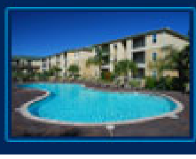
The Property Owners Association of NSW

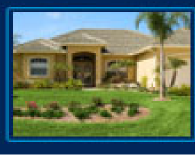
Quarterly Journal

October 2008

The Property Owners' Association of New South Wales

– poa-nsw –



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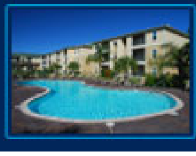

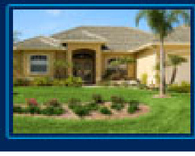

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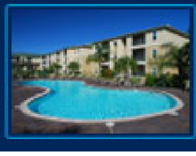

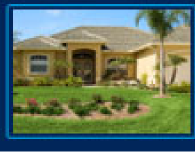

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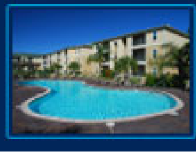
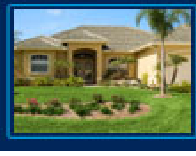
MEETINGS FOR 2008

Property Owners Association
At the Hughenden Hotel
14 Queen Street
Woollahra
Meetings commence 7:30 pm
(Optional dinner at Quaife's Restaurant at 6:00 pm)

Thursday 2 October 2008
POA NSW Committee Meeting.

Thursday 4 December 2008
POA NSW Committee and Function.



PRESIDENTS REPORT OCTOBER 2008

Tenant Legislation Review

The POA is continuing to make representation to the Office of Fair Trading in regards to their legislation review.

Fair Trading has closed all further input and are moving towards a draft bill for the next parliamentary sitting in 2008.

However this association is negotiating with others in government to monitor the content of this bill ,it will work very hard to have several point of extreme concern removed from the bill draft as if they become law the plight of NSW landlords will be again negatively impacted.

It is astonishing that the department received over 1000 submissions the majority calling for fair reform and a sensible system instead of the current unbalanced uncommercial battle ground when disputes arise.

Let's see if the Fair Trading Office is serious about reversing the current housing shortages in rental accommodation by providing a better playing field.

Australian Investors Association Seminar- Gold Coast

I attended this seminar on the 27th July 2008 running over 3 days as a guest speaker and representing the POA .I also took this opportunity to catch up with Bruce Mcbride POAQLD president as he also attended.

Over 300 delegates attended- cost $700.00. Its interesting to note fellow investors pathways and current beliefs to where the action is the most popular talked about investment path was the stock market with up to 75% of papers presented dedicated to trading.

The property based talks all revolved around property trusts and my presentation presented a direct investment approach.

Residential rental property as an investment was very low on delegates' minds.

But this could all change with an interest rate downward trend coming up maybe soon.

Private Hotel /Boarding house – News

The POA has begun talks with the Government in regards to insurance costs on low cost accommodation for rent, the direction is the NSW Government has invited us to talks we have attended a scheme is unfolding and maybe a large reduction in the cost of insurance for owners of this class of buildings is possible .

As we negotiate we will keep you informed but it looks good!

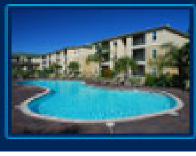
New members welcome

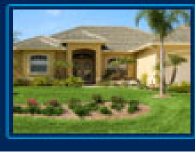
Hello to all new members please come along to any meeting listed on the web site my suggestion if you are a new paid up member is to attend a committee meeting. Although a seat at the meeting is not always possible, please contact your association for seating before attending meetings. We all meet at 6pm prior to the 7.30 meeting for dinner at the Hughenden Hotel and you are very welcome to join us for a social chat and dinner. It's good fun.

Information nights

We are holding several of these from now to the end of the year. We hope to have one in December, please check our website for details for any functions/seminars.

Regards
Chris Young
President POA NSW





Generation Y: our upcoming property owners?

The next big things in the property market are the buyers who belong to Generation Y. At the present, they would be 25 years old at the oldest. Generation Y's strengths could include their transient disposition - they are a generation that is not afraid of change, taking risks and tackling new situations. They can be responsive impulsive spenders, understandably disapproving of poor workplace standards and remain independent in the face of peer pressure.

Given the current state of the economy and particularly in the property market, it is hard to notice that young people are actually part of the market and intend to stay there.

