



**The Property Owners'
Association of NSW**

Quarterly Journal | July 2013

— poa- nsw —

THE PROPERTY OWNERS' ASSOCIATION OF NSW



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PRESIDENT'S REPORT APRIL - JULY 2013

A warm welcome to our winter edition of our journal. End of the financial year already here and you're possibly making new plans, revising some old ones or simply reshuffling. As we near the federal election polling day on 14 September 2013, some are holding back from making decisions and some are just simply getting on with reaching their financial and personal goals.

Our A.G.M held on 1 May 2013 elected a new working committee, congratulations to all, and new boarding house legislation guest presenter from Office of Fair Trading proved to be a hit, with many of our boarding house operators coming from far and wide to ask the hard questions. Registration deadline of utmost importance. Please read the article for updates.

For those social media fans, we have launched our very own Facebook page. Click "Like Us" and keep up to date with the latest info as we post it. We also value your contribution and if you have any suggestions for the next POANSW event or would like a specific topic covered, let us know. You can always email us as well info@poansw.com.au. Our next seminar appeals to those commercial property owners. It's been a while since we had a guest speaker come and talk to us on this important sector of property ownership.

New Swimming Pool and Spa registration laws have commenced in NSW. Compulsory registration required. Read article on page 6.

Twenty of the states tribunals to merge as one super tribunal called N.C.A.T. Will this be effective? Or another strained under-resourced government department with a "jack of all trades" approach to settling disputes by non-specialised tribunal members. Time will tell.

Another attempt by Government to impose yet another property levy. The fire levy as it is known. Read what two of the largest property industry groups have to say about that.

We're finally signing off on a deal with Rent.com.au to give members access to a tenancy default database to do their reference checks. POANSW Members only access and member discounts will be available. Check up on and/or list tenants who have defaulted on rent or breached their tenancy. We will keep you posted on this development and alert you when this service is up and running via our website.

Kind Regards,

J. Gilmovich

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WELCOME TO OUR NEW MEMBERS:

M. Rizman
G. Robinson
R. Nicolson
K. Gibson
C. Van den Bergh

Cover photo by HollyC Photography - <http://hollycphotography.tumblr.com>

PROPERTY OWNER'S ASSOCIATION OF NSW INC.

invites you to...

POA NSW Seminar:

COMMERCIAL LEASES:

Retail Leases Act

Commercial leasing dispute resolution

Commercial mediation

Negotiation strategies

Speaker: Michael Miller

Senior Mediation Officer, Dispute Resolution Unit
(inc Retail Tenancy Disputes)

Office of the NSW Small Business Commissioner

7.00pm

Wednesday 4th September 2013

At The Hughenden Hotel

14 Queen St, Woollahra

Finger food & drinks provided to end the night until 9pm

Cost: Complimentary to our members

RSVP: No later than 27th August 2013

Please contact The Hughenden Hotel to advise your attendance.

Ph: 02 9363 4863 or email reservations@thehughenden.com.au

POA NSW Members Free. Non-members \$15.00 entry fee.

Seats are Limited!

BOARDING HOUSE ACT IMPLEMENTATION: UPDATE

On the 1st May, the POA NSW ran a seminar on boarding house reforms, with speakers, Louise Blazejowska, (Senior Legal Officer Department of Family and Community Services Ageing Disability and Home Care) and Diana Holy (A/Manager, Consumer Policy Fair Trading Policy).

The seminar was attended with great interest from POA NSW members, and was followed with a finger food and drinks function that provided an excellent opportunity for members to network and harness information.

Implementation of the Boarding House Act continues and 30 June 2013 sets the deadline for registrable boarding houses to register.

