirements, competitive tendering, tax and industrial reform within the sector without any assistance package and whilst the dollars are being squeezed has meant the sector is struggling to cope.

He reinforced the concept of prevention or early intervention with a holistic approach to planning making for stronger communities. Particularly with the focus on families linked to their health and wellbeing. That the key to success is to include the community in the planning rather than low level input towards the end of the process.

Hon Kim Hames, Minister for Housing, Liberal Party

The former Minister opened by confirming the correlation between inadequate housing and poor social outcomes in a climate of poor economic and environmental factors. He considered the New Living Program under the Ministry of Housing was evidence of the progress made in tackling the problems of the old public housing estates in WA.

In terms of the future he endorsed the need for a strategic planning approach to housing delivery and referred to the recent work on the document '*Housing 2029*' through the Office of Housing Policy. He stated the aim is to '*identify the strengths and weaknesses of the wider housing system and to make sure that we develop policies that enable us to bridge the gaps that exist...this helps to provide a whole of government approach to housing which has been lacking in the past.*'

In providing for the needs of people on low income or with a diversity of needs in both the metropolitan and regional WA, the Minister informed the forum that the cornerstone of their housing policy is home ownership. And that the current home ownership programs and safety net provisions to assist low income people into owning their own homes is a successful alternative housing option. However the Coalition is still committed to maintaining public housing in WA at a minimum of 5.3%, the current rate.

He informed the forum that 1,200 housing units had been demolished under the New Living Program and a significant number of these units had been sold to Homeswest tenants. He stated the latest figures show that the current figure is 38,556 houses compared with 35,135 in 1991. Since 1993, the waiting list was at 17,766 compared to the current rate of 12,879, meaning a reduction of nearly 5,000 people on the waiting list.

With its stock replacement program, Homeswest have concentrated on seniors housing to deal with the aging population. The Coalition would commit to continuing that focus on seniors through the provision of security and maintenance programs. They would also introduce a Home Maintenance Advisory Service for all seniors on the basis of a discounted assessment or check list service similar to that of the RAC. The package would include recommended trades persons and making available loans for maintenance purposes. The Coalition would also commit to undertaking a review of the Residential Tenancy Act if returned to government. The review would include widespread public consultation.

On the matter of Indigenous housing, the Aboriginal Home Ownership Scheme is something the Coalition are keen to encourage. He informed the forum that programs are in place for remote communities and these include the Aboriginal Community Strategic Investments Program (ACSIP) which aims to improve housing standards in these communities. There is also the Management Support Program (MSP) which allows Aboriginal people to be responsible for maintenance and upgrades of housing. Aboriginal people are paid and trained under this program. The Coalition also committed to the expansion of community housing in WA, particularly the Community Disability Housing Program (CDHP) as well as the Supported Accommodation Assistance Program (SAAP).

Finally, in acknowledging the homelessness issue in WA he endorsed the proposal of a State Homelessness Strategy being developed during the next term.

Hon Ken Travers, Australian Labor Party and Opposition Spokesperson for Housing

Mr Travers informed the forum that the Labor Party is committed to the rights of everyone to a secure, affordable and appropriate housing. He referred to the current health crisis and acknowledged that access to secure and affordable housing is fundamental to improving the health outcomes of society. He stated an indicator is that children of people who own their homes will remain in school for longer however acknowledged other factors also contribute.

Whilst home ownership is a priority, the ALP is committed to providing the options for low income rental housing for people who cannot afford, or where it is not appropriate to access home ownership. He acknowledged governments have a responsibility to provide the appropriate support services to assist people into housing. He referred to the current Commonwealth/State Housing Agreement (CSHA) stating the objectives of the 1996 CSHA were '*far better*' than the current Agreement. He also referred to the work of Diana Warnock in attempting to keep low income, affordable housing in the East Perth Redevelopment area.