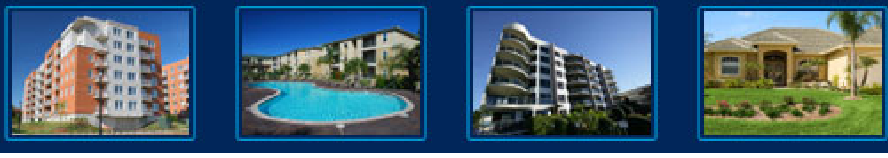
Instead of buying fancy items, many of those earning good salaries believe in property equity and are very good at choosing properties they believe will help them build up their investment portfolios. Furthermore, it's the sense of home ownership which drives the trend and if they can afford it, they would rather buy than settle to rent.

Undoubtedly, the market is uncertain now and consumer confidence is low, but the property industry really needs to take note of Generation Y, What we see is that in general, young people in this age group value property and would invest into it too.

Generation Y is found in major metropolitan areas and they make use of the internet to search for properties they like. While some still drive around during show houses, the majority want information quickly on the internet and also use the same method to compare property prices. Generation Y grew up in the age of the web and it also allows them private selection of desired property.

API editor Eynas Brodie says, "Time in the market is the key factor for making money in the property market, so these Gen Y investors are getting a headstart by leaping into the market at a young age. We've dubbed these Generation Y investors Generation Wise for that very reason."

The largest wave of Generation Y home purchasing is expected to begin in 2012, after experts think the housing market will have turned around. Although what qualifies as an "urban core area" may vary widely to different people, it seems a safe bet to expect considerable variety in tastes in the housing market.



How to choose the right landlord insurance policy

Investors need to find out the level of cover their landlords insurance provides for loss of rent, as well as whether they’re covered for accidental damage, according to Terri Scheer Insurance Brokers’ list of 10 key questions for investors to ask when choosing a policy.

Many residential investors choose a landlord insurance policy as an add-on to their property loan or building insurance without understanding the important details of what’s involved, according to Terri Scheer’s general manager of insurance services, Carolyn Majda.

Majda says the risks associated with owning a rental property include: malicious damage to the property by a tenant; accidental damage; legal liability; and loss of rental income as a result of the tenant absconding or leaving a property unable to be rented while damage is fixed.

“There are many insurance policies available, so it’s important to choose one that covers you for each of these risks and which has reasonable excesses,” she says.

Majda says that even policies that claim to cover all of the risks associated with a rental property need to be examined carefully.

“For example, some policies might offer insurance cover for the building when occupied by a tenant but not for damage to the property caused by the tenant or loss of rent,” she says.

“Different insurers will also have varying conditions for loss of rent cover. A comprehensive definition for loss of rent includes if the tenant absconds or dies, if they leave the property unable to be tenanted while repairs to damage are made, or if access to the rented property is prevented due to an insured event occurring.

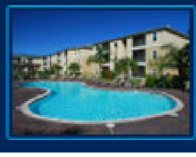
“Not all policies include cover for all of these, or if they do they may be optional extras.

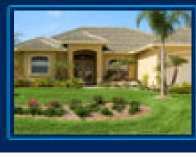
“Likewise the policy might cover ‘damage’, but is this accidental damage or malicious damage, or both? Does the policy cover damage caused by the tenant?

“Landlords need to be very careful about the wording of their policy and the definition of the key areas for which they will be insured.”

With all that in mind, Terri Scheer has put together a list of the top 10 questions to ask when choosing a landlord insurance policy. They are:

1. What is the level of cover provided for 'loss of rent'? (This should cover a tenant absconding or dying, or if the tenants leave the property unable to be tenanted while repairs are made.)
2. Does it cover accidental damage as well as malicious damage?
3. Does it cover legal liability?
4. Does it cover your contents?
5. Does it cover you for the cost of a tax audit?
6. Can you place your cover online?
7. What is the total contribution you will be required to make towards a claim?
8. How long will it take for a claim to be paid?
9. Can you always speak with a customer service associate without having to listen to a menu or press buttons?
10. Are you happy with the level of customer service?



Strata Management Legislation Amendment Act 2008

A number of important changes to strata laws in New South Wales came into effect on 1 August 2008.

The changes were introduced by the *Strata Management Legislation Amendment Act 2008*, and their purpose is to enhance the operation and management of strata schemes.

