



MEMBER DISCUSSION PAPER

LOCAL GOVERNMENT ROOMING HOUSE REGULATION

July 2009

1. Introduction / Background Information

A **rooming house** is defined in the Residential Tenancies Act 1997 (RTA) as “**a building in which there is one or more rooms available for occupancy on payment of rent, in which the total number of people who may occupy these rooms is not less than four...**”. The Health (Prescribed Accommodation) Regulations (HPA) definition has now been aligned with the RTA definition.

Melbourne’s private rental market is experiencing a chronic undersupply of affordable housing stock. According to the Office of Housing Rental Report for the December 2008 quarter, only 6.6 percent of rental properties were affordable for lower income households and just 2.5 percent of one bedroom dwellings were affordable. Prior to 2007, between 20 and 25 percent of the market was affordable. Consequentially, the 2006 Census recorded approximately 4,500 Victorians living in rooming houses.

There is growth in rooming houses through the conversion of existing properties to increase the maximum occupancy of the dwelling. Such conversions can be either formal or informal and increasingly occur in ordinary suburban dwellings. Informal subleasing arrangements are becoming more evident and are primarily used by opportunistic providers with the intention of exploiting legislative loopholes to maximise returns to the providers at the expense of tenants, and without regard to Council regulations.

Despite widespread acknowledgement of the particular vulnerabilities of residents, the rooming house sector remains largely unregulated. Legal requirements targeting the amenity and management of rooming house premises do not sufficiently protect residents from poor standards of accommodation and from exploitation by unscrupulous owners and managers. In the very worst cases, the parlous standard of some rooming houses adversely impacts on the health, safety and wellbeing of residents.

2. Regulatory Environment

Rooming houses are governed by the following Acts and Regulations:

- Residential Tenancies Act 1997;
- Health Act 1958;
- Health (Prescribed Accommodation) Regulations 2001;
- Building Code of Australia; and the
- Planning and Environment Act.

Health (Prescribed Accommodation) Regulations

The HPA were amended in December 2008 to bring the definition of rooming houses into alignment with the RTA definition, i.e. four or more people. The HPA prescribes standards including:

- the number of people that can be accommodated in one room
- room size
- maintenance
- cleanliness
- supply and quality of drinking water
- discharge of sewage and waste water refuse
- ratio of residents to toilet and shower facilities.

The changes also establish rooming houses as a specific, separate class of accommodation using the same definition as the RTA, which will assist with data collection and reporting.

Local government is responsible for registering rooming houses and enforcing the provisions of the HPA. Under the Health Act 1958 landlords operating an unregistered boarding house can be penalised. The HPA regulations identify penalties that apply to rooming house owners who are not compliant.

Residential Tenancies Act

Consumer Affairs Victoria is responsible for monitoring and enforcing the RTA. This includes the power to pursue matters such as to rent increases, failure to lodge bonds or issue receipts, loss of quiet enjoyment and unlawful evictions. Significantly, CAV has the power to investigate and prosecute rooming house operators who breach the RTA. However, CAV rarely prosecutes operators who breach the RTA.

Councils vary considerably in their monitoring and enforcement of rooming house registration and compliance. Anecdotal evidence suggests that the majority of small private rooming houses remain unregistered.

3. Issues for Local Government

Several key regulatory and compliance issues are evident:

- Inconsistent practice and registration conditions for rooming houses under HPA;
- Lack of compliance with HPA;
- Lack of coordination between regulatory instruments; and a

- Lack of coordination between local government departments, i.e. Environmental Health, Building, Planning enforcement and social planning/housing policy functions.

Local government is solely responsible for ensuring compliance with the HPA. There are significant numbers of private rooming operating without complying with the requirement to register with local government under the HPA.

The VLGA notes some inconsistencies across Councils in administering the HPA and Building Act. These include:

- Variation in disclosure of information held on registers. Some Councils provide this information to the public while others refuse on privacy grounds;
- Lack of clarity regarding responsibility for administering and maintaining the register;
- Lack of process to identify unregistered rooming houses;
- Lack of clarity about the extent of inspection powers and practices under both HPA and Building Act;
- Lack of clarity about the legal obligations for rooming house operators. Some Councils believe there is an obligation for operators to have hardwired smokes detectors while many do not; and
- A lack of consistent organisational structures and processes for information exchange about rooming houses between health and building departments.

4. Effective Rooming House Regulation - Member Feedback is Important

Your feedback on the following issues and suggestions is sought:

- Improved process, planning and coordination of rooming house activities within Councils could be supported by the adoption of common principles across local government in Victoria;
- The development of internal protocols ensuring inspections and subsequent enforcement actions are conducted in a coordinated fashion (with sensitivity to the needs of the rooming house residents) would assist local government social planners as well as environmental health, building and planning officers;

- The provision of greater information to rooming house residents and housing workers would better enable them to make informed choices about available rooming houses. This would also ensure unregistered rooming houses can be easily identified by both consumers and advocates;
- Rooming house registers should include the date of the most recent inspection and a summary of the inspection report. The Office of Housing is currently collating all registers of prescribed accommodation held by local government authorities with the view to making them publicly available. The VLGA and TUV strongly supports this move; and
- There is also a need for the introduction of regulation of rooming house operators as well as additional regulation of dwelling standards.

The VLGA believe the Victorian government should introduce:

- **Increased resourcing for current regulations to ensure compliance. This may take the form of a central body to provide guidance to local government on best practice and administer a central register of rooming houses and operators.**
- **Regulation of rooming house operators and managers based on a registration scheme, including a fit and proper person test, training and penalties should apply; and**
- **Minimum rental housing standards to ensure all rental properties, including private rooming houses, achieve basic amenity and service standards;**

The VLGA will be making representations on these matters in the coming months on behalf of its membership, with a view to better harmonising regulatory systems and the health and wellbeing of communities.

To this end, the VLGA is seeking your comments, opinions and suggestions on any matters that may or may not be included in this paper.

Responses will help inform the VLGA's approach to representing Council and community interests pertaining to rooming houses.

Please provide any feedback or suggestions to Simon Chambers over the phone on 9349 7903 or via email at vlga@vlga.org.au by close of business Wednesday July 15 2009.