
URGENT DECISION OF THE

Waitematā Local Board

Submission on reforming the Residential Tenancies Act 1986

AUTHORITY TO EXECUTE THIS URGENT DECISION

Urgent Decision Process WTM/2016/181

- a) That the Waitematā Local Board:
 - i) adopts the urgent decision process for matters that require a decision where it is not practical to call the full board together and meet the requirement of a quorum.
 - ii) delegates authority to the Chair and Deputy Chair or any person acting in these roles to make an urgent decision on behalf of the local board.
 - iii) requests that all urgent decisions be reported to the next ordinary meeting of the local board.

EXECUTIVE SUMMARY

1. The Ministry of Business, Innovation and Employment is consulting on proposals to reform the Residential Tenancies Act 1986 until 21 October 2018.
2. Auckland Council is making a submission in response to this consultation and this will be recommended to the Environment and Community Committee for their approval on 16 October 2018.
3. All local board feedback needs to be received by 28 September 2018 to be incorporated into the council's submission for consideration by the Environment and Community Committee.

RECOMMENDATIONS

That the Waitematā Local Board:

- a) approve the feedback, as contained in attachment A, on the government's proposed reforms of the Residential Tenancies Act 1986.

REASON FOR URGENCY

4. The case for an urgent decision is made due to local board feedback being required by the 28 September in order for it to be incorporated into the Auckland Council submission.
5. Council's draft submission will be provided to the Environment and Community Committee for their approval on 21 October 2018.
6. The Waitematā Local Board's next scheduled business meeting will be held on 16 October 2018 meaning the local board cannot resolve on their feedback until after the matter has been considered by the Environment and Community Committee.

7. The urgent decision will be reported to the local board during the next scheduled meeting on 16 October 2018.

DISCUSSION

8. The New Zealand Government is seeking feedback on a reform of the Residential Tenancies Act 1986 (“RTA”). This act is the main piece of legislation governing the contractual relationship and interaction between residential landlords and tenants in New Zealand.
9. The private sector rental is growing compared to owner occupier households as housing affordability has declined with Statistics New Zealand estimating one third of New Zealand households renting with the majority renting from private landlords.
10. This targeted reform of the RTA has four broad objectives:
 - to improve security and stability for tenants while maintaining adequate protection of landlords’ interests
 - to ensure the appropriate balancing of the rights and responsibilities of tenants and landlords to promote good faith tenancy relationships and help renters feel more at home
 - to modernise the legislation so it can respond to changing trends in the rental market
 - to improve quality standards of boarding houses and the accountability of boarding house operators.
11. The focus of the proposed reform includes:
 - **Modernising tenancy laws so tenants feel more at home**
 - the types of tenancy agreements available and the circumstances in which a landlord can require a tenant to move
 - the responsibilities tenants and landlords have during a tenancy
 - the ability for tenants to make modifications to a property
 - the ability for tenants to keep pets
 - **Setting and increasing rents and the practice of rental bidding**
 - the ability of tenants to challenge rent that is substantially higher than market rent
 - the frequency of rent increases
 - **Boarding house tenancies**
 - the quality of boarding houses and accountability of boarding house landlords
 - **Enforcing tenancy laws**
 - the powers and enforcement options available to government agencies to investigate severe alleged breaches of the Act
 - the appropriateness and accessibility of the existing civil penalty regime under the Act
12. Outcome 1 of the Waitematā Local Board Plan seeks inclusive communities that are vibrant, healthy and connected with an objective that all members of the community have access to shelter and warmth.
13. The local board also has the following two priority advocacy areas:
 - Affordable Housing: *Ensure Auckland Council actively builds or enables others to provide affordable housing through appropriate mechanisms and tools.*
 - Housing solution for homeless people: *Deliver short and medium-term housing solutions to address homelessness.*

14. Housing insecurity is a very visible issue in central Auckland. The local board supports the Housing First project and is proud to work with the Auckland City Mission, Lifewise, Housing NZ and other service providers on creating enduring solutions for people facing homelessness in the area.
15. The local board has also been supporting community groups that provide interim relief for problems that those without shelter face on a daily basis for example, funding a programme that enables access to showers at Ellen Melville inner-city community centre.
16. The local board believes that having a safe and secure home is a basic human right and is urging the government to step up its efforts to provide shelter for the most vulnerable citizens.