NSW government departments have set up two websites that outline the new act and the requirements for boarding house operators. You can also get a copy of the registration form. They are at:

NSW Fair Trading Website:
http://www.fairtrading.nsw.gov.au/Tenants_and_home_owners/Boarding_houses.html

NSW Family and Community Services (AHC) website.
http://www.adhc.nsw.gov.au/sp/delivering_disability_services/boarding_house_program/boarding_house_reform

Some of the key points are summarised as follows:

The Boarding Houses Act 2012 will commence in stages during 2013. It provides a new framework for the regulation of boarding houses in NSW, which includes:

- Mandatory registration of all "registrable boarding houses" by June 30, 2013 on the new Register of Boarding Houses;
- The application of shared accommodation standards under the Local Government (General) Regulation 2005 to general boarding houses;
- Mandatory inspections by local councils to check compliance with standards,
- The introduction of occupancy rights for all residents of registrable boarding houses; and
- An enhanced scheme for the authorisation and operation of "assisted boarding houses" which will be administered by Ageing, Disability and Home Care.

The Boarding House Register is a list of all boarding houses registered with NSW Fair Trading. The register information will be publicly available from the Fair Trading website.

All registrable boarding house are required to register or face stiff penalties.

A registrable boarding house is either:

- A general boarding house - accommodating five or more paying residents (excluding family members of the proprietor). It does not include hotels, motels, backpackers' hostels, aged care homes or other exclusions in the Act, or
- An assisted boarding house - accommodating two or more persons with additional needs. A person with additional needs is someone who has an age related frailty; a mental illness and/or an intellectual, psychiatric, sensory or physical disability. In addition, they need support or supervision with daily tasks and personal care such as showering, preparing meals or managing medication. Assisted boarding houses are licensed by ADHC.

Under the new laws boarding house residents will have a basic set of rights called occupancy rights. These will include the right to:

- Live in premises that are reasonably clean, in a reasonable state of repair, and reasonably secure
- Know the rules of the boarding house before moving in
- Quiet enjoyment of the premises
- 4 weeks' written notice of an increase in the occupancy fee
- Be notified before signing an agreement if there will be a charge for utilities
- Be charged for any utility according to the cost of providing it plus usage by the resident
- Know why an occupancy may be terminated and how much notice will be given before termination
- Be given reasonable written notice of eviction
- Be given written receipts for any money paid to the proprietor
- Have any security deposit limited to two weeks' occupancy fee, and repaid within 14 days of the end of the occupancy, less certain allowable deductions.
- Residents will be able to enforce these rights at the Consumer, Trader and Tenancy Tribunal.

"When we entered unit four and saw the hole, we instantly contacted the landlord. He knew nothing about any renovations so I knew obviously something was very wrong," she explained.

"As soon as I accessed unit two, I contacted the police.

"Apparently the tenant had told his neighbours that he owned the units and was doing renovations, so they thought nothing of it when they heard machinery."

The 'renovations' have been going on for at least the last two months, said Ms Hore.

"Unit one downstairs has been vacant for the last six months as the owner is going through the process of getting it commercially leased so no-one has been in there since March of this year," she said.

"We've just currently started open for inspections on apartment four, so we've been in and out of there. The last hole would only be between five and seven days old."

Luckily the landlord had insurance on the property.

"Yes, the landlord is covered," Ms Hore confirmed, "and I'd just like to say I have been incredibly lucky to have such a great landlord through what has been an absolutely bizarre series of events. We have been in hysterics together, it is just so unbelievable.

"It also helps that the landlord was not emotionally connected to the property."

According to Ms Hore, no charges have been laid yet as police are still conducting investigations. The landlord is also going through the process of evicting the tenant.

It is unknown if the tenant has any building experience; however, he was sighted by neighbours wearing safety goggles and a high visibility vest.

"At least we know he complied with OH&S," Ms Hore laughed.

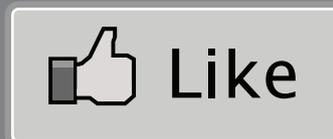
The POANSW comments that this is no laughing matter and this story should ring alarm bells to its members. The moral of this story especially with long term tenants of at least two years in tenancy, who keep quiet and don't communicate with either their landlord or their property manager is never to assume that your property is in order if the tenant or agent hasn't made a complaint.

The agency above managed the tenancy for five years but failed to conduct an internal routine inspection of the property which in itself is a breach of the duty of care of one of the fundamental services that a property manager has to conduct at least on an annual basis. This landlord could have sued and won a claim for damages against the agent for this breach of care.

The NSW Residential Tenancy Act 2010 allows a landlord or their agent to inspect their property at least four times a year with one week notice to the tenant.



