

Submission of the
New Zealand Property Investors' Federation Inc
to the
Law and Order Committee
examining the
Courts and Criminal Matters Bill 2010
July 2010

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NEW ZEALAND PROPERTY INVESTORS' FEDERATION

This submission has been prepared by the New Zealand Property Investors' Federation Inc (the Federation) in response to the select committee invitation to provide feedback on the Courts and Criminal Matters Bill 2010.

Established in 1983, the Federation has twenty affiliated local associations situated throughout New Zealand. It is the national body representing the interests of over 7,000 property investors on all matters affecting rental-housing.

The Federation welcomes this opportunity to participate and comment on the draft legislation.

INDUSTRY BACKGROUND

To assist the Committee to understand the extent of the economic and social importance of the private rental industry in New Zealand and the implications of legislation affecting the sector, the following background points are offered.

What is the extent of the private rental industry?

- According to a recent survey¹ of property investors it was estimated that there are over 300,000 landlords in New Zealand. There are no corporate or institutional residential landlords.
- There are over 464,000 residential rental properties², housing over 600,000 tenants. Private rental property owners have approximately 31 billion invested in rental property with a market value of around \$60 to \$80 billion³.
- Private landlords are the largest providers of rental accommodation in New Zealand.
- 81% of tenants rent from a private landlord or trust⁴.
- Median weekly rent for all accommodation is \$310⁵. The amount spent on rent each week is \$66 million and annually this is \$3.4 billion.
- Assuming a 20% equity rate on a \$263,000⁶ property, the amount spent on mortgage interest payments, at 8% interest, (\$16,830pa) is \$5.0 billion.
- Most property investors (57%) have been engaged in the business for 10 or more years⁷, Property investor landlords are using their rental income business as a mechanism for saving for retirement and are professional and committed long-term service/accommodation providers.

¹ ANZ NZPIF Annual Survey 2007

² "Landlord group's code sets high standards" 5/9/08 NZ Herald

³ Rental property value overinflated, 19/5/10 BusinessDay.co.nz [research ex: Auckland University's Retirement Policy and Research Centre]

⁴ Jo Goodhew MP, RTA Bill, First reading, Hansard 26/5/09

⁵ Tenancy Bond Office Statistics, February 2010

⁶ The lower quartile figure from QV's Residential Property Sales Summary, September 2009

⁷ ANZ NZPIF Annual Survey 2006

SUBMISSION

In general terms the Bill aims to get tough on those who owe fines, reparations and debts. To this end, the Federation is very supportive of the Courts and Criminal Matters Bill.

With a recent media report stating that “Criminals owe their victims \$80 million”, (NZ Herald 8/1/10) there is obviously a large amount of unpaid debts long overdue and owed by offenders. This state of affairs lets honest citizens down and ultimately erodes our faith in the justice system.

The justice system has to be clear that it means what it says, otherwise offenders will continue to avoid their financial responsibilities and accountabilities. The Federation is strongly supportive of the Government in getting tough on lawbreakers.

The Federation notes that the bill’s **explanatory note** outlines the general purpose, which is: “to enhance the courts’ powers and processes for the collection of fines and other monetary penalties, and civil debt”.

The Federation would interpret the term “civil debt” as including those rental debts or monies for damage⁸ owed to private landlords by a former beneficiary tenant.

For the rental industry, the issue of unpaid rent amounts to millions of dollars per year increasing rental price levels and leaving landlords out of pocket.

As an indicator of the extent of the problem, we note that the Crown’s Housing New Zealand Corporation and taxpayers are owed over \$1.5m in unpaid rent by its former tenants. Interestingly, procedures enable Ministry of Social Development (MSD)/ Work and Income New Zealand (WINZ) to fund the offending tenants to move to another rental property, creating yet another opportunity for them to stall payments or compound outstanding debts. This is absolutely unacceptable.

The Federation believes that the Bill presents the Government an ideal vehicle and opportunity to solve a long-term problem identified by landlords, namely the failure of MSD/WINZ to routinely supply the addresses of beneficiaries to an officer of the court for the purposes of enforcing tenancy tribunal orders.

