

**LANDLORDS' ASSOCIATION (S.A.) INC.**  
**MINUTES OF ANNUAL GENERAL MEETING**  
**Held 2<sup>nd</sup> of August 2016 at the Fullarton Park Community Centre**

Meeting open at 7.00pm.

**Chairperson**

Margaret Kohlhagen was appointed and acted as Chairperson for the meeting.

**Present**

Margaret Kohlhagen	President
Patricia Webb	Treasurer
Theo Balomenos	Assistant Secretary
John Wyk	Assistant Treasurer
Rodney Webb	Committee
Antonia Zotti	Committee
Stan Heresztyn	Committee
Peter Allen	Committee
Members	

**Apologies**

Jack Eskenazi, George and Rachel Bageas, Eric Mott, Gino Leuci, Sam and Fil Falco and Kathy and Michael Guerin.

A Quorum was declared.

**Guest Speaker**

Mr Roger Vincent, a former member of the Residential Tenancies Tribunal.

Mr Vincent last served on the Tribunal 12 months ago and during this time changes have occurred. Mr Vincent offered to take questions on notice that he could not answer and to come to another meeting. It is important that landlords and tenants know how the Tribunal works particularly if a landlord does not have a property manager and must represent themselves.

Vary or set aside orders; such orders are made by the Presiding Member or Deputy Presiding Member. You may apply to SACAT to vary or set aside a previous Tribunal order when eg one of the parties did not receive a notice of the hearing or was unable to attend due to unforeseen circumstances.

Section 90 which deals with disruptive tenants was discussed. The landlord needs to take responsibility. Some members thought that those affected needed to make the application. However it is up to the landlord to make the application and witnesses can be called. It is a landlord's duty of care to allow the tenant peace, comfort and privacy. An affidavit is permissible. Sworn evidence is preferable but this can be intimidating for the witness. If a disruptive tenant is not dealt with, a good tenant may move out.

The law is not straightforward. Mr Vincent gave an example of three judges who were all given the same set of facts in relation to someone being sentenced. Each judge made a different ruling. The same happens at tribunal hearings and a decision may not be the correct one. In general, the law is not about truth and justice; it is all about the evidence presented.

Lack of preparation by attendees when attending a hearing; all documentation must be accurate. Take all the evidence with you. It is very important to be prepared. Think of all the things that may come up.

A consent order is an order made by the Tribunal recording an agreement between the landlord and tenant eg a mutual payment plan for rent arrears. A conditional order is also an order made by the Tribunal whereby

eg a tenant must pay extra each week/fortnight to make up for rent arrears. It is better if the order is for a lower payment or else the tenant may default and the landlord needs to apply for another hearing.

When there is a payment plan for arrears in place and the tenant misses a payment (the number of payments is agreed to at the hearing), the landlord or agent can send a statutory declaration with the rent records to SACAT and then a bailiff will be arranged. This can only be done if a self-executing order is in place. Margaret Kohlhagen commented that if a consent order or conditional order is granted; ask for a self-executing order to be attached. The self-executing order will not be attached automatically.

Taxation eg carpets are assumed to last 10 years by law. If a new tenant causes damage to a nine year old carpet, the Tribunal will only pay the landlord one-tenth of the carpet's value (eg value is \$1000; only \$100 will be paid) even if the carpet is in very good condition.

Margaret Kohlhagen questioned the pro-rata payment of painting. A wall was painted two years earlier and a Tribunal Member ruled that only \$78.00 be paid when the repainting cost \$278.00. Mr Vincent commented that the problem the Tribunal had in his time was that builders used very cheap paint so wear and tear by the tenant had a much greater impact. He suggested that landlords use good quality paint.

Overseas tenancies were discussed ie long tenures in view of Mr Mark Parnell's proposed amendments to Section 83. Section 83 allows the landlord to give a tenant 90 days' notice without giving a reason (periodic tenancy). A landlord will not evict a tenant without a valid reason. Sixty days' notice does require a reason. If government in Australia cannot provide adequate public housing, they need to make it easier for investors who provide private housing and make it a viable proposition. Mario Leuci commented that in Italy it takes two year to evict a tenant and therefore many landlords will not lease out their properties.

Mario Leuci further commented that when a premises is leased in Italy, the premises may be devoid of any facilities eg no kitchen therefore a tenant would be spending a lot of money to install a kitchen etc and would want a long tenure. Mr Vincent commented that in France no evictions can take place during the winter months. Mario suggested that when amendments are introduced, they should not be based on what goes on overseas. Each country has its own culture. Longer tenures are on the agenda as housing affordability is becoming a challenge in Australia.

