



Shelter SA Submission to the Residential Tenancies Act Review 2012

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Introduction

Shelter SA (Shelter) welcomes the opportunity to contribute to the review of the Residential Tenancies Act (RTA) 1995. A significant number of recommendations from a [2003 Shelter SA submission](#) have been adopted or proposed by Consumer and Business Services (CBS) as recommendations in their [2012 discussion paper](#). Shelter has continued to raise issues that relate to both tenant and landlord rights and responsibilities over a period of many years. The current review of the RTA presents CBS and the Attorney General's Department (AGD) with an opportunity to develop legislation that is responsive to diverse rental markets and tenant and landlord rights and responsibilities that also has the potential to contribute to the growth of the rental sector and facilitate improved relationships between tenants and landlords.

Shelter is the South Australian peak body for housing and homelessness. Shelter advocates for the interests of low income South Australians, particularly those who are living with disadvantage and their housing needs through policy work, advocacy, research and education. Shelter promotes the right of every person to access and maintain affordable, safe and secure housing that they identify as appropriate to their needs. Shelter is a member organisation and members represent a diverse range of stakeholders including government and non-government organisations, private sector agencies and interested individuals.

The Shelter submission is structured to provide background to some of the issues, tensions and complexities of residential tenancies legislation through referring to literature and government reports. In 2011, Shelter conducted a consumer consultation around the South Australian Housing Strategy Green Paper, and some content from that [submission](#) is reproduced here to illustrate common issues that participants who were also renting, experience. A range of recommendations follow, including general legislative recommendations related to the RTA and a response to the recommendations in CBS's discussion paper which should be read in conjunction with the [discussion paper](#) and the existing legislation.

Background

Rental properties accommodate a significant proportion of the South Australian population. According to the 2006 Census 25.6% of private dwellings were rented.¹ While the percentage of the South Australian population that rents their housing has remained at around 26%, Burgan et al (2009) report that there have been movements *within* the rental market over time (i.e. between public housing and the private rental market). In this paper, public housing is defined as housing currently provided by Housing SA, the South Australian State public housing authority (formerly the South Australian Housing Trust). Community housing organisations are defined as non-government organisations established as Housing Associations and Housing Co-operatives that are registered under the South Australian Co-operative and Community Housing Act, that may or may not own their own properties and/or manage Housing SA properties. Burgan et al (2009) note a significant shift into public housing in the 1980s and then from public housing into the private rental market in the 1990s and 2000s. The movements within the rental population mirror the rise and decline of the number of Housing SA properties during this period (Dev and Spoehr, 2009). According to a report produced by the Australian Housing and Urban Research Institute (AHURI) more than one million

¹ This percentage accounts for all rental markets including private, community and public rental housing.

lower-income households that comprise the lowest two quintiles of household income, rent their housing and twice as many lower income households live in private rental compared to public housing (Hulse et al., 2011). Residential tenancy legislation only affects about one quarter of all Australians however, it plays a significant role in the lives of people living on a low income.

The rental market is comprised of public and community housing and private rental. It has been reported that in 2010-2011 there were a total of 5,090 community housing properties and 49,932 public housing properties including special needs housing, Aboriginal, community and Indigenous community housing stock (South Australian Housing Trust, 2011). Federal and State housing policies, with eligibility criteria increasingly targeting people with the highest needs, relies on the private rental market to house people on low incomes who do not meet eligibility criteria. Public housing stock is decreasing at the same time that home ownership is becoming more unaffordable (Burgan et al., 2009) and this places increased financial pressure on low income households. Burgan et al (2009) report that 19% of all South Australian households rent their housing in the private rental market in comparison with 6.6% and 7.2% of households that rent from the State housing authority and other tenure types respectively. These figures demonstrate that a larger proportion of people rent their housing within the private rental market. As private rental is based on free market principles there is a greater need to recognise tenant rights and protections within legislation and this is reflected within this submission.

The proportion of family income spent on rent increased to 24.7% nationally during the Global Financial Crisis (GFC) and has not dropped since that time (Schlesinger, 2012, 7th June). In the first quarter of 2012 the proportion of family income spent on rent in South Australia was 26.3% (Schlesinger, 2012, 7th June). This figure falls just below the 30% indicator of housing stress but it does not represent the rent paid by all South Australian citizens. The difficulty in accessing affordable rental housing for low income households and people living with disadvantage has been highlighted recently by Anglicare in their rental affordability snapshot where it is reported that less than 2% of housing advertised on April 14th, 2012 was both affordable and appropriate for low income households living on Centrelink income support payments (Anglicare Australia, 2012). Low vacancy rates combined with high median rents demonstrate that the private rental market is under pressure. SQM Research² and the website realestateview.com.au³ report low vacancy rates and median rents that range from \$250-\$320, depending on property type.⁴

The South Australian Housing Strategy Green Paper included efforts to address affordable housing, the definition being a measure of 30% of income paid on rent or mortgage. Using the 30% measure of affordability as a benchmark, participants in the Shelter 2011 consultation were invited to calculate the percentage of their income that they spent on rent. Overall participants were paying between 30% (only one Housing SA tenant) to 50% (remaining participants) of their income on rent or mortgage, but when asked to include utilities and food expenses this measure increased to between 50% and 60%, with one person reporting that they were paying 86% of their income on the combined expenses of rent, utilities and food.

² <http://www.sqmresearch.com.au/>

³ <http://www.realestateview.com.au/>

⁴ See also DCSI's quarterly rent report available at:

<http://www.dcsi.sa.gov.au/pub/tabId/256/itemId/1256/moduleId/1063/Housing-SA-publications.aspx>

Tim Seelig's work is quoted in many academic articles, in particular the way he uses the concept of 'structures of housing provision' as a framework for analysis of the private rental sector (2001). Seelig explains that traditionally, private rental housing has been seen as a transitional form of housing during the housing careers of Australians (ibid.). Today however, private rental housing is 'residual tenure of last resort' for low income households (Yates, 1996:38) and a number of researchers highlight a range of problems and issues in private rental housing that affect lower income households including: The supply of lower cost private rental housing, housing affordability, access to housing, repairs and maintenance, and security of tenure (Hulse et al., 2011, Seelig, 2001). Seelig (2001) contends that housing affordability in the private rental sector is a major issue for low income households with rents increasing beyond the budget capacity of many people. The increased costs of living including utilities, transport and food combined with a decrease in the amount of affordable housing available contribute to affordability issues.

