



Department of Justice and Community Safety

Commissioner for Residential Tenancies

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To Whom it May Concern,

EXPOSURE DRAFT of OWNERS CORPORATION and OTHER ACTS AMENDMENT BILL

The Commissioner for Residential Tenancies provides independent advice to the Victorian Government to inform the development of residential tenancy policy and legislative frameworks, programs and services. The Commissioner is keen to engage with sectors and policy processes that affect renters outside of the direct application of the tenancy law and with a view to enhancing the experience of renter's overall.

With that purpose we have reviewed the Exposure Draft of the *Owners Corporation and Other Acts Amendment Bill*.

Whilst most of the proposed reforms to the *Owners Corporations Act 2006* are technical in nature and we make no comment on them, I am concerned about one particular reform which is the introduction of penalties to be paid to the owners corporation and the quantum of the proposed penalties. In combination, I believe that this will create an incentive for some owners corporations to pursue renter occupants for breaches of the rules which may be very minor in some instances. We have anecdotal accounts of the singling out of tenants by owners corporations within buildings occurring already. It is unlikely that tenants will be sufficiently well informed and amenable to defending such applications if they are made.

This raises a further systemic problem in regard to renter residents in premises subject to an owners corporation jurisdiction. Many (if not, most) renters are not provided with a copy of the owners corporation rules at the commencement of their tenancies and are therefore unaware of the rules that they are expected to comply with until they are notified of a breach. This is clearly unsatisfactory in an environment where a penalty may be sought for a breach. Whilst we expect that VCAT would exercise sensible discretion when a penalty is applied for, we are very concerned that matters will be undefended.

I have also recently commenced working with stakeholders on the issue of overcrowding and the operation of illegal rooming houses in high rise buildings, many of which are under the jurisdiction of an owners corporation. I think it would be beneficial for the Act to contain a provision requiring an owners corporation or an owners corporation manager to advise the relevant local government authority where they believe an unregistered rooming house is operating within their jurisdiction. This would be similar to section 142D of the *Residential Tenancies Act 1997*

Whilst not addressed in the proposed amendments I thought it would also be timely to flag that I am not satisfied that the dispute resolution process in owners corporations are working effectively in regard to residential tenancies. As well as the basic problem of there being no mechanism for representation of renters in the owners corporation that determines important aspects of their living situations, stakeholders have reported the difficulties confronted by renters trying to resolve repairs and other issues that are the responsibility of the owners corporation. This is further exacerbated in disputes involving newly constructed premises where the owners corporation may also be in dispute with the builder of the premises. Whilst I do not have any specific policy proposal to put forward at this time I believe that the issue of the representation of renters at owners corporations and the related issue of dispute resolution warrant further consideration in a future reform.

If you wish to discuss any aspect of the above please do not hesitate to contact the Strategic Adviser, Mark O'Brien, on 0428 475 344 or at Mark.P.O'Brien@justice.vic.gov.au

Yours faithfully,

Dr Heather Holst
Commissioner for Residential Tenancies