Regarding Homeswest, Mr Travers commented '*...when you look at the total amount of money that has been spent on capital works for housing within Western Australia over the last eight years of the current coalition government it averages out at about \$137 million a year. That is over \$1 billion.*' '*....but has it produced any results?*'

He went on to make the following observations, that there have been:

- Rent increases from 21.7% to 25% for new public housing tenants.
- \$60 million more was spent in 1992/93 than under the current construction program.
- A net loss of 600 houses on last year's figures.
- A net loss of 2,800 bedrooms with the trend from the construction of three to four bedroom accommodation to one and two bedroom.
- Waiting lists figures have reduced from approximately 17,000 to 14,000 when there has not been a corresponding number of houses constructed in the same period.

Finally, Mr Travers on behalf of the ALP endorsed a review of the residential tenancies legislation in WA. He also questioned why the government had rejected the recommendations in 1998 to abolish letting fees in WA and stated the ALP would be keen to re-open the matter of letting fees.

Hon Norm Kelly, Housing Spokesperson, Australian Democrats.

Mr Kelly informed the forum the Australian Democrats acknowledge the strong links between housing and a range of social and economic factors. That a needs analysis of housing should be done before governments decide what is an appropriate level of funding and that the commitment to meeting the criteria should be honoured.

He stated shelter is a basic human need and the Australian Democrats endorse the view of the United Nations that access to adequate housing is a fundamental right and that this should be the basis on which housing policies are made.

He further stated '*Lack of access to adequate housing impacts on individuals life chances with detrimental flow on effects to education, health and employment opportunities...this leaves many people in need and reinforces the social inequities.*'

He referred to the lack of adequate housing as perpetuating the existing cycle of disadvantage. Non-government agencies are required to provide greater assistance and are required to be more accountable, however the resources are not provided to match those demands.

The Australian Democrats also encourage strategies to assist home buyers to build up deposits through options which include the use of superannuation assets for a deposit and the provision of a tax rebate for medium term savings.

Mr Kelly stated the democrats strongly endorse progressive laws that provide adequate protection for renters in particular the introduction of legislation which improves security of tenure and extends to boarders and lodgers. A tenants rights charter in Western Australia is strongly encouraged.

He also encouraged the formulation of responses to the current housing crisis facing Aboriginal people, those living with mental illness, holders of temporary protection visas, regional West Australians in need of housing assistance, young people and other marginalised groups. And that those people needing support be provided with the necessary services to assist integration into the community.

He also referred to the issue of people leaving prison and the need to facilitate the transition to residency as easily and quickly as possible. There is also the matter of the level of crisis accommodation and refuges to meet need. The Democrats encourage guaranteed funding for refuges, half way houses and other accommodation alternatives and endorse the additional funds be made available for SAAP services.

Hon Giz Watson, The Greens Party

Ms Watson also acknowledged the fundamental importance of housing and raised concerns on apparent trends away from community and social housing with the push towards the private rental with the result be lessening choices available to people. She emphasised the need for a vision in developing alternative housing models based on the principle of viable and efficient housing and an integrated management system with links to support.

Giz raised serious concerns about the number of people waiting for public housing whether the true figures quoted at the forum be 12,000 or 17,000. That the figures will not be a true indication of need as so many people needing low income housing are simply not applying due to so many barriers in accessing public housing. She also referred to the homelessness crisis in WA and the lessening rights for the lower income sectors in private and public housing.

The WA Greens are keen to work towards boarders and lodgers legislation in WA and will progress that work into 2001. Appropriate design is another issue, particularly culturally appropriate housing for Aboriginal people. She had experienced in the Kimberley, Aboriginal people living on the verandah because the recently constructed houses were so hot. The design was that of a standard house in Perth with no consideration for local environmental or cultural factors.

The WA Greens are also committed to the development of a State Homelessness Strategy, and encourage a '*grassroots strategy*' rather than a '*top down approach*'.

Another matter the WA Greens are also concerned with is that of access to housing for people living with mental health issues. Particularly for these and other low socio-economic groups is the need for access to housing in inner city redevelopment such as East Perth and Subiaco, close to services and public transport rather than being forced into the outer suburbs away from the necessary services.

In conclusion she referred to the discrimination issues raised in the forum's background Discussion Paper, stating one group not identified was that of gay and lesbian people discriminated against when accessing housing.

