

Isidima - Enabling Dignified Communities

Annual Report 2006/2007



Western Cape
Rental Housing Tribunal

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ANNUAL REPORT

1 APRIL 2006 TO 31 MARCH 2007

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FOREWORD BY CHAIRPERSON

As Chairperson and as a collective, we have pleasure in submitting this sixth annual report, covering the period 01 April 2006 to 31 March 2007 to the Provincial MEC for Local Government and Housing.

Before going any further, we wish to thank all the members of the Support Staff for their continued and unwavering support and dedication to the working and proper functioning of the Tribunal and community at large.

The attached report is by its nature intended to be as self explanatory as possible though any person wishing to obtain more information is welcome to contact the Tribunal.

There are some issues which deserve comment and which are highlighted hereunder in summary:

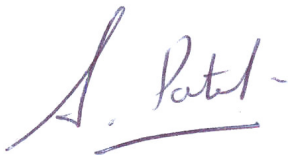
1. The private sector rental market continues to be skewed and incapable of correcting itself as the long awaited changes or amendments to the "PIE" legislation have not materialized yet;
2. It is becoming morally difficult to justify the decision to limit the marketing of the Tribunal and its activities because of budgetary considerations as the citizens in the rural poor and places outside metro poles and slightly larger cities should have rights to the services provided by Government.
3. The issue of the various spheres of Government making provision to build rental units for low-income earners has to be given priority as to expect the private sector to undertake this has not happened.

On a more positive note it would appear that the Tribunal and its staff have continued to strike a "win-win" balance in most cases whereby both landlord,

estate agents and tenants have walked away having learnt something and/or have a better understanding of what is expected from each party to create the foundations for harmonious relationships.

Further due to continued extraordinary efforts by the Support Component to resolve disputes by means other than formal hearings, the Tribunal can look back on a year that surpassed the achievements of the previous year. We would like to thank our fellow members for the way in which each contributed in their own way towards building a strong team.

We also especially want to thank the Support Staff for their efforts and diligence throughout the year and the way in which they contributed towards making the Tribunal the success that it is.

A handwritten signature in purple ink, appearing to read 'S. Patel', with a horizontal line underneath the name.

Mr S Patel
Chairperson

30 July 2007

PART ONE: GENERAL INFORMATION

1.1 Introduction

The realities of today's economy are firstly, that the vast majority of people in the Province of the Western Cape are poor and marginalised and secondly, that there is a desperate shortage of affordable rental accommodation which tends to skew or pressurise the price of rentals and will continue to do so while demand outstrips supply. A contributory factor here must be the continued lack of real development of rental stock by government at all levels within the Province, as the primary focus has for the past years been the promotion of ownership and limited concrete provisions or policies to develop rental stock to cater for the poor and the marginalised.

This surely must have contributed to the current urban spatial pattern in that the development of housing could in the majority of cases only take place on land where communities have already settled in an informal manner on land that is not ideally suited for housing development. In the reporting period, however, there has been a leap forward in this regard with the development of the N2 Gateway housing project as a pilot project for fast tracking the development of rental stock closer to the areas where job opportunities can be found. It is hoped that this project as a pilot, will accelerate the development of further rental stock in key areas where land is already available.

With this lack of focus of the state on the development of rental stock to cater for the poor and the marginalised, the private sector has had to step in to cater for these types of tenants. However, this has led to the poor and marginalised tenants being dependant upon available rental accommodation close to places of employment that sometimes can be described as not being fit for occupation. In private rental units which have been built or just become available, the "normal and natural" market forces dictate that rent will be

based on agreements between the landlord and potential tenant. There is, however, an argument that based on the depth and extent of poverty and the critical shortage of rental accommodation, the present circumstances in this Province give rise to the situation that the normal natural market forces tend to favour the landlords in terms of their bargaining powers.

The shortage of affordable rental accommodation has led to what some say is an artificially high demand for housing and rental stock generally. This has led to two spin off's, or ripples, the first being that property prices have initially increased steeply in response to unrealistic asking prices, generally referred to as the "property boom", but now show signs of returning to more realistic prices. The second was that there has been a flurry of rental increases as landlords have seized on the opportunity to make a quick profit.

In viewing the same aspect from a tenant's perspective, there is often perceived to be a huge demand made for an increase in rental but the supply of monies to pay for this have remained constant and in many cases dwindled, as previously gainfully employed contributing members of the household have either left the household, or become unemployed. Generally in cases before the Tribunal, increases in household incomes have been outstripped by increases in the cost of living and have not kept up with or matched the increase in rental being sought.