The Federation further believes that this improvement can and should be made so the relevant Act can be made to work better for Government, its various agencies and landlord businesses.

Our members have also expressed concern regarding Bailiffs not being able to enforce items such as Distress Warrants. After providing the Collections Unit with a debtors address, the debtor can refuse to acknowledge that they are the debtor and the Bailiff is powerless to act.

⁸ As a proxy indicator of the extent of monies owed Housing NZ says its tenants were charged with \$8.4 million worth of damage during the year to June 2009, with another \$4.7m so far this financial year. “Size of the Neighbour from hell's path of destruction” - Sunday Star Times 7/2/2010

If this occurs, then WINZ should be automatically notified that the debtor is no longer at the address and any benefits they are receiving should be withdrawn until they have notified WINZ of their new address.

This new address should automatically be provided to the Collections Unit so that Orders can be served.

Problem definition

Each year the Tenancy Tribunal (the Tribunal) – a court of New Zealand - handles over 40,000 applications of which over 90% are made by landlords, with the vast majority relating to rent arrears and compensation for damage done to the property.

When the Tribunal finds in favour of the landlord it orders the former tenant to pay the rent arrears or other monies and the landlord has to provide the Court Bailiff with their former tenant's new address. If the tenant is a beneficiary, he or she is protected by the Government. Agencies such as MSD/WINZ often know the new address for service of the former tenant however; they are in a position "because of privacy reasons" whereby they withhold the address information for court officials to enforce the orders.

The problem for ordinary mum-and-dad property owners, who bought their rental for retirement income, is that locating defaulting tenants to recover the amount owing is an absolute nightmare.

Landlords simply wish the Government to remove policy and administrative constraints and enable the recovery of debts owed from former tenants, especially those who are beneficiaries.

When a debtors address is provided, Bailiffs can be easily diverted through the debtor refusing to acknowledge themselves as the debtor or living at the property.

Proposed solution

It would be of immense assistance to landlords if Part 3 of the Bill ["Power to obtain information in respect of beneficiaries" or such other] which amends the **Summary Proceedings Act 1957** was amended in a consistent manner (with the proposal at clause 69 to disclose credit applicant information to the Ministry of Justice by credit reporting agencies and vice versa) in order to allow the assiduous tracking or locating of former tenants with Tenancy Tribunal orders against them and for the enforcement of money orders.

Therefore the Federation urges that MSD/WINZ be required on a routine basis to supply a beneficiary's address of service to an officer of the collections unit of the Ministry of Justice on behalf of the Courts for the purposes of serving Tenancy Tribunal orders for the collection of debts. The Federation considers that other agencies including the IRD and NZ Customs Service, who may have access to address for service details and enforcement powers should pool and exchange any relevant information and work with Department of Courts officials. Doing so would create much operational efficiencies.

It should also be made absolutely clear that the above Federation proposal is for an officer of the court to get the address for service information for the purposes of enforcing a judgment order. The Federation and its members do not want the information for themselves.

When serving notices to a debtors currently know address, if a Bailiff is told the debtor does not live at the address then the Bailiff immediately notifies WINZ and any benefits that the debtor is currently receiving should be stopped until they notify WINZ of their current address.

The Federation believes that the rule of law must prevail. The law and its credibility must be upheld and the Government must get tough on those who owe debts, including civil debt.

Yours sincerely

Martin Evans
President
NZ Property Investors' Federation

5 July 2010

Committee Secretariat
Law and Order Select Committee
Parliament Buildings
WELLINGTON

Dear Secretariat

Courts and Criminal Matters Bill 2010

I am writing on behalf of the New Zealand Property Investors' Federation Inc (the Federation).

Please find attached our submission for the attention of the Committee.

The Federation wishes an opportunity to appear before the Committee to speak to its submission. The writer can be contacted directly on: **Mobile: 027 222-8286**

Yours sincerely

Martin Evans
President