Tensions inherent in RTA

In the context of increasing housing unaffordability and the significant role the private rental market plays in housing South Australians it is important from a Shelter perspective to revise the RTA legislation in order to properly protect tenants, especially those on a low income, while recognising the rights and responsibilities of tenants and landlords from all sectors, private, public and community. It is acknowledged that the growth of the public, community and private rental sectors is important to address housing affordability. Shelter members include community housing providers and it is acknowledged that they and public housing providers are very important social landlords that have a particular expertise that is reflected in their approach to tenancy management of people who are on low incomes and living with disadvantage. Public and community housing providers have limited capacity to charge market rents and a corresponding limited capacity to pay for expenses such as rent arrears, intentional damage to properties and abandonment however, the Shelter recommendations in this paper aim to align with its mandate to advocate for tenants *and* the interests of its members. Where there are tensions between the two interests, the recommendations are more often in favour of tenants, with due respect paid to landlord interests but anticipating a strong representation amongst submissions to the CBS review emanating from private and industry landlords. It is not Shelter's intention to make assumptions about any particular landlord, private, public or community but to address the instances where tenancy legislation is disregarded because tenants have a low awareness of their rights and responsibilities and potentially are further disadvantaged by differences in their power and status compared to that of their landlord. Shelter recognises that any residential tenancy legislation amendments must balance incentives and disincentives for landlords, government and non-government organisations, private investors and developers to invest in the rental market with both tenant and landlord costs, rights and responsibilities.

The majority of investors in private rental housing in Australia are small, rental investors opposed to professional and corporate investors who use mortgages to purchase dwellings (Seelig, 2001:8). Another category of landlords whom Seelig categorises as 'low cost private rental housing providers' are more likely to have inherited their dwelling or have previously resided there. The low cost landlords identified a number of reasons for wanting to sell rental properties but the most common issue was that being a landlord was 'too much work or worry' (Seelig, 2001:10), however, what the

work and worry consists of is unclear and assumptions should not be made about a negative effect on supply and decisions about whether or not to invest in private rental.

Wait (n.d.) writes that ‘whenever tenant’ advocates focus on the need to offer greater protection to tenants through tenancy legislation, there is a cry from industry that it will lead to disinvestment. Concerns about landlord disincentives are not supported by research that indicates how taxation incentives have more influence on landlord decisions to invest in properties for lease rather than tenancy legislation (Wait, n.d.). Wait (ibid.) goes on to say that ‘while residential tenancies legislation may be perceived as an impediment to control of their investment by some investors, data suggests that there is no discernible effect on the supply of private rental housing from the introduction of reforms to tenancy legislation.’ In terms of housing supply, Shelter calls upon the State government to consider and publicly debate alternative means of growing private, public and community rental stock to address affordability and accessibility housing issues in the interests of all South Australians, but particularly those on a low income.

Supply of housing is a key issue and one of the ways that housing is provided is through the investment of private landlords in properties that are leased. To adequately address the issue of supply (noting that private rental is a key market for housing over a quarter of the South Australian population) landlords must have incentive to invest in conjunction with the protection of tenant interests and rights. The private rental market is a business within the free market and private landlords also fulfil an important social function however, often rights based on free-market ideology exist in a contentious relationship with the rights of consumers, especially when these rights are basic human rights that are enshrined in the UN declaration of human rights.⁵

Issues for Tenants

In 2011 Shelter conducted a consumer consultation as part of a submission to the South Australian Housing Strategy Green Paper. Participants in the consultation were representative of a wide range of incomes and housing tenures, including many living on a low income and with disadvantage. Shelter engaged participants in discussions about where they lived in which they implicitly talked about what they needed, wanted and valued about where they lived. Needs, wants and values discussed by the participants included: neighbours; freedom to do what you want; choice about where you live, who you live with, type of housing; near things you like and want; near to friends and family; how long you can stay where you are; quality of housing and maintenance; your safety; your health. Some of these major themes are discussed in the following sections as important considerations for tenants in the rental market.

Security of Tenure in the Private Rental Market

Seelig’s (2001) statistics about private rental households and residential stability, show that there is little stability for all private renters regardless of income, that relates to a lack of security, stability and control that tenants can exercise over their own circumstances (Hulse et al., 2011) given the provision for and practice of short-term lease agreements and the relative ease of a tenancy termination as outlined in Part 5 Divisions 1 and 2 in the RTA. Many evictions are a direct result of rent arrears, so affordability also has an effect on security of tenure which is of particular

⁵ Article 25 UNITED NATIONS 1948. Universal Declaration of Human Rights. *In*: NATIONS, U. (ed.).

importance to tenants living on a low income. As identified by participants in the Shelter 2011 consultation, security of tenure is a very important consideration to people on low incomes who are living with disadvantage and for some, the most important consideration about where they live. The South Australian Housing Strategy Green Paper explicitly refers to communities and place-making however, when tenure is insecure and short-term it is unlikely that tenants will develop a sense of belonging or self-identity to their immediate surroundings, or any of the relationships that are an integral part of a sense of community.

Reciprocal relationships, a common physical location and common social connections are elements of communities, and other essential elements are 'a sense of security, a sense of significance and a sense of solidarity' (Clark, 1992), in other words, feeling safe, a valued role and togetherness. A sense of identity and belonging are also central, subjective elements of meanings of community. Practical definitions of community incorporate the way people experience where they live and both positive and negative aspects of their surrounding geographic areas, neighbours and the length of time people have resided in an area affect how they identify with their surroundings. Relationships between people are an integral aspect of how place is experienced and governments cannot easily influence how and why these are formed. If governments are serious about creating communities and place making, attention must be paid to security of tenure in both the public and private rental sectors, using a flexible approach for both tenants and landlords.

Another way that tenants can establish a sense of belonging is by being able to make changes and improvements to their rental property, when they have been approved by their landlord. In a study of residents of a London Council Housing Estate Miller found that changes to State-provided houses, in particular the kitchens, was a way in which the inhabitants entered 'into creative strategies of consumption to appropriate that which they have not themselves created' (1988:370). The decorations and renovations carried out by the participants in Miller's research provided a means for them to create, inhabit and in a sense own their domestic spaces by the creation of inalienable domestic culture through consumption (ibid.).

When security of tenure is the most important consideration another tension is created between the *needs* of private rental tenants and the *rights* of landlords. For some tenants, short term tenure represents flexibility but it is likely that this applies to more affluent tenants rather than those living on a low income (Seelig, 2001:13). For people living on a low income, the costs of moving and possible discrimination in the private rental market mean that moving in response to their needs and choices around decisions to move are not a financially viable or practical option. The termination by landlord clauses (division 2 subsections 81 and 83) further contribute to insecure tenancies. According to Wait (n.d.) termination of a tenancy can be in response to something a tenant does that does not constitute an exercise of their tenancy rights, such as the landlord or their family wishing to move into the rental premises, and is therefore not subject to challenge by the tenant. Termination notices resulting from subsection 83 in particular can however, be served in response to actions initiated by the tenant to assert their rights under the RTA or Housing Improvement Act and therefore punitively applied. In addition to reactionary measures by a landlord, a tenant may choose not to challenge these terminations because communication with the landlord has broken down or they are unable to wait for an RTT hearing before commencing a search for new accommodation (Wait, n.d.).