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You can find our page at the weblink below, or search for: "The Property Owners' Association of NSW Inc"

<http://www.facebook.com/pages/The-Property-Owners-Association-of-NSW-Inc/249180278552943>



A SUPER TRIBUNAL TO BE ESTABLISHED BY 2014 - NSW CIVIL AND ADMINISTRATIVE TRIBUNAL

The NSW Government will establish the NSW Civil and Administrative Tribunal, to be known as 'NCAT'. More than 20 of the state's tribunals will be integrated into NCAT, which will provide a single gateway for tribunal services to the people of NSW.

NCAT is being established in response to the recommendations of the Legislative Council's Standing Committee on Law and Justice, which conducted an inquiry into opportunities to consolidate tribunals in NSW between October 2011 and March 2012.

The parliamentary inquiry found that the existing tribunal system can be 'complex and bewildering'. It recommended that tribunals be consolidated where it is appropriate and promotes access to justice.

WHICH TRIBUNALS WILL BE INTEGRATED INTO NCAT?

- Aboriginal and Torres Strait Islander Health Practice Tribunal
- Aboriginal Land Councils Pecuniary Interest and Disciplinary Tribunal
- Administrative Decisions Tribunal
- Charity Referees
- Chinese Medicine Tribunal
- Chiropractors Tribunal
- Consumer, Trader and Tenancy Tribunal
- Dental Tribunal
- Guardianship Tribunal
- Local Government Pecuniary Interest and Disciplinary Tribunal
- Local Land Boards
- Medical Radiation Practice Tribunal
- Medical Tribunal
- Nursing and Midwifery Tribunal
- Occupation Therapy Tribunal
- Optometry Tribunal
- Osteopathy Tribunal
- Pharmacy Tribunal
- Physiotherapy Tribunal
- Podiatry Tribunal
- Psychology Tribunal
- Vocational Training Appeals Panel
- Victims Compensation Tribunal

A Steering Committee has been established to oversee implementation.

The Committee will be advised by a Reference Group that will include tribunal members and administrators; representatives of tribunal users; and relevant professional associations.

NCAT will begin operating in January 2014.

WHEN WILL THE GOVERNMENT INTRODUCE NCAT'S LEGISLATION?

Legislation required to support NCAT will be introduced into Parliament in separate phases.

The first Bill was introduced into Parliament on 22 November 2012, and passed both Houses of Parliament without amendment on 27 February 2013.

This Bill is now known as the Civil and Administrative Tribunal Act 2013. It sets out NCAT's governance framework and contains provisions that are required to facilitate the establishment of the Tribunal. It does not confer any jurisdiction on NCAT, or set detailed requirements relating to NCAT's functions or powers. You can find a copy of the Act at the website www.legislation.nsw.gov.au.

WHAT DOES THIS MEAN FOR MEMBERS AND STAFF OF EXISTING TRIBUNALS?

NCAT will be structured to preserve existing specialities and to ensure that a 'one size fits all' approach is not taken. It will be 'business as usual' until January 2014.

ARE YOU READY FOR DIGITAL TV?

By the end of 2013 all analog free-to-air TV services across Australia will be permanently switched off and only digital free-to-air services will be available.

In many areas this will be followed by a further and final step known as "the retune", in which some TV Channels will change frequency. After they have changed, viewers will need to retune their digital TV, set top box and /or TV recorder to find the channels that may have moved or be missing.

Different locations/postcodes will retune at different dates. The federal government has set up a public website that property owners can use to get an indication of what date the changeover will occur by entering your property address. Please visit www.digitalready.gov.au/retune for more information or call 1800 201 013.

RESIDENTIAL PROPERTY VACANCIES KEEP RISING

Figures released by SQM Research this week, reveal that the level of residential property rental vacancies increased again during the month of May, rising by 0.1% to 2.1% and coming to a total of 59,670 nationwide.

