



Minister for Consumer Affairs

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Dear Mr O'Brien

Thank you for your letter dated 24 October 2014 to the Hon. Wendy Lovell MP, Minister for Housing, regarding the upcoming 2014 Victorian Election, and the Coalition Government's commitment to tenants in Victoria. As I am the relevant portfolio Minister, I am responding on behalf of the Coalition Government to your correspondence.

The Victorian Coalition Government acknowledges the Tenants Union of Victoria's (TUV) interest in this matter and your ongoing contribution to informed consideration of the rights of tenants in Victoria.

Since coming to government in 2010, the Coalition has worked hard to improve both assistance and information for tenants about their rights and obligations.

This has included:

- Providing almost \$6 million to fund the Government's Tenancy Advice and Advocacy Program; this is delivered across Victoria by various community agencies, including the TUV. In 2013-14, this important Victorian Government funded support helped 6,178 vulnerable and disadvantaged tenants.
- Continued support for the TUV with more than \$600,000 provided in 2013-14 for it to deliver its outreach program for rooming house residents, community workshops and advocacy for tenants at the Victorian Civil and Administrative Tribunal (VCAT).
- Creating the RentRight smartphone app, an Australian-first to assist tenants by increasing their accessibility to renting information and tools in relation to their lease. Since its launch one year ago, RentRight has been downloaded over 10,000 times.

A re-elected Napthine Government will continue to deliver vital services and resources to assist Victorian tenants, especially the most vulnerable and disadvantaged members of our community.

Please find below the Coalition Government's response to the TUV's list of key issues.



Tenants' rights and conditions

1. What will your party do to improve protections, standards and affordability for private tenants in Victoria?

The Coalition Government will continue to ensure that the *Residential Tenancies Act 1997 (Vic)* (Act) has important protections for private tenants concerning rents, bonds, leases, termination periods and processes, and dispute resolution.

The residential tenancies framework strikes a balance between the rights and obligations of both tenants and landlords.

The Act currently provides for certain standards in private rental accommodation, including that:

- A premises must be in a reasonably clean condition on the day of occupation;
- The landlord must maintain the premises in good repair;
- A replacement water appliance must have at least an "A" rating; and
- The landlord must provide locks to secure all external doors and windows.

Additional standards must very seriously consider the potential for unintended consequences, including for the most vulnerable and disadvantaged in our community (e.g. the supply of rental housing may be reduced if landlords remove their rental property or landlords may recoup extra costs through increased rent).

Real estate agents

2. Does your party support a license requirement for real estate agents to undergo Continuing Professional Development relevant to the agent's area of practice?

Estate agents already have comprehensive continuing professional development programs run by their industry bodies, the Real Estate Institute of Victoria and the Australian Livestock and Property Agents Association. This professional development is funded from the Victorian Property Fund administered by the Victorian Government.

Introducing compulsory CPD training would require an amendment to the *Estate Agents Act 1980 (Vic)*, which sets out the licensing requirements for estate agents. This would require a cost-benefit analysis to demonstrate that the cost to industry is outweighed by the benefits to consumers, and that CPD training is the best way of addressing any identified need.

The Coalition Government has taken strong, unprecedented action against dodgy real estate agents. Agents who have failed to meet their trust account obligations have been gaoled – a sharp reminder of the serious legal consequences which can result from misusing clients' funds.

With a state-wide compliance program, the Government is ensuring agents comply with their obligations and that the interests of buyers and sellers are protected.

Rental bond refunds

3. Does your party support bonds being automatically refunded to tenants 10 business days after a lease concludes if no claim has been made?

The Act addresses a situation where a landlord has not taken action on a tenant's bond claim within 10 business days. For example:

- a) If the tenant and landlord can agree on how the bond is to be divided:
 - They jointly apply to the Residential Tenancies Bond Authority (RTBA); and
 - The bond is paid directly into their nominated bank account or accounts.
- b) If the landlord is claiming all or part of the bond, the landlord cannot apply for the refund more than seven days before the end of the tenancy.
- c) If the tenant and landlord cannot agree on how the bond is to be divided:
 - Either can apply to VCAT to have the matter resolved; and
 - For a landlord, the application must be within ten business days of the tenant vacating the rented premises.
- d) If a landlord is delaying matters by refusing to agree to make the joint claim to the RTBA, the tenant can apply to VCAT for a bond refund and there is no fee for making this application.

