

RESIDENTIAL TENANCIES AMENDMENT BILL 2011

Third Reading

MR T.R. BUSWELL (Vasse — Minister for Transport) [12.12 pm]: I move —

That the bill be now read a third time.

MR M. MCGOWAN (Rockingham) [12.12 pm]: I am pleased to once again set out the opposition's position on the Residential Tenancies Amendment Bill 2011 and to indicate what we will do. Although we attempted to amend the legislation last night to remove some of its unfortunate aspects to improve the legislation, we will not vote against this legislation. It was a good debate. We set out our point of view on the protection of children and people with mental illness and the removal of discrimination against public housing tenants. Unfortunately, all those amendments that we moved were lost and the government succeeded in defeating those protective measures that we wanted in the legislation.

We support a large amount of the legislation; it is based on good policy and a sensible approach to protecting the interests of tenants, predominantly, and resolving some longstanding issues about tenants being blacklisted on a register in unfair ways. We support coming up with a provision that stops the unfortunate practice of unfairly putting people on a register for the rest of their lives and thereby making it difficult for them to find somewhere to live. We support that and some of the other measures in the bill.

We had some reservations about some of the increases in penalties and we thought that perhaps some of the penalties that apply to landlords may have been a bit harsh. We raised the issues of the Property Owners Association of Western Australia. Mr Wilde's correspondence raised some good points and we raised those issues. The government indicated that it was not prepared to deal with some of those issues concerning penalties. That amendment was, therefore, dealt with.

The most significant issues, as we spoke about, are what the government plans to do to social housing tenants and how the legislation will have discriminatory provisions for them as against private tenants. As I said, it was a good debate last night. We raised the issues and we moved some amendments. I will go through what we attempted to do. We attempted to put in some protections for tenants or people living in public or private rentals who might be subjected to domestic violence to give them a greater protection from eviction when it is a consequence of that domestic violence. We tried to provide some protection for the victim, not the perpetrator, when the eviction is a consequence of domestic violence. We wanted to do that across both public and private tenancies. It is not a controversial area; it is well settled that domestic violence is not acceptable. But, admittedly, the amendment would have put into the legislation a specific case in which the courts or a landlord would have to take into account a domestic violence victim. We did not put forward other cases in which people might be victims of other criminal activities. We wanted to send a specific message because we have been told anecdotally that people have been evicted from public housing as a consequence of strikes issued by the government because of domestic violence by their partners. The partner may well be a signatory to the lease and a tenant, but that person has caused some mayhem in the area or some damage, and the victim, who also lives at the property, suffers as a consequence. We were trying to tell the government that it needs to deal with that issue of domestic violence and put a specific provision in the legislation. That amendment was defeated.

Another provision we attempted to put in was for the protection of children. We wanted to create a threshold test; when a court is deciding on the eviction of tenants in a public or private tenancy—the matter is before a court, so it is a matter in which a tenant is being evicted because of a behavioural matter as opposed to the tenancy expiring or the 60-day measure—the court would need to take into account the interests of the children living at the property. We wanted to insert a specific clause to provide that. As I said, that would not preclude an eviction, but it would require the court to take into account the interests of the children. We moved that amendment as a matter of principle because children have no control over these things. We made the point that children should not be the victims of a government policy when they have no say or role in the actions or activities that cause the evictions. Even if they did, children sometimes do things that they should not and we all know that.

We tried to put in a provision to deal with children and we tried to provide some protection of children by the court. We did that knowing that the Premier had made some very aggressive statements in defence of asylum seeker children. We wanted to test the mettle of the Premier on Western Australian children. It has to be said that the government was lacking. The rhetoric of the Premier about children who arrive here as asylum seekers was not matched by the actions of the government for children living in tenancies. The government could have amended the bill if it liked. If the government wanted to have a specific arrangement for only public housing tenancies, the bill could have been amended to ensure that courts take into account the interests of children in public housing tenancies. Our amendment was broader than that; it dealt with both public and private tenancies.

The government could have amended the clause to ensure that the interests of children in public housing tenancies were taken into account had it wanted to, but it did not. In fact, the government voted down the clause in its entirety. Our effort to protect children in tenancies was voted down by the government last evening at about 10 o'clock.