City	Vacancies 5/12	Vacancy Rate 5/12
Adelaide	2,680	1.6%
Perth	1,157	0.6%
Melbourne	11,477	2.7%
Brisbane	4,120	1.5%
Canberra	434	0.7%
Sydney	9,189	1.6%
Darwin	100	0.4%
Hobart	753	2.8%
National	50,447	1.8%

City	Vacancies 4/13	Vacancy Rate 4/13
Adelaide	2,534	1.5%
Perth	2,268	1.2%
Melbourne	11,609	2.7%
Brisbane	5,142	1.8%
Canberra	753	1.5%
Sydney	9,631	1.7%
Darwin	272	1.1%
Hobart	699	2.5%
National	56,973	2.0%

City	Vacancies 5/13	Vacancy Rate 5/13
Adelaide	2,718	1.6%
Perth	2,475	1.3%
Melbourne	11,806	2.7%
Brisbane	5,436	1.9%
Canberra	798	1.5%
Sydney	10,206	1.8%
Darwin	237	1.0%
Hobart	739	2.7%
National	59,670	2.1%

Source: SQM Research

The majority of capital cities either experienced modest rises, or remained the same during May, with Darwin being the only city to experience a decline - falling from 1.1% to 1.0% month on month.

This result reflects a rental market that is continuing to loosen, albeit gradually. However, SQM Research stands by our original prediction that until there is a mass exodus of renters prompted by absorption of stock from the sales side of the property market, we will not see massive increases in vacancy rates.

Louis Christopher, Managing Director of SQM Research says, "The rental market is starting to provide some choices for tenants, Vacancies have increased four straight months now. This is also showing up on our weekly rentals index where cities such as Canberra and Perth have recorded falling rents in recent months."

Below SQM Research has listed the top ten postcodes with the tightest vacancy rates, as well as the top ten postcodes with the highest vacancy rates around the country as of May 2013 -

Top Ten Tightest Vacancies Postcodes				
Postcode	Suburb	State	Vacancies 2013/5	Vacancy %
2400	TULLOONA	NSW	1	0.1
6109	MADDINGTON	WA	1	0.1
822	WOOLANING	NT	3	0.1
4874	WEIPA	QLD	1	0.1
6066	BALLAJURA	WA	2	0.2
2821	NARROMINE	NSW	1	0.2
2705	WHITTON	NSW	2	0.2
4356	STONELEIGH	QLD	1	0.2
6063	BEECHBORO	WA	2	0.2
4555	HUNCHY	QLD	1	0.2

Source: SQM Research

Top Ten Highest Vacancies Postcodes				
Postcode	Suburb	State	Vacancies 2013/5	Vacancy %
3006	SOUTHBANK	VIC	417	9.7
3956	WALKERVILLE	VIC	49	10.2
2321	WOODVILLE	NSW	70	10.6
2787	OBERON	NSW	53	10.7
3269	PRINCETOWN	VIC	15	10.7
3754	DOREEN	VIC	142	11.2
3904	METUNG	VIC	21	11.4
6442	KAMBALDA WEST	WA	68	12.4
3004	MELBOURNE (St Kilda Road)	VIC	360	13.0

Source: SQM Research

SQM's calculations of vacancies are based on online rental listings that have been advertised for three weeks or more compared to the total number of established rental properties. SQM considers this to be a superior methodology compared to using a potentially incomplete sample of real estate agency surveys or merely relying on raw online listings advertised.



SO YOU HAVE FOUND A TENANT, WHAT NOW?

THE RENTAL APPLICATION PROCESS

Once you've advertised your property, held your property inspections and gained interest in it, it's time for the rental application stage to begin

A savvy applicant who's serious about securing your property may have prepared an application pack ahead of the viewing to ensure they're amongst the first to register their interest. Generally, as a minimum, an application pack should include:

- Personal and/or business references and contact details from previous landlords/agents
- A written record (also known as a tenancy ledger) of the payment history of the current and/or previous property they rented. This will show the consistency of rent payments being met as they fall due.
- Copies of bank statements

- A current employment contract, payslips and employer contact details
- A cover letter introducing themselves
- Photocopies of several items of personal identification such as drivers license and passport.
- If self employed or run their own business it is ok to request two years worth of business and /or personal tax returns showing income and/or profit and loss of their business.