Residential Parks Act

Residential parks offer a form of affordable accommodation for older people to live as self-sufficient individuals in a village environment. Residential parks differ from caravan parks as residents own their own homes and lease land long-term while caravan parks are predominantly used as short-term and holiday accommodation, with the accommodation being rented. It is acknowledged however, that some long-term residents live in caravan parks and that caravan parks are used as a means of emergency accommodation for people in crisis.

The South Australian Residential Parks Residents Association (SARPRA) has raised concerns with Shelter regarding their protections under the current Residential Parks Act (RPA). A major concern they have raised is related to security of tenure in the case of bankruptcy of the park owner. Other concerns they have raised relate to the reforms proposed in the CBS discussion paper, including:

- The need for standard lease agreements;
- Alternative options for rent collection;
- Disclosure of impending sale of residential park;
- Provision of accurate utility charges to tenants and;
- For presiding members of the RTT and mediators to have knowledge of the RPA.

Protections that ensure the rights of residential parks residents may be best incorporated within the RTA or need to be considered in a review of the RPA.

Quiet Enjoyment

Few, if any people would argue that landlords do not have a right to sell their property and this stance is rarely questioned. Market ideology reinforces favouring owner's rights above tenants' during the sale of a property. Tenants are however, *paying* to assume their right to reside in the property, to quiet enjoyment of the property and to feel safe and secure, in a contractual arrangement with their landlord and according to tenancy legislation. The sale of the property opens it to public inspection potentially causing a recurring impost on tenant time and costs to clean and tidy the property and outdoor areas. [Residential Tenancies Fact Sheet 7](#) provides a guide for open inspections and elaborates on what is considered reasonable in terms of the timing of inspection, notice required to the tenant and the length of the inspection. In respect to auctions, it is stated that five open inspections plus the auction is reasonable. There is no recent research however, that explores these recommendations or the tensions created between the rights of both parties when a rental property is being sold and further investigation is required into how people might approach the idea of tenant compensation for interruption of their quiet enjoyment and costs associated with preparing for open inspections.

Housing is a basic human right and access to appropriate, affordable and secure housing is fundamental to the creation of a just and equitable society in which people can realise their basic needs, establish a sense of belonging and realise their aspirations. Maslow's (1943) hierarchy of needs theory suggests that the most basic level of needs (physiological and safety) must be met before people can address other needs or attain a sense of community:

If both the physiological and the safety needs are fairly well gratified, then there will emerge the...belongingness needs...He will hunger for affectionate relations with people in general, namely, for a place in his group, and he will strive with great intensity to achieve this goal. He will want to attain such a place more than anything else in the world...

(ibid.:380-381)

Housing that meets shelter and safety needs is the basis on which greater social participation can occur however, accessing and maintaining secure housing can be a challenge in what is traditionally seen as a transitional form of housing that is marked by short-term recurring lease agreements. The sale of a property contributes to insecure tenancies and asserts the supremacy of landlord rights over tenants. When the sale of a private property is entered into, how and when open inspections are conducted needs to be considered in light of the tenant's right to quiet enjoyment of the property and must not contravene this right. Open inspections should be negotiated between tenant and landlord and not be overly-onerous on tenants, especially their financial circumstances.

It is not Shelter's intention to argue for legislative changes that would unfairly disadvantage landlords who do play an important social role. It is Shelter's role however, to advocate for the rights of tenants including their right to quiet enjoyment of a rental property, which is indeed a right that tenants pay for. It is noted that recommendations 28, 29, 30 and 31 in CBS's discussion paper deal with negotiating entry for open inspections and properly informing tenants of intention to sell and sale of a property. These recommendations do not go far enough in recognising that open inspections in particular contravene the contractual right of the tenant to quiet enjoyment of the property. The inconvenience and disquiet caused by open inspections must be balanced by limiting the frequency of open inspections and compensating tenants for the period of the sale. Compensation may be comprised of a nominal reduction in rent or the provision of cleaners so as not to unfairly over-burden tenants. There is scope to develop agreements such as those described by the [Tenants Union of Victoria](#) between the landlord, agent and tenant outlining the frequency of inspections and any form of compensation.

Sharehousing

The issues for young people who share private rental properties emerged as being particularly poignant during Shelter's 2011 consumer consultation. One participant who had shared with people he did not know had discovered that the other tenants were manufacturing drugs at the property. He did not feel safe there, the bathroom could not be used as it was a 'distillery' and he came home one day to find all of his belongings dumped outside – he had been 'evicted' by the other tenants. He said that "I wouldn't do that again, it was a bad property." The same participant adapted a 'sleep-out' for his own use as a bedroom in his current share property, including a source of electricity and flooring. The tenant felt that when the landlord did the next inspection, he had potentially financed an 'extra bedroom' from his own resources, and the landlord immediately put the rent up as many landlords rent 'per-tenant.' Being left with large utilities bills and house-mates moving out unexpectedly had left some younger participants with costs and unpaid rent that they could not afford – potentially resulting in being unable to connect utilities in the future because of being left with a debt. Overcrowding is an issue for young people sharing, and participants gave examples of six or seven people living in a three bedroom house. One participant said that he did not know if his name was on the lease or if the landlord knew he had moved in and that he did not know who the landlord was.

Share-housing can be hazardous for tenants, regardless of their age, because this form of housing is an illegitimate practice that does not offer protection for either those who are listed on the lease or those who are not and has a financial impact on tenants, as the above anecdotal evidence illustrates.

It is acknowledged however, that these very aspects also make share-housing attractive for people who may have a bad rental history, for those who move regularly and for affordability. For these reasons Shelter remains cautious about recommending excessive regulation of share-housing. Instead, increasing awareness of rights and responsibilities covered under the RTA amongst members of the South Australian population who commonly share-house may lead to more informed and empowered tenants capable of making decisions about share-housing. Such awareness-raising may be accompanied by tools developed for use by those who share-house. The 2003 Shelter SA submission to the then proposed review of the RTA recommended that a model share-housing agreement be developed:

Shelter SA recommends that the OCBA [sic] facilitate the development of a model share housing agreement covering matters between occupants of share housing, including sections regarding the development of appropriate arrangements for payment of utilities, rent and other bills and suggested means of resolving disputes.

