

Committee Secretary
Community Support and Services Committee
Parliament House
George Street
Brisbane Qld 4000

13 July 2021

Dear Committee,

Reference is made to the Housing Legislation Amendment Bill 2021 and the Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021.

We wish to draw the Committee's attention to several issues under the proposed legislation.

1. Housing Legislation Amendment Bill 2021

1.1 Division 3 - Approvals, refusals and conditions for keeping pets at premises

In our view, the exception in Section 184(E)(1)(f) of the Housing Legislation Amendment Bill should be expanded to refer to the by-laws or rules of non-strata titled (single title) unit complexes.

Section 184E(1)(f) of the Housing Legislation Amendment Bill states:

184E Grounds for refusing pets being kept at premises

(1) The following are the only grounds for a lessor to refuse a tenant's request for approval to keep a stated pet at the premises—

...

(f) keeping the pet would contravene a body corporate by-law or park rule applying to the premises;

The term "*body corporate by-law*" refers to by-laws under the Body Corporate and Community Management Act 1997 or Building Units and Group Titles Act 1980. The term "*park rules*" refers to the rules of a moveable dwelling park.

Separately, in Section 256B(3), the term "*house rules*" refers the rules applicable to rooming accommodation.

An exception is therefore created where the by-laws or rules of strata-title premises, parks and rooming accommodation are contravened.

There is no exception permitted for the by-laws or rules of single title multiple dwelling unit complexes.

While single title multiple dwelling unit complexes are typically owned by a single person or entity (as is often the case with parks and rooming accommodation), these complexes often use by-laws to govern how tenants deal with issues such as pets and use of common areas. Single title multiple dwelling unit complexes typically comprise two or three units but also include complexes with a higher number of units.

One of our properties is a seven-unit single title complex in Toowoomba. A set of by-laws was introduced in 2016 and these by-laws are provided to tenants upon signing of a lease. Our intention is to revise these by-laws to include more detailed terms relating to the keeping of pets. This would give clear guidance to tenants on the requirements for the keeping of pets. However, as Section 184E(1)(f) is currently drafted, these by-laws would not be considered an exception under this Section.

We would therefore request the Committee to consider expanding Section 184E(1)(f) to include the by-laws or rules of single title multiple unit complexes. This would place single title complexes on the same footing as strata title premises, parks and rooming accommodation.

We note that the Housing Legislation Amendment Bill is silent on whether a strata by-law under Section 184E(1)(f) that provides a blanket no pet rule will be valid although the Bill does state that 'no pets are allowed' is not a sufficient ground for refusal by a landlord (Section 184D(5)).

In our view, we anticipate that QCAT (or a Queensland appeal court) will adopt the approach of the NSW Court of Appeal in *Cooper v. The Owners - Strata Plan No 58068 [2020] NSWCA 250* such that a blanket no pet by-law would be considered oppressive or unreasonable under the Body Corporate and Community Management Act 1997 (Qld) and therefore invalid.

It is not our intention to use the by-laws to try to impose a blanket no pet rule on tenants. Our by-laws would clearly set out the requirements for keeping pets in the unit complex.

2. Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill 2021

2.1 Amendment of Section 93 - Minimum period before rent can be increased

We disagree with the proposal under this Bill to restrict rent increases to the equivalent of the CPI increase once every two years. Such a provision would negatively impact landlords who face increases above CPI level each year for expenses such as council rates, water rates, land tax, strata levies and insurance.

2.2 Section 221A - Right to keep pet

We disagree with the proposal under this Bill that tenants be allowed pets as of right unless the landlord makes a successful application to QCAT.

Our properties in Queensland rent on either a six- or twelve-month lease. It is therefore possible that we would need to submit over twenty applications per year to QCAT, depending on the type of animal proposed. While we agree that is unlikely that all our tenants would wish to keep a dog or other animal, this number of applications remains a possibility.

QCAT has previously confirmed (by email dated 7 November 2018 – at the time of our previous submission) that the estimated timeframe for hearing an animal related order (a non-urgent tenancy related matter) following the conciliation process managed by the Residential Tenancies Authority is twenty weeks from lodgement to hearing. Without some form of streamlined process, it is unlikely that a matter would be resolved until most of a six-month tenancy has expired.

It is likely that QCAT would require additional funding and staff levels to deal with the potential significant number of applications from landlords in Queensland seeking animal related orders.

Yours faithfully



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