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Catherine Watson, Committee Manager
Public Bodies Review Committee
Parliament House, Macquarie Street
SYDNEY NSW 2000

Dear Ms Watson,

Re: Inquiry into the Allocation of Social Housing

Please find enclosed the Consumer, Trader and Tenancy Tribunal's submission to the Public Bodies Review Committee's Inquiry into the Allocation of Social Housing.

If you have any enquiries about the Tribunal or the submission please do not hesitate to contact me by telephone, 9641 6410 or by email Elizabeth.Tydd@cttt.nsw.gov.au.

I trust the Tribunal's submission is of assistance to the Committee.

Yours sincerely,



E Tydd
Deputy Chairperson (Registry & Administration)
24 January 2006

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24 JAN 2006

**Consumer, Trader and
Tribunal**

Submission to

Public Bodies Review

**Inquiry into the
Allocation of Social**

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Establishment of the Consumer, Trader and Tenancy Tribunal

The Consumer, Trader and Tenancy Tribunal commenced operation on 25 February 2002, established by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

The Tribunal's purpose is defined by the objects set out in section 3 of the Act:

- a) *to establish the Tribunal to determine disputes in relation to matters over which it has jurisdiction,*
- b) *to ensure that the Tribunal is accessible, its proceedings are efficient and effective and its decisions are fair,*
- c) *to enable proceedings to be determined in an informal, expeditious and inexpensive manner, and*
- d) *to ensure the quality and consistency of the Tribunal's decision making.*

Jurisdiction of the Consumer, Trader and Tenancy Tribunal

The Tribunal is not a tribunal of general jurisdiction. It can only determine disputes over which it has specifically been given jurisdiction. As at 30 June 2005 the following Acts conferred jurisdiction on the Tribunal:

Community Land Management Act 1989

Consumer Claims Act 1998

Consumer Credit Administration Act 1995

Consumer Credit (New South Wales) Act 1995

Credit Act 1984

Credit (Home Finance Contracts) Act 1984

Fair Trading Act 1987

Holiday Parks (Long-Term Casual Occupation) Act 2002

Home Building Act 1989

Landlord and Tenant (Rental Bonds) Act 1977

Motor Dealers Act 1974

Motor Vehicle Repairs Act 1980

Pawnbrokers and Second-hand Dealers Act 1996

Property, Stock and Business Agents Act 2002

Residential Parks Act 1998

Residential Tenancies Act 1987

Retirement Villages Act 1999

Strata Schemes Management Act 1996

Travel Agents Act 1986

Performance of the Consumer, Trader and Tenancy Tribunal

In the year 2004-2005 the Tribunal received a total of 60,114 applications and finalised 66,044 matters. The Tenancy Division determines the highest volume of matters lodged with the Tribunal, forming 76.7% of the Tribunal's overall workload. During the reporting period this Division received 46,125 applications and finalised 52,481. This includes 13,519 (22% of the total applications received) applications lodged electronically, 8,629 of which were lodged by the Department of Housing. In the Tenancy Division 86% of matters were finalised within 35 days of lodgement.

The table below shows the application types determined by this Division by applicant type.

Tribunal Application Types by Applicant type

APPLICATION TYPE	LODGED BY LANDLORDS	LODGED BY TENANTS	LODGED BY OCCUPANTS	TOTAL
Termination – Other	28716	371	0	29087
Termination – Nuisance & Annoyance	177	0	0	177
Termination – Hardship	0	197	0	197
Breach/Compensation	8322	1857	0	10179
Rental Bond	1894	1989	0	3883
Excessive Rent/Increase	0	410	0	410
Abandoned Premises/Goods	163	0	0	163
Other	340	417	0	757
Recognition as a Tenant	0	0	37	37
Renewal	12	37	0	49
Sub Total	39624	5278	37	44939
Rehearing	258	919	9	1186
Grand Total	39882	6197	46	46125

Further statistical information regarding the Tribunal is available in the following attachments:

- *Consumer, Trader and Tenancy Tribunal Annual Report 2004-2005 (annexure A)*
- *Consumer, Trader and Tenancy Tribunal Quarterly Management Report for the period October 2005 – December 2005 (annexure B)*

Case Management

The Tribunal manages applications lodged in the eight Divisions within the needs of their respective divisions and the legislative framework.