Our third effort to try to ameliorate these laws was designed to ensure that when a public or private tenancy is concluded by order of the court and the tenant being evicted suffers from a mental illness or the tenancy involves children, there is a capacity—not always through some memorandum of understanding or some agreement between the department and some other government agency—under the legislation for the court to order the involvement of the Department for Child Protection or the Mental Health Commissioner. We suggested that the bill should incorporate that defence mechanism so that at least when kids are being put out of a property and potentially made homeless, a government department could be ordered to be involved by the court. The government rejected that suggestion. We also tried to put in a similar provision for situations in which a tenant or a person living at a property, such as a co-tenant, is being evicted and that person has a verifiable mental illness; we wanted to provide that the much-vaunted Mental Health Commission could be ordered to be involved in such situations and, again, the government rejected that suggestion. In every single one of the cases in which we have tried to provide some defensive mechanism for vulnerable people who are being impacted as a consequence of the government's harsher eviction policies, the government has rejected them.

The last amendment we tried to make was to ensure that there was a level playing field between public and private landlords, and public and private tenancies. This is an interesting philosophical difference. We, as Labor members, said that there should not be a harsher policy for a public tenant than there is for the private tenant next door. This is a fundamental matter of justice—of everyone having equal rights before the law and of all Western Australians being treated equally. A public tenant and a private tenant should have the same rights. We said that we would amend these laws, and we moved amendments, so that a public tenant could receive the same treatment as a private tenant, and vice versa, so that in situations of illegality on the property, a public tenant would have the same rights before the court as a private tenant. Conversely, the other side of that coin is that a private landlord would have the same rights as a public landlord.

I will go through the minister's justifications in a moment, but what the government has done with these laws is to effectively say that a public landlord—that is, the government—should have greater rights in respect of their tenants than a private landlord; that is absolutely in the legislation. The government is saying that a public tenant should have fewer rights than the private tenant living next door—that is, a public tenant can be evicted more easily than the private tenant living next door—and a public landlord should have greater rights of eviction than the private landlord who owns the property next door. We disagree with that; we think they should have similar rights and obligations.

We also said that we would like to toughen up the illegality provisions for eviction as a result of illegal conduct on a premises and extend that right to private landlords, so that private landlords have the same opportunity to deal with a tenant who has committed an illegality on a premises as public landlords have in respect of tenants who use premises for illegal purposes. I suppose one could say that we are on the side of fairness, but we are also on the side of private landlords and public tenants, to make sure that everyone is treated equally across the spectrum. All our amendments in respect of each of those things were voted down.

I asked the Minister for Transport—probably the last question of the evening, at 11 o'clock last night—what the reason was, in a nutshell, for public landlords and public tenants being treated differently from private landlords and private tenants, and why the government should have greater rights than private landlords and tenants. His answer was that it is because taxpayers' money is involved. He had a few points, but point one was that it is because taxpayers' money is involved. So taxpayers' money goes into the property, and because it is taxpayers' money, it therefore means that the law is different in respect of those matters—because there is taxpayers' money involved in the provision of the property.

Some of that taxpayers' money is provided by the commonwealth government, and I am pretty sure the commonwealth does not support what the minister is doing. In fact, these days, most of the money, in the last few years at least, has been provided by the commonwealth. The commonwealth government has provided that money and, having consulted it, I am pretty sure it would not agree with that, even though it is the provider of the so-called taxpayers' money.

Secondly, is it right in principle that because there is taxpayers' money involved in an issue, the government therefore has greater rights of eviction than when there is private money involved? Is it right in principle that, because the government secures its money from taxes, royalties, fees and charges and the like, it therefore has greater rights in respect of evicting a tenant than the person living next door who has secured their own money for their investment property through their own work effort, their savings and superannuation and what have you? In principle, I cannot agree with that. There will be members in this place who own investment properties;

why is their work and effort regarded any less highly than the government's imposition of taxes and/or royalties in terms of how property is dealt with? I cannot understand how that argument can play out, and I do not think it actually makes sense, but I accept that it is probably a genuinely held view of the Minister for Transport.

The second point made by the minister was that the courts treat the government differently from how they treat private landlords; so the courts are treating the tenants of the Department of Housing and other public providers of housing differently from how they treat private tenants. I recall that at the famous briefing that was held in the small caucus room with seven government ministerial staffers present, that argument was advanced by one of the departmental officers. Therefore, I think that argument has a bit more veracity than the minister's earlier argument that, somehow, taxpayers' money has some higher status than a private individual's savings, which is an argument I do not accept in principle.

If the courts are treating public landlords differently from, and applying different standards to, private landlords, surely it would have been open to the minister to put in place a provision to say that these laws will apply equally to public housing providers and private housing providers, rather than having an entire provision devoted to dealing only with social housing tenancies. Surely that would have resolved the problem and not resulted in the two-tier arrangement that the government has put in place. I would have thought that that would have been an easy way to go, and I could probably draft a clause right now to ensure that the courts are aware that it is an equal playing field for both public and private tenancies. But, again, that was not the path the government elected to go down.