Information and Resources

Publications

Shelter WA has recently added the following publications to its library:

Chung, D., Kennedy, R., O'Brien, B., Wendt, S., 2000. *Home Safe Home: The Link Between Domestic Violence and Family Violence and Women's Homelessness*. Social Policy Research Group, University of South Australia and the Commonwealth Office of the Status of Women

Duncan, P., Thomas, S., 2000. *Neighbourhood Regeneration.*, Policy Press and JR Foundation

National Shelter Inc., 2001, *Creating Links Between Housing, Employment and Income Support*.

Roland, J. 2000. *Found My Place: Examining the Experiences of Young People in the Private Rental Market in South Australia*. Shelter SA

Urban Policy and Research: An Australian and New Zealand guide to urban affairs. Vol 18 No. 4, 2000

Introducing the New Staff

Karel Eringa – Development Manager

A lifelong interest in the relationships between the way we live and the world we live in led me to study Economics of Sustainable Development at Groningen University in the Netherlands. After completing my Master's degree I migrated to Australia in December 1994. My concern led me to work with community based organisations, including the Environment Centre of WA and Community Aid Abroad. I have also lectured in Environmental Economics at Edith Cowan University. In 1998 I developed an interest in the pivotal role housing plays in the way that we live as I worked at the tourist education project of the International Society for Ecology and Culture in the mountains of Northern India. When I returned to Australia I pursued this interest by working for the Community Housing Coalition and now Shelter WA.

I hope that working for Shelter will allow me to combine my interest in housing with my passion for social change. In my view, appropriate, affordable and secure housing is an essential first step towards creating a socially inclusive and environmentally responsible society in which individuals and communities have a say in their own future.

Paul Pendergast – Policy Manager

My career in housing provision and policy development began in NSW during the early eighties, where I worked on the provision of transitional support to state wards about to be discharged from wardship and later in a crisis refuge for homeless young people in Sydney's Northern Suburbs. In 1988 I moved to WA and continued working with homeless young people, this time in Fremantle, with the Fremantle Youth Service. Since 1993 I have worked for Shelter WA, myself and CHCWA on research and development within the community housing system. This work has included: undertaking housing needs analysis; work on the development of regional housing associations; and the development of the City of Subiaco Affordable Housing Strategy. I have maintained a commitment to developing my knowledge of housing issues and in 1997 was awarded the Graduate Certificate in Housing Management and Policy, from Swinburne, which I financed with the aid of a Commonwealth Scholarship.

Tim Davis – Community Development & Policy Officer

After graduating with a BSc. in Applied Economic Geography (UNSW) in 1983, I researched and wrote a feasibility study for a Community Tenancy Scheme (CTS) in Ryde/Hunter's Hill in Sydney. Then it was off to the Canberra bureaucracy for six years in various social policy and housing research positions in the then Department of Social Security, ACT Housing

Trust and the ACT Planning Authority. During this time I worked in a team responsible for establishing the SAAP and did operational policy and housing stock needs assessments in ACT Housing. This housing focus carried over into my role in the Social Planning Section of the Territory Planning Authority where I continued working on public housing needs assessments and on producing a Housing Issues Paper as background to the ACT Territory Plan. Then our little family flew across to WA where I now look forward to making a contribution to the work of Shelter WA.

National Shelter Update

By Karel Eringa

I attended the March National Shelter meeting in Canberra for Shelter WA. Having only been in the job for a few weeks and having had only a very short briefing about National Shelter, I had no idea what to expect. At the meeting, it soon transpired that National Shelter is in a transition phase. After losing its Commonwealth funding, the various State Shelters tried to continue National Shelter's role in advocacy and representation on a national level. Despite the effort put in by many committed people, this has proved extremely difficult without any paid staff.

Nevertheless, National Shelter still delivers two important services. The first is the twice yearly magazine, which is important as the only independent national magazine that represents the point of view of low income housing consumers. On top of this, the magazine is invariably well researched and extremely informative. Copies of the current issue on homelessness and information on subscriptions to this magazine are available through Shelter WA.