In 2008 Shelter developed a [share-housing guide](#) in collaboration with the Law Foundation that could act as a toolkit for people who share-house. Shelter has made a commitment to working with stakeholders to increase awareness about share-housing issues and disseminating currently available information.

Maintenance

Maintenance and repair issues are directly related to tenant satisfaction and positive tenancy outcomes in public, community and private rental. When housing quality is poor, tenant satisfaction can be low and have negative impacts on tenant health and well-being. Housing planners have emphasised the role of personal autonomy in housing satisfaction, and when tenants have some control over the major decisions affecting their homes and environment they experience social well-being (LeBrasseur et al., 1988:301). Understanding this link, many Australian and international community housing organisations utilise tenant satisfaction surveys to inform their quality improvement activities and maintenance is always flagged as an important issue by all stakeholders. From the tenant perspective maintenance relates to amenity and control over their housing, and from the landlord perspective, is important because of the costs involved and a program of work to conduct the maintenance. Anecdotally, some landlords attend to maintenance themselves, or ask relatives and friends to conduct repairs as they do not wish to pay qualified tradespeople to save on costs. Some tenants report that they avoid asking their landlords to attend to maintenance for fear that their rent will increase, and make their housing unaffordable. Participants in the Shelter 2011 consultation discussed maintenance as follows:

The most significant issue that participants discussed in relation to this aspect of housing was problems with getting things fixed in public and private rental properties. There were often lengthy delays in getting maintenance done and hesitancy in requesting maintenance for fear of rents being increased. Several participants talked about their experiences of requesting maintenance and said that often it was carried out by landlords or the relatives of landlords and that work was not of a professional or adequate standard – even though they did not expect things to be perfect, leaking water and blocked drains were of concern. Two participants said that fixing one problem, such as hot water “hammering” from the pipes, would result in a leaky tap, and a further need to contact the landlord. Another participant talked about their past housing as being infested with redback spiders and despite repeated requests for the spider problem to be addressed, nothing was done by the landlord.

The Shelter consultation participants also talked about “putting up” with sub-standard housing for small trade-offs in affordability and not being evicted. Participants also talked about not complaining to landlords and agents about rent increases for fear of being evicted. This is an important issue for consideration of ideas about tenant satisfaction and how this relates to social well-being that should be taken up by all landlords.

Tenant Blacklist

Little research has been conducted about the existence or use of tenancy blacklist databases in South Australia. Anecdotal evidence collected by Shelter indicates that tenants who have been informed that their names have been placed on a ‘blacklist’ experience difficulties in securing private rental housing. One person who contacted Shelter to ask for assistance reported attending more than 30 open inspections and had still not secured a property. The same person indicated that she had initiated Residential Tenancy Tribunal proceedings against her landlord due to maintenance issues and this was the reason given by the landlord for placing her on the blacklist. If the blacklist exists, it is not known who maintains the list, who has access to it, how people can be removed from the blacklist or what the implications are for residential tenancy legislation and further research is required to understand these issues.

Vulnerable Groups of People

Disadvantaged and vulnerable tenants

A review and clarification of the definition of reasonable wear and tear in the RTA is vital for people who require wheelchairs to remain mobile, specifically when this results in maintenance issues and increased costs associated with maintenance for both landlords and tenants as reported in McLoughlin and Tually (2012). A distinction is required between intentional damage and unintentional damage for the cohort of tenants living with physical disabilities. It is difficult to comment on who should be responsible for the costs of unintentional damage but clear that people living with physical disabilities who are also on a low income, have little or no capacity to pay any increased housing costs in addition to their rent. People living with disabilities can require modifications to their homes to accommodate their disabilities and this issue is also difficult to resolve. It is recommended that CBS consult with peak disability bodies and those providing disability services as well as people with disabilities and their families, taking into account the Disability Act to address these issue that continue to have a negative impact on housing and affordability for people living with disabilities and their families.

It is understood that CBS do not routinely collect data about cultural and linguistic diversity (CALD) amongst tenants that appear at the RTT. Anecdotally, it is less likely that CALD tenants will initiate RTT applications and if they are called to the RTT, are more likely not to appear. CALD tenants may have less understanding of their rights under the RTA, RTT processes and lack English reading and speaking skills. It is suggested that routine data collection by CBS could include cultural and linguistic information to assist the Tribunal to identify clients who may require interpreting and translating services, to identify the need for these services and to consider taking responsibility for initiating the services on behalf of CALD tenants. Within the CALD population, collecting data about applications to the RTT initiated by Aboriginal and Torres Strait Islanders could also assist policy and procedure development to accommodate these tenants.

Some people living with disadvantage may experience discrimination in the private rental market both because of a low income and their CALD background; however this does not mean they are not capable of a successful tenancy. There is a tenancy guarantee scheme used by the NSW Government Department of Housing that could be adopted in South Australia as a basic model. A private rental brokerage service assists 'people with complex needs, such as a serious health condition, social isolation, substance abuse, mental health issues, disabilities or dysfunctional behaviours' who can experience difficulty in accessing the private rental market, and are often homeless or at risk of homelessness. The Private Rental Brokerage Service commenced as a pilot project in Coffs Harbour to assist such clients establish and sustain private tenancies. The Department's role is to act as a broker between clients, support services and private real estate agents'

(<http://www.housing.nsw.gov.au/About+Us/Reports+Plans+and+Papers/Annual+Reports/2004-2005/Objective+2.htm>).

Homelessness

The Council to Homeless Persons reported SAAP data indicating that 50% of Australia's homeless people come from exiting the private rental market with a further 26% from crisis accommodation and that for many, the crisis accommodation would have been directly preceded by homelessness. There is a clear relationship between the private rental market, failed tenancies and homelessness. Tenancy law cannot address the complexities of housing that is unaffordable and the causes of homelessness, such as domestic violence, but it can contribute to *improved* affordability, security and appropriateness of rental housing. Rent increases must be reasonable in terms of the amount by which they are introduced and the timing of their introduction, and tenants should have adequate access to challenge rent decisions, when they are compared to similar properties in similar locations.

As discussed above, increasing the supply of affordable housing is a crucial issue for government and the community, especially for people on low and very low incomes. It is suggested that landlords are in unique position to recognise the early warning signs of tenancy failure, particularly rent arrears. Shelter is currently working on bringing stakeholders together to address these early warning signs and pathways for tenants with a tenancy at risk of failure to urgently access financial counselling, tenancy support, personal support and tenant advocacy during interaction with landlords and the RTT. This is particularly important for CALD people and Aboriginal and Islander people whose cultural understandings of financial and tenancy management may not align with western, mainstream expectations and processes. Anecdotally, demand for financial counselling far exceeds supply and more financial counsellors, with particular tenancy, CALD and Aboriginal cultural expertise are required across South Australia, particularly in rural areas. If this supply issue is addressed, it has the potential to reduce the demands for and costs (both financial and social) of homelessness in South Australia.