Those were the minister's two main reasons; he had a third, but I cannot quite remember what it was. Those were the two main ones that stuck in my mind; I ruminated on them on the 45-minute drive home last night, and I could not, for the life of me, work out why —

Mr T.R. Buswell: Couldn't sleep?

Mr M. McGOWAN: Pardon?

Mr T.R. Buswell: Were you going to say that you couldn't sleep? I was going to say that now you're really starting to get me worried, after I admired your physique last night! I ruminated on that on the way home; I wish I hadn't!

Mr M. McGOWAN: I hope the minister did not ruminate for long!

Mr T.R. Buswell: I ruminated for longer than the trip home!

Mr M. McGOWAN: There is a frightening thought!

Ms M.M. Quirk: You're lost for words! That's amazing!

Mr M. McGOWAN: I am sure the minister ruminates on lots of things, but I cannot imagine that rumination on my physique would have occupied too much of his time! I do not think he is telling the truth to the house in that regard!

In any event, the point I was attempting to make was that, whilst I ruminated on the minister's arguments on the drive down the freeway last evening, I could not work out why a member of the Liberal Party would regard capital provided by government to have some higher status than capital provided by a private individual. I could not understand how that could be the case, and I do not understand that. I certainly do not regard capital provided by the government as having a higher status than capital provided by a private individual, and I think the rules should be similar for both. I also think that the minister is building into these laws some basic unfairnesses that are not particularly in keeping with our stated ethos and the egalitarian nature of all Australians. Although I do not think these issues will gain huge prominence in the media, I do not think they fit with our state's heritage, our history, the way we view ourselves and the fairness that I think is hard-wired into the brains of virtually all Western Australians. I do not think these laws comply with that basic test that all laws in this state should comply with.

However, on balance, we support the majority of the bill—that is, five out of the six parts of the bill. At the end of the day, we have to make a judgement about whether we support laws or we do not. In any event, we do not have the numbers. We tested on the floor of the house last night whether the government supports the additional protection for children, and it voted that down, so we know that members of the Liberal Party will not cross the floor on this bill. Therefore, there is little point, in any event, in how we might want to vote. However, we thought that five of the six parts of this legislation were good. We thought that the sixth part had some grave mistakes in it, and I have gone over all those mistakes for the house on a few occasions, so I will not go over them again. But I would hate to think that in the imposition or the application of these laws, some unfairness will be perpetrated upon Western Australian citizens, so we will see what happens in the fullness of time as to whether that is the ultimate outcome of this legislation.

Mr Troy Buswell; Mr Mark McGowan; Mr Chris Tallentire; Ms Janine Freeman; Ms Rita Saffioti

MR C.J. TALLENTIRE (Gosnells) [12.31 pm]: My speech on the third reading of the Residential Tenancies Amendment Bill will be a brief one. I just wanted to say, though, that I think we have discussed the issue of antisocial behaviour in quite a lot of detail. How we tackle antisocial behaviour in private tenancies, as well as in public rentals, is a matter that needs to be considered in other areas of legislation. In discussion, the trend that we have seen has been towards some sort of differentiation between rentals that are held by the state and those properties which are held by people as investment properties, or for other reasons, and which are let out to people. It seems that there is a fair degree of inconsistency in how we treat the two categories of rentals, and that is reflected in the way we want to treat antisocial behaviour when that occurs.

I heard the minister's comment that public housing is about public money. That is why I was very concerned to learn—I have just learnt this—that at 6 Sheoak Road in Maddington, some 32 social housing units are empty at the moment. I am told—I cannot vouch for the accuracy of this—that they have been sitting empty for at least three months. I understand that the minister might even have a briefing note about this, so he will be able to allay our concerns. Those units are currently in the hands of the Department of Housing and are about to be handed over to Access Housing, so I hope the minister can clarify the situation there, because he has made a big point in this debate about what is happening with public money. If 32 units are vacant and it is taking so long to get those units allocated to people, there we have a classic case —

Mr T.R. Buswell: I don't have a briefing note, member. I'm always cautious to check the facts in and around these matters, as I'm sure you are.

Mr C.J. TALLENTIRE: Good. I hope my raising it now will perhaps enable the checking at the minister's end to be sped up somewhat.

