

## Stephanie Cash

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**From:** Reg [reg@tica.com.au]  
**Sent:** Tuesday, 16 August 2011 11:56 AM  
**To:** Community Affairs Committee  
**Subject:** Re: TICA's response to submissions  
**Attachments:** community affairs committee.pdf

Dear Mr. Hoolihan

Please find attached a letter of response to the current submissions received by the committee.

Warm Regards  
*Reg Joshua*  
Manager



**Australia's Largest Tenancy Database**

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Mr. Paul Hoolihan MP  
Chair  
Community Affairs Committee  
Parliament House  
George Street  
Brisbane QLD 4000

By email [cac@parliament.qld.gov.au](mailto:cac@parliament.qld.gov.au)

Dear Mr. Hoolihan

Re: Residential Tenancies & Rooming Accommodation Amendment Bill 2011 (the Bill)

We write with great concern over the kind invitation to submit information to the Bill. Regretfully the invitation was received whilst the writer was overseas in Cyprus and not returning until the 28<sup>th</sup> July 2011. We further advise that due to illness the writer was away from the office until the 11<sup>th</sup> August 2011. We advise that we have only just reached you're your email and whilst we appreciate we are out of time in relation to a submission we feel that we need to comment on false information that has been submitted to your committee after reading the submissions you have received.

Prior to providing you with clarity on false information you have received we do advise that we would be prepared to provide you with an urgent submission if you have the power to allow us to do so and if not we respectfully accept your decision.

### **False information**

Veda

We write with concern over the comments made by Veda under the title Non-application to internal databases.

This was a direct comment about the TICA Virtual Manager system developed by TICA. We advise that the TICA Virtual Manager system was investigated by the Offices of Fair Trading New South Wales this year as a result of a complaint by the New South Wales Tenants Union.

We advise that the Offices of Fair Trading as a result of its investigation found that the TICA Virtual Manager did not breach state tenancy database legislation contained within the New South Wales Residential Act.

Should you require a copy of the Fair Trading findings we would be pleased to provide you with the same for your records. In addition we would be pleased to advise any member of your committee how the system works to demonstrate how it is an internal database and that all that TICA has done is automate a practice that was in existence by its members.

It is clear to us that Veda who is a small competitor within the tenancy database arena is attempting to use your committee as a tool to stunt the growth of TICA and we trust that you can view their complaint in the same light as TICA.

## Tenant Advice and Advocacy Service-Inner North

We advise we are extremely concerned over the false information contained within the submission of the above group.

We accept that they are not pleased with TICA but should refrain from providing your committee with false information about our company which can only lead to one questioning other information contained within their submission. Listed below are the points raised by the above advocacy group with our response under the appropriate point-

*1. Failure to remove tenants at time review. Some tenants have been listed for more than ten years.*

### **1 Response**

**The information is false and misleading. In April 2004 TICA established a uniform deletion time frame policy that was seven years in Queensland. TICA has adhered to such policy and we are pleased to advise that TICA has no tenant on its database longer than the seven years as per our policy. We further advise that our website clearly states that information may be listed up to seven years.**

*2. Failure to respond to tenant's request for information on listings.*

### **2 Response**

**The information is false and misleading. TICA has on its website a number of options for individuals to access its databases. These options are by mail (and must include a stamped self envelope) by fax, by phone being a premium number and by allowing advocacy groups access for the same charge as our casual members pay with large discounts for bulk buying. TICA responds to all requests and disputes by tenants.**

*3. Failing to keep costs reasonable when tenants are contacting for information. It is not uncommon for tenants to end up with a phone bill of over \$90 from contacting their 1900 number. Tenants report that operators are deliberately obstructive when dealing with tenants putting them on hold for long periods and being generally unhelpful, rude and aggressive.*

### **3 Response**

**The information is false and misleading. The offices of the Federal Privacy Commissioner in 2004 conducted Mystery Shopper phone calls and found that the allegations of TICA stalling were not true. This statement by TICA is supported by the findings of the class action in 2003 by the tenants union against TICA. TICA does not place tenants on hold nor does TICA have a phone system on its premium number that allows it to place tenants on hold. In further support of our truthful statement we were advised in April 2004 that the Federal Privacy Commissioner will randomly conduct further mystery shopper phone calls.**

*4. Failure to state any reason on the database for the listing and including such unlawful directions as "please call agent" so as to avoid scrutiny.*

### **4 Response**

**The information is false and misleading. Prior to amendments to NSW tenancy database legislation in January 2011 TICA did not contain reasons for listings. This decision was brought about as TICA did not want its databases to be the only reason why a tenancy was rejected. TICA wanted the inquiring member to make contact with the listing member to discuss a tenancy applicant. The comment "please call agent was not to avoid scrutiny as alleged but to have the members communicate with each other.**

5. Failure to remove tenants after a Queensland Tribunal Order stating they are to be removed. This includes leaving the tenant's details up on the database with a notation "Tribunal order for listing to be removed".

### 5 Response

**This information is false and misleading. TICA removes all listings from the database if an order has been issued by QCAT. This has been clarified in communication between TICA's solicitors and the Queensland Residential Tenancies Authority. We advise that we can supply evidence should your committee require.**

6. Relisting Queensland tenants themselves where real estate agents have been ordered to remove them. TICA state that they 'review' the details and if they don't believe that the tenant should have been removed they list under their own banner to ensure the agent isn't penalised but that the listing remains.