Managing agents typically expect '100 points' worth of personal ID with the rental application to be considered. If it works for professionals, there's no reason why you shouldn't apply the same rules as a self-managed landlord. The point system works as follows:

Primary ID with photo - 30 points

- Passport - either Australian or from another country
- Copy of entry Visa (look for type, length and expiry date of the Visa)
- Australian and/or international Drivers Licence
- Proof of Age Card
- Payslip - Mandatory
- Rental Ledger - Mandatory

Secondary ID - 20 points

- Birth Certificate (original or copy)
- Australian Citizenship Certificate
- ATO Tax Return
- Australian bank or credit union statement (not an ATM slip)
- Medicare Card
- Credit Card
- Bank ATM Card
- Council Rate Notice

Supplementary ID - 10 points

- Gas/electricity bill
- Telephone bill
- Vehicle Registration Certificate
- Private healthcare card
- Degree, diploma or higher education certificate
- Employer/Security ID card
- Marriage Certificate
- OSR Land Tax Assessment Notice

References are there for a reason - make sure you call every one. If they don't call you back, keep trying or ask the applicant for further referees. If your hopeful tenant has trouble finding people to vouch for their character, there's your answer - it's time for you to move on. Be alert to a potential tenants supplying you with mobile numbers for their employer to give you a reference. Land lines are crucial in this case to prove a place of business actually exists.

If they have never rented but own their own property, ask for proof of ownership E.g. water, council, strata levy notices containing their names on it.

POANSW WARNING: Do not accept a tenancy application from a prospective tenant who has not physically inspected the property and accepted the property before they applied for it for what it is and in its current state. E.g do not accept an application form from a prospect who's friend/relative etc (not attached to the tenancy) may have seen the property or far worse a prospect stating that they saw the photos on the internet only, really like the property and wish to proceed with it.

A tenancy application form is not regarded as a government prescribed form as such there are different variations of a tenancy application form in the rental market place. As such one could easily create their own and capture as much detail as they desire. The POANSW has a general application form available to download from their members only section of its website. Visit <http://www.poansw.com.au/tenancy-forms.php>



NSW PROPERTY INDUSTRY SAYS "NO" TO PROPOSED FIRE LEVY

THE INTRODUCTION OF A NEW LEVY TO FUND FIRE AND EMERGENCY SERVICES WILL UNFAIRLY BURDEN PROPERTY OWNERS, ACCORDING TO THE REAL ESTATE INSTITUTE OF NEW SOUTH WALES AND THE PROPERTY OWNERS ASSOCIATION OF NSW

The proposed levy has been recommended in the final report from a Parliamentary inquiry into the land valuation system (2 May 2013).

The proposed levy is bad for the property industry across the board. This is a further cost on property.

The levy will hurt renters, as well as property owners, and the primary beneficiary of the levy will be the insurance companies who won't have to make payouts in the future.

"Insurance companies have a vested interest in ensuring that fire and other emergency services are well resourced and running efficiently. Prompt responses to fires and other emergency situations will lead to insured properties suffering less damage and consequently reduce the liability of insurers under the insurance policies.

While we acknowledge the importance of ensuring adequate funding for the emergency services in NSW, a new tax on property owners will have a negative impact on the already strained property industry.

Every time the Government or someone needs to fund something, they turn to property. The REINSW and POANSW strongly advises that an alternative way to fund the levy is found. Enough is enough.

"Currently property is the most taxed asset class in NSW. Taxes levied on or impacting property owners include: stamp duty on transfers of all property; GST on new residential properties (and the additional stamp duty on the GST component of the price) and land tax for investment residential properties, to name a few.

"Introducing yet another tax on property will further distort investment decisions in the property sector. Additional taxes on property will serve to worsen the housing shortage in NSW, discourage new investment and push existing investors into other, less taxed asset classes.

The property industry recognises the current system for fire and emergency services funding operates unfairly as the financial burden falls on the owners who are insured, whereas the uninsured owners who also consume emergency services do not contribute to the cost.

The change, first signalled in last year's Budget and discussion paper, would see an annual charge of about \$300 to fund fire and emergency services based on median value of metropolitan residential land in NSW is \$280,000. The rural residential land median value is \$144,000, which would see an annual levy of \$154.



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