

THE UNIVERSITY OF
NEW SOUTH WALES



KINGSFORD
LEGAL CENTRE

The right to adequate housing, which is derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights.¹ Adequacy has a number of components:

‘Adequate shelter means ... adequate privacy, adequate space, adequate security, adequate lighting and ventilation, adequate basic infrastructure and adequate location with regard to work and basic facilities - all at a reasonable cost.’²

Drawing on General Comment 15 of the Committee on Economic, Social and Cultural Rights it has been argued that if a State is unwilling to use the maximum of its available resources for the realisation of the right, they are in violation of their obligations.³

Unaffordable housing crisis

While ‘housing affordability’ dominates national headlines around the difficulties faced by first home owners to buy their own home, in reality housing affordability for a growing number of Australians is the narrow and marginal manner in which they must try to maintain some form of secure housing through renting in the private market or public or community housing.

Between 1960 and 2006 average household incomes increased by 1.9% annually, whereas house prices increased by an average of 2.6% annually.⁴ Between 2001 and 2006 gross income grew by 31.2%, whereas housing costs grew by 62%.⁵ The growing gap between household income and housing costs has increased the demand for affordable housing.

Tax concessions available to home owners and investors are driving investment in, and demand for, housing.⁶ Demand for housing is not being met by supply of housing stock, causing the cost of housing to increase at a rate that has exceeded the growth of household incomes.⁷

With the cost of buying homes increasing at an exponential rate, would-be first home buyers are renting for longer periods, increasing the demand and cost of private rental accommodation. Commonwealth Rent Assistance (CRA) has not increased proportionately to the increase in renting costs. Between 2000 and 2005, rents in the private rental market increased by an average of \$64 per fortnight compared with an average increase in CRA by \$18.⁸ Furthermore, the CRA does not account for the differences in rental costs in different locations. For example, private renters in Sydney, an area with high rental costs, are eligible for the same maximum CRA as renters in areas where the average rent is much lower.

Competition for property is intense and anyone on a Centrelink income, such as older people, young unemployed people, single parents, people exiting prisons and people with disabilities, face extreme difficulty obtaining private rental accommodation. In KLC’s

¹ United Nations (1991) The Right to Adequate Housing, Article 11 (1): CESCR General Comment 4. Geneva: United Nations, Office of the High Commissioner for Human Rights.

² Ibid.

³ McRae, R. and Nicholson, D. (2004) ‘No Place like Home: Homelessness in Australia and the Right to Adequate Housing’, Australian Journal of Human Rights, Vol. 10, No. 2, p 36-37.

⁴ Yates, J. and Milligan, V. with Berry, M., Gabriel, M., Phibbs, P. Pinnegar, S. and Randolph, B. (2007) Housing Affordability: A 21st Century Problem: National Research Venture 3: Housing Affordability for Lower Income Australians, Melbourne: Australian Housing and Urban Research Institute.

⁵ Ngu, Q., Harding, A., Tanton, R., Nepal, B. and Yogi, V. (2008) Advance Australia Fair? Canberra: National Centre for Social and Economic Modelling (NATSEM) and AMP.

⁶ Yates, Judith for the Brotherhood of St Laurence, ‘Tax expenditure and housing’ Australian Housing and Urban Research Institute’ (2009) and Hodgson, Helen, ‘Explainer: why negative gearing is bad policy’ The conversation 4 February 2014 at <https://theconversation.com/explainer-why-negative-gearing-is-bad-policy-21882> viewed on 24 March 2014.

⁷ Ibid.

⁸ Ibid.

catchment area, there is also fierce competition with many well-resourced domestic and international students who are seeking accommodation near UNSW.

The housing affordability crisis in NSW is also felt acutely by a wide range of other groups, including less well-resourced students, community workers, low paid and casual workers and people with a less than perfect renting record. In our experience there is a hidden group of people who are moving constantly from insecure accommodation, to insecure accommodation and in some cases into hospitals or prison and back into insecure accommodation.

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Sebastian

Sebastian is over 80 years old and lives with a vision impairment and significant mental illness. His English is limited. He lived in a Housing NSW flat with his partner, who was also his primary carer. The lease for the flat was in his partner's name. While in hospital for treatment his partner took out an interim AVO against him which meant that he could not return to the flat. He did not have any family he could stay with. The Hospital's Social Worker became aware of the housing situation, but could not extend his stay at the Hospital. The Social Worker and KLC assisted Sebastian to apply for social housing in his own right, but Housing NSW advised that it could be over a year before he was found a place to live. Sebastian was offered limited emergency housing in motels, but this eventually ran out. He began to sleep in parks or on friends' couches.

KLC advocated on Sebastian's behalf with Housing NSW, and co-ordinated support letters from medical professionals and social workers. Because of his age, disability and basic English he was unable to do this himself. After daily contact from KLC for over three weeks Housing NSW eventually offered him the lease to a unit. In the mean time he experienced more than a month of homelessness sleeping in parks, friends' couches or hospital, a truly appalling situation for an elderly blind man.

Community services have often become the services of last resort for public housing tenants who are facing significant difficulties in their lives, and are often inadequately resourced to deal with the complexity of the issues these clients face.

Repairs and maintenance

We are also concerned about Housing NSW's failure to maintain the quality and quantity of their housing stock. Tenants with disabilities and health problems suffer extreme hardship living in decaying, dangerous and inappropriate public housing.

Housing NSW is regularly not complying with their obligation under the Residential Tenancies Act 2010 (NSW) (RTA) to maintain their housing stock in a reasonable state of cleanliness and fit for habitation.¹¹ The shortage of public housing stock has also meant that many people live in unsafe and inappropriate housing because they have nowhere else to go.

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David

David is 67 years old and has lived in public housing for the past 8 years. His home is covered in

Communication

Tenancies Act 2010 (NSW) to maintain properties in a reasonable state of cleanliness and fit for habitation;

- x establish a low cost, user-friendly independent body that has the power to review decisions made by Housing NSW and community housing providers and make binding decisions; and

We also support the following proposals developed by NCOSS set out in their 2014-2015 pre-budget submission.¹² NCOSS recommends that NSW Department of Family and Community Services (FACS) and the NSW Department of Planning (as appropriate):

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