General Legislative Recommendations

Recommendation A (language clarification):

Recommendation 67 in CBS' discussion paper asserts that 'minor changes to definitions will be made to make the legislation easier to interpret.' Shelter recommends that terms to be expanded upon

include the clarification of ambiguous terminology appropriated in the discussion paper including the terms 'reasonable' (recommendations 25, 27 and 59) and 'frivolous' (recommendation 21). It is also recommended that definitions be included of what constitutes 'compensation' (recommendations 26, 35 and 57), an 'uninhabitable' property (recommendations 37 and 42) and 'personal documents and possessions' (recommendations 45 and 64). Clarifying the legislation will not only make it easier to interpret, but will also make it more accessible to tenants and landlords in order that they can better understand their rights and responsibilities under the RTA and empower them.

Recommendation B (discrimination):

In the middle of this year (2012) the Human Rights and Equal Opportunities Commission (HREOC) will release a national Anti-Racism Strategy that aims to reduce the instances and effects of racism. In Shelter's submission to the HREOC's Anti-Racism Strategy it is stated that housing is a human right and argued that Aboriginal and Islanders and people from culturally and linguistically diverse backgrounds can experience discrimination and racism in the private rental housing market. Discrimination is a significant barrier to the realisation of the right to safe, secure and affordable housing. It is timely that all forms of discrimination be addressed in the RTA. Despite the market-driven principles of the private rental market in particular, landlords and agents fulfil an important social role and there needs to be increased awareness and recognition that housing people on the basis of negative stereotypes is fundamentally wrong. Additionally tenants and landlords must be required to interact in relationships that are respectful of age, gender, family situation, disability, mental health, employment status and cultural background.

With this in mind Shelter recommends that Part 4, Division 2, Section 52 of the existing RTA (*Discrimination against tenants with children*) be expanded to include:

- Section 40; Section 62; Section 77; Section 85L; Section 85ZH of South Australia's Equal Opportunity Act, 1984.
- Section 23 of the Sex Discrimination Act, 1984.
- Section 29 of the Age Discrimination Act, 2004.
- Section 12 of the Racial Discrimination Act, 1975.
- Section 25 of the Disability Discrimination Act, 1992.

It is recommended that in the current RTA legislation referred to above (Part 4, Division 2, Section 52) that the phrase 'or in premises adjacent to those premises' be removed entirely as it disadvantages tenants and advantages a landlords' right to dictate the terms of their social environment and interferes with a tenant's right to private enjoyment of, and freedom within, a rental property. The intention of this clause is made redundant by the possibility of an adjacent property being bought by a family with children, an occurrence over which the landlord would have no control. The meaning and purpose of this clause is also questionable as it reinforces the already inequitable power relationship that exists between a tenant and landlord.

Response to RTA Review Discussion Paper

CBS Recommendation 1: The RTA will apply to operators, owners and residents of Lifestyle Villages.

This recommendation **is supported**.

CBS Recommendation 2: It will be clarified that the RTA applies to agreements for apartment style accommodation provided by operators who are not exempt educational institutions.

This recommendation **is supported**.

CBS Recommendation 3: At the election of the purchaser, the RTA will apply where an agreement for the sale of property confers a right on a party to occupy the premises for a period of more than 28 days.

This recommendation **is supported**.

CBS Recommendation 4: A standard form tenancy agreement will be prescribed by regulation.

This recommendation **is supported** on the condition that it does not exclude the addition of information necessary to tenancy agreements in diverse markets, for example to accommodation provided by public and community housing organisations and residential parks. It is recommended that CBS consult with representatives from each form of tenure covered by the RTA to develop a selection of check-boxes that will be added to the standard tenancy agreement that can be ticked to avoid the addition of conditions that are not covered under the RTA. In the case of ancillary property referred to in Recommendation 26 an area for listing the details of ancillary property should be made available on the form. In addition to this Shelter recommends that CBS work with the Interpreting and Translating Centre to provide the proposed standard tenancy agreement in prevalent refugee and asylum seeker and migrant languages including those most prevalent amongst CALD and Aboriginal and Islanders communities as a routine and consistent approach to tenancy agreements. Having a standard tenancy agreement theoretically makes translation easier and on one level has the potential to make the rental market more accessible to people living with disadvantage. Ideally the implementation of standard forms would be extended to landlord and agent application forms for ease of translation and to improve the accessibility of the private rental market.

CBS Recommendation 5: Landlords will no longer be required to provide tenants with their home address if they have a PO Box. Additionally, landlords using an agent will no longer have to provide tenants with any of their personal details.

This recommendation is **not supported**. Shelter recommends that landlords must at least provide CBS with *reliable* contact details including their personal or business name whether or not they have an agent who conducts their landlord business. If for any reason the agent is unavailable or ceases to represent the landlord, or communication breaks down between the tenant and the agent, the tenant can contact the landlord through CBS.

CBS Recommendation 6: Landlords will be required to provide adequate instructions for the use of special facilities and appliances provided for use by tenants.

This recommendation **is supported**.

CBS Recommendation 7: Bond refunds to tenants will no longer include interest.

This recommendation is **supported** on the condition that interest on bonds lodged with CBS is used for the same proposed purposes as the Residential Tenancy Fund purposes.

CBS Recommendation 8: Landlords will be able to ask for four weeks' rent in advance when rent is over \$600 per week.

This recommendation is **not supported** because larger families are accommodated in larger houses that are invariably expensive. More expensive rental properties are not necessarily linked to a high socio-economic status. The above recommendation does not account for this and potentially disadvantages larger families.

CBS Recommendation 9: Tenants must be given at least two alternative rent payment methods which do not involve the tenant using the services of a rent collection agency.

This recommendation is **supported** if it is clarified that the provision of two alternative payment methods are in addition to either the use of a rent collection agency or the collection of rent in person.

CBS Recommendation 10: To reduce the likelihood of disputes over whether rental obligations have been met, rent records will need to include the same information currently required in rent receipts.

This recommendation is **supported**.

CBS Recommendation 11: Where rent payments are in dispute, landlords will be required to provide a copy of their rent records upon being asked for the information by the tenant.

This recommendation is **supported**.

CBS Recommendation 12: Rent paid electronically will be taken to be paid on the date the landlord or agent receives the rent in their account.

