

Inquiry into the rental and housing affordability crisis in Victoria

Submission from Registered Accommodation Association of Victoria

7/7/2023



Who is RAAV?

RAAV, Registered Accommodation Association of Victoria, is an industry association that brings together privately owned and operated rooming houses (RH) in the registered accommodation sector. RAAV members meet the needs of low-income residents who require medium and longer-term accommodation in addition to the growing number of professional and semi-professionals who are seeking this type of accommodation.

RAAV represents the views of the industry and creates a stronger, more cohesive and respected industry.

RAAV is an active voice on behalf of its members. The organisation's core activity is to ensure minimum and acceptable standards in operating registered accommodation and promote application of best practice to raise the image and performance of all privately owned rooming houses. RAAV encourages private rooming house owners and operators to adopt Best Practice Guidelines to assist in the good conduct of business, to meeting their obligations and the wellbeing of residents in rooming houses and other registered accommodation. This activity is partially funded and approved by Consumer Affairs Victoria.

RAAV'S other core activities include:

- Making RAAV's members aware of the legislative requirements as promulgated by the Victorian Government in operating registered accommodation;
- Providing information and assistance to the Government and Local Government in the operation of rooming houses;
- Encouraging un-registered and un-licensed rooming house operators to adopt best Practice in their rooming houses and to seek registration and licensing.

Introduction

This submission to the Legislative Council Legal and Social Issues Committee's Inquiry into the rental and housing affordability crisis in Victoria (Inquiry) outlines RAAV's position on this important issue.

There are a large number of factors contributing to the low availability and growing cost of accommodation in rooming houses in Victoria, and they all ultimately relate to supply and demand. The single best solution for the state's current so-called 'rental crisis' is to increase housing supply. Now.

The environment that currently exists in Victoria, has led to a shortage of available rental properties and increased competition. To address this, there is a need to encourage more investment and increase the supply of available rooming houses to meet rising rental demand.

RAAV understands that a fundamental error being made in efforts to resolve this issue is, the disproportionate focus on just one rental market stakeholder, the rooming house resident, or renter. However, the entire rental ecosystem must be considered if a solution is to be identified for now and future generations.

While it's essential to ensure that residents are not unfairly burdened with rising rental costs, it's equally important to provide a fair return on investment for the owners who play a critical role in providing much-needed rental properties. By providing incentives to invest in rooming houses in Victoria, the Victorian Government can help address the current rental shortage by stimulating supply of rooms to a section of the market that is not or cannot consider renting a house and must look to rooming houses as an alternative.

This submission demonstrates the complexity of the residential accommodation system, and that a seemingly positive action in one part of the system can have a negative impact on other parts of the system.

Whilst incentives will go a long way toward encouraging rooming house operators to enter this market, there are many other reasons that are causing operators to leave the market and thus contribute to the lack of supply and subsequent upward pressure on rents. These issues include closures during Covid lock downs; lack of support for operators recovering unpaid rent during the Covid period; increased complexity with legislation; multiple government agencies controlling rooming houses causing total confusion for example councils controlling registration and CAV controlling licensing; lack of support from VCAT when dealing with issues with residents and increased costs such as land tax, stamp duty and interest rates.

This submission will address these issues.

Rooming houses

A rooming house, or boarding house, is where one or more rooms are for rent and the total number of people who can reside in the property is four or more. The residents usually share

facilities like kitchens and bathrooms. There are rules and regulations about rooming houses, including:

- duties of the rooming house operator and resident
- licencing requirements for rooming house operator and managers
- maintaining the property to minimum standards
- how many people in a room
- rent receipts
- house rules
- eviction.

Who are the residents?

People choose to live in rooming houses for many and varied reasons. It can be due to

- employment relocation;
- relationship breakdown;
- natural disasters;
- home renovation or construction.
- Homelessness
- Simply prefer the lifestyle
- International or country students

For some it is short term, others medium term and still more will only ever live in a rooming house due to their choice of lifestyle and personal situation.

Therefore, it must be recognised that rooming houses play an extremely important role in the accommodation of Victorian residents. Particularly those needing crisis accommodation or are in-between life situations following time in prison. As governments have chosen to step away from providing emergency and crisis accommodation in many cases, it is up to rooming house operators to fill this gap and should therefore be given every form of encouragement to meet this critical need not be demonised as “rat-hole” accommodation or “greedy” rooming house operators.

