Mr Edward O'Donohue MLC  
Chairperson, Scrutiny of Acts and Regulations Committee  
Parliament House  
Spring Street  
EAST MELBOURNE   VIC  3002

10 June 2011

**Re: Victorian Charter of Human Rights and Responsibilities Review**

The Community Housing Federation of Victoria (CHFV) believes the Charter of Human Rights and Responsibilities serves for the greater good of the Victorian community.

CHFV believes the public authority provisions are efficient and effective and should be retained.

The Charter has worked to ensure that the use of public resources and delivery of services are dispensed in accordance with legislative requirements. Each person had the right to be treated in accordance with the Charter.

Since the introduction of the Charter, Community Housing landlords have been required to be more transparent and respectful of tenant rights, and especially mindful of these obligations in instances where disputes have occurred.

This is not to say that this respect was absent before the advent of the Charter. However, the Charter has provided rigour to the fashion in which all Providers conduct operations and the confidence to account for this conduct at VCAT if required.

These provisions impart important obligations on public authorities to act compatibly with the Charter, and for Courts to interpret legislation in accordance with the rights contained under the Charter.

Community Housing Organisations have the responsibility to protect the rights of all tenants and their property. We would not support any changes in the Charter which compromise the ability of our sector to effectively do this.

**CHFV believes that non-legislative protections such as service standards may not be as effective as the Charter.**
The Community Housing sector already adheres to a significant number of governance standards particularly those put in place by State Government to regulate the sector.

The Charter acts as an umbrella which covers all CHO’s, and is a mechanism in place to protect and preserve the individual rights of tenants, especially if things go wrong.

The Residential Tenancies Act is the main piece of legislation that governs how CHO’s operate their businesses on a daily basis, and regulates the interaction and relationship between the landlord and the tenant.

CHO’s are highly regulated by the government; the registration process through the Housing Registrar sets specific standards that Registered Housing Organisations (RHO’s) must meet on an annual basis.

In addition to this, CHO’s who manage assets on behalf of the Director of Housing operate under individual Funding and Service Agreements (FASA) and/or Housing Provider Framework (HPF) agreements, which set further standards, and more reporting requirements.

CHFV recognises that service standards do provide a framework for the delivery of quality services. Despite this, CHFV believes legislative protection in the form of the Charter is essential for practical realisation of rights.

The focus of the regulations and standards are to address organisational systems and procedures. Service standards have an insufficient focus to remedy specific issues and matters where a Victorian’s rights are being impinged upon.

If the Government wishes to limit administrative burden on the Community Housing sector, reviewing the efficiency of the multi layered approach of agreements and registration etc would be a natural place to start.

**CHFV believes that the Charter can be improved in the following ways:**

1. **More education, training and resources should be provided by the government.**

   The implementation of Charter should continue to be driven by encouraging all organisations to be committed to its values, which is already the case in the most part. Community organisations should not be made to fear of legal consequences if something goes wrong, but should be supported in ensuring they are aware of obligations and able to meet them.

   Community attitudes can only be enhanced by a better understanding of the purposes, intent and implementation of the Charter. Education for frontline workers and the broader community is essential to promote understanding and adherence to the Charter.
2. A dispute resolution process should be created to undertake mediation to promote non court based resolutions of disputes.

In the first instance a form of mediation to try and resolve complaints should occur. Where disputes do arise, there needs to be effective resolution processes so that either party do not become drawn into costly arbitration, and legal proceedings.

Where VCAT becomes the forum for a challenge based on the Charter (as it sometimes does for CHO’s) it is hoped that the VCAT member pursues mediation before ruling on Charter issues. Sometimes these rulings severely compromise the operations of a CHO and their ability to effectively manage tenancies and property. A requirement for mediation could become part of the VCAT process, this will ensure both the rights of tenants and CHO’s are protected.

CHFV would be willing to pilot a program to facilitate moderation between CHO’s and tenants.

Thank you for taking the time to consider our thoughts on this matter.

Kindest regards

[Signature]

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