Shelter SA recommends that tenants and landlords negotiate the receipt of EFT payments so that tenants who transfer their rent payments on their payday do not quickly fall into rent arrears over a weekend period and upon signing leases this is taken into consideration about the due date of rents. It is particularly important given Recommendation 34 that proposes shortening the time frame for rent arrears and Recommendation 40 that proposes applying directly to the Tribunal for vacant possession if a tenant is in rent arrears for a third time. It is understood that landlords with many properties, including public and community housing organisations, require a method of monitoring rents that does not add to time or costs associated with this activity and that are easily accessed without the need to contact each tenant.

CBS Recommendation 13: Landlords will only be able to enter a property between 8am and 8pm, Monday to Saturday (unless otherwise agreed with the tenant).

This recommendation is **supported**.

CBS Recommendation 14: Landlords will be required to attempt to negotiate an entry time with the tenant.

This recommendation **is supported**.

CBS Recommendation 15: A notice of inspection will be required to contain a maximum two hour window if the tenant wishes to be present (unless otherwise agreed with the tenant).

This recommendation **is supported**.

CBS Recommendation 16: Gardening done by the landlord or agent will be confined between the hours of 8am to 8pm, Monday to Saturday (unless otherwise agreed with the tenant).

This recommendation **is supported**.

CBS Recommendation 17: Landlords will not be able to use the existing re-entry provisions, which will only apply to inspections to ensure a breach has been remedied, to conduct routine inspections more frequently than once a month.

This recommendation **is supported**.

CBS Recommendation 18: Registrars of the Tribunal will be appointed by the Commissioner.

This recommendation **is supported**.

CBS Recommendation 19: The Tribunal's jurisdiction will be raised to \$40,000.

This recommendation **is supported** as increasing the jurisdictional limit of the RTT assists in a faster and more accessible process for tenants and landlords.

CBS Recommendation 20: The principles of equity and good conscience will explicitly apply to Tribunal members.

This recommendation **is supported** as a matter of clarifying obligations under the legislation.

CBS Recommendation 21: The Tribunal will be able to determine small claims on the papers and will be able to reject applications of a frivolous nature.

This recommendation is theoretically practical and Shelter **supports** it on the condition that CBS elaborate on the policy and process involved for ensuring that people living with disabilities, who cannot read or write, and/or are unable to read or speak English are not disadvantaged during this process. Furthermore Shelter would like clarification of what types of applications are deemed 'frivolous' (see Recommendation A above). What may appear 'frivolous' to the members of the RTT may be of great importance to tenants and/or landlords and non-specific terminology does not adequately account for different perspectives but assumes that everybody operates on the same set of assumptions and shares the same world view.

CBS Recommendation 22: People giving evidence during Tribunal proceedings will be protected against self-incrimination.

This recommendation **is supported**.

CBS Recommendation 23: A party to a Tribunal order will be given 7 days to lodge a notification of intention to vary or set aside an order and 14 days after receiving the Tribunal’s statement of written reasons to lodge the application to vary or set aside the order.

This recommendation is **not supported** because it appears contrary to the spirit of mediation that is being proposed under the review of the RTA. This recommendation is not supported to ensure a balance between landlord and tenant rights and to maintain the tenant protections for people living on a low income with disadvantage.

CBS Recommendation 24: Appeals from Tribunal decisions will lie in the Administrative and Disciplinary Division of the District Court, until the new South Australian Civil and Administrative Tribunal becomes operational.

This recommendation is **supported** as long as the operation of the new Tribunal is expedited with processes that are transparent, clear and accessible for both tenants and landlords that allow timely hearing of appeals and do not present cost barriers to low income tenants. SACAT presents an opportunity for a more accessible and cost-effective means of appeal however, Shelter remains cautious about how the Tribunal will function and it is not known what level of specific knowledge and expertise of the RTA Tribunal members will be required to have in order to sit as members.

CBS Recommendation 25: Landlords will be responsible for compensating tenants for their reasonable losses from a failure to carry out reasonable repairs.

This recommendation is **not supported** as clarity is required around the definition of ‘reasonable’ in terms of losses and repairs (see Recommendation A above). These arbitrary terms do not offer protection for tenant safety and well-being or costs that landlords may incur.

CBS Recommendation 26: Tenants will be responsible for compensating landlords for any ancillary property lost.

This recommendation is **supported** on the conditions that ancillary property is listed on the tenancy agreement and agreed to by both tenant and landlord at the commencement of the tenancy or the renewal of a lease and there is clarification about what compensation may be sought (see Recommendation A above).

CBS Recommendation 27: Landlords will be able to recover their reasonable expenses where the tenant is at fault.

The conditions where this applies must be listed in the revised RTA to itemise the instances that constitute ‘reasonable expenses’ at the fault of tenant, otherwise this recommendation is **too vague** to offer any protection to the tenant (see Recommendation A above). In the case of tenants who require wheelchairs, damage to a rental property may be unintentional. If the tenant is on a low income and/or living with a disability, recovery of maintenance expenses may seriously disadvantage the tenant and at worst, lead to rental arrears and homelessness. It is acknowledged that all landlords should be afforded some means to recover expenses, especially for public and community housing landlords who increasingly

house tenants with high and complex needs, but if this is included in the RTA, the methods landlords have available to them to recover expenses should be specifically outlined with consideration given to the tenant perspective to avoid punitive actions by landlords against tenants who are exercising their tenant rights.

CBS Recommendation 28: Landlords will be required to disclose if they have entered into a sales agency agreement for the sale of the property before a prospective tenant enters into a tenancy agreement. If no disclosure is provided and the property is sold within the first two months of the tenancy, a tenant will be able to terminate the agreement without penalty.

This recommendation **is supported**.

CBS Recommendation 29: Landlords will be required to give written notice to tenants of an intention to sell the property, no later than 14 days after they have entered into a sales agency agreement or before the premises are first advertised for sale or available for inspection.

This recommendation **is supported**.

CBS Recommendation 30: Landlords and agents will be required to negotiate open inspection times with tenants.

This recommendation **is supported**.

CBS Recommendation 31: Landlords and agents will be required to inform tenants in writing of the sale of the property including the name and contact details of the purchaser or their agent and the date of settlement.

This recommendation **is supported**.

CBS Recommendation 32: Landlords must pass on the accurate particulars of water accounts for which the tenant is responsible, to the tenant, as and when they are received.

This recommendation **is supported** with the added clauses that tenants can verify that the details passed onto them are indeed accurate (may be verified via provision of a photocopied or scanned water account) and that these *must* be passed on when they are received (quarterly) otherwise tenants can be disadvantaged by being faced with a large bill.

CBS Recommendation 33: Parties to a fixed term agreement will be required to notify each other at least 28 days before the end of the term if the agreement is not to be renewed.