There are other aspects of this legislation. On a number of occasions the minister made commitments on the content of regulations that would follow the passage of this bill. I think it is very important that we have further confirmation from the minister that issues about the security standards in public housing and also the energy efficiency standards will be clearly documented in regulations. I am a little concerned, though, because I know that a government commitment to the national energy efficiency agreement, which was signed by the Premier in July 2009, was made through the Council of Australian Governments process. That provides for a full audit of all public housing in Western Australia. I will quote from that national strategy document that the Premier signed off on. It states —

All states and territories will conduct and make publicly available an independent audit of the energy efficiency performance of their public housing stocks.

I have asked around, and the information I have received is that that audit is yet to get underway. So I am very concerned that within the minister's housing portfolio, such an important thing as an audit that is critical to ensuring that we have a decent quality of rental accommodation for people in public housing has not got underway, even though the Premier made the commitment as far back as July 2009. That is a matter on which I am concerned to hear from the minister. I hope that the minister will have some good news to give us on that front.

In discussion, we also touched on the issue of rental control. I think it is fair to say that the minister was fairly dismissive of that idea.

Mr T.R. Buswell: I wasn't dismissive; I just don't agree.

Mr C.J. TALLENTIRE: Having rental control does not mean that rents cannot be increased. There are rental controls in Canberra, in New York, in Paris and in many other cities.

Mr T.R. Buswell: We don't have them in WA.

Mr C.J. TALLENTIRE: That is perhaps the minister's ideological position.

Mr T.R. Buswell: Put it up as policy. Get it through the Labor state conference, if you have one.

Mr C.J. TALLENTIRE: I think that it probably should fall on the Minister for Housing to ask why cities such as Canberra, New York and Paris have rental controls. From what I have been able to find out, the main reason is that they are concerned to moderate the effects of speculation on residential property. Therefore, I think we should look at this issue in the future. The minister may oppose rental control, and there may be a degree of self-interest in that. There might be some degree of self-interest also on the part of other members —

Mr T.R. Buswell: I don't have any rental properties.

Mr C.J. TALLENTIRE: — so that they are against this position, but I think we have to look at why elsewhere in the world rental control is so successful and used as part of a general housing policy.

I have mentioned the issue of asset management and the audit of public housing. It seems that we do not have a good standard of asset management of our public housing. There are details that one would like to know about

public housing in Western Australia. For instance, how many houses have ceiling insulation? Because we do not have a good standard of asset management, we cannot answer that question. That is very poor. We cannot say how many houses have ceiling insulation, let alone answer the more important questions about how good the quality of that ceiling insulation is. Is it still functioning properly? Does it have gaps in it that diminish the whole effect? Those sorts of questions cannot be answered because of poor asset management. Likewise, we are unable to get accurate information on how many of our public housing properties have ceiling fans. How many houses have adequate security screens, so that people can open their windows at night and not fear that cooling their home will lead to the entry of an intruder? We cannot answer clearly how many people have security screens. Asset management is vital to the maintenance of good-quality public housing and making sure that we provide people with a standard of housing that means that they will receive bills that are not impossible to pay, because they will be bills that are moderated by various energy efficiency measures that people might have taken. That failure to ensure that those standards are in place is a real shame, and is something that we should be looking to remedy into the future.

The debate touched on issues around making sure that we have good-quality legislation that deals with antisocial behaviour in a consistent manner. I hope that the minister in reply to the third reading debate will detail the content of the regulations and will provide a little more detail on the security standards and energy efficiency standards. I hope he will also outline to us when this audit of public housing will take place.

MS J.M. FREEMAN (Nollamara) [12.40 pm]: I, too, rise to speak briefly at the third reading stage of the Residential Tenancies Amendment Bill. I rise primarily to support some of the comments from my colleagues the member for Rockingham and the member for Gosnells. In particular, I want to reiterate the member for Rockingham's comments on the funding of public housing in Western Australia. As far as I understand it, the only consolidated funding recently brought into public housing in Western Australia was about three or four years ago for building houses in Roebourne. Prior to and since that time, the funding was from commonwealth housing agreement funds.

Mr T.R. Buswell: No.

Ms J.M. FREEMAN: I am happy to be told differently.

Mr T.R. Buswell: I am glad you are happy.

Ms J.M. FREEMAN: Prior to that, public housing was funded with commonwealth housing agreement funds—therefore, commonwealth money. Since that time, I believe the majority of funding has been from the commonwealth. I am unaware of consolidated funding that goes into housing.

