



# Action for More Independence & Dignity in Accommodation

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*Advocacy, Self Advocacy, Rights, Accessibility, & Community Living for People with a Disability*

## **Submission on Laying the Groundwork - Residential Tenancies Act Review Fairer Safer Housing August 2015**

AMIDA (Action for More Independence & Dignity in Accommodation) is an independent advocacy organisation which advocates for good housing for people with disability. We provide advocacy to individuals, with priority given to people with an intellectual disability, and advocate for change in systems which prevent people from achieving good housing.

AMIDA acknowledges that people with disability have a right to a choice of who they live with and where they live. Further, people with disability have a right to good quality housing which is accessible, affordable and non-institutional. People with disability have a right to live in the community with access to support to participate and have a good quality of life.

AMIDA strongly supports the United Nations Convention on the Rights of Persons with a Disability and works to assert these rights and community inclusion for people with a disability and supports people with disability as valued members of our community. AMIDA recognises that people with disability contribute to and develop our community.

With this background and experience, we submit the following on the Review of the Residential Tenancies Act:

### **The changing housing context (section 3)**

1. Does the current Act enable and encourage a rental market that provides sustainable, secure and safe housing to Victorians? Why or why not?

In AMIDA's experience the Act does not provide sustainable, secure and safe housing to Victorians. Many of the advocacy cases we work on involve tenants being given notice, albeit at the correct time frame. This causes great stress to people with disabilities that we work with, as they may have had great difficulty finding the rental property in the first place, in the area that they need to live, and at an affordable rent. As well as the stress of having to move, they also have the added expense of the move. People with disability usually have very limited income, so this is extremely difficult for them.

2. (a) What issues would you like examined in the Review of the current Act?

People with disability often need to live close to family and supports to allow them to live with dignity. In the current climate this is often impossible with accommodation not being available where they need it, or at a cost that they can afford. The people we work with sometimes require disability modifications, which landlords are reluctant to, or refuse to provide. The current Act allows landlords to refuse permission for the modifications even if the tenant is prepared to pay for them and pay to return the premises to the state it was in prior to modification. Legislation should take these factors into account and provide the right to make modification requirements, at the tenants expense, should they be needed.

With the NDIS being implemented there will be more people with support packages wishing to move to rental accommodation; they will have the resources to rent and make modifications but not buy a property. National Disability Services estimate there will be an additional 20,000 to 30,000 people in Victoria seeking accommodation and many of these people will require disability modifications. This should be anticipated when reviewing and updating the Act and provisions should be made to allow for the right to modify private rental for disability access at the tenants expense. Landlords should not be allowed the right to refuse.

The problem of too few options, and too much competition for the few rental properties, disadvantages people with disabilities and those on low incomes.

#### **Regulatory and policy framework (section 4)**

3. (a) Are the principles and objectives underpinning the current Act relevant today? Why or why not?

The principles and objectives have not changed. A balance between tenants and landlords rights needs to be maintained, with clear mechanism to resolve any disputes that may arise.

(b) Given current trends, what principles and objectives do you think will be important in regulating the rental sector in the future?

There needs to be greater protections for rooming house tenants. Regular inspections without notice are needed and more willingness to prosecute to ensure standards are as they should be.

4. What is working well about the current Act and what needs to be improved?

The current act provides mechanism for having repairs carried out in a timely way, but our experience is that though steps are carried out by tenants according to regulations, many landlords do not keep their end of the agreement, causing tenants to seek further redress. This should not be necessary. This needs improvement.

We have also supported tenants who have gone to VCAT as witnesses to ensure their quite enjoyment when neighbours, also in Office of Housing properties, have over the long term breached this right. In one case the numerous diary entries and records of breaches were dismissed because the application had listed the numerous examples on an addendum and not on the front page of the application as required. This loop hole was exploited and the referee had no choice but to dismiss the application despite the strong evidence. The Act should allow for the spirit of the Act to override petty paper work loop holes. The evidence was all supplied to the defendant on the addendum so there was no disadvantage to their case by having the breaches listed on a separate page. Any relevant case examples at VCAT where rights have been denied due to pedantic requirements should be reviewed and lead to changes in the law.

6. What are the challenges and barriers to reform of the rental sector?

From the perspective of people with disabilities that we work with, having more choice of accommodation, and ease of modifications would overcome some current barriers. The cost of private rental is also a barrier to those on low incomes, so rental subsidy must be realistic in terms of the cost of living in Australia.