### 6 Response

**This information is false and misleading. As advised in point 5 above TICA removes all listing when ordered by QCAT. Where the member has failed to comply with legislative requirements by failing to advise a tenant of a listing and been ordered to remove the tenant TICA advises the member that they can re-list the tenant once they comply with the Residential Tenancies Act.**

7. Using an 'Enquiries' Database where they simply list people who have asked if they are listed. This is a clear breach of Queensland legislation which requires a list of reasons for listing and asking if you are listed if not one of them. What is also disturbing is that this Enquiries Database is available to anyone who is a member of TICA. So, for example, a woman escaping domestic violence who flees from Queensland to Western Australia and applies for a place in Perth is then easily locatable by her ex-partner if he is a real estate agent. There is no valid reason for any person to know where and when people are applying for properties. This is not a tool for managing tenancies it is a tool for stalking and abuse of privacy.

### 7 Response

**This information is false and misleading. The Enquiries database is a legitimate risk management tool as determined by the Offices of the Federal Privacy Commissioner in April 2004. TICA does not list information on the Enquiries database is captures the information when members make an enquiry on a prospective tenant. The Enquiry database is used by members to verify the information contained within a tenancy application form. If a tenant failed to truthfully supply who they previously rented through the Enquiries database is able to substantiate the information contained in the application form. There are very valid reasons to know where and when a tenant applies and the Enquiries database is not used for stalking or invading an individual's privacy.**

8. Trying to reposition themselves as a 'Tenancy History' database where they don't just list 'bad' tenants but all tenants. As stated in #6 this is not a valid reason for listing.

### 8 Response

**This information is false and misleading. From inception TICA set out to be a tenancy history database that merely recorded who a tenant rented through with no additional comments or facilities. This has now been set aside in some states as tenancy database legislation has emerged. The only recommended tenants that TICA has listed are those from states where no tenancy database legislation exists.**

9. TICA in a rather clumsy attempt to avoid legislation is selling a special "internal database" that allows real estate agents to track their tenants and see if they are about to "do a runner". This means that it is clearly not an internal database as it is linked to other TICA members. So if a tenant has the audacity to apply for another property then their existing agent is informed. This is clearly a breach of their right to privacy and of the current Queensland legislation. In what other context is a consumer monitored when they are shopping around? Imagine if you put in an application to change your phone company and get a better deal on a mobile phone and then your existing telephone company was informed? Imagine now that this company has the ability to make you homeless because you have put in this application and also to then contact this new vendor and give you a bad reference whether you listed them as a referee or not?

## 9 Response

**This information is false and misleading. TICA does not sell the TICA Virtual Manager it is an added value service for our members. When a tenant applies to another agent for a property they are required to complete a tenancy application and include who their previous agents were. At that point the new agent knows who their previous agent was and makes contact with that agent to verify the information contained within the application. The only tenants that the Virtual Manager would impact upon are those who falsified a tenancy application and failed to advise of who their previous agents were. If a bad reference were to be given because of TICA Virtual Manager then the same bad reference would be given by truthfully completed tenancy application. The TICA Virtual Manager does not create homelessness, tenants who have done the wrong thing or obtain poor references restricts approvals being easily granted.**

**Legislators have forgotten one major factor in attempting to introduce tenancy database legislation and that is supply and demand. Demand will continue to increase whilst supply will decrease as more landlord investors exit the market as their rights are eroded. Tenant horror stories continue to dominate the media which leaves landlord investors asking the serious question. Where is the incentive to invest in property?**

In relation to other comments we admit that we have made comments about magistrates and referred to them as idiots. These comments have been brought by sheer frustration as magistrates issue orders outside the perimeters of the Act. When agents and landlords are forced to act in accordance with the requirements of the Residential Tenancies Act only to have a magistrate throw out their case does not leave them in a position of trust.

We also accept that we have been critical of the Residential Tenancies Authority as there is no consistency in their telephone advice between their help desk operators. We invite your committee to have a series of the same questions and phone the help desk whereby they will more than likely receive several different responses thus leading to confusion within the industry between landlords, agents and tenants.

We accept that TICA is caught by rulings by QCAT and we do not recall saying that we were not and respectfully request that you require the advocacy group to supply hard evidence. We advise that we have also been critical of some real estate agents practices and practices by some landlords.

We submit that the submission by the advocacy group be questioned as it is without merit and contains unfounded allegations and written by one eyed negative individuals. We are not rogue traders seeking to undermine and circumvent the law but do seek new ways of protecting innocent landlord investors from that small group of tenants who constantly do the wrong thing and rack up thousands of dollars in unpaid rent and damages.

Whilst some may not be pleased with what TICA does or its market strength the fact remain that we are a reputable company respected within the industry with the sole intentions of protecting vulnerable landlords from that small group of tenants who do the wrong thing.

If a landlord or agent does the wrong thing they are prosecuted but there is no protection for landlords who loose millions of dollars each year in lost rent and damages.

In closing we apologise that we were out of time to make a submission and should you allow us we will prepare one. We felt that you and your committee deserved to know the truth which as stated can be supported by evidence should you require the same.

We trust you will give our explanation serious consideration and see through the lies by the advocacy group.

We remain

Yours faithfully

A handwritten signature in black ink, appearing to read 'P Nounnis', with a small dot at the end of the line.

Philip Nounnis  
Managing Director  
TICA Default Tenancy Control Pty Ltd  
16<sup>th</sup> August 2011