In addition to this, the rental housing field has always been, irrespective of economic level, an area where a lot of disputes arose from ignorance, as well as unlawful and even illegal actions of landlords and tenants. Until the promulgation of the Rental Housing Act, there was no other legal mechanism to deal with disputes, other than through costly civil litigation. The Rental Housing Act now provides general principles governing conflict resolution in the rental housing sector and also provides for the facilitation of sound relations between landlords and tenants through general requirements

relating to leases laid down in the Act. This sets the backdrop against which the Western Cape Rental Housing Tribunal must function. It has to cater for the needs of the poor and the marginalised in rental relations, as well as the extremely affluent.

The Tribunal is established in terms of section 7 of Act 50 of 1999 and consists of members appointed by the Provincial MEC for Housing. It has no infrastructure, no budget, is not responsible for any expenditure and it therefore has no financial statements. The activities of the Tribunal are funded from moneys appropriated by the Provincial Legislature and the Head of the Department of Local Government and Housing is the Accounting Officer in respect of moneys appropriated.

1.2 Legislative framework

The following legislation provide fundamental principles and guidelines upon which the Tribunal operates:

- The Constitution of the republic of South Africa, 1996 (Act No 108 of 1996);
- The Rental Housing Act, 1999 (Act No 50 of 1999);
- The Unfair Practice Regulations and the Procedural and Staff Duties Regulations published in terms of Act 50 of 1999;
- The Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No 19 of 1998).

The functions of the Tribunal are to harmonise relationships between landlords and tenants in the rental housing sector; resolve disputes and unfair practices; inform landlords and tenants about their rights and obligations in terms of the Act; and to make recommendations to relevant stakeholders pertaining to issues related to the rental housing sector.

1.3 Vision

The Western Cape Rental Housing Tribunal seeks to harmonise relationships between landlords and tenants in the rental housing sector.

1.4 Mission statement

The Western Cape Rental Housing Tribunal seeks to promote stability in the rental housing sector by facilitating the process of resolving disputes and advising landlords and tenants.

1.5 Key functions

- To promote stability in the rental housing sector;
- To provide mechanisms to deal with disputes in this sector;
- To promote the provision of rental housing property;
- To facilitate, investigate, mediate and conduct hearings to resolve disputes between landlords and tenants;
- To inform landlords and tenants of their rights and obligations should unfair practices arise; and
- To make recommendations to relevant stakeholders regarding issues to be addressed in the rental housing field.

PART TWO: HUMAN RESOURCE MANAGEMENT

2.1 Personnel arrangements

The Tribunal does not have personnel within its employ. The administrative and technical support functions are performed by staff within the employ of the Department of Local Government and Housing that provides a Support Component in terms of section 11 of Act 50 of 1999. The personnel are appointed subject to the laws governing the Public Service and perform the functions delegated to them by the Tribunal, through formal delegations.

2.2 Personnel costs and related information

The members of the Tribunal are:

<u>Name</u>	<u>Capacity</u>
Mr S Patel	Chairperson
Ms M Wotini	Deputy Chairperson
Mr P le Roux	Member
Ms T van der Hoven	Member

One position of Member has become vacant during the reporting period, but is in the process of being filled.

Ms V Marks	Alternate member
Ms S Ndlwana	Alternate member

The members of the Western Cape Rental Housing Tribunal remained the same for the reporting period. This should contribute greatly to the effectiveness of the Tribunal, especially given the increasingly important role that rental housing will play in housing the people of the Western Cape.

2.3 Expenditure

Expenditure in respect of the remuneration of Tribunal members for the financial year is as follows:

2006/07

R 525 964.50

Tribunal members	Hearings/Meetings
Mr S Patel	R 140 582.30
Ms M Wotini	R 76 391.23
Mr P le Roux	R 42 235.15
Ms T van der Hoven	R 164 950.50
Ms V Marks	R 40 652.90
Ms S Ndlwana	R 61 152.42
Total:	R 525 964.50

PART THREE: PERFORMANCE OF THE TRIBUNAL

3.1 Key functions

The key functions of the Tribunal for the period under review were as follows:

- To promote stability in the rental housing sector;
- To provide mechanisms to deal with disputes in this sector;
- To promote the provision of rental housing property;
- To facilitate, investigate, mediate and conduct hearings to resolve disputes between landlords and tenants;
- To inform landlords and tenants of their rights and obligations should unfair practices arise; and
- To make recommendations to relevant stakeholders regarding issues to be addressed in the rental housing field.