Mr T.R. Buswell: Member, can I just make the point, without trying to be smart, that in relation to the housing spend on construction and government money, you are right that there is a lot from the commonwealth. There was a lot under the stimulus package, which was a great initiative. There is some CF money in the Department of Housing resources, and that goes up and down a little bit, but largely it is funding that is generated within Housing and so on.

Ms J.M. FREEMAN: Yes, I was going to get to that; DOH uses its own assets.

Mr T.R. Buswell: Yes.

Ms J.M. FREEMAN: The Department of Housing has always used its own assets. In fact, I understand that one of the biggest difficulties in the public housing system was during the split of DOH and LandCorp, as prior to that DOH owned its own land.

Mr T.R. Buswell: It still does.

Ms J.M. FREEMAN: It owns Mirrabooka land on Milldale Way, minister, which I am more than happy to see the Department of Housing develop. I recently got a briefing on that.

Mr T.R. Buswell: It is just around the corner from where the light rail will start.

Ms J.M. FREEMAN: Absolutely, minister! I have said on record that I welcome, as I am sure the community will welcome, the light rail into the Mirrabooka area, given that I have previously raised the community's transport needs.

I am trying to say that, given that a large amount of public housing is commonwealth funded, I understand that DOH uses its own assets. I am not aware that much CF money goes into the Department of Housing at all, and, if it does, it is CF money for mostly Aboriginal housing.

Mr T.R. Buswell: There's a big chunk this year for mental health and disability services.

Ms J.M. FREEMAN: Okay. The areas are usually very selected —

Mr T.R. Buswell: Targeted.

Ms J.M. FREEMAN: Yes; the state usually provides targeted funding.

We have raised the concern in this place previously that, because the legislation will impact on people in the community who are subject to a cycle of homelessness on their families and on future generations, this legislation has been introduced without consultation with the commonwealth. In particular, it has been introduced without recognition of the commonwealth's programs on homelessness and the programs that came out of the white paper. I therefore rise to discuss that concern, and in support of the member for Rockingham's comments on the minister's rationale that there is a greater capacity for government to introduce this legislation because it will involve taxpayers' money. If that is the minister's rationale, it is concerning that he did that without consultation with the commonwealth on the impact on taxpayers—the people who pay tax to the commonwealth, from which the money comes to the state. It is also concerning that there was no consultation with the Equal Opportunity Commission, given that it holds major reports on the impact of discrimination by the Department of Housing on Indigenous Aboriginal tenants.

All those matters need to be taken into account in this debate—in particular the discrimination on social housing tenancies being brought in by this bill so that the minister can implement his government's three-strikes policy. I understand that the minister has stood in this place and said that he is very proud of that policy. I do not retract from the position that we need to assist tenants with behavioural issues to prevent the strikes. I am sure I have written letters to the minister about behaviour issues. Let me tell the minister that I have also done things in the community to try to deal with behaviour issues. I have had community meetings, formed neighbourhood groups, had barbeques in the park and done the work on the ground to help establish communities that are more cohesive. I am therefore not standing in this place and saying from some lofty height that this is what the minister should do. I think it is about us going out into the community and getting the community to talk about the behaviour of our whole community, not just the behaviour of social housing tenants. It is about what we want to see in our communities. One of the things I want to see in our communities is stability for children. I am talking about stability in their ongoing education so that they can break the cycle that often occurs in many of these houses that have behavioural issues. Children need that stability so that they can live with the security of ongoing tenure in their homes and in their communities and gain the advantages that many other children have in the very fortunate and privileged Western Australian community as a whole in which we live.

I understand that the minister will lay down his three-strikes policy so that people are very clear about their behaviour. First, I am very clear that the minister needs to do that early intervention work once he starts the three-strikes policy, because those tenancies at risk comprise some of the most vulnerable people. However, additionally, I say that the minister could do that under clauses 39 and 62 of the bill. Clearly the minister's concern about clause 62 is that people issued with a notice to remedy their behaviour within 14 days will remedy their behaviour within that time so that the notice of termination falls away. Another 14-day notice, however, may need to be issued, and the minister says that the department gets into a cycle of issuing termination notices that lead to no effective outcome, which undermines his three-strikes policy. It seems to me that there is an avenue for the minister to amend clause 62 to change the period for the notice of termination, which would take account of the people who manipulate the process. The minister could insert a provision limiting the 14-day notice for people to remedy their behaviour to exclude those who manipulate the process in a repetitive way. That mechanism would not undermine the obvious intent of the original clause. That intent is to afford people procedural justice so that they can be made aware that their behaviour is inappropriate and is in breach of their tenancy agreement and for them to rectify that breach.

