

# Property Owners' Association of Victoria

<http://www.poa.asn.au>  
[www.poavic.org](http://www.poavic.org)



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Dear Minister and Team

Re: RESIDENTIAL TENANCIES ACT REVIEW - <http://fairersaferhousing.vic.gov.au/renting>  
**Issues Paper & funding for POAV**

Congratulations of your promotion Minister and thank you for the opportunity to comment, especially from the private owners side in cities and towns, further to our comments of 1/5/16.

Overview: The Property Owners Association of Victoria Inc (POAV) represents the SUPPLIERS & providers of privately owned rental properties in Victoria. The POAV represents the interests of all lessors, about half of whom self-manage and may use agents as managers for some functions. This sector may use agents for specific tasks, including advertising, accessing RTDs, preparing leases and lodging forms, nominating tradespeople, collecting rent, acting in the Tribunal etc. The remainder has very little knowledge of the industry or the legislation and employs agents full time. The majority of investors generally sell out within a few years when losses accumulate too fast and they become aware of the enormous tenant default rate.

## Our issues are:

1. to fund the POAV equally to the Tenants Union in the interests of equity. This funding is derived from Rental Bonds which is held in trust for both lessors and lessees yet has been used solely in support of the Tenants Union.
2. to allow half the bond to be held by owner/agent to pay for small repairs or cleaning till sorted responsibility later
3. to end the use of the word "landlord" as sexist, antiquated and derogatory leading to false connotations of wealth (refer ACT legislation where "Lessor" is used)
4. to end RENT CONTROL on rental businesses
5. to end the LESSOR-CANNOT-WIN Tribunal Order system that sees Orders disregarded by tenants
6. to end subletting or licensing without owner's prior permission in residential tenancies leases
7. to require landlords Insurance companies to pay assessed damages ASAP but permit them to apply to the Tribunal in lieu of the Lessor.
8. to speed up "fast-track" evictions so that there is some bond left and to reduce the default rate that is encouraged by these "rent holidays"
9. to advocate that Land Tax be waived for all rented residential properties. A previous Review of Land Tax under a Labor Govt reported that Land Tax was particularly regressive on low income rental housing, and this Government should immediately continue the exemptions for all low cost housing.
10. to advocate abolishing Land Tax altogether, especially to abolish it for older owners who require a pension income and to abolish aggregate land tax. Land Tax has been abolished in NZ and UK after their GSTs, we were promised the same. Land Tax in Victoria is the highest in the world, is an antiquated income tax that has lost all relevance and fairness, especially in housing. The previous Baillieu Government promised to reduce Land Tax when it was in surplus: now that the Andrews Government is in surplus, it should carry out that promise.

## Comments on REIV submissions.

We agree with many of the comments but disagree with a few of its comments the thrust of which calls for more unnecessary additions at owners' expense. Despite the hubris and hype from the media, most owners are not able to absorb extra costs. Further losses only hasten investors selling out.

We agree with calls to expedite decisions and payment of arrears and to allow flexibility in rental agreements “so that tenants and landlords can agree on terms, which aren’t specifically excluded by the Act.”

We agree with the call to improve the Tribunal and legislate to remove its bias, some of which comes as indicated from members continual sitting on eviction cases. However, we are not welfare providers. We appreciate that is not going to happen soon as VCAT is reliant on the sympathetic status quo that increases the default rate. As in the illegal refugee debate, excusing default is only increasing hardship. In the meantime, there should be broader consultation with owners as previously occurred in training sessions/seminars that we attended after being invited, until that stopped.

Any limitation on the owners letting properties where zoned “residential” would be discriminating against both owners and tenants. It is necessary for the owner and tenant to agree on the use of the property prior to granting a lease. Every property is different. For example, a residential property on a main road is different to one in a quiet cul-de-sac, or where planning rules permit existing use or heritage use, it may allow particular business uses in residential zoned properties or in class 2 buildings. Consequently we disagree that “There should be one standard tenancy agreement form for all tenancies.”

#### **Comments on TUV Ltd submissions.**

The Tenants Union of Victoria Ltd is funded with millions of dollars, is a private company, receives all its funding from Government Grants, yet uses lawyers to represent tenants who are evidently quite capable of representing themselves, and are already fully assisted by the Tribunal, as indicated in a recent reported case involving AirBNB. This extra assistance by the Tenants Union is unjustified and unfair as well as furthering the NO-WIN result for lessors and consequent further default by tenants. It is noteworthy that their cause was unjustifiably supported by a biased Tribunal and the owner won against the Tenants Union in the Supreme Court. We ask: Why are they allowed to be publically funded but the Property Owners’ Association isn’t and we have just as many members as them and just as many persistent causes where our Members are being prosecuted in the Tribunal for ridiculous things like \$30 million compensation for something they didn’t do and which causes them to have to engage lawyers to appear against these pests. Their costs and their management /compliance costs are continually increasing only to be met with derision from the Government and lack of support for the right people, and the right tenants.

#### **COMMENTS ON “Regulation of property conditions in the rental market” Issues Paper**

The existing fines and penalties against owners are massive at over \$30,000 per property and there are no effective fines or penalties against tenants, they are never prosecuted for breaches of the Act listed as an offence, despite it happening over 10,000 times a year by tenants, see above. Many of these offences by tenants are by recidivists, and the manipulation of the law by your Ministry to allow this continual criminal behaviour by recalcitrant tenants to persist, only makes tenancy more expensive for good tenants and hastens the speed with which owners leave the rental market. The only people calling for more regulation over and above the existing Building regulation on owner-occupied property, are the tenants union who regard the presence of the “low hanging fruit” minor condition problems as a means of self-justification to claim millions of dollars as part of the “grievance industry”. The market is self-correcting, and rental properties are many times better than existing average owner-occupied properties already, as owners are not only forced by the competitive market to continually upgrade, but also forced by tenant vandalism and carelessness, to continually upgrade appliances and renew the properties at a far greater rate than normal, before finally reaching a point where they decide its not worth it, and sell out, in many cases, for a loss. The overwhelming opinion of the public and the Industry is that Residential Tenancy has been destroyed by too much Consumer Protection legislation, so that boarding houses are now needing relief from taxes and require in many cases, massive subsidies to continue. With increasing regulation now on owners/managers, the exodus will increase, and the tenants will have no-one else to blame but this State Labor Andrews Government.

We urge you to give consideration to our views and meet with us.

Yours sincerely,  
Raja de Alwis, Secretary of POAVIC, for  
**Property Owners’ Association of Victoria Inc.**