General

17. The recommendations contained in this report fall within the local board's delegated authority.

DECISION

AUTHORISED FOR RELEASE

Trina Thompson
Relationship Manager/Senior Advisor, Waitematā Local Board

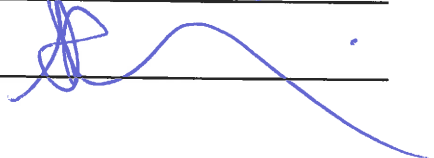


SIGNATORIES

Pippa Coom
Chair, Waitematā Local Board



Shale Chambers
Deputy Chair, Waitematā Local Board



DATE:

27 September 2018

Memorandum

25 September 2018

To: Penny Hulse, Chair, Environment and Community Committee
Alf Filipaina, Deputy Chair, Environment and Community Committee

Cc: Sonja Tomovska, Governance Advisor
Kimberley Howell, Policy Analyst, Community and Social Policy
All Waitematā Local Board members

Subject: Feedback on the MBIE consultation on Reform of the Residential Tenancies Act 1986

From: Waitematā Local Board

Purpose

1. To provide Waitematā Local Board's feedback on the Ministry of Business, Innovation and Employment (MBIE) consultation on Reform of the Residential Tenancies Act 1986.

Summary

The Waitematā Local Board supports the government's proposal to reform the Residential Tenancies Act 1986. The local board specifically supports the following aspects:

- amendments to the Residential Tenancies Act that will extend the minimum notice of termination of a tenancy agreement given to tenants to 90 days
- retaining the 21-day notice period for tenants
- the commission of a criminal offence or a substantial breach of the tenancy agreement or of the Residential Tenancies Act to justify eviction of a tenant
- support for provisions that will allow for reasonable modifications of a rental property by the tenant
- support responsible pet ownership by tenants and tenancy agreements generally allowing pets
- support the proposal to restrict, and preferably outlaw, bidding on rentals
- support mechanisms in tenancy agreements that outline when rent reviews will take place, that these are not more than once a year and require a clear formula to determine any potential rent increase
- support initiatives to improve the quality and standards of boarding houses and increase accountability for boarding house operators, including caravan parks operators
- support the ability for those enforcing the law to be able to take a single case in respect of multiple apparent breaches of the Act, so that the cost of enforcement and the penalties imposed are appropriate and act as an effective deterrent

Context/Background

2. The Waitematā Local Board area encompasses Auckland's city centre and fringe retail area as well as the inner-city residential suburbs, stretching to Parnell and the Newmarket town centre in the east and Westmere in the west. The current population is estimated to be 108,500. The 2013 census indicated only 39 per cent of residents in the local board area owned their own homes, compared to 61 per cent across the wider Auckland area.
3. There are significant areas of high deprivation in the local board area including areas close to the tertiary education facilities where students, including international students, live.
4. Housing insecurity is a very visible issue in central Auckland. The local board supports the Housing First project and is proud to work with the Auckland City Mission, Lifewise, Housing NZ and other service providers on creating enduring solutions for people facing homelessness in our area.
5. We have been supporting community groups that provide interim relief for problems that those without shelter face on a daily basis for example, funding a programme that enables access to showers at Ellen Melville inner-city community centre. The local board believes that having a safe and secure home is a basic human right and urge the government to step up its efforts to provide shelter for our most vulnerable citizens.

Responding to the discussion document

6. The Waitematā Local Board supports the objectives of the proposed reform, which are:
 - to improve the security and stability for tenants while maintaining adequate protection for landlords' interests
 - to ensure the appropriate balancing of the rights and responsibilities of tenants and landlords to promote good faith tenancy relationships and help renters feel more at home
 - to modernise the legislation so it can respond to changing trends in the rental market
 - to improve quality standards of boarding houses and the accountability of boarding house operators.
7. The Waitematā Local Board supports the proposed changes to the Residential Tenancies Act that will provide better security of tenure for people, creating stable homes and consequently more cohesive families and communities.

i. Tenancy laws

The relationship between tenant and landlord is not a level playing field with both parties holding equal power. We support amendments to the Residential Tenancies Act that will extend the minimum notice of termination of a tenancy agreement given to tenants to 90 days. We are also strongly in favour of law changes that ensure there always are compelling justified reasons for a tenancy ending. We support retaining the 21-day notice period for tenants, as they are in a much more vulnerable situation to ensure they are housed.