3.2 Strategic objectives

The Tribunal has set the following strategic objectives for itself:

- To meet the 90 day time-frame stipulated in the Rental Housing Act, 1990 (Act No 50 of 1990)
- To raise public awareness of the Rental Housing Act
- To enhance the management of the rental housing sector
- To provide sustainable systems for the resolution of disputes
- To ensure on-going communication within the Tribunal

These Strategic Objectives, although determined in the previous reporting period, are still applicable for this reporting period as they are still very relevant. However, there needs to be a follow-up strategic planning session that will have to be addressed in the next reporting period, to ensure that the

strategic objectives and activities of the Tribunal are aligned with that of the Department and Government in general.

3.3 Review of activities

3.3.1 Problems identified in previous Annual reports

In previous annual reports, the Tribunal noted various problem areas and made certain recommendations. Most of the issues have since been addressed, but due to a variety of reasons, it has to be reported that some problem areas still remain. To provide context, it is necessary to again refer to those issues in the previous reports and then to report on progress/lack of progress:

- a) *“The Tribunal has not had the opportunity to interact with Tribunals of the other provinces and it is therefore not possible to resolve problems around the Act in a uniform manner. The Tribunal will endeavour to liaise with the other Tribunals in this regard.”*

The following was reported in the previous annual report and it is still relevant:

In previous annual reports it has been reported that there is no formal interaction between the various Provincial Rental Housing Tribunals. There is and has been no formal guidance/outreach from the National Department of Housing towards the various Tribunals to ensure uniformity of activities, interpretation of legislation and actions to support and promote national policies regarding the promotion of rental housing. This has led to a situation that the Tribunals are, and have been, operating in isolation that could lead to the situation that the various provinces could have differing interpretations of the law regarding rentals and make different rulings that become common law in the respective provinces through the law of precedence.

It has also been reported in the previous Annual Report that this could become

very confusing to the rental sector in South Africa, especially so if it is taken into account that South Africa is increasingly competing with the global property market, of which rentals is a major part. This could negatively impact on South Africa as a international tourist destination, as rentals will always be a part of this sector. International investors are also increasingly becoming a major role player in the property market, where local tenants are renting properties owned by foreign landlords who own property in the various provinces.

Due to an absence of a co-ordination initiative by the Nation Department of Housing regarding the various Provincial Rental Housing Tribunals, the Support Staff has only had informal contact with some other province's tribunal staff. This has led to a strong view that a national conference for all the Provincial Rental Housing Tribunals should become an annual event, to act as forum where strategic and practical issues could be discussed to create synergy in the manner in which cases are dealt with. This is especially important as there is, for example, a very real difference in the Regulation of Unfair Practices in the various provinces and also the interpretation of certain vital aspects of the Rental Housing Act, that could become very confusing for tenants that use rental accommodation over a period within the various provinces. This could become a major problem during, for example the 2010 Soccer World Cup, where possible disputes would have to be resolved with tenants already out of the country.

In addition to this, it was also felt that the Justice and Law and Order systems should be part of this process, as it is public knowledge that the prosecution of certain types of transgressions of the rental Housing Act is dealt with differently in the various provinces, with for example a prosecution in one province is being deemed impossible by the justice system in another province due to a difference in interpretation.

- b) *“The enforcement of Tribunal rulings were hampered as the South African Police Service and the Public Prosecutors who were approached for specific cases, were not aware of the Rental Housing Act, 1999.”*

In the previous annual report, it was reported that *the Tribunal has now in this reporting period, after discussions with the justice system, succeeded in having the first case of non-attendance of a hearing being prosecuted as a “Contempt of Court” transgression. This is probably a first for any Rental Housing Tribunal in South Africa.* Unfortunately it would now appear that, after having referred various other cases since then, even this case still has not been dealt with in the court. Unfortunately, the Tribunal has no authority to interfere in this, save to state that it would indeed be a sad day for the existence of the Tribunal, when the justice system does not prosecute cases where offences in terms of the Act are ignored by the South African Police Service.

