

Equal Opportunity Review
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Dear Julian Gardner

RE: EQUAL OPPORTUNITY REVIEW DISCUSSION PAPER

The Tenants Union of Victoria welcomes the opportunity to respond to *Equal Opportunity Review Discussion Paper*.

Our submission focuses on the experience of tenants and residents of all forms of housing, whether public or private, and on amendments that will enhance their rights, opportunities and quality of life. On the broader issues raised by the Discussion Paper, we endorse the submission made to you by the Federation of Community Legal Centres.

Tenants Union of Victoria

The Tenants Union of Victoria was established in 1975 as an advocacy organisation and specialist community legal centre, providing information and advice to residential tenants, rooming house and caravan park residents across the state. We assist about 25,000 private and public renters in Victoria every year. Our commitment is to improving the status, rights and conditions of all tenants in Victoria. We represent the interests of tenants in law and policy making by lobbying government and businesses to achieve better outcomes for tenants, and by promoting realistic and equitable alternatives to the present forms of rental housing and financial assistance provided to low-income households.

We support the Victorian Government's commitment to eliminating discrimination through instruments such as the *Equal Opportunity Act 1995*. In its current incarnation, the Act provides an important mechanism for resolving complaints and providing relief on an individual or 'case-by-case' basis. However, the Act cannot adequately tackle the institutional structures, policies, practices and attitudes that give rise to discriminatory conduct.

The Tenants Union is also mindful that the law has only a limited impact on addressing the causes and effects of disadvantage in the community. Improving the accessibility of the discrimination complaints mechanism does not directly alleviate issues such as poverty, insecure housing and homelessness, ill health, and unemployment. Unfortunately, experiencing these problems may make people more vulnerable to discrimination, and also less likely to utilise the complaints mechanism to assert their

rights. We contend that to comprehensively address barriers to opportunity in Victoria, more resources must be directed at ameliorating these issues, in addition to enhancing legal processes designed to provide relief from unlawful discrimination. We support the significant policy and funding initiatives that have been delivered as a result of *A Fairer Victoria* but believe that, especially in the area of housing, more needs to be done. In 2006, we welcomed *Towards an integrated Victorian housing strategy* and the State Government's commitment to develop a comprehensive housing framework. We believe that discrimination in the provision of housing should also be examined and addressed as part of that framework.

Discrimination in the private rental market

Gathering data about the extent of discrimination in the provision of rental property is difficult because market conditions tend to mask instances of discrimination. There has been a shortage of rental housing for many years with the problem now especially acute, particularly at the low cost end of the market. The vacancy rate, which indicates the amount of rental property unoccupied in Victoria, is currently at an extremely low level of 1.2%, indicating that demand for rental housing is substantially outstripping supply.

Because of this shortage, there is increased competition for the housing available. Landlords and real estate agents are consequently receiving larger numbers of applications, which permits them a greater opportunity, if they do at all, to cite reasons other than discrimination as a reason for deciding or refusing to grant a lease to a particular applicant. However, workers in the housing sector are aware that, despite the difficulties caused by current market conditions, prejudice and discrimination are endemic problems in the private rental market. In particular:

- single parents;
- larger families;
- indigenous Australians;
- recently arrived refugees and migrants;
- people moving out of crisis and public housing into the private rental market;
- people recently released from prison;
- people living with physical disabilities or mental illness;
- young people and students;
- people listed on unregulated tenancy databases;
- disabled Victorians; and
- people in receipt of Centrelink incomes, especially the unemployed

are identified as some of the population cohorts that are likely to be discriminated against by landlords and real estate agents. This is demonstrated by the excessive numbers of applications for housing made and the rejections received by people in these groups. Furthermore, the personal experience of housing workers and tenants also suggests that

some property managers and landlords hold biased and unfair beliefs about the suitability of people in these groups as tenants.

The experiences of some of our clients indicate just how tenants encounter discrimination and prejudice in the private rental market:

“My family came to Australia as refugees. My wife and I have five children and we found it so hard to find a place to live. We applied for so many properties but kept being rejected so we had to share a house with friends. Later on when my wife and I started working, I thought we would be able to rent a place. We were still rejected. We applied and were rejected for 49 properties. Later on, I asked one of our friends who is white to rent a house on our behalf. He was successful. What did I expect? I’m black with a lot of children.”

“I applied for a property and was accepted. When the real estate agent found out that I accessed the Bond Loan Scheme by the Office of Housing, they withdrew the offer. The agent said that if I cannot afford to pay the bond with my own money, I would not be able to pay rent regularly...”

“When I was about to pay for the bond and rent in advance, the real estate agent told me that I had to pay three months rent in advance (instead of one) because I don’t have rental history in Australia.”

Does the law need to be changed to improve equality of opportunity and the elimination of discrimination in Victoria?

Currently, tenants are unlikely to avail themselves of the complaints mechanism administered by the Victorian Equal Opportunity and Human Rights Commission (the ‘Commission’) if they believe they have been discriminated against in the provision of housing. There are many possible reasons for this. In the first instance, landlords and agents are not required to tell applicants the reason why their applications have been unsuccessful so many will simply have no idea that the landlord or agent has made a specific point of not allocating the property to them on grounds prohibited by the legislation. Further, tenants may not be aware of the complaints mechanism and how it operates; may be hesitant to make a complaint for fear of being ‘blacklisted’ on unregulated residential tenancy databases for future tenancies; or may be discouraged because of perceived difficulty proving their claim.

However we believe that the most significant reason why prospective tenants don’t make a complaint to the Commission is that the complaints process, even at its most speedy, is simply too long for someone desperately in need of rental accommodation. By the time a complaint has been through the process at the Commission the property is likely to have been tenanted and the redress that the complainant is after- a successful application for that property- is unable to be delivered. While we always Commission it is understandable that they are reluctant to complain when they don’t believe, even if they have a strong claim, that their complaint will result in the fulfilment of their housing need. We believe that consideration should be given to the relationship between the *Residential Tenancies Act 1997* and the *Equal Opportunity Act 1995* to ensure that tenants have a legitimate opportunity for their complaint to be heard and for some redress to be available to them within a reasonable period of time.

Are the current ways of preventing discrimination working well or could they be improved?

For anti-discrimination laws to be effective, people need to be informed of their rights and obligations under the Act. We are concerned that many renters are unaware of their right to complain to the Commission about instances of alleged discrimination and of how the Commission works. Because of this, individual instances of discrimination are not adjudicated and the systemic issue of discrimination in the private rental market continues to be underreported.

The Commission has a crucial role in educating and training key industries on non-discriminatory practices and in developing codes of practice that is consistent with the Act.

We commend the Commission's previous initiatives targeting the discrimination in the private rental market. Specifically, the partnership project with the Real Estate Institute of Victoria (REIV) directed at real estate agents and property managers was a positive step towards the elimination of discrimination in the provision of rental housing

Accordingly, we believe that the education and liaison functions of the Commission be resourced to ensure that the Commission can continuously conduct campaigns highlighting the issue of discrimination and work with groups such as the REIV on the development of programs to encourage non-discriminatory professional practices.

We would also support empowering the Commission with the capacity to conduct inquiries and make binding recommendations as being particularly useful at tackling systemic discrimination.

If you wish to discuss any matter raised by this submission further, please contact the Tenants Union of Victoria on (03) 9411-1444.

Yours sincerely,

Rebecca Harrison
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Tenants Union of Victoria