

**NELSON PROPERTY INVESTORS ASSOCIATION**  
**July 2019 NEWSLETTER**  
**PO Box 198 Nelson**  
**NelsonPIA@xtra.co.nz**

**Our fifth meeting of the year** is on Tuesday 30 th July 7:00 pm. We have been invited to visit Franklyn Village. Liz Harris the owner has been a member of Nelson PIA for many years. We got Liz to speak at one of our meetings many years ago well before the Christchurch earthquake. Goodness how the world has changed since those days. So this visit to 47 Franklyn is a rare privilege to view a property that has changed the face of Nelson rentals for over a decade. These days the village operates 100% full with a waiting list. We all need to be on our best behaviour because this place is people's home that they are proud of. Attendees need to assemble at 7 pm in the main foyer and follow instructions carefully. Terry Bolitho from Bolitho Property management is in charge for the event. As always non-members are welcome to attend. You may even bring a friend. We are supplying a fun super to stave off the winter chill. Of course if you want 100% of the benefits of being a member or just want to support the advocacy work our organisation does, then the smart thing to do is just pay your \$185 and join or at least tell someone else to join. After eating the special super, sharing in the event, and meeting all the landlords how could anyone resist joining?

**MBIE RENTING AND YOU SEMINAR**  
**NELSON 1 OCTOBER**

The government has at long last decided to try to explain what they want landlords, property investors, property managers, and social housing providers to do in order to comply with the laws parliament has passed. I have been in regular contact with the staff at MBIE about the Nelson event. They have obligingly scheduled their event date to fit around our planned meeting dates. I guess many of you have completed the on line survey our national office conducted. If any survey can be believed over 90% of private rentals are now meeting the standards put in place by the National Government. But more laws have now been passed and someone has deduced more needs to be done. Back 30 or so years ago I did thermal engineering and I can assure you the science is difficult to understand and apply. MBIE have produced an online tool to enable determination of the heater size you need to install. Many people will struggle to understand how to carry out these calculations. The seminar promises to help you do this. Get it wrong and you are in trouble. This is why it is essential everyone should attend the seminar.

My stab in the dark guesstimate of compliance costs for my portfolio is \$70,000 if contractors did the installations at full market rates. I have already purchased three heat pumps off M10 at a great rate. The first one got installed this week. I visited the tenancy to check the work. It was freezing outside. The tenant did not have the heater on but she did assure me it worked great.

For some unexplained reason MBIE will not let you book the seminar until some secret date in the future. In my none too PC exchange of emails MBIE have now suggested that the bookings will be open on about 20 August. I will email as soon as I see it on line. With nearly 1000 people contactable on our mailing list you will need to be fast if you are going to score one of the 200

seats available. It will be like DOC huts. Some hut bunks get snapped up within minutes of DOC online booking coming up on line.

## **LOSS OF QUIET ENJOYMENT**

It must be time to write about one of my renting adventures. Three years ago I felt sorry for an applicant and granted him a one bedroom tenancy. He suffered from a nervous mental health condition in that he had OCPD. Wikipedia explains it as. Obsessive–compulsive personality disorder (OCPD) is a personality disorder characterized by a general pattern of excessive concern with orderliness, perfectionism, attention to details, mental and interpersonal control, and a need for control over one's environment. He was a model tenant in that the property was looked after and the rent record was impeccable. His God fearing parents were there for support. All was well apart from the occasional allegation against the Asian neighbours. First it was, they are looking at me. Then it was they are taking up all the car parking spaces even though he did not have a car. Then, they demanded a substantial loan. In each case I dismissed these minor irritations with comments like. “These are not tenancy matters so sorry I cannot help you.” But it developed into allegations that the neighbour’s father was smoking outside and this was making his throat sore. Then a serious claim was made that he had been admitted to Accident and Emergency at the hospital due to the smoking. He clearly had been in touch with MBIE because he started quoting comments about loss of quiet and enjoyment that I think must have originated from MBIE. I tried the “not a tenancy matter, try the police or city council environmental officer” fob off but it clearly was not working. I could see this was heading to the Tenancy Tribunal.

Landlords need to avoid issuing 90 day notices after some sort of complaint has been made. This is called retaliatory notice. So I demanded to see a doctor’s letter. A doctor’s letter was produced that clearly did not name the cause of the problem. I pointed this deficiency out so a second letter was procured from a different Doctor. This was a brilliant letter that used words like “the patient said this and claimed that”. It said something needed to be done about the smoke. So after much thought and a bit of sadness I issued a 90 day notice. I handed the letter over personally and was instantly assured by the tenant that the notice would be appealed in Tribunal. My counter was it was not a retaliatory notice it was just doing what the doctor requested. I of course respect doctors and try my best to do what they say should be done.

I had previously communicated with MBIE and their advice was I needed to give a 14 day section 56 notice to the Asian neighbour telling them they needed to avoid smoking outside the rental. These people have been good tenants of mine for over 10 years and faithfully avoid smoking inside. Surely I think it must be their right to smoke outside. Landlords are expected to take “reasonable efforts” to stop tenants causing loss of quiet enjoyment to their neighbours. The problem however is the RTA makes no provision to deal with things like this apart from tenancy termination. A recent tenancy tribunal ruling explains how they deal with such claims. “In order to terminate the tenancy under S56 – the landlord must prove that the other party committed a breach, that if the breach is a breach capable of remedy, that the landlord gave the tenant notice requiring the tenant to remedy the breach and the other party did not remedy the breach within the required timeframe, and that it would be inequitable to refuse to make the order terminating the tenancy.”

So clearly terminating a good tenant in these circumstances would clearly be inequitable because they had not intentionally hurt the neighbour. The way I

see it the lesser evil and least heartache was to put a single man out rather than a whole family.

I play acted in my mind what I would say in court waiting for the court appointment in the mail. However in the mail came a counter notice from the tenant. I want to give two week's notice the email said. As it turned out he went earlier than that. We re let the flat with loss of only two days rent and got a \$50 a week rent increase!

A fellow landlord I know had declined to house the same person three years ago. He laughed at me and with me and said tenants like this can cause a lot of distress. He is sure right on that count. I put to you fellow landlords. What is the correct thing to do? What would you do if faced with a request to house someone similar? I think the RTA needs to be changed to allow for some sort of penalty much less harsh then termination for breaches of section 56.

My personal opinion is social housing is not the only housing provider capable of housing people with a disability. The private sector can actually do a better job with more heart than a government department can even dream about. In my long experience many tenants want to be able to talk to their landlord and have their needs taken seriously. Rule books and policy issues can never replace human to human relationships. Sure neither party is going to win or lose 100% of what they are talking about. But at least they can both have the freedom of giving it a go. Ps. My ex tenant and his elderly parents thanked us for the help we had given them when we amicably refunded the bulk of his bond.

Regards

Have a great day and stay safe.

Glenn