The minister says that we make tenants aware that they are breaching the act and they rectify those breaches within that period of time, and they behave for that period, but the actions and behaviour or the concern about breaches of tenancy then recommence after that period. It seems to me that our debate indicated that this clear Residential Tenancies Act has always been a balance between tenants and landlords and the Department of Housing is simply one of those landlords in the greater context of that. If that is the case and these things have been done with a view to that sort of procedural justice, so that people have a capacity to address their issues, it would have been fair to amend section 62 of the act so that all landlords, not just public and private, have a capacity to remedy situations in which the rules are being manipulated and in which aspects of procedural justice are being manipulated in a manner to undermine the intent of the act. I say that because I believe that that is the course and the path that needed to be taken and not this one of clear discrimination in social housing tenancies under section 75, the whole new set of laws made under proposed section 75A and the whole new interpretation that magistrates will have to make around proposed section 75A. I assume that the expectation will now be that there will be written decisions by magistrates. There will be appeals from the magistrate's decisions with respect to that, to establish law about what can and cannot be considered, and in some ways that may cause even greater frustration for surrounding tenancies.

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I want to put on record that I agree with my colleague, the member for Gosnells, that we at least need to have a discussion about rents and setting some capping on rents, given that housing affordability and access to affordable housing is one of the major issues in our community. I believe that we have to have an open and honest discussion about it.

Mr T.R. Buswell: What about price? Do you support the capping of price?

Ms J.M. FREEMAN: I just think we need to have an open and frank discussion about the issue, honestly. I do not know enough about the issue at this time. I know that it has been the Holy Grail that no-one goes near. Clearly many other countries do it, and now the Australian Capital Territory has done it. I do not think we can afford to dismiss it offhand.

Mr T.R. Buswell: We don't go near the Holy Grail. Everyone tries to get to the Holy Grail; it is the exact opposite of the Holy Grail! It is the poisoned chalice!

Ms J.M. FREEMAN: There you go, thank you very much; it is the poisoned chalice! It is the unspoken area that for some reason we do not want to discuss because we just dismiss it outright. We may come to the conclusion that it is not what we should do, but that is not to say that we should not be able to stand in this place and have that debate. There is no doubt that both parties need to have that debate about what affordable housing is in our community and how we ensure that people do not go into housing stress when they hit 30 per cent of their income going into housing, which leads them into greater concerns and problems.

I did not ask minister this last night because it was late and we were both over it, but when the minister gets on his feet can he give me clarification about whether the current provisions for tenancy databases in the bill, that will be in the new act, will pertain to the Department of Housing and the capacity for a tenant to know what is on their tenancy database? I understand the provision is aimed more at the tenancy databases for private rentals, but I need to know how it will influence or impact on the databases that are kept on public housing tenants and the information kept on their files. I gather that that information is currently only able to be gained through freedom of information and the costs involved in that process are sometimes not affordable for people. I just want a bit of an understanding about the transparency of the information that is kept on public housing tenants, especially given that, increasingly, the department is transferring public housing over to community housing and I understand that the government's intent, at the end of the day, will be that the majority of public housing will go to community housing organisations and that the Department of Housing will simply become a manager of the waitlists. Given that information will be passed to a whole series of different people, I think people have a right to know what sort of information will be passed on and how they can counter that information if they believe it to be incorrect or prejudicial on their claims for housing.

In closing, I congratulate the Minister for Commerce for bringing on the changes to the Residential Tenancies Act; they have been a long time coming. There have been many reviews, and many people in the community would congratulate the minister for being able to bring this bill before the Parliament, because people in the community sector have been anticipating it for a long time. The minister should be congratulated for being able to put this bill before the Parliament and taking action to include many very good provisions in the Residential Tenancies Act, in particular tenancy databases for private tenants. However, as we have all said in this place, we are concerned about the provisions in proposed section 75A.

MS R. SAFFIOTI (West Swan) [12.56 pm]: I want to make some brief comments and ask whether the minister could provide some clarification in his third reading response to the Residential Tenancies Amendment Bill. I want to reiterate the concerns from some of the property owners that have been passed on and the member for Rockingham reiterated those concerns. There is one issue I would like some clarification about. I stand up because we received a letter between the second reading speech and now about community housing and the policies and procedures that community housing organisations apply to the properties that they take control of. I received a letter back from the minister's office on 31 August that referred to a particular situation, about which I will not go into detail, which raised the issue that although the community housing sector inherited homes from Homeswest, a community housing group implemented policies and procedures independently of the department. Today, the minister might be able to provide the clarification about what rules and procedures will apply when Homeswest housing is passed on to the community housing sector. The particular example I have is when 11 units, I think, were all controlled by Homeswest and, as I understand it, Homeswest had particular guidelines about the types of families and mix of tenants in that whole group of units. Two of those units were then passed onto another organisation and those two units are now excluded from the guideline calculations, and the dynamics in that housing area have changed dramatically. People who have been there since day one, since the Homeswest units were initially built, have seen a significant deterioration in what is happening in that area because the mix of tenants has changed so dramatically. Homeswest is very careful, when it has significant numbers of properties in close proximity, to ensure that there is a good mix of tenants. The example given to me was a strong example that outsourcing and passing on of houses to the community housing sector, while good in