This recommendation **is supported** as it clarifies potential confusion and may lead to opportunities for longer leases and increasing security of tenure.

CBS Recommendation 34: The notice periods provided for a landlord to serve a tenant with a Form 2 notice of breach will be simplified.

It is **unclear** how this recommendation would play out in practice. The proposed shorter time frame to provide a notice to the tenant for non-payment of rent is an early signal to both tenant and landlord of a financial problem, and there is a smaller amount of rent to be

repaid with a longer time frame to negotiate the repayment. However this may disadvantage vulnerable tenants who require a longer time frame on either side of a Form 2.

CBS Recommendation 35: Landlords will be able to claim compensation for abandonment from a tenant who vacates a property under a Form 2 after failing to remedy a breach.

This recommendation is **not supported** in its current form because what the proposed compensation consists of is unclear (see Recommendation A above). As discussed above in CBS Recommendation 27, Shelter SA understands the financial burden faced by all landlords, especially public and community housing landlords in the case of a tenant vacating under a form 2 or abandonment of the property. All tenants and landlords are required to understand that their actions have consequences particularly where they do not adhere to agreed-upon responsibilities. Anecdotally, for a minority of tenants, realising the financial consequences of abandonment may contribute to their learning about how to meet their tenant responsibilities. Shelter is extremely cautious about this method of learning for tenants. Low income tenants who are living with disadvantage often experience pressing personal, mental, physical and social issues that result in a reduced capacity to respond positively to experiencing consequences and doing so will only exacerbate their situation. It is very likely that for this cohort of people, excessively punitive measures would not result in any actual payment to landlords and may contribute to homelessness.

CBS Recommendation 36: Landlords will be required to apply to the Tribunal for vacant possession of a property within 14 days of the expiry date on a Form 2 notice of breach.

This recommendation is **not supported** because the purpose is unclear. It is the landlord's right to exercise their free will regarding when they apply for vacant possession and landlords may choose to act in order that they do not evict people into homelessness.

CBS Recommendation 37: Landlords will be able to immediately terminate a tenancy agreement if the premises have become uninhabitable.

There needs to be **greater clarification** of what constitutes an 'uninhabitable' property (see Recommendation A above).

CBS Recommendation 38: Landlords will be unable to serve a termination notice during a tenancy if proceedings relating to a housing improvement notice have commenced at the proper instigation of the tenant.

This recommendation is **supported** as it is designed to protect tenants.

CBS Recommendation 39: Landlords of properties subject to a housing improvement notice or rent control will be able to serve a Form 2 for rent arrears without applying to the Tribunal.

This recommendation is **not supported**. In such an instance there should be increased, rather than reduced scrutiny of both landlord and tenant actions.

CBS Recommendation 40: Landlords who have properly served tenants with a Form 2 notice for rent arrears twice in 12 months will be able to apply directly to the Tribunal for vacant possession if the tenant is in rent arrears for a third time.

It is **not recommended** that the landlord can apply for vacant possession as a matter of course because such actions can lead to homelessness. It is acknowledged that tenants who are living with rental stress (paying more than 30% of their household income in rent) and who are required to increase their rental payments a first or second time would potentially find it impossible to further increase their payments by even a small amount. For landlords, a tenant's third experience of rental arrears potentially places them in a position where they will never recover the rent arrears. Anecdotally however, some public and community housing tenants who are in rent arrears have been able to successfully address rental arrears, but only given a much longer period of time.

CBS Recommendation 41: The notice periods provided for a tenant to serve a landlord with a Form 4 notice of breach will be simplified.

This recommendation is **not supported**. If the cause of a Form 4 being served is related to a *significant* impact on the tenants' health, well-being, safety or quiet enjoyment of the property it may be dangerous for the tenant to wait for 14 days before the breach is rectified.

CBS Recommendation 42: Tenants will be able to immediately terminate an agreement where the premises have become uninhabitable or have been compulsorily acquired.

As per recommendation 37 there is need for **clarification** regarding what constitutes an 'uninhabitable' property (see Recommendation A above). It is further recommended that the clause 'without penalty' be added to the above recommendation.

CBS Recommendation 43: Service of a notice of hearing for a vacant possession application will be able to be addressed to 'occupiers or any subtenants' of the premises.

Shelter SA **questions** the necessity of legislating this.

CBS Recommendation 44: The definition of 'interested persons' able to seek the termination of a tenancy agreement under s90 will be expanded to include owners, landlords or tenants of adjacent properties, the strata or community corporation of the property or adjacent properties and any authorised officers.

This recommendation is **not supported**. The lease agreement is between the tenant and landlord, not neighbours. Legislating the expansion of 'interested persons' who can seek the termination of a tenancy agreement potentially creates conditions under which more cases could be taken to the RTT, which is contradictory to the spirit of mediation that is proposed to be expanded in Recommendation 48. It is proposed that neighbours are able to initiate and access the mediation process only, not the RTT.

CBS Recommendation 45: Landlords will be required to store all abandoned goods, including personal documents, left behind by a tenant for 30 days.

This recommendation is **supported conditionally**, based on the understanding that it is a timeframe amendment that benefits landlords in terms of a reduction in their costs associated with storing abandoned goods that relates to shortening the amount of time this

is required from 60 days to 30 days (Division 7 Subsection 97 of the RTA). The addition of 'personal documents' is supported on the condition that a clause is added that relates to the ability of landlords to be able to *easily* locate and store *small* files containing personal documents while not adding to their costs or putting themselves at risk of injury. Shelter would support a definition of personal documents that includes items that are necessary for identification and access to health services and banking such as a passport, driver's licence, Medicare card, credit and bank cards and birth certificates. This recommendation should be cross-referenced with universal safety precautions and guidelines on handling hazardous waste (see Recommendation A above).

CBS Recommendation 46: It will be clarified that only Tribunal bailiffs can enforce an eviction.

This recommendation **is supported**.

CBS Recommendation 47: Landlords will be required to apply to the Tribunal for the enforcement of a vacant possession order within 14 days of the making of the order.

This recommendation is **not supported** because the purpose is unclear. It is the landlord's right to exercise their free will regarding when they will enforce vacant possession and landlords may indeed be acting in order that they do not evict people into homelessness (refer to recommendation 36).

CBS Recommendation 48: Mediation provisions that will mirror the mediation provisions currently under the RPA will be adopted.

This recommendation is **conditionally supported**. Expanded mediation has the potential to bring about positive outcomes for both landlord and tenant however, in terms of power relations, tenants are at a disadvantage at the outset of the process and it is recommended that tenants are informed how to initiate mediation, participate in mediation and are specifically advised to bring an advocate or support person with them to mediation. If the tenant is from a CALD background CBS should take responsibility for initiating and providing a face-to-face interpreter from the Interpreting and Translating Centre or, as a last resort, the Telephone Interpreting Service.