In the previous annual report it was reported that *A major area of concern, however, is still as was reported in previous Annual Reports, the inconsistent interpretation by the various SAPS offices, which leads to waste of time and delays in obtaining remedies by affected parties. Illegal evictions of tenants by landlords without the necessary Court Orders and unlawful discontinuation of services are on the increase, while certain SAPS offices refuse to intervene, as they regard this as a civil matter and not a criminal matter.* Unfortunately, this is still the case and concerted efforts should be made in the course of the next year to address this.

Another matter that will have to be addressed in the future, is the situation that a shortened and more streamlined method needs to be found where non-compliance to a ruling where a party is left without the repayment of monies after a ruling has been made. It is one thing to have non-attendance of a hearing referred for prosecution (without any real guarantees), but the real

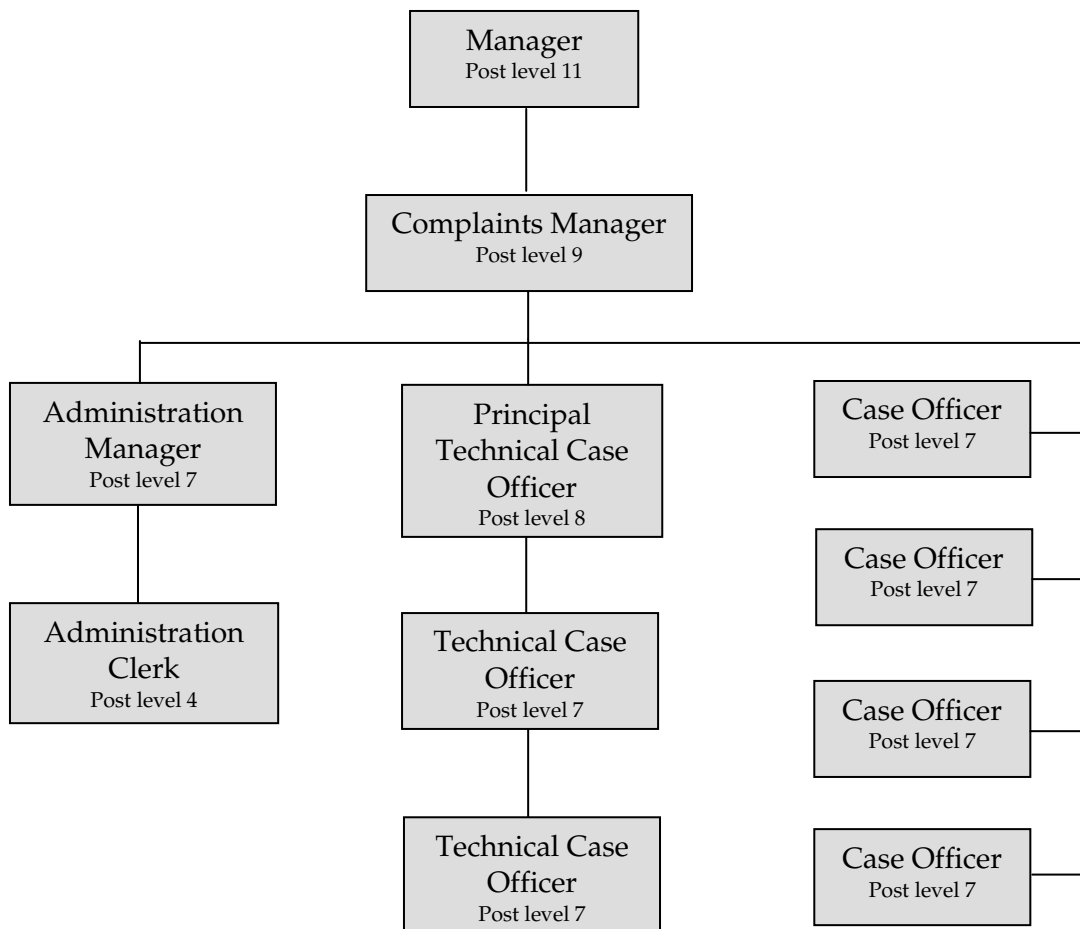
issue is to also ensure that justice is done where monies have to be paid over to a party in terms of a ruling, or another remedy, as this could very well be a matter of literally, life-and-death for the most needy in society. In this regard, also refer to the section dealing with inputs provided to the Rental Housing Amendment Bill that was published for comments and the inputs provided by the Tribunal.