The five areas of change are summarised below:

- Caretakers and building managers
- By-laws about parking vehicles on common property
- Proxies and power of attorney
- Executive committee members - disclosure requirements
- Building disputes

Caretakers and building managers

this amendment makes it clear that all on-site caretakers are covered by the *Strata Schemes Management Act*, even if they use a different job title such as 'building manager'.

The changes to the caretaker laws make it clear that anyone carrying out the role of an on-site caretaker is subject to the those laws, regardless of whether they are called a caretaker or use a different title, such as building manager or resident manager.

This change is important, because the *Strata Schemes Management Act* sets out strong protections for strata owners in relation to caretaker contracts. The amendment will ensure that a caretaker cannot avoid the requirements of the Act simply by using a different job title.

Caretakers may be employed to assist the owners' corporation in functions. They do not have the

Same delegated functions as a licensed strata managing agent. Carrying out its Caretakers may assist the owners' corporation in:

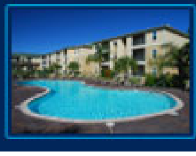
- managing the common property
- controlling the use of common property by tradespersons and other non-residents
- The maintenance and repair of common property.

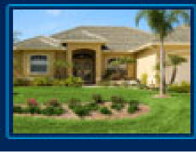
Caretakers may not enforce by-laws or carry out other similar functions of the owners' corporation. A person is not a caretaker if they exercise their functions on a voluntary or casual basis or as a member of the executive committee.

By-laws about parking vehicles on common property

This amendment prevents by-laws giving a right to park on common property being made during the initial period of a strata scheme.

An owner's corporation in a strata scheme may make by-laws giving rights to an owner for the exclusive use of, or special privileges in relation to, an area of the common property. However, these types of by-laws cannot generally be made during the 'initial period' of the scheme, that is, the period from the commencement of the scheme up until one third of the unit entitlements have been sold.



The Strata Schemes Management Act contains an exemption allowing by-laws to be made in the initial period authorising an owner to park a vehicle on the common property. This has led to disputes when buyers later move in and find that the developer has given themselves or someone else the right to permanently park in visitor parking spaces. This exception has been removed by the amendments so that such by-laws can only be made after the expiry of the initial period when other owners besides the developer are able to vote on the proposal.

Proxies and power of attorney

These amendments will protect strata buyers from terms in sale contracts which require them to give proxy voting rights or power of attorney to the developer of the strata scheme.

Under the legislation, owners in a strata scheme who are entitled to vote in an owner's corporation meeting can appoint a person as proxy to vote on their behalf. Proxy appointments enable owners who are unable to attend meetings to have a say on issues under consideration.

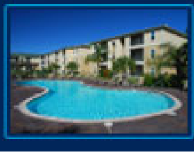
A proxy appointment must be made on a prescribed form and remains in effect for 12 months or two consecutive annual general meetings. The owner making the appointment can, if they wish, specify how their proxy is to vote on any matter. Alternatively, an owner may allow the proxy full discretion in the use of their voting entitlements. An owner can revoke or replace the proxy appointment at any time or may attend a meeting and vote in person, thus overriding any proxy they have issued.

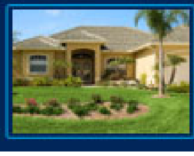
However, some developers seek to avoid these requirements by making it a condition of the sale of a strata lot for the buyer to give the developer unconditional proxy voting rights or a power of attorney. Owners who have signed such contracts could risk having action taken against them for breach of contract if they attempt to exercise their right to vote at an owners corporation meeting or make a change to their proxy.

To provide greater safeguards for owners' voting rights, the legislation has been amended so a developer or a person connected with the developer cannot make use of a proxy voting appointment or power of attorney that was obtained by a condition in a contract for the sale of a strata lot, or another related contract or arrangement.

In the case of proxy voting appointments or powers of attorney in place before 1 August 2008, these remain in effect. However, if the proxy appointment or power of attorney was obtained by a condition in the sale contract and is renewed or extended on or after 1 August 2008, that appointment or power is invalid.

The amendment does not stop an owner from giving proxy voting rights to anyone they choose – including the developer or caretaker if that is what they wish. However, the provisions of the Act apply and the owner can cancel their proxy at any time or override it by attending a meeting to vote in person without fear of legal action or penalties.



Executive committee members - disclosure requirements

Executive committee members will need to disclose any personal, business or financial connection they have with the developer or caretaker.