CBS Recommendation 49: The provisions of the Rooming House Regulations will be transferred into the RTA and the term rooming house will be changed to boarding house.

This recommendation **is supported**.

CBS Recommendation 50: [Boarding House] Residents will be able to apply to the Tribunal for a declaration that a house rule is void.

This recommendation **is supported**.

CBS Recommendation 51: Proprietors will be required to provide lockable drawers or cabinets for [Boarding House] residents in dual occupancy rooms.

This recommendation **is supported**.

CBS Recommendation 52: [Boarding House] Proprietors will be required to provide 14 days' notice of extensive renovations and minimise inconvenience where possible.

This recommendation **is supported**.

CBS Recommendation 53: [Boarding House] Proprietors will be prohibited from seizing a resident's property as compensation for unpaid rent.

This recommendation **is supported**.

CBS Recommendation 54: [Boarding House] Proprietors will be required to keep proper rent records.

This recommendation **is supported**.

CBS Recommendation 55: [Boarding House] Proprietors will be required to provide regular itemised accounts for additional services.

This recommendation **is supported**.

CBS Recommendation 56: [Boarding House] Proprietors will be required to reduce charges when services are reduced.

This recommendation **is supported**.

CBS Recommendation 57: [Boarding House] Proprietors will be able to claim compensation owed by the resident.

It is **unclear** what constitutes 'compensation' (see recommendation 35 and Recommendation A above).

CBS Recommendation 58: [Boarding House] Proprietors will be able to claim compensation from a resident's bond for damage caused to any areas of the boarding house.

This recommendation **is supported**.

CBS Recommendation 59: [Boarding House] Proprietors will be required to act reasonably when entering a room.

This recommendation **is supported** however there needs to be clarification of what constitutes reasonable and unreasonable behaviour when entering a room (see Recommendation A above).

CBS Recommendation 60: [Boarding House] Proprietors will be required to disclose an intention to sell the premises no less than 14 days after they have entered into a sales agency agreement or before the premises are first advertised or made available for inspection.

This recommendation **is supported**.

CBS Recommendation 61: Termination notices will be prescribed to end a boarding house agreement.

This recommendation **is supported**.

CBS Recommendation 62: Rent will be required to be unpaid for 7 days before a [Boarding House] room can be considered abandoned and the agreement terminated.

It appears that this offers increased protection for tenants as well providing a means of recognising abandonment however, it **unclear** how this will play out in practice.

CBS Recommendation 63: [Boarding House] Proprietors will be able to claim compensation when a resident breaks a fixed term boarding house agreement.

Acknowledging the potential for increased costs to boarding house landlords if a resident breaks a fixed term agreement, it is **unclear** what constitutes 'compensation' (see recommendation 35 and Recommendation A above).

CBS Recommendation 64: [Boarding House] Proprietors will be required to store personal possessions left behind by a former resident for 14 days.

This recommendation **is supported** however there is a need for clarification of what constitutes 'personal possessions' (see Recommendation A above).

CBS Recommendation 65: The Tribunal will be given specific jurisdiction to hear boarding house disputes.

This recommendation **is supported**.

CBS Recommendation 66: Housing SA will be able to provide bond guarantees to residential park residents.

This recommendation **is supported**.

CBS Recommendation 67: Minor changes to definitions will be made to make the legislation easier to interpret.

It is recommended that recommendation 67 be expanded to include major changes to definitions including the clarification of ambiguous terms used in the discussion paper including 'reasonable' (recommendations 25, 27 and 59) and 'frivolous' (recommendation 21) as well as defining what constitutes 'compensation' (recommendations 26, 35 and 57), an 'uninhabitable' property (recommendations 37 and 42) and 'personal documents and possessions' (recommendations 45 and 64) in order that tenants and landlords can better understand and interpret the purpose and intents of the legislation.

CBS Recommendation 68: The purposes for which the Fund may be used will be expanded.

Considering improved mediation between landlords and tenants, the number of tribunal cases is intended to reduce and this recommendation **is supported**.

References

- ANGLICARE AUSTRALIA 2012. Anglicare Australia Rental Affordability Snapshot. Canberra.
- BURGAN, B., MOLLOY, S. & SPOEHR, J. 2009. Stimulating South Australia: Public housing in South Australia and the wider impact of the Australian Government's stimulus package. Adelaide: Australian Institute for Social Research.
- CLARK, D. 1992. Education for Community in the 1990s: A Christian Perspective. In: G. ALLEN AND I. MARTIN (EDS) (ed.) *Education and Community: the politics of practice*. London, United Kingdom: Cassell.
- DEV, S. V. & SPOEHR, J. 2009. Off The Waiting List: The Affordable Housing Dream in South Australia. Adelaide: Australian Institute for Social Research.
- HULSE, K., MILLIGAN, V. & EASTHOPE, H. 2011. Secure occupancy in rental housing: conceptual foundations and comparative perspectives, AHURI Final Report No.170. Melbourne: Australian Housing and Urban Research Institute.
- LEBRASSEUR, R., BLACKFORD, K. & WHISSELL, C. 1988. The leford test of tenant locus of control. *Environment and Behavior*, 20, 300-319.
- MASLOW, A. H. 1943. A theory of human motivation. *Psychological Review*, 50, 370-396.
- MCLOUGHLIN, P. & TUALLY, S. 2012. Being a Social Landlord in the 21st Century: Insights from tenant and international experience. Adelaide: Centre for Housing, Urban and Regional Planning and Julia Farr.
- MILLER, D. 1988. Appropriating the State on the Council Estate. *Man*, 23, 353-372.
- SCHLESINGER, L. 2012, 7th June. Housing affordability improving but rental costs still at four-year high: REIA. *Property Observer*.
- SEELIG, T. 2001. Private Rental Housing Provision in Australia: A structural analysis. *National Housing Conference*. Brisbane.
- SOUTH AUSTRALIAN HOUSING TRUST 2011. South Australian Housing Trust: 2010-11 Annual Report. Adelaide: Government of South Australia.
- UNITED NATIONS 1948. Universal Declaration of Human Rights. In: NATIONS, U. (ed.).
- WAIT, K. n.d. *How can tenancy law contribute to improved housing outcomes?* [Online]. Council to Homeless Persons. Available: http://www.chp.org.au/parity/articles/results.html?filename_num=00116 [Accessed 6th June 2012].
- YATES, J. 1996. Towards a reassessment of the private rental market. *Housing Studies*, 11, 35-50.