Within the Tenancy Division this differential case management included developing specific application forms to assist parties to meet the legislative requirements in lodging an application in the Division. These include specific application forms for termination and possession of the premises, rental bond claims as well as the general application form.

The Tribunal has also developed two forms of Hearing Notes to assist landlords, agents and Department of Housing representatives prepare for hearing.

Applications to the Tenancy Division are managed expeditiously with applications lodged within 21 days of lodgement. Informal dispute resolution procedures, for example conciliation, are applied to resolve these matters without recourse to a formal hearing.

The Tribunal has established permanent Deputy Registrar (Conciliator) positions in Newcastle/Gosford, Penrith/Western Suburbs, Hurstville/Wollongong and Liverpool/Campbelltown areas.

Conciliation is a voluntary process offered at the first listing of a dispute. As parties usually appear before the Tribunal in person without legal representation, the conciliation process is used to clarify the issues and allow parties the freedom to express their needs and feelings outside of the more formal hearing process. This often diffuses emotions and helps to clarify the legislative framework in which the dispute is considered, thereby reducing uncertainty while allowing parties to achieve an outcome they are both satisfied with.

If an agreement is reached it will be confirmed as a final and binding Tribunal order reflecting that agreement. If an agreement is not reached, matters proceed to hearing before the Tribunal. This initiative has been commended by the public and organisations representing parties appearing before the Tribunal.

Tribunal Efficiencies

The Tribunal continually refines its processes to produce an efficient working environment by maximising the use of technology to assist in achieving its goals to be an accessible, economical and timely dispute resolution service. Efficiencies in the Registry have been achieved through the automation of its processes.

This includes implementation of Electronic Service Delivery which has enabled applicants to lodge a Tenancy Division or Residential Parks Division application over the Internet. This service has provided significant savings in reduced lodgement times, improved accuracy of data entry, improved information feedback to clients, the ability to issue hearing notices on-line, the convenience of electronic payment, the ability to monitor case progress on-line, and a reduction in the number of telephone enquiries.

Another efficiency process is In-Court which has been installed in the hearing rooms of all eight Tribunal Registries. Most parties may now obtain written copies of the Tribunal decision at the conclusion of the hearing through the use of this system.

Previously, parties to the Tribunal waited for up to a week for copies of orders to be posted to them. The implementation of the In-Court strategy has realised efficiencies by removing duplication of work, reduced errors caused by the interpretation of hand-written orders, and reduced the time taken to generate hand-written orders after the outcome of hearings. More than 60% of all hearings are conducted in rooms attached to the eight Registries.

The Tribunal's website provides further efficiencies by providing a number of on-line services to clients. The website ensures equitable and prompt provision of information regarding Tribunal procedures, a listing calendar and hearing lists, access to published decisions and legislative amendments. The website is used to enhance the Tribunal's commitment to transparency and accountability.

The Department of Housing

Disputes arising between the New South Wales Government, as landlord, and its tenants fall within the Tribunal's jurisdiction.

The Department of Housing is the Tribunal's largest client group making up 25% of the Tribunal's total workload and 32% of the Tenancy Division workload.

Differential Case Management

Decisions on Papers

The Tribunal conducted a pilot scheme with the Department of Housing which enabled the Department to lodge applications for certain types of orders which would be dealt with on the papers without the need to attend the hearing at the Tribunal.

The pilot enabled the Department, with the consent of the Respondent tenant, to apply for specific performance orders and termination and possession orders and have them dealt with on the papers. The Tribunal would consider the application on the papers and, if appropriate, make a specific performance order concerning payment of rent in accordance with the residential tenancy agreement and often a payment arrangement for any rent arrears. A further order was made that the matter would be listed for a hearing to consider the termination of the tenancy agreement and possession of the premises in the event of non-compliance with the specific performance order by the Respondent tenant.

The Tribunal is currently working with the Department of Housing to reintroduce this arrangement in order to provide a more efficient service to the Department and its client tenants.