Who are the Rooming House Operators

Rooming house operators are mostly just normal people trying to create an investment to support their years in retirement. I have spoken with several members recently and many are choosing to leave the industry because the return is not enough to put up with the problems associated with delinquent residents and rising costs. Many of the operators are mum and dad investors who currently offer housing in rooming houses they have invested in and these people don't need the hassles in their later life and are choosing to get out of the market. This may assist with adding to available stock for some home buyers or renters, but it will exacerbate the problem of homelessness for many more.

Some rooming house operators may have built up a portfolio of multiple rooming houses and can more easily manage some of the fixed cost increases and management of the legalities associated more and more with accommodation, but we do not see corporate type ownership of this form of accommodation.

Rooming house operators are service providers, providing an accommodation service for financial gain in the same way as other people provide goods or services both essential and discretionary. If a reasonable return is not made for the investment in the form of capital, expenses, time, and stress involved in providing such a service the actions of rooming house operators will include one or more of the following:

- Increasing rent
- Selling existing rental stock
- Using the properties for other purposes such as short-stay B&B accommodation
- Leaving properties vacant
- Lack of further investment stagnating supply

Before even considering rental caps, stamp duty increases, land tax increases and other impositions being considered to make rent cheaper for residents, there are other expenses and complexities in dealing with legislation has been incurred by rooming house operators in the provision of this service. This has resulted in rent increases to avoid the provision of rental accommodation becoming an unviable proposition. If the provision of rooming house accommodation is no longer a viable enterprise, current and potential operators will find other options to obtain income. This will lead to a further reduction in supply and an increase in rental cost.

Significant among these expenses and complexities are:

- Modification of premises required as part of the raft of changes to the Residential Tenancies Act 1997 (Vic) (RTA) in recent years. Some of these requirements go beyond what is required in owner-occupied residential properties and properties that are being sold.
- Inspection regimes required under the RTA and prescribed rental agreement. As with the previous point, these inspection regimes go beyond what is required in owner-occupied properties.
- Many rooming houses were sold during the Covid lockdowns as residents and students were unable to obtain rooms and they were left vacant for longer than the operators can support.
- Many operators left the industry following the lack of support they received following covid in trying to recover unpaid rent that they allowed to occur to assist their residents.
- The cost of materials and services for the maintenance of premises has risen significantly because of labour shortages, supply chain challenges and other costs businesses incur.
- Getting rid of the eviction notice “for no reason” has caused considerable problems for rooming house operators in dealing with unruly residents.

- Where a rooming house is managed by an agent, increased fees negotiated by real estate agents to cover the additional expenses they are incurring due to the additional ongoing property management workload created by the raft of changes to the RTA.
- Increased interest payments for those operators who still have borrowings in order to provide a service.
- The State Government's proposed increase in Land Tax will further reduce the net return from a rental property, making it less viable to be a rooming house operator. The supply of residential rental stock will reduce and rents increase.
- According to Australian Tax Office data 2020/21, more than 70 per cent of Victorian property investors owned only one rental property, with 43 per cent of that group earning under \$100,000 p.a. This announcement will ultimately drive mum and dad investors out of the market as the cost of maintaining a rooming house outweighs futureproofing family finances. The biggest impact will be felt by people with smaller holdings as the tax-free threshold drops from \$300,000 to just \$50,000, disproportionately impacting everyday Victorians investing to secure their future.

Complexity in the rooming house industry

While the concept of minimum rental standards and inspection regimes is reasonable, it is not reasonable that these standards are higher than those applicable and enforceable in owner occupied homes. The descriptions of some standards are unnecessarily vague, ambiguous, or complex.

The rental system has become excessively complex and uncertain. The Residential Tenancies Act is enormous, and in addition there are copious regulations, Director's guidelines, and standards, much of which has only been in effect since 29 March 2021.

A vast number of changes to residential tenancies came into effect because of amendments to the RTA in 2018. The bulk of these changes were effective from 29 March 2021 and the details of many were contained in Regulations released almost on the eve of the effective date. It has become apparent that the changes are not operating efficiently and perhaps not as intended.

The complexity and inefficiency of the changes has become a significant contributing factor to:

- A reduction in the supply of rooming houses as operators sell properties or withdraw them from the rooming house market, due to increased costs, complexity and lack of control over their investment.
- A huge backlog of residential tenancy cases at the Victorian Civil and Administrative Tribunal (VCAT)
- An exodus of property managers and major difficulty in finding and training people to take up residential property management roles.