Automatically refunding the bond to a tenant after 10 business days would benefit a tenant, but disadvantage a landlord who has a legitimate claim to a refund, but for reasons beyond their control has been delayed in making a claim.

The current requirements under the Act therefore balance the interests of tenants and landlords.

Privacy protections for tenants

4. Does your party support a requirement for landlords or agents to obtain consent before tenant possessions can be photographed for advertising purposes?

The Act seeks to balance the right of tenants to quiet enjoyment with the right of landlords to access their property for legitimate reasons.

Therefore, landlords are permitted to enter rented premises in certain circumstances including, for example, where entry is required for valuation purposes, or the premises are to be sold and entry is required to show the premises to a prospective buyer.

The Victorian Law Reform Commission (VLRC) is considering whether the Act should be amended to reflect the use of modern technology. In particular, the project is reviewing aspects of the Act and other laws relevant to the practice of publishing photographs and videos of rented premises, which include tenants' possessions. The VLRC is understood to be preparing its final report and the Napthine Government will strongly consider its recommendations.

Rooming house operators

5. Does your party support a requirement that rooming house operators be licensed and subject to a 'fit and proper person' test?

No. Rooming houses in Victoria are currently required to be registered with local councils.

In September last year, the Coalition Government launched the State-wide publicly-accessible register of rooming houses, which provides access to registration data and information about rooming house operators. In this way, the register makes rooming house operators accountable for compliance with requirements under the law. This is a significant improvement in the regulation of rooming houses.

To further protect our most vulnerable and disadvantaged Victorians, the Coalition Government has taken strong enforcement action against rooming houses that have failed to meet new minimum standards, including fines and legal action.

The high administrative costs of establishing and maintaining a licensing system for rooming house operators, including a fit and proper person test, could have undesirable consequences. These include the potential for a number of rooming house closures or illegal operation as operators elect not to pay licensing fees, and the imposition of higher rents as operators pass on licensing costs to residents. This would almost certainly increase the risk of homelessness.

Rental housing standards

6. Does your party support minimum standards for rental properties?

There are already legislated standards for Victorian rental properties such as requirements around locks, smoke alarms and efficiency ratings for replacement water appliances.

Minimum standards require a balancing of strategies that improve the quality of rental accommodation with the need to secure the ongoing supply of affordable housing, in both the private and public sectors.

Introducing legislation requiring landlords to carry out improvements to their properties may lead to landlords passing on the costs of those improvements by way of increased rents, or to landlords electing to withdraw substandard properties from the rental market.

The Government will not impose additional standards across the entire rental market unless it can be demonstrated that the benefits of such standards would clearly outweigh the undoubted costs associated with their introduction.

Evicting a tenant for no reason

7. Does your party support the abolition of no reason notices to vacate?

No. The Act permits a landlord to give a 120 day notice to vacate to a tenant without specifying a reason for giving the notice.

This is a reasonable length of time and balances a landlord's ownership of the property against a tenant's need to receive adequate notice to vacate.

Removing the 'no reason' notice would result in landlords being unable to control the use of their property and adversely impact on the incentives landlords have to supply rental accommodation.

Rental bidding

8. Does your party support the outlawing of rental bidding or rental auctions?

No. Rental bidding, where it occurs, is a result of continuing high demand for rental properties in metropolitan Melbourne and some regional rental markets. In a heated market, bidding is a mechanism for arriving at an appropriate market value.

Outlawing rental bidding would limit the ability of landlords and tenants to determine an appropriate rental rate for a property.

While tenants are only required to pay the amount of rent at which a property was advertised, they have a right to offer or 'bid' above the advertised rent to gain a competitive advantage to secure a property, and it is not unlawful for agents to accept such offers.

However, the Australian Consumer Law offers protection against misleading and deceptive conduct to ensure agents do not mislead prospective tenants about the price at which a property is intended to be let.

Guidelines published by the Real Estate Institute of Victoria (REIV) assist agents to ensure that they do not engage in bait advertising or misleading or deceptive conduct. The guidelines state that the REIV does not approve of rent-range advertising and agents must not initiate a bidding process for residential rents. If prospective tenants offer more than an advertised rent, agents are obliged under the Estate Agents (Professional Conduct) Regulations 2008 to refer the offer to their principal.

Yours sincerely



Hon Heidi Victoria MP
Minister for Consumer Affairs