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Human Rights Commissioner says rights must be appropriately balanced in tenancy reform debate

Queensland's Human Rights Commissioner is urging parliamentarians to carefully consider a range of human rights in the debate over two separate tenancy reform bills currently before state parliament.

Both bills before parliament would remove the ability for landlords to end a tenancy with no grounds at the end of a fixed term lease. Critics claim this will result in a breach of property rights for landlords.

“While much of the conversation has so far focussed on the property rights of property owners, there are also rights held by tenants which need to be properly considered – including their rights to protection of families and children, and freedom from interference with their home, which is protected under the right to privacy and reputation,” says Commissioner Scott McDougall.

Property rights are protected under section 24 of Queensland's Human Rights Act, but the Commissioner warns that it is important not to overstate the extent of the right.

“For this right to be unreasonably limited, a person needs to be 'arbitrarily deprived' of their property. Preventing a lessor from ending a tenancy once the lease is ended unless a specific valid reason is available may amount to diminishing the property rights of a lessor, but would probably not amount to an 'arbitrary deprivation' under the right to property,” says Mr McDougall.

The Commissioner says that given significant housing instability and homelessness in Queensland, there seems a clear justification for limiting the rights of lessors by requiring them to provide a reason to end a tenancy at the end of a fixed term lease.

“In actual fact, the tenant's rights may be more limited than the lessor's in this situation, as the right to freedom from interference in their home is protected as part of the right to privacy under the Act,” explains Mr McDougall.

The Statement of Compatibility to the government bill recognises these issues in its analysis of property rights and concludes that the proposed changes 'do not arbitrarily deprive a person of their property'.

The Commissioner says it's important to realise this debate takes place in the context of well documented housing instability and homelessness in Queensland.

“An estimated one in 100 Queenslanders is experiencing homelessness. In the private rental market, one in five moves are made by tenants involuntarily. Many of the 1.8 million Queensland tenants are facing constant moves, with the median tenancy lasting only 13.1 months for units and 17.9 months for houses. 43% of renting households include children for whom housing stability, connection to community and access to schools is vitally important – and families and children are also entitled to protection under Queensland’s human rights legislation,” says the Commissioner.

The bills are currently being considered by a parliamentary committee.

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