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some situations, can have adverse outcomes when community housing organisations follow different procedures and processes and that upsets the dynamic. Therefore, I just want to get that issue clarified by the minister.

MR T.R. BUSWELL (Vasse — Minister for Transport) [1.00 pm] — in reply: I will make a couple of comments in closing the debate on the Residential Tenancies Amendment Bill. I start by thanking, firstly, my two advisers who were with me during consideration in detail. I thought they provided excellent advice and clearly had a very sound understanding of the content of the legislation.

Mr W.J. Johnston: Covering up your ignorance!

Mr T.R. BUSWELL: I think the member for Cannington nearly bettered the member for Southern River's comment!

We will move on. Actually, it is funny; it is an area I have some interest in because when I was a minister before I had my spell, I had carriage of this area from both the housing and commerce point of view, so I know that it takes time for this sort of legislation to come through the house. I appreciate the member for Nollamara's kind words about its passage. Of course, the substantive minister is in the other place. It does take time. My recollection is that the review, which has led to a big chunk of what we have been dealing with, was too long in the making. These things happen.

I will work backwards while it is fresh in my mind. Member for West Swan, that was a very interesting question. I cannot provide advice around the allocation policies of the community housing sector on mixes of specific tenancies. But I think it is a matter we are going to have to look at. An emerging body of policy work needs to be done around the broad, regulatory framework that the community housing sector operates in. At the moment in Western Australia we do it more by what can almost be called bilateral agreement through the growth provider arrangements and others. Of course, other jurisdictions such as Victoria and New South Wales have regulatory models. A lot of work is being done at ministerial council level or, more importantly, at the heads of department level to advance a nationally consistent framework for community housing. That will take a bit of time. Our general view in Western Australia—I think it would be fair to say it is the view of the community housing providers—is that they want a light-handed regulatory model.

Ms R. Saffioti: Unless there are cats!

Mr T.R. BUSWELL: No; not Mr Tumnus!

That means, I think, that the individual community housing providers will have a fair bit of flexibility around how they manage their tenants. This is something we will have to do a lot more work on in years to come. As the member for West Swan rightly pointed out, the community housing sector will play an increasingly significant role in the totality of the provision of social housing. I do not have a specific answer, but I acknowledge the point she raised.

As I think I pointed out during consideration in detail, the review of the fines has broadly seen them align with the fines inherent within the Residential Parks (Long-stay Tenants) Act. The point I made then was that I do not think it is unreasonable for a fine levied on a caravan park owner who does not treat a tenant appropriately being similar to a fine imposed on a private residential landlord. The member for Rockingham highlighted, I think, that it may have been a fine of \$10 000 or \$20 000. When we looked, it was the fine that relates to the administration of bond moneys. My point is that I would see people fined for misuse of bond moneys and inappropriate application of the processes and procedures that sit around bond moneys. I think we shared an example of the property manager who had fled to the Philippines with a relatively large amount of bond moneys. The member for Rockingham wanted to quiz me about the largest island in the Philippines and the capital of the Philippines—the thriller in Manila et cetera!

Ms R. Saffioti: Your advisers let you down!

Mr T.R. BUSWELL: I think it was outside their area of expertise.

I want to make one other point, which I should have done at the start, and that is to thank members opposite for their participation in this debate. I thought it was a really good debate. Sometimes in this house, as minister, work on bills and consideration in detail can represent some challenges in trying to remain engaged. I found the debate very engaging. I hope I was respectful of the points of view raised. Of course, we did not always agree, but I thought the consideration in detail stage and the second reading speeches of all members were excellent. I certainly enjoyed the opportunity to participate through that debate.

Mr M. McGowan: What about the interjections?

Mr W.R. Marmion interjected.

Mr T.R. BUSWELL: No, no; they were good, generally of a reasonable standard, I think one could say.

Mr M. McGowan: First class! What about the member for Southern River's interjection?