Some rooming houses have been rendered uninhabitable due to damage caused by residents. The chances of an operator recovering any more than the bond from the offending resident is slim and even recovering the bond can take up to two years when it is disputed and goes to VCAT. Eventually operators are likely to dispose of the property as they are disillusioned with the rooming house experience. The result of this type of damage is that rooming houses are removed from the market either temporarily or permanently.

Government agencies supporting and regulating the rental market are all mandated to support resident rights which results in operators often having to take matters to court rather than resolving them at Tribunal levels. This results in a much higher time and money cost to the operator.

Between the 2020-21 and 2021-22 reporting periods from the VCAT Residential Tenancies Division, the number of pending cases increased by 37 per cent despite an overall drop of 11 per cent in initiated cases for the year. Residential Tenancies remains an area with a very high caseload, representing 58 per cent of VCAT's volume of applications for the year. Median duration for cases grew by 40 per cent to 7 weeks, largely attributable to finalising cases that were delayed by the backlog.

Caseflow	2018/19	2020/21	2021/22	Variance
Initiations	52,412	44,685	39587	-11%
Finalisations	52,171	34,132	33711	-1%
Pending	2467	16,419	22462	+37%
Clearance rate	100%	76%	85%	+11
Timelessness of finalised cases - weeks	2018/19	2020/21	2021/22	Variance
Median	3	5	7	40%

Source: VCAT Annual Report 2021-22

Government Policy and Messaging

Residential, commercial and industrial property owners and their tenants directly contribute billions of dollars in stamp duty, land tax and other state government charges, accounting for more than 40 per cent of government revenue. As evident in the latest State budget, governments repeatedly turn to property owners to fund any revenue gaps. This has a significant bearing on property ownership

Threat of rent caps or freezes

Rooming house operators have been threatened in recent times with rent freezes or rent caps. It has been proven internationally that rent caps have an enormous impact on rental supply, diminishing it substantially. The current Residential Tenancies legislation already details a process for any proposed rent increase.

Rent caps work against the rhythm and spirit of market dynamics.

- Rent caps deal with the “symptom” not the problem of housing supply.
- Rent caps will see rental providers exit from the property investment sector.
- Rent caps will make short stay rental options more attractive to existing rental providers.
- Rent caps will make alternative asset classes such as, cash, share market & commercial property a more attractive alternative.
- Rent caps will provide no offset for rental providers in rising costs of mortgages, maintenance and service provider fees, or regulatory service fees (smoke alarm, gas & electric compliance) etc.
- Rent caps were introduced after World War 2 and only resulted in many rooming houses being sold off thus causing a shortage in available accommodation.

CONCLUSIONS

Change the language

Rooming house operators are portrayed as “greedy landlords” rather than an essential service provider in the housing market.

Cease perpetuating the myth that “negative gearing” is a gift for rental providers, rather than the truth that as with other taxpayer’s costs incurred generating income they are deducted from gross income, including from other sources when determining taxable income. Cancelling negative gearing will only lead to more operators leaving the industry.

Supportive and inclusive terminology will assist all stakeholders.

Property tax incentives

- Incentivise “new property investors” into the market – this could be in the form of a stamp duty concession conditional on maintaining the property in the rental pool for a definitive number of years.
- Incentivise existing rooming house operators to remain in the market with a land tax offset/exemption to owners on the basis of a commitment to maintain the property in the rental pool for a definitive number of years.
- Increase resources to VCAT to clear the backlog of tenancy disputes which may facilitate return of stranded properties back into the rental pool.

Simplify the Residential Tenancies Act

Make the provision and management of rooming houses and other accommodation less daunting by dividing the RTA into four standalone Acts with associated Regulations:

- Rental Houses, Units and Apartments Act
- Rooming House and Boarding Act
- Caravan Parks and Moveable Dwelling Act
- Specialist Disability Accommodation Act

Remove uncertain terminology and the habit of referring the reader to another part of the document which may in turn refer to another document.

Encourage the provision of rooming house accommodation by reducing uncertainty created by the RTA. As well as benefitting from increased supply, residents will also suffer less uncertainty and VCAT decision making will be simpler and hopefully less variable.

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