We recommend that only the commission of a criminal offence or a substantial breach of the tenancy agreement or of the Residential Tenancies Act could justify eviction of a tenant who wished to stay. This should apply equally to private and to public landlords.

Tenants who are not in breach of the tenancy agreement or the Act and are meeting their obligations should have the right to extend a fixed term tenancy.

These measures to give tenants real security of being able to stay in their home are essential to allow children to remain at their local school; workers to continue readily to get to their place of employment; older adults to age in place in their familiar community; and family members to keep participating in their places of worship, sports clubs, recreation centres and community organisations. It will also enable them to take up continuing leadership positions in the life of their community.

ii. Making rentals a home

We support the provisions that will allow for reasonable modifications of a rental property by the tenant. If there is a dispute about what constitutes 'reasonable' we suggest that the requirement should simply be that the tenant should be responsible for ensuring the property is restored to its original condition at the end of the tenancy. This is a more straight-forward and fair requirement than setting out detailed rules of the circumstances where a landlord could deny permission. Structural changes or those that generated health and safety risk would require building consent, which inevitably requires the property owner's consent. Often a landlord will agree to a modification being retained because it enhances the value of the property.

The Waitemātā Local Board support responsible pet ownership by tenants and we support tenancy agreements generally allowing pets unless there is good reason to prohibit them, or particular kinds of pets, living at that rental property. As with modifications above, we believe any damage or modifications to the property as a result of pet ownership should be repaired by the tenant at their cost.

iii. Setting and increasing rent

The Waitemātā Local Board supports the proposal to restrict, and preferably outlaw, bidding on rentals. This practice has been used by some property owners to get the highest rent, to take an unfair advantage and put rent levels out of reach for most when accommodation shortages are occurring. We believe this practice should be wiped out entirely.

We support mechanisms in tenancy agreements that outline when rent reviews would take place, that these are not more than once a year and that all tenancy agreements be required to set out a clear formula that would determine any potential rent increase. For example, they could be limiting increases to the consumer price index (CPI) or the median wage increase. This would ensure that tenants are able to plan their circumstances for any potential increase and that increases are not so high as to force people out of their accommodation.

The Tenancy Tribunal needs to be readily accessible both to tenants and to tenant advocacy and community groups to rule out excessive rental levels that are out of line with the local market and also to ensure that all properties for rent meet the requirements for a Warrant of Fitness to ensure they are warm, dry, insulated and generally healthy and safe for tenants.

iv. Boarding houses

We support initiatives to improve the quality and standards of boarding houses and increase accountability for boarding house operators, and have similar concerns for some caravan parks that provide long-term accommodation.

We support the concept of a Warrant of Fitness for boarding houses to ensure that standards are raised and maintained. Monitoring of these standards should be undertaken by a division within MBIE as central government already has a compliance role with the Tenancy Tribunal, rather than lie within the responsibilities of local government. We suggest that this is a more effective mechanism for maintaining standards for boarding houses than allowing for self-regulation by boarding house operators.

We also believe that all boarding houses should be registered and that boarding house operators should be those who can continue to demonstrate that they are a fit-and-proper person to operate a boarding house and that their property meets specified minimum standards. Any operator of a caravan park that has residents staying for more than a month at a time should be obliged to meet similar requirements.

v. Enforcement

Those in charge of enforcing the law very much need the ability to take a single case in respect of multiple apparent breaches of the Act, so that the cost of enforcement and the penalties imposed are appropriate and act as an effective deterrent. They should also gain the ability to:

- enter enforceable undertakings with a landlord
- issue improvement notices
- issue infringement notices
- audit a landlord or property manager
- gain access to the common spaces and offices of boarding houses and caravan parks
- apply instant fines in situations where there is no doubt that a party has broken the law.