Speech by

Hon. Robert Schwarten

MEMBER FOR ROCKHAMPTON

Hansard Wednesday, 15 February 2006

RESIDENTIAL TENANCIES (OBJECTIONABLE BEHAVIOUR) AMENDMENT BILL

Hon. RE SCHWARTEN (Rockhampton—ALP) (Minister for Public Works, Housing and Racing) (7.30 pm): Honourable members will recall the introduction of these proposed amendments to the Residential Tenancies Act 1994 by the member for Nicklin in October last year. Essentially, these proposed amendments would allow an individual to apply for the termination of a neighbour's tenancy on the grounds of the tenant's alleged objectionable behaviour despite the wishes of the tenant and the lessor or agent.

The fact is that our cities and towns are now of greater density than they were in the past. That increased density has resulted in people living much closer to their neighbours. I appreciate that, owing to this increase in density, there has been an impact on people's quality of life, particularly in relation to noise. As this is a problem relating to behaviour and is not a rental issue I do not believe that this amendment bill will resolve these issues and I oppose it—and so does the government—for several key reasons.

Firstly, there are existing residential tenancy laws as well as other laws relating to peace, good behaviour, noise pollution, and general community standards. The evidence shows that the measures and safeguards currently in place provide a sufficient solution in the majority of instances.

Already the Residential Tenancies Act allows a lessor or agent to take action on a tenant's disruptive behaviour. They can serve a notice to the tenant requiring the behaviour to cease. If that does not happen within seven days, they can then issue a notice ending the tenancy and apply to the Small Claims Tribunal to evict the tenant if they do not leave. In 2004-05 the tribunal dealt with 206 such applications. That is clear evidence that lessors take action when the situation warrants it.

Secondly, there is no evidence to support singling out tenants as the focus of such far-reaching measures. Although the member for Nicklin has labelled these people as the neighbours from hell, it is not always clear which neighbour's behaviour is considered objectionable. It is a minefield of subjectivity that places unfair power in the hands of some and not others. The 'neighbours from hell' label used by the member for Nicklin applies not only to people who rent their homes; this label can apply to homeowners, their children and their guests.

Thirdly, throughout 2005 the Residential Tenancies Authority liaised with key residential rental stakeholders representing a cross-section of this sector. Those stakeholders included the Property Owners' Association of Queensland, the Real Estate Institute of Queensland, the Tenants' Union of Queensland, the Queensland Public Tenants Association, Queensland Shelter, the Caravan and Mobile Home Residents Association, the Queensland Caravan Parks Association, and the Queensland Resident Accommodation Managers' Association. Not one of those parties supported the proposed amendments. The overwhelming view is that the current measures are adequate and that tenancy law is not necessarily the best way to deal with community behaviour issues.

Lastly, this year the Queensland government has already undertaken two significant reviews that are relevant to the issues the member for Nicklin is concerned about. This year there will be a full review of

the Residential Tenancies Act 1994 and last year my ministerial colleague the Attorney-General announced that there will be a review of laws governing relations between neighbours. The last comprehensive review of the Residential Tenancies Act was carried out 10 years ago. It was a thorough review taking over two years. It involved extensive consultation and discussions with stakeholder groups and resulted in significant amendments to the act in 1998 to ensure that the act remained fair and balanced. Between 2000 and 2003 a more specific review was carried out which considered issues identified by the Residential Tenancies Authority in its administration of the act. A key issue that was considered was the issue of tenancy databases. This work resulted in amendments in 2003, which I brought into this place, for a new provision to deal with listings on tenancy databases. It was the first of its kind in Australia and brought fairness to the system.

Last year I thought it was again time to undertake a comprehensive review of the Residential Tenancies Act. It is important that our laws remain relevant and effective. I am pleased to announce that the Residential Tenancies Authority will now begin this important work. The first step will be to give the public the opportunity to have their say. The authority will call for submissions by advertising in the media and on its web site. We are interested in hearing whether people believe that the act is achieving its intended objectives of balancing the rights and responsibilities of lessors and tenants. We also want to know whether there are serious problems that need to be addressed. The RTA will then consult with stakeholders to identify the key issues and report to me on options to address those issues. In my view—and the member for Nicklin is aware of this—the proposed amendments we are debating tonight are premature and potentially counterproductive.

In regard to the review announced by the Attorney-General last August, I understand its aim is to modernise and improve the laws governing disputes between neighbours and to encourage the use of informal methods of dispute resolution. The broad scope of this review extends to neighbourhood complaints about noise, property boundaries, parking, the erection or repair of fences and retaining walls, the height of hedges used as a fence, overgrown vegetation, overhanging branches, damage from roots, odour, rubbish and pets. We need to see what comes out of this review. Essentially, it is a matter of balance to ensure fairness for the whole community. There is no value in coming up with bandaid solutions that give only part of the community some options and leave the rest high and dry.

I am very concerned that there could be potential, though unintended, consequences as a result of this bill that could result in discrimination against renters and lessors being restricted in how and to whom they rent their properties and even an escalation of neighbourhood issues. It is my belief that this amendment would create more problems than it would solve.

With the imminent comprehensive review by the RTA and with existing safeguards in mind, I view this bill as completely unnecessary and short-sighted. Information about how Queenslanders can contribute to the review will be available on the RTA web site or by contacting the RTA. I encourage all members and their constituents to make submissions.

In summing up, the government and I personally do not see this bill in any shape or form as anything short of being a bandaid or a perceived bandaid solution that will create more problems than it will solve. In today's *Rockhampton Morning Bulletin* there is an article about an 18-year-old man who jumped over the fence and allegedly assaulted his neighbour. It would seem that both of them are homeowners. The bulletin reported that the family of the younger man is offended by his neighbour's behaviour—the dog mess in the yard, the noise and various other bits and pieces—and this assault was the result. This amending legislation will do nothing to ameliorate that problem.

To me, the legislation also smacks of a degree of discrimination against people who rent. Just because people do not have the necessary finance to own their own home does not mean they should be targeted by somebody in the neighbourhood who has the good fortune to own their own home. The suggestion that because people have the money to own a home makes them necessarily better mannered, better neighbours, or more law abiding is something that I think all sides of politics would reject. I think this amending legislation is no solution to the problem.

As I have indicated in this speech, we accept the fact that people who rent homes bring with them a necessity for fairness which can be established through the real estate agent having a list of those people who are not going to do the right thing. This parliament endorsed the fact that there are tenants who do the wrong thing and, therefore, landlords should be protected from them. There is a reason why people can be listed on that database. I think that is as far as we should ever go in discriminating against people on the basis that they rent.

Certainly in public housing tenancies we do not trammel the law. In accepting neighbourhood complaint, we take it through the necessary legal courses to have people evicted. As far as I am concerned, that is where it should end. In my view there is a terribly dangerous precedent to be set here by allowing vigilante behaviour in neighbourhoods against people simply because, for whatever reason, people do not like them because they rent. I think that would be an entirely dangerous precedent for parliament to set and I certainly will have no part in it. We will oppose this.

I am quite surprised that the member proceeded with this legislation given that we were having the review. My understanding was—and I may be wrong in my understanding—that the member was happy with the review of the RTA Act that we were having this year. We were happy to have his input and that of the rest of the community. I again say that the government will be opposing this amendment bill.

Time expired.