Mr T.R. BUSWELL: On the member for Rockingham?

Mr M. McGowan: Yes.

Mr T.R. BUSWELL: Well, I think that and the interjection of the member for Cannington should go on the video shown to new members about how not to interject! Or we could attach it to the front of the Franchising Code of Conduct!

Several members interjected.

Mr T.R. BUSWELL: Moving on.

Mr J.M. Francis: I think you should stick to franchising!

Mr T.R. BUSWELL: Back to matters at hand. The member for Nollamara asked a question about residential databases. I think we need to draw a distinction between a tenancy database maintained privately, which is really a list of tenants who either have done or are perceived to have done something wrong during their tenancy.

Ms J.M. Freeman: I think databases are not private rentals; they are not just for people who have done something wrong. Everyone is on a database but they lodge something onto the database to be sorted out.

Mr T.R. BUSWELL: I am not sure about that. The member for Nollamara may well be right. Certainly, I do not think the records maintained by the Department of Housing fall under a residential tenancy database in relation to this legislation, but I could be wrong.

Mr W.J. Johnston: What is maintained by the government is okay because you have an FOI right to get the information. The problem is the private ones.

Mr T.R. BUSWELL: I am not disputing that.

Ms J.M. Freeman: That's what you are changing.

Mr T.R. BUSWELL: I know what the question was. I am saying that I do not necessarily have an answer. Maybe the member should have asked that question as we progressed through the bill.

Referring back to the bill specifically, as everyone said, there are three basic components of the bill. There are broad changes to the Residential Tenancies Act that flowed out of the review, and I think those changes were generally supported by everyone and they progress the framework for the relationship between tenants and residents. There were some points of difference around the disruptive behaviour components, and I will talk about those very briefly in a second. There were issues also around residential tenancy databases. Last night, in relation to disruptive behaviour specifically and/or the capacity to remove tenants, there were discussions around aspects, including domestic violence towards children. I made the point that the government's view is that the bill and the amended act will provide the courts with the capacity to take those matters into account, in particular the introduction of proposed section 75A which, in our view, will give us the capacity to implement our three-strikes policy more thoroughly and move those cases through the court. Ultimately, we will wait with interest to see how the court determines the application of proposed section 75A, and make some interpretations around issues such as domestic violence and potential impacts on children. I think I made the point last night that we viewed it as entirely appropriate that a special set of provisions should apply to social housing tenants, which is really for three reasons, as the member for Rockingham recalled. One is because significant public funding is involved. I think there is a mutual obligation to the community in relation to behaviour and conduct in the community when people are assisted with funding into a house. The second issue was, as I pointed out, and the member for Rockingham recalled, that, according to the advice I have had from the Department of Housing, it is generally more difficult to progress matters through the courts to eviction because of the court's reflection on the Department of Housing more as a social service provider than as a landlord. Thirdly, the community looks to government, in general, to play a role in managing tenants of government properties. For those reasons we think it is entirely appropriate.

A component of the amendments moved by the opposition effectively sought to gut section 75A, but in our view that would have made it much more difficult for us to implement our three-strikes policy, and that is why those amendments were opposed. There was also some interesting debate—the member for Nollamara brought it up again—around rent controls. As I said, I was not dismissive of her comments; I just do not agree with them. I expect that, with the member for Nollamara's connection to the people who will effect the agenda for the next Labor state conference, she might have a capacity for that issue to be on the table for discussion. If it gets through at the state conference—I would like to be a fly on the wall to watch that technical policy debate—I suspect there are others, including brother number one out of *The Sunday Times* list of the most influential

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people in Western Australia, who may have an alternative view. It is reflective of course of the broad nature of her political party. She should see whether she can get that through with the incoming member for Bassendean!

Ms J.M. Freeman: Are you saying that the Liberal Party endorsed it as well?

Mr T.R. BUSWELL: Absolutely not.

Ms J.M. Freeman: So why do you care?

Mr T.R. BUSWELL: The incoming member for Bassendean may be able to assist in getting that onto the agenda at the forthcoming state Labor conference, and we will watch with interest the Labor Party's policy position on that. Judging by the frantic nodding in the negative of some of the member's colleagues when this issue was raised, I suspect it does not have a snowflake's chance! However, I will leave that to members opposite. All in all, I appreciate members' input to the debate and I certainly endorse the sentiment of the house; namely, that with some points of difference—we will always have those in this place—there is broad support for the thrust of what I think is a very good piece of legislation.

Question put and passed.

Bill read a third time and transmitted to the Council.