

I have become aware of the Independent Pricing and Regulatory Tribunal of NSW and its Review of Rental for Domestic Waterfront Tenancies (Reference 03/358). I am responding to the Sydney Morning Herald advertisement inviting submissions on this subject, which was published on 27th October 2003. My wife and I are joint owners of property at (address deleted), and we are the licensees of a waterfront tenancy at that location.

I wish to register my very strong objection to the proposals to review the rentals for domestic waterfront tenancies. It has come to my attention that there is a groundswell of feeling amongst my fellow residents and waterfront tenants, which is leading to deep-seated anger at the proposals.

My principal points of objection are as follows:

1. The licence at the waterfront is at the "sole discretion of the Minister" - i.e. it can be cancelled at any time "at his pleasure". This is very different to a freehold title, or anything approaching that status.
2. The licence has no exclusivity - the public are allowed to traverse the licensed area.
3. Licence conditions are numerous - approaching 100 in number - and are burdensome and certainly not conditions that would apply to normal residential leases.
4. Licensed area has very restricted usage, principally no liveable structures are allowed.
5. Licensed area is not freehold.
6. All constructions on the licensed areas are paid for by the licensee - so therefore when the proposals suggest a return on investment, it is a return on somebody else's (in this case my) investment - where is the equitability in this?
7. All structures on the licence are of course maintained by the licensee at his cost.
8. Licensees do not have access to any of the legal processes protecting normal residential tenants, such as Department of Fair Trading.
9. In common with many licensees, I already pay substantial land taxes on my adjoining property above the high water mark - there is a strong component of double taxation here as the land value on which I am assessed is already inflated by the deemed value of the waterfront and the licensed area.
10. The landlord of the licensed area - i.e. the State as personified by the Minister - has a monopoly on issuing licences - another inequitable situation.
11. I understand that waterfront rents will be linked to UCV which have risen astronomically, rather than market rents which have indeed been falling over recent months.
12. There is no depth consideration on berthing areas - berths that are affected by large tidal rises and falls, pay the same rent as those which are permanently in the water.
13. Properties that require extremely long jetties to access deep water for the above reason, are severely penalised.

14. Most waterfront facilities - including mine - are impossible to access by road vehicle, unlike all properties that the valuation is compared to in terms of residential land tax.

15. No GST is applicable to residential property rental - why then should GST apply to domestic waterfront tenancies?

The suggestion that returns on the deemed rental value of the waterfront should be 6% is frankly a disgraceful grab for taxpayers' money. There is simply no comparison between the circumstances of the waterfront licences and a free market return on rental properties. The rental return for the waterfront should be greatly discounted from the normal average for free market residential rentals for the following reasons:

- * Management of the waterfront property is the responsibility of the licensee;
 - * All maintenance is at the expense of the licensee;
 - * Any improvements are paid for by the licensee, and maintained by the licensee;
 - * Waterfront rentals are paid annually in advance whilst residential property rent is paid weekly, fortnightly or at most monthly;
 - * The licence to occupy can be withdrawn with no notice;
 - * In the event the licence is withdrawn, no compensation is payable;
 - * No mediation of disputes through the normal channels which are established to protect tenants, and in the event of any dispute all costs for both sides must be borne by the licensee!
 - * In addition, the licensee must even indemnify the licensor from any liability;
 - * There is no ability to sublet any part of the property;
 - * The licensee (not the landlord) must maintain the public liability for the property;
 - * A security deposit in excess of 12 months' rent is held by the licensor;
- The value of the security deposit can be increased by the licensor at any time;
- * When transferring the licence to a third party, the licensor may retain the security deposit until a new security is in place;
 - * As noted above, rent for residential property does not attract GST;
 - * Altogether there is no facility in these circumstances for a fair market condition as the licensor (i.e. the State) has a monopoly.

In all these circumstances, a 6% return on the value of the land under licence is totally unreasonable and unacceptable.

I trust you will take these views into consideration, along with many others I have no doubt you will receive. Should you require the input of any further thoughts I may have, I would be very happy to engage in a dialogue with members of the Tribunal.

Yours sincerely

Bob Williams