



# Top End Women's Legal Service Inc.

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24 April 2015

Hon Bess Price MLA  
Minister for Housing  
Northern Territory Government  
GPO Box 3146  
Darwin NT 0801

Dear Minister,

**Re: Concerns regarding periodic tenancy and 'no reason' notices of termination for all public housing tenants**

We write with regards to the Department of Housing's proposal to move all public housing tenants onto periodic tenancy agreements ('the proposal'), announced at the recent Aboriginal Peak Organisation of the NT's Remote Aboriginal Housing Forum. We have considered and endorse the position taken by the North Australian Aboriginal Justice Agency ('NAAJA') in their letter to your office dated 27 March 2015. We would also like to take the opportunity to make some additional comments regarding the proposal.

Who we are

The Top End Women's Legal Service Inc. ('TEWLS') is a community legal centre funded by the Commonwealth Attorney-General's Department to provide referrals, legal advice and casework to women in the Top End of the Northern Territory. TEWLS is an active member of the National Association of Community Legal Centres and Women's Legal Services Australia. TEWLS provides assistance in a number of areas of law including family law, domestic and family violence, housing and tenancy, debts, sexual assault, discrimination and compensation for victims of crime. We provide outreach services for culturally and linguistically diverse women, Aboriginal women in the town communities surrounding Darwin and to women in prison.

Our concerns

On 13 March 2015, Mr. Andrew Clapham, General Manager of the Department of Housing, indicated that the Department of Housing would be entering into periodic tenancy agreements with all of its tenants, both urban and remote. Currently, public housing tenants are afforded some security in that these tenants enter into fixed term tenancy agreements with the Department of Housing for periods between three months and five years.

We endorse the concerns expressed by NAAJA with regard to:

- the need for security of tenure with regard to tenants and their properties;
- the potential for periodic tenancy agreements and 'no reason' notices of termination to undermine the relative security of tenure currently enjoyed by tenants;
- the fact that this proposal is out of step with all other Australian State and Territory jurisdictions; and
- the fact that this proposal is contrary to Australia's international human rights obligations under both the *International Covenant on Economic, Social and Cultural Rights* and the *International Covenant on Civil and Political Rights*.

We further endorse the requests made by NAAJA to the Department of Housing on page three of their 27 March 2015 letter, which include:

- offering fixed term tenancy agreements to both remote and urban public housing tenants, which would include lifting the current policy regarding remote tenants;
- explicitly prohibiting the use of the 'no reason' notices of termination within the policies of the Department of Housing, except in cases where the respective tenants are no longer eligible to receive public housing; and
- lifting the ban on previous tenants staying in public housing premises if evicted.

### **Appropriate security of tenure**

We note the objectives of the *Residential Tenancies Act (NT)* ('RTA'), where section 3(d) of the RTA provides that an objective of the RTA is to ensure that tenants enjoy appropriate security of tenure.

We submit that in implementing the proposal, public housing tenants will not be able to enjoy the appropriate security of tenure envisaged by the objectives of the RTA.

**Recommendation 1:** That public housing tenants, both urban and remote, be afforded the opportunity to enjoy the appropriate security of tenure as provided in the objectives of the RTA.

### **Sufficient grounds exist already upon which to terminate tenancies**

Sufficient legislative and policy safeguards exist for the Department of Housing to rely on should a tenant breach their tenancy agreement. TEWLS has concerns that the Department of Housing will rely on issuing 'no grounds'

notices where instances of breach cannot be established. The proposal exposes itself to arbitrary use by the Department of Housing and undermines notions of procedural fairness by not providing a forum for public housing tenants to respond to a notice of termination based on breach.

We recommend that the eviction of public housing tenants be a last resort by the Department of Housing, and support NAAJA's recommendation that the 'no reason' notice of eviction policy be abandoned, so as to ensure that public housing tenants are evicted only on appropriate and serious grounds.

Further, in instances where a public housing tenant is at risk of breaching their tenancy agreement and receiving a notice of termination, we would encourage the Department of Housing to provide holistic and intensive support prior to taking eviction action. This might include appointing a specialist client support officer experienced with working with tenants with complex needs and working collaboratively with support services, who is able to work with at risk public housing tenants.

**Recommendation 2:** That the eviction of public housing tenants be used as a last resort by the Department of Housing.

**Recommendation 3:** That the Department of Housing provides holistic and intensive support to public housing tenants at risk of breaching their tenancy agreement prior to taking eviction action.

### **Waiting period once evicted**

It is our understanding that under Department of Housing policy, public housing tenants evicted from their tenancy property cannot re-apply for public housing for two years. Combined with the average five-year waiting period, there is effectively a seven-year waiting period for a new public housing tenancy for any evicted public housing tenants. In order to combat this extensive waiting period, we recommend that a more appropriate policy would be to allow evicted public housing tenants onto the waiting list immediately, as opposed to those evicted persons having to wait for two years.

**Recommendation 4:** That evicted public housing tenants be able to join the waiting list for public housing immediately following eviction.

### **Creating a cycle of homelessness**

Lastly, we note that the proposal has the capacity to create a cycle of homelessness for public housing tenants. Broadly speaking, most people evicted from public housing, whether on the basis of breach of a tenancy agreement or a 'no grounds' notice will be evicted into homelessness, and will remain homeless prior to re-commencing a public housing tenancy. Homelessness has significant flow on costs for both the individual and the broader community, particularly in relation to community services, and the

health and justice system. In light of this, we would encourage the Department of Housing to do it all it can to preserve tenancies.

We thank you for your consideration of the above and invite further opportunities to provide assistance with regard to this proposal. Should you require any further information please do not hesitate to contact our office on (08) 8982 3000.

Yours sincerely,

**TOP END WOMEN'S LEGAL SERVICE INC.**

A handwritten signature in black ink, appearing to read 'Melanie Warbrooke', written in a cursive style.

Melanie Warbrooke  
A/ Managing Solicitor