

National Human Rights Consultation Submission

AGWW-7N26XK

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Submission Text:

This is a preliminary submission. I may wish to make a another more detailed one in the future.

I am a 60 year old woman with a disability living as a public housing tenant in a retirement village in Sydney in which NSW Housing is involved in a joint venture with other parties. In this 'joint venture' retirement village roughly half the occupants are self-funded residents and the other half, public housing tenants.

Ever since I moved into the building more than six years ago I have been subjected to discrimination and harassment by the general manager and self-funded women who run the residents committee. In my experience, public housing tenants living there are treated in a custodial manner, placed in the least amenable parts of the building and treated like second class citizens with no rights.

After many fruitless attempts to find where to lodge a complaint about this infringement of my basic human rights, early last year I was informed by the Office of Fair Trading that I was covered by the Retirement Villages Act. I subsequently applied for a hearing at the Consumer Trader and Tenancy Tribunal last June, but the member is still determining jurisdiction, i.e. whether or not I am covered by the act.

In the meantime, the NSW government has changed the act to ensure that I am not.

At the last sitting of the NSW Parliament in 2008, the government pushed through the Retirement Villages Amendment Bill 08 following debate in the early hours of the mornings of 3 and 4 December.

A clause was removed from the bill that gave some semblance of legal protection against discrimination and harassment to public housing tenants living in 'joint venture' retirement villages.

The joint venture clause that was removed was Section 5 (3) (e) which was under the heading of definition of a retirement village.

The right to self-determination and anti-harassment law is contained in Section 66 of the act.

Now that this clause has been removed, only people paying to live in these 'joint venture' retirement villages - the self-funded residents - are covered by the Retirement Villages Act.

The only meagre legal protection afforded public housing tenants is under the Residential Tenancies Act 1989 which has no anti-discrimination provisions. This is because it is designed for independent living situations, not mixed socioeconomic ones.

I believe this legislative change is discriminatory and breaches the basic human right of equality before the law.

In 1987, the Australian Constitutional Commission made the following statement on the subject of Australians and Equality Rights:

The concept of 'equality before the law' is a hallowed one in the framework of English and Australian legal and political traditions, going back to the Magna Carta.

The Committee considered whether the constitution should list particular grounds on which the Commonwealth and State could not unfairly discriminate. A list might include a place of residence, citizenship, race, national or ethnic origin, colour, religion, sex, age and mental, intellectual or physical disability.

However the Committee concluded that that might prove unduly limiting. The Committee therefore recommends a simple prohibition on 'unfair discrimination on any grounds'. The Constitution should also prevent governments denying equality before the law.

Australia's Constitution - Time to Update - Summary of the Reports of the Advisory Committees to the Constitutional Commission, Commonwealth of Australia, September 1987.

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