Be wary of giving sixty days' notice eg a relative is moving in, you are renovating or selling the property. If there is a change of circumstances, releasing restrictions apply. It is always best to give ninety days' notice; no questions can be asked and no reason is required. A member asked about giving notice for a fixed lease. Give the tenant 28 days' notice (Form 2A) and no reason whatsoever is required, never create a difficult situation. Margaret Kohlhagen commented that the minimum notice is 28 days. If you are asked for a reason, you can use the phrase "Due to a change in my circumstances I will not be renewing the lease". During his term, Mr Vincent came across some very good landlords who would not increase the rent as the tenants were good and had had a long tenure.

Water use and supply charge; Mr Vincent suggested that LASA try to persuade our state government to change the legislation so that tenants receive the water supply charge and the water use components of the quarterly invoice. This system has been in place in Victoria for many years. LASA approached the SA government about 15 years ago and were told that the computer system could not cope. Rodney Webb commented that the real reason for the government not willing to change is because it is not exposed to any losses; it knows that the landlord will pay the water invoices on time. The supply charge and all the water use is payable by the tenant. The landlord must give the tenant a copy of the water invoice within 3 months. A member asked how we can persuade the government to change the legislation. It was suggested that we write to Mr Rau every week. It was also suggested to factor an extra amount for water into the rent.

Do not put any addition conditions in a lease which are inconsistent with the Residential Tenancies Act 1995 eg carpets must be professionally cleaned at the end of the tenancy (this is not enforceable).

Vermin at a premises; the tenant is responsible for exterminating the vermin after 3 months into the lease. Mr Vincent said that it should be based on the evidence. If the tenant leaves food lying around; they are responsible, but if a neighbour keeps chickens, vermin such as mice and rats cannot be blamed on the tenant.

Plumbing issues; if a drain is blocked with hair, cooking oil etc ensure that the plumber details the cause of the problem on the invoice so that the tenant is liable for payment. Margaret Kohlhagen suggested putting a clause in the tenancy agreement to that effect. Mr Vincent suggested that such a clause or any addition clause in a lease should be initialled by the tenant. This shows that the tenant is aware of the clause.

Mr Vincent commented that Jack Eskenazi's article in the newsletter on selecting a tenant was very good. He also commented on other articles in the newsletter eg do insurance policies cover domestic violence issues. It is very important to check with your insurance company what is and what is not covered. The decision should not be based on the cost of the premium.

### **Minutes of the previous meeting**

It was resolved that the minutes of the Annual General Meeting held on the 4<sup>th</sup> of August 2015 and the May 2016 General Meeting minutes be accepted as a true and accurate record.

Moved: Linda Maton

Seconded: Peter Allen

### **Correspondence In:**

There are proposed changes to how to deal with abandoned goods.

### **Correspondence Out:**

No cause eviction letter to Ms Rachel Sanderson and other MPs.

No cause eviction letter emailed to all LASA members who have an email address.

### **President's Report**

Margaret urged members to write to their MPs to say that we are not going to support Mr Mark Parnell's proposed amendments to Section 83. Margaret would also like to know about SACAT hearing times, incorrectly addressed correspondence etc. Margaret keeps stats on her own cases but would like other stats from members.

### **Election of new committee:**

Mr Roger Vincent was appointed Chairperson and all positions were declared vacant.

President: Margaret Kohlhagen

Moved: Antonia Zotti

Seconded: Linda Demchenko

Vice President: Vacant

Secretary: Vacant

Assistant Secretary: Theo Balomenos

Moved: Margaret Kohlhagen

Seconded: John Wyk

Treasurer: Patricia Webb

Moved: Linda Demchenko

Seconded: Peter Allen

Assistant Treasurer: Ping Li

Moved: Theo Balomenos

Seconded: Margaret Kohlhagen

Committee:

Rodney Webb

Stan Heresztyn

John Wyk

Peter Allen  
Antonia Zotti  
Amanda Gargula  
Moved: Patricia Webb

Seconded: Margaret Kohlhagen

Election of all nominees was carried and new President took over the Chairperson role.

**New Business**

Member Barbara Stopp read out a statement regarding her problems with property managers. There is no point of reference for the conduct of property managers and Barbara would like to see the system changed. For the time being it is up to the landlord to choose wisely.

Members were asked which day is best for general meetings, Tuesday or Wednesday. Members decided to stay with Tuesdays.

Meeting closed at 9.30pm.