

## Response to the Victorian Residential Tenancies Act Review Options Discussion Paper

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February 2017

The Summer Foundation is pleased to be able to provide the Victorian Government with advice on how changes to the Victorian Residential Tenancies Act can assist young people with complex disability support needs to access rental properties and in doing so improve their access to housing.

Too many young Victorians with disability end up in aged care. In 2015 1,569 Victorians under the age of 65 were living in aged care. The number of young people with disability entering aged care in Victoria is not decreasing with 494 young people entering aged care in 2012 compared with 514 in 2014-15.<sup>1</sup>

A key reason for young people living in aged care is the lack of accessible and affordable housing and this includes the discrimination faced by tenants were applying for rental properties and unnecessary restrictions to home modifications that are required for people with disabilities to safely live in their own home. People with disabilities would also benefit from changes to the Residential Tenancies Act that enable longer term leases.

### **Discrimination**

The Equal Opportunity Act 2010 and the Disability Discrimination Act 1992 (DDA) prohibits discrimination on the basis of disability. However, the Residential Tenancies Act does not explicitly deal with discrimination against applicants and tenants with disabilities.

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<sup>1</sup> 1 SCRGSP (Steering Committee for the Review of Government Service Provision) 2016, Report on Government Services 2016, vol. F, Community services, Productivity Commission, Canberra.  
<http://www.pc.gov.au/research/ongoing/report-on-government-services/2016/community-services/rogs-2016-volumef-community-services.pdf>

The Summer Foundation supports Option 4.1 that the Residential Tenancies Act should include provisions that outlaws disability discrimination. Furthermore, every tenancy application form should be required to include a prescribed information statement that educates applicants and landlords/agents about unlawful discrimination and the positive duty under the EOA to take measures to prevent discrimination from occurring. The information statement should include information about what an applicant or tenant can do if they believe they have been unlawfully discriminated against when applying for a rental property or in the course of a tenancy. In addition, awareness of landlord and tenant rights and obligations around unlawful discrimination would be fostered through ongoing education or communication initiatives.

The Summer Foundation also supports Option 4.2 that clearer links between the RTA and the prohibitions in the EOA and the DDA should be introduced. Penalties will apply when:

- a landlord refuses to let rented premises, or instructs their agent to refuse to let rented premises, on the basis of disability
- a landlord refuses to give consent to disability related home modifications
- a notice to vacate is issued on the basis of disability

### **Home Modifications**

To improve access to the private rental market for people with disabilities we recommend that the Residential Tenancies Act be amended so that if a home modification is needed to accommodate a tenant's disability access needs and this modification does not require structural change, a landlord's approval should not be required. Summer Foundation supports option 8.20B outlined in the Options Paper.

Evidence from an Occupational Therapist demonstrating that an assessment was conducted and that the modification was required to address tenant's disability access needs would be sufficient for the modification to proceed legally.

Tenants would otherwise not be required to seek approval for non-structural modifications (for example, putting an adhesive hook on the wall). Guidelines would be developed to

provide further clarity about the types of modifications that would be classified as structural or non-structural.

The tenant would also be required to maintain a record of all modifications made to the property without needing the landlord's approval and use a suitably qualified person to make any modifications where a particular level of expertise is required. A suitably qualified person would include someone who is licensed or otherwise has the relevant expertise to carry out the modification.

The amendments proposed in this submission would support significant progress towards removing the barriers to the private rental market faced by people with disabilities, and make it less likely that they are forced to live in aged care.

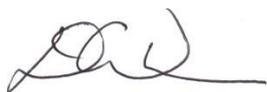
### **Long term leases**

The Summer Foundation strongly supports the Options Paper proposal 3.2 that long term leases of five or more years are an optional part of Victoria's RTA regulatory system.

People with disability face challenges in moving house regularly, including the disruption to routines, inability to find other appropriate housing and the cost of making modification to future dwellings. Providing options for greater security of tenure will be very beneficial to people with disability to have more certainty in their living arrangements.

The Summer Foundation welcomes the opportunity to meet with the Victorian Government to discuss these issues and potential solutions further.

Kind regards,



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