The executive committee of the owner's corporation is a group which represents owners or owners' nominees. It administers the day-to-day running of the strata scheme and is elected at each Annual General Meeting (AGM). The owners corporation may limit the matters that the executive committee may decide and the Act contains various matters that must be decided by the owners corporation in a general meeting.

The owner's corporation has the authority to dismiss some or all of its executive committee and may also employ strata managing agent and/or caretaker to carry out some or all of the functions of the executive committee. If a vacancy occurs during the term of the executive committee, the owners corporation must appoint a person to fill the vacancy until the next AGM.

In response to complaints about executive committees being 'stacked' by friends or associates of the developer, the Act has been amended so that a person nominated for election to an executive committee must disclose any financial, business or family connections they have with the developer or caretaker.

The disclosure will need to be made at the meeting at which the executive committee is to be elected before the election is conducted and the disclosure must be recorded in the meeting minutes.

Once elected, members of executive committees will also have to disclose any connection they subsequently develop. The disclosure must be made in writing to the secretary of the executive committee and placed on the agenda for the next general meeting. If the person is the secretary, the disclosure is to be made to the chairperson of the committee. A person being appointed to act in the place of an executive committee member must also disclose any connections they have with the developer or caretaker. This disclosure is to be made in writing to the executive committee before the appointment.

However, the disclosure of a connection with the developer or caretaker does not prevent an executive committee member from continuing to hold their position on the committee. Equally, the disclosure of a connection between an executive committee candidate and a developer does not prohibit or prevent the candidate from being elected to the committee.

This measure will enhance the transparency of executive committee elections, and will enable the other owners to take candidates' association with the developer into account when voting on membership of the executive committee or when voting to remove a member of the committee.

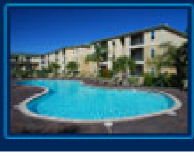
Building disputes

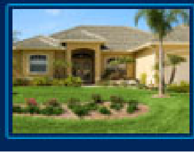
Individual owners in strata and community schemes will be able to lodge a building dispute with the Office of Fair Trading and arrange for an inspection of building work in common areas.

The *Home Building Act* provides for complaints about defective building work on the common property of a scheme to be made to the Office of Fair Trading by an owners corporation, or by a community association in relation to association property in a community scheme.

Where the developer has majority ownership or voting rights, it can be difficult for the owners to agree about the lodgment of a complaint. This sometimes occurs because the developer is also the builder, or is financially connected with the builder, and is seeking to avoid their responsibilities.

As of 1 August 2008, individual strata and community lot owners will be able to lodge complaints with Fair Trading and to invite a Fair Trading building inspector onto the common property of a strata scheme or association property in a community scheme. As a further safeguard, caretakers and other persons who control access to areas of the common property will be obligated to cooperate with officers from Fair Trading and provide assistance to enable the inspection to be carried out, for example by providing access to locked areas of the common property.



The following table shows the latest statistics from Residex:

	Houses - growth			Units - growth		
City	**Median Value**	**Year to June 2008**	**June 2008 qtr**	**Median Value**	**Year to June 2008**	**June 2008 qtr**
Canberra	$468,000	9.90%	2.11%	$364,500	11.44%	1.86%
Adelaide	$367,000	17.06%	1.39%	$291,000	20.11%	2.98%
Brisbane	$443,000	15.20%	0.84%	$350,000	16.17%	0.80%
Darwin	$404,000	7.90%	1.01%	$318,000	13.73%	1.17%
Hobart	$338,500	11.96%	-1.31%	$248,000	11.61%	-0.48%
Melbourne	$469,000	19.11%	-0.39%	$361,500	17.87%	-1.16%
Perth	$506,000	2.94%	-3.14%	$393,000	5.00%	-3.97%
Sydney	$577,500	0.74%	-1.81%	$401,000	3.88%	-0.24%

	Houses - rent			Units - rent		
City	**Rate month end June 08**	**$ June 08**	**Change from June 07 to June 08**	**Rate month end June 08**	**$ June 08**	**Change from June 07 to June 08**
Canberra	4.68%	$420	3.70%	5.51%	$385	-3.75%
Adelaide	4.19%	$300	7.14%	4.57%	$255	6.25%
Brisbane	3.92%	$340	6.25%	4.62%	$310	6.90%
Darwin	5.40%	$430	13.16%	5.74%	$350	12.90%
Hobart	4.45%	$295	3.51%	5.02%	$240	9.09%
Melbourne	4.14%	$380	18.75%	4.76%	$330	17.86%
Perth	3.62%	$350	12.90%	4.11%	$310	3.33%
Sydney	4.46%	$490	15.29%	5.46%	$420	10.53%

Sydney

Sydney recorded an increase in the auction clearance rate to 51% from 48%. 323 properties were auctioned this week and last week 291 auctions were recorded. During this week last year 335 properties went to auction with 67% selling at auction or prior.