The second important service National Shelter delivers is that it provides a forum for State Shelters to get together and compare notes. For instance, at the meeting I found out that WA is the only state where the State Housing Authority charges up-front bonds to tenants. WA is also the only state where the State Housing Authority (passively) pursues the debts of previous tenants who have been declared bankrupt.

Finally, I learnt that Shelter NSW run Housing Futures Forums throughout NSW with a dual aim. The first aim is for the forums to inform stakeholders about developments in housing policy. The second aim is to give stakeholders a platform to voice their views on which direction housing policy should take.

With negotiations for the next Commonwealth State Housing Agreement starting later this year, Shelter WA plans to trial this format in Western Australia. Funding permitting, a range of forums throughout the state will give ample opportunity to people in regional, rural and metropolitan WA to have their say about the future of housing. The first of these forums will be held in Broome in June. We will keep you informed about the date and place of this and future forums.



Searching for the Stars in Our Community

Do you know an outstanding organisation or individual that demonstrates dedication and commitment to supporting the Western Australian community?

The Community Services Industry Awards 2001 are calling for entries from organisations and individuals with creative and responsive programs and services serving the needs of Western Australian families.

The awards recognise the enormous contribution of people and organisations state-wide in strengthening our community.

The awards are open to community service and local government, schools, businesses, public sector organisations and individuals. Examples of groups that can enter include those providing programs and services in the areas:

- information for parents or families
- education services
- services for groups with common needs and interests
- protection of children
- emergency services in disaster areas
- services for children, young people and seniors
- relationship or financial counselling
- child care
- health services
- housing and accommodation services.

Winners in each category will receive \$2,000 cash from the Lotteries Commission and the recognition that what they do really does make a difference.

Entries close on 29 June 2001. For an entry kit telephone (08) 9222 2833 or 1800 656 010 (freecall STD).

The awards are proudly sponsored by The West Australian, Lotteries Commission, 882 6PR, Rendezvous Observation City Hotel, WIN Television, CSC, Australia Post and Staging Connections.

Homeswest Page

Policy Name Change

Debt Moratorium Scheme has changed its name to the Debt Discount Scheme and the Ministry has produced an information brochure on the scheme together with a tear off application form.

Homeswest encourages customers who have a debt from a previous tenancy to participate in the scheme. The scheme offers a one-third off your debt – that is \$1 off for every \$2 you repay.

For further information on the scheme contact your nearest Ministry office.

Policy Changes

Housing People with Disabilities

The cash asset limit for people with disabilities is \$100,000. This cash asset limit is subject to a number of conditions:

- ❖ Cash or investment which is invested in a trust account for the sole purpose of purchasing care needs and/or generating an income will be deducted from the cash asset amount to determine the assessable cash asset limit
- ❖ All applicants with a disability, who have in excess of \$100,000 will have their application referred to the Manager Customer Service or Regional manager for assessment for eligibility.
- ❖ Cash asset is defined as lump sum cash or investment, which is easily accessible to a person to be used for any purpose. Cash may be received in a number of ways including inheritance, compensation payout, gift or savings.
- ❖ People who are required to live in supported accommodation such as group homes or cluster strata title developments for the purpose of sharing accommodation supports, provided through the Community Disability Housing Program, are exempt from Cash Asset Limit.
- ❖ Where the Ministry of Housing is satisfied that a person with a disability or a member of their household have sufficient cash assets to purchase a home in their preferred area which would meet their disability needs, they will not be eligible for rental assistance from the Ministry of Housing. A

referral may be made to Home Finance Branch for assistance through the Access Home Loan Scheme for people with disabilities.

For further information on assistance provided to people with disabilities contact your nearest Ministry office.

Temporary Protection Visa Holders

The Ministry has recently amended the eligibility policy on Class 785 Temporary Protection Visa holders.

The policy has been amended to grant the same status as other citizens without residency and permits them to accrue time on the waiting list until their status has been determined and bond assistance be granted to assist them in obtaining private rental accommodation.

For further information and assistance contact your nearest Ministry office.

* * *

Role of Shelter WA

Shelter WA is a peak community managed housing organisation established in 1979 to represent the views of consumers and community organisations 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.

It does this through:

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

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