

Albany Community Legal Centre Inc

31 October 2018

Ms Clair Siva
Committee Clerk
Standing Committee on Legislation
Legislative Council Committee Office
18-32 Parliament Place
WEST PERTH WA 6005

By email: lccl@parliament.wa.gov.au

Dear Ms Siva

Submission to the Standing Committee into the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018

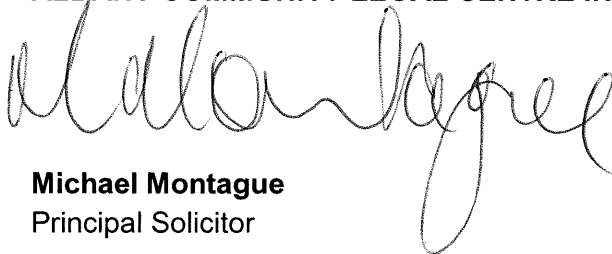
Thank you for your letter dated 19 October 2018 inviting written submissions in response to the Inquiry into the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018.

We are grateful for the opportunity to make a submission to this Inquiry and now **enclose** a copy of our written submission.

We look forward to the outcome of the Inquiry. If you have any questions or concerns please contact me on (08) 9842 8566.

Yours sincerely

ALBANY COMMUNITY LEGAL CENTRE INC.



Michael Montague
Principal Solicitor

Encl. (1)

Albany Community Legal Centre Inc.
Submission to Standing Committee on Legislation
Inquiry into the Residential Tenancies Legislation Amendment (Family Violence) Bill 2018
(Legislative Council Committee Office, State Government of Western Australia)
31 October 2018

Introduction

This submission is made on behalf of the Albany Community Legal Centre ("**ACLC**"). The ACLC thanks the Standing Committee for the opportunity to make these submissions.

Albany Community Legal Centre

ACLC is located in Albany, Western Australia. It is an independent not for profit community organisation that has been providing legal and advocacy services to the Great Southern community of Western Australia since 1995. In particular, ACLC provides a Tenancy Advice Service ("**TAS**") to tenants in the Great Southern region of Western Australia. The Tenancy Advice Service falls under the organisational umbrella of Tenancy WA.

Below we have provided two case studies demonstrating the issues in the community of the Great Southern region.

Case Study One

Our client and her husband jointly entered into a fixed-term residential tenancy agreement for a private rental property. Our client was the victim of family violence of which her husband was the perpetrator. Due to the escalating violence, our client fled the property with her two children. Our client's husband, and co-tenant, remained in occupation of the property. The family violence was of such a nature that our client made an application for a family violence restraining order which the court subsequently granted. Given that our client had vacated the property, she sought to be released from her interest in the residential tenancy agreement. As the residential tenancy agreement was in joint names, all parties must give their consent to releasing a tenant. The lessor provided their consent to release our client's interest in the residential tenancy agreement; our client's husband refused to consent. Despite our client vacating the property, she remained liable for any damage and to pay the weekly rent for the property until the end of the fixed-term residential tenancy agreement. Consequently, our client was placed in a precarious position in terms of any rent arrears and/or damage that may have occurred prior to the end of the fixed-term residential tenancy agreement.

In this case, under the proposed legislation, the tenant would have been able to terminate her interest in the residential tenancy agreement expediently, and would have been able to obtain another private rental right away, without a period of homelessness and living in uncertain conditions.

Case Study Two

Our client entered into a fixed-term residential tenancy agreement for a private rental property. She occupied the property with her long-term de facto partner and their children. Our client was the victim of family violence of which her de facto partner was the perpetrator. Their relationship was one of manipulation and control – our client was coerced into being the sole tenant. Due to escalating violence, our client fled the property with her children and minimal belongings while her de facto partner remained in occupation of the property. As our client was entirely reliant on government benefits, she was unable to sustain rent payments and a few weeks later she ceased paying rent. As a result, the lessor commenced legal action in order to terminate the tenancy agreement; subsequently, the court made an order for termination and vacant possession. Upon the lessor gaining entry to the property, it was evident that our client's de facto partner had caused significant damage for which our client was liable. As our client had no financial capacity to pay – the rent arrears and damage exceeded the bond – the lessor then blacklisted our client on a tenant database. As a result, this created a significant barrier to our client to obtain a private rental.

The Bill before the Committee would provide efficient and effective remedies in the situation, which could have prevented further damage and rent arrears occurring in this case; this in turn would reduce the impost on the lessor as well.

Conclusion

In these submissions, we have sought to demonstrate issues that have arisen in our Tenancy Advice Service at ACLC. We acknowledge that there are organisations that are better placed to address particular recommendations – in this regard we note the submissions of Tenancy WA and Shelter WA; and we endorse their recommendations in relation to the specific legislative changes required to protect victims of family and domestic violence and those in tenancy tenure arrangements.