Melbourne

The auction clearance rate this week in Melbourne increased to 57% from 54% recorded last week. This week 465 properties went to auction and last week recorded 448. During this week last year 531 properties went to auction and 82% were sold.

Canberra

Canberra recorded a clearance rate of 50% and an auction volume of 27 this week. 28 properties were auctioned last week and the clearance rate was 38%. This week of last year 23 properties went to auction.

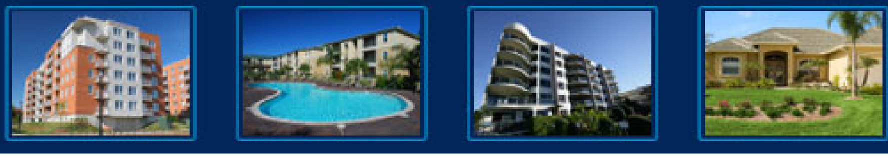
Adelaide

The clearance rate in Adelaide this week was 31%. Last week the clearance rate was 45% and during this time last year the clearance rate was 85%. 44 properties went to auction this week, last week recorded 56 auctions and this time last year recorded 64.

Perth

In Perth this week 15 properties went to auction. Last week recorded 17 auctions and this week last year there were 12 auctions.

Source: Home Price Guide



Pros and cons of buying property in super

Last year's relaxation of legislation to allow self-managed superannuation funds to borrow to invest in property is "the biggest thing to happen since negative gearing", Sydney buyers agency PK Property says.

In a recent briefing note, PK Property outlines the tax advantages, structure and limitations of borrowing to buy property through a self-managed super fund (SMSF). It says SMSF managers can borrow 60 to 75 per cent of the value of a property they're looking at purchasing.

THE TAX ADVANTAGE

- Contributions made to the SMSF are taxed at 15 per cent, leaving 85 cents in every dollar to contribute to the property compared to as little as 55 cents with traditional negative gearing.
- Maximum 10 per cent capital gains tax on the sale of the property if it's held for at least 12 months and potentially nil if it's sold during the pension phase.
- Maximum of 15 per cent tax on rental income.
- You may effectively receive a tax deduction (via salary sacrifice) for loan repayments off the principal (which you can't normally do).
- The interest costs are tax deductible and can potentially reduce the 15 per cent contributions tax to nil.
- Small business owners may achieve additional tax concessions and asset protection from creditors.
- Unlike other property investments, as a business owner you can 'sell' the business premises you own into your SMSF – and rent it back to your business.

FEATURES OF THE SMSF STRUCTURE

- Choose any kind of property including residential, commercial, retail, and holiday units.
- A super fund can purchase real estate let for business purposes from a member or a related entity (i.e. this does not breach the "in house asset" rule under the Act). Investments in property other than "business real property" are permitted provided the purchase is from an arm's-length vendor.
- The legal owner of the real estate will be the Property Trustee.
- The beneficial owner of the real estate will be the SMSF.
- The lender has no recourse to the other assets of the SMSF, providing the SMSF with absolute protection for its other assets.
- The loans are personally guaranteed by the member/s of the SMSF (subject to credit approval). SMSFs can deal with the property however and whenever they like, in the same way as investors can deal with "normal" investment properties (e.g. lease, renovate, repair, or sell), subject to the terms of the relevant loan and mortgage.
- All rents are paid direct to the SMSF; loan repayments are made in the ordinary way from the SMSF.
- The SMSF can pay out or reduce the mortgage at any time (subject to the terms of the relevant loan).
- When the mortgage is paid out in full, title to the property can be transferred to the SMSF or the Property Trustee can continue as registered proprietor.

