

National Regulation of Residential Tenancy Databases

Consumer Affairs Victoria
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Melbourne VIC 3001

By email: rtdconsult@justice.vic.gov.au

14 December 2009

Residential Tenancy Databases Consultation

Dear Sir or Madam

I write on behalf of the Federation of Community Legal Centres to express our support for the submissions of our member centres, the Tenants Union of Victoria (TUV) and the PILCH Homeless Persons' Legal Clinic (HPLC).

About the Federation

The Federation of Community Legal Centres is the peak body for over 50 community legal centres across Victoria. Community legal centres (CLCs) are independent community organisations that provide free legal services to the public. CLCs commonly assist people who are disadvantaged, vulnerable or marginalised. Our clients generally live on very low incomes. They include many young and elderly people and people from non-English speaking backgrounds.

The consultation

We congratulate the Ministerial Council on Consumer Affairs (MCCA) for conducting this consultation and for drafting model provisions to govern Residential Tenancy Databases (RTDs). Like the TUV and the HPLC, we believe that this reform is very much needed, particularly in Victoria.

The effect of Residential Tenancy Databases

Currently Victorian law does not regulate RTDs. Tenants can be listed on RTDs for relatively minor breaches of a lease, such as falling behind with rental payments for a short period, or merely for exercising a right under the *Residential Tenancies Act 1997* (Vic). In some cases, tenants can be listed as a result of misconduct by co-tenants, including situations in which one tenant leaves the rental property to escape domestic violence or other abuse.

In a highly competitive rental market, people listed on a database may find it impossible to obtain rental accommodation, or may be forced to rent substandard or overpriced properties. In this way, as the HPLC points out, the databases serve to 'create and entrench homelessness' (HPLC submission, p 1).

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The model provisions

While landlords and real estate agents have a legitimate interest in tenants' rental history, they should not have unfettered power to blacklist tenants, as is currently the case in Victoria. The Federation considers that regulation of RTDs would do much to alleviate the disadvantage suffered by homeless people and people at risk of homelessness.

We believe there should be strict limits on the grounds for listing a tenant on an RTD, and endorse the model provisions in this regard. We agree that both agents and database operators should bear responsibility for ensuring that information stored on RTDs is complete and accurate.

We agree that tenants should have a right of access to personal information held on RTDs. This information should be provided free of charge, as is the case with credit reports, not for a fee as is contemplated by the model provisions.

We agree with the HPLC that listings should be deleted after one year, not three years as set out in the model provisions.

In all other respects we refer to the submissions of the TUV and HPLC.

Once again, we commend the MCCA on the model provisions and reiterate our support for this important reform.

Sincerely

A handwritten signature in black ink, appearing to read 'Lucie O'Brien', with a long horizontal line extending to the right.

Lucie O'Brien
Policy Officer