7. What considerations need to be given to the regulation of rooming houses, caravan parks and residential parts?

From AMIDA's experience rooming houses do not provide appropriate accommodation for many people with disabilities, yet this is where our clients are often forced to live as supported accommodation is not available. More work needs to be done to either provide more supported accommodation, or support must be available to come into rooming houses where required. This would mean more liaison between proprietors/landlords and government/service providers.

There needs to be greater protections for rooming house tenants. Regular inspections without notice are needed and more willingness to prosecute to ensure standards are as they should be.

### **Tenants (Section 5)**

8. (a) What are the key issues for regulating the private rental sector that arise from the:

(i) growing number of families and proportion of older tenants

Families and older people require accessibility and as this sector increases so will the need for rights to modify rental properties.

(ii) tenants renting for longer periods

Tenants renting for longer periods should have more security of tenure. We have clients with disability who have become jobless and distressed due to losing long term tenancies as adapting to change and dealing with the issue of finding housing are more challenging in particular if a modified property is required.

(b) How should residential tenancies regulation take into account these trends in the private rental sector?

Right to make modifications and to better security of tenure.

10. What situations trigger issues of affordability in the rental housing sector and how do these affect tenants and the choices they make?

Disability can be lifelong or acquired. It can be degenerative and create accessibility issues over time. This can also be a trigger for income loss or

reduction and affordability. The NDIS will potentially allow people to top up rent from their support package, and to make modifications from their support packages but the RTA must allow this to be facilitated.

11. From a tenant's perspective, what role does residential tenancies regulation play in enabling access to rental housing?

The regulation means that tenants feel comfortable that they should not be disadvantaged by being tenants, and have formal contracts with legal coverage during their tenancies. It also gives them information on what to expect, and how to go about requesting maintenance, and ending a tenancy.

### **Landlords (section 6)**

12. How do investor trends affect the current and future management of tenancies and the availability of rental housing?

Naturally the relationship between demand and supply is important as it affects affordability. However investor trends to capitalize on negative gearing have seen housing prices skyrocket and these are in turn passed on to tenants. Even with an increasing supply of stock these tax subsidies can influence affordability and supply of affordable options.

13. From a landlord's perspective, how does residential tenancies regulation influence the ongoing supply of rental housing?

Rights should not be sacrificed in the mistaken belief it will lead to increase supply of housing.

14. How do estate agents influence the relationship between landlord and tenant, and what implications does the increasing use of agents as property managers have for residential tenancies regulation?

Agents could keep a listing of accessible properties which would assist tenants.

### **Residential tenancies disputes (section 7)**

15. What more could be done, or what could be done differently, to enable landlords and tenants to effectively manage their tenancy relationship?

AMIDA has experience of Consumer Affairs becoming involved and resolving the issues quickly, in a proactive way before VCAT hearings are needed. If this could happen more regularly, this would be an improvement. Our experience is that the hotline staff are excellent as a resource and that managers are sometimes consulted to follow up in a proactive way with landlords and agents via a phone call to remind them of the provisions of the Act. This short term advocacy role may not be recognized as valuable but in our view it is an excellent way to ensure people with disability are not taken advantage of.

16. Are the current arrangements for resolving disputes and providing access to redress for both landlords and tenants sufficient, or are other mechanisms needed?

From the perspective of the tenants with issues with their tenancy, the current arrangements for resolving disputes ie VCAT hearings, should not have to take place. An earlier intervention by Consumer Affairs, as happens sometimes, should result in issues being resolved. Also the funded agencies such as Tenants Union are not resourced enough to take on all cases and people with a disability require more advocacy particularly looking forward to the NDIS and 20,000 to 30,000 extra people with a disability looking for housing mostly in the public and private rental sector.

17. What factors contribute to tenants exercising, or not exercising, their rights?

People with disability are less likely to understand their rights and seek Consumer Affairs or VCAT intervention, and this lack of knowledge means that landlords can take advantage of this. Tenants with a disability usually require some advocacy assistance but the Tenants Union often only provides information and advice not case advocacy. More funds are required to enable disadvantaged tenants to be supported.

In conclusion, although the Residential Tenancies Act provides some security for both tenants and landlords, improvements should be made which will ensure that rental properties are accessible for those with physical disabilities and those on low incomes. If people are confident that they have a long term residence, they will be more comfortable in their local community and there will be less instances of dissatisfaction and disputes leading to VCAT hearings.