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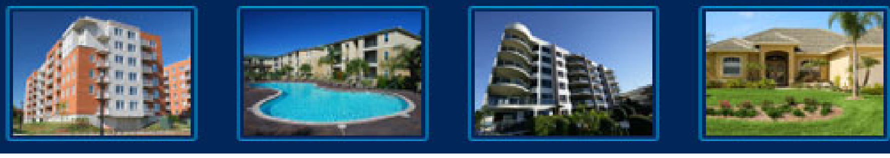
SOME KEY LIMITATIONS

- The borrowed funds must be used to purchase an asset (e.g. real estate).
- The asset must be held on trust for the SMSF by another entity (i.e. the Property Trustee).
- The SMSF must have the right to acquire legal ownership of the asset by making payment.
- The lender's recourse against the SMSF must be limited to the underlying asset (i.e. the purchased property). The lender must not have a right of recourse against other assets of the fund.
- A member of the SMSF cannot occupy the property, as this would breach the "in-house asset rule". However, the SMSF can buy a property that the investor intends to live in after retirement. This is possible if you transfer the property from your super fund to yourself after you retire. You are permitted to buy a business premises in your SMSF and rent it back to yourself.
- SMSFs must comply with all regulations applying to superannuation funds.
- SMSFs may acquire up to 100 per cent of the fund's total assets in the form of real property. SMSFs must ensure that the level of investment in real property is in line with the fund's investment strategy, including diversification of assets, liquidity, and maximisation of member returns in the fund.
- Where a fund invests 100 per cent of its assets in real property, trustees must ensure that the fund continues to meet these requirements, for instance they must ensure the fund has sufficient liquidity to meet its liabilities (such as pension payments).
- The government has also made it clear that super funds investing in these types of investments must have appropriate risk management measures in place and must understand the risks of investment.



BASICS FOR OPERATION OF BOARDING HOUSES

When a resident, lodger, guest, boarder enters an accommodation, it is sound practice that the following documents are agreed to and signed by both owner/manager and resident prior to entry:-

CONTRACT

CONDITION REPORT

HOUSE RULES

This is to ensure that all parties know it is a BOARDING HOUSE or similar and that all parties are aware that it is NOT a residential tenancy and that it operates as a managed premise.

It is essential that the resident is aware that breach of the Contract and House Rules are conditions that can terminate the occupancy as the duty of care to management of the whole property not an individual occupant.

Sample Conditions and documents are on the POA website – www.**poansw**.com.au for Private Hotel and Boarding House members.

These are only guidelines and each boarding house should develop its own management practice to suit the individual needs of the accommodation service provided.

WANTED

BOARDING HOUSES

Is your property giving you headaches?

Is it getting too hard to manage?

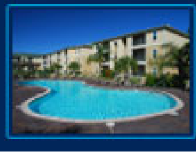
We have clients wishing to BUY or LEASE

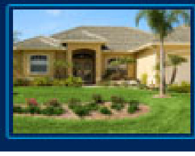
BOARDING HOUSES

Please ring for a discussion

Nickolas Dilles 0418 644 919

CENTURY 21





ONLY ever use the following terms:

Lodger/guest/occupant NEVER tenant

Premises/Private Hotel NEVER an individual room/apartment number

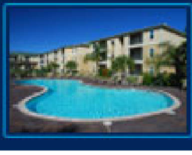
Contract	NEVER tenancy agreement
Deposit	NEVER bond

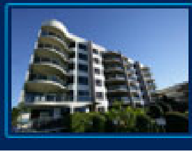
BOARDING HOUSE LAND TAX EXEMPTION APPLICATION DUE NOW

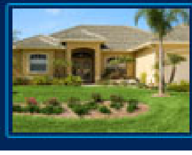
Where at least 80% of accommodation available to boarding house residents are occupied by long term residents and fall within the tariff criteria, then an application can be made for a land tax exemption on the property.

If less than 80% fall under this criteria then a pro-rata application can be made.

For full details go to the Office of State Revenue website www.osr.nsw.gov.au or phone 1300 139 816.







LAND TAX

ATTACKS THE RESIDENTIAL RENTAL MARKET

Who can afford to own a rental house when land tax ranges

From 25 to 100% of the rent?

Land tax on residential rental properties is one of the major factors leading to the flight of property owners

LAND TAX MUST BE ABOLISHED

ON ALL RESIDENTIAL RENTAL PROPERTIES

To retain and increase residential rental property owners.

JOIN THE LAND TAX CHAPTER OF THE POA

Contact your POA NSW COMMITTEE for more details: ph. (02) 9363-3949