3.3.2 Staffing

The Tribunal has consistently in previous reports expressed its concern that the Support Component has now for five consecutive reporting periods been understaffed and that this was really starting to impact on service delivery. The staff shortage still has a negative ripple effect resulting in a lack of capacity to investigate cases, to prepare documentation for hearings, to provide the necessary support to the members and to effectively embark on an awareness campaign. The statistics provided later in the report shows that there has been a steady increase in complaints lodged over the past years, but an aggressive campaign to market the Tribunal and the Act cannot be embarked upon due to the staffing problems having been experienced.

Although no additional posts were created within the Support Component, the revised post structure and posts as previously redesigned by management of the Support, did lead to more effective and efficient service delivery, as is evident from the statistics around cases provided later in the report.

The Support Component consists of the following posts:



3.3.3 Raising awareness of Tribunal activities

Raising awareness regarding the Tribunal is the responsibility of the Department and the Tribunal. There has also been publicity provided on talk shows on radio stations and quite a few articles regarding specific cases and contentious issues appeared in newspapers. In addition to this, there is close co-operation with the Institute of Estate Agents regarding awareness about the Tribunal with its members who act as rental agents. This focused attention has led to various invitations to be part of panel discussions at Annual General Meetings and other opportunities like training workshops. The activities of the Tribunal are also widely publicised in pamphlets handed out during Imbizos throughout the Province.

The Support Component has also educated and informed members of the SA Police Service serving in Community Centers and Clerks of the Civil Courts at various Magistrate's Offices, who now refer complaints to the Tribunal.

The Tribunal also features prominently on the Capegateway Website in that it has its own webpage and a trend is already seen where queries are received via the Internet. On the Website, direct access is provided to the Rental Housing Act, the Regulations published in terms of the Act, the Complaint Form, and Information Brochures in Afrikaans, English and IsiXhosa and two sets of Frequently Asked Questions by Landlords and Tenants. As the Tribunal is the only Tribunal in the RSA to be linked to a Website, queries are also received via this medium from affected parties in other provinces and internationally.

At the time of completing this report, Rental Housing Information Offices still had not been implemented at various municipalities. However, discussions with various municipal housing officials have indicated that a dedicated and fully staffed Rental Housing Information Office will in all probability not be implementable at all municipalities, due to resources limitations. The Tribunal has taken note that it could be a more practical solution to capacitate frontline staff at municipalities to refer cases to the Tribunal, as it could be problematic with inexperienced staff getting involved in cases or providing advice to disputing parties, while not being part of the Tribunal.

The staff at the George Municipality responsible for housing has undergone intensive training by the Tribunal Support Staff during the reporting period to act as Rental Housing Information Office. In this regard, they advise clients and have already referred quite a number of clients to the Tribunal. There has also been follow-up training provided and as this has proven to be successful, this initiative will be replicated in other towns of the Garden Route. The

capacity constraints of the Support Component are, however, hampering this initiative being aggressively implemented.

3.3.4 Call centre

A dedicated call centre to deal with daily telephonic enquiries and to provide advice to clients went live on 01 December 2006. This was implemented as a pilot project and as a first phase for a call centre for the whole Department of Local Government and Housing. Irrespective of this and the fact that it is still a pilot project, the Tribunal would like to express it's appreciation and gratitude to the MEC and the Head of Department for their support, without which this would not have been possible. It is, however, accepted that the initiative as a pilot must still run its course.

The number of this call centre - 0860 106 166 - has not really been widely publicised, but has already shown that this facility has greatly assisted with freeing up Support Staff's investigative time from being used up by daily telephonic enquiries.

Although the call centre only went live as from 01 December 2006, statistics provided give a good indication of what types of enquiries were received in the past, as well as what can be expected in the future. It also provides an insight into the relation between enquiries and formal cases.

Statistics provided for the reporting period are set out in Figure 1.

Figure 1:

MONTH	CALLS	AVERAGE TALK TIME	FORMAL COMPLAINTS	% COMPLAINTS
December	996	4:23	63	6.3
January	1241	4:14	28	2.2
February	1377	4:09	48	3.4
March	1413	6:53	33	2.3

A superficial analysis of the impact of the Call Centre over the four month period is the following:

- The Support Component (seven staff members) would have had to spend the following times on the telephones fielding enquiries per month:

December - 71 hours (20 working days at 3.5 hours per day)
 January - 86 hours (22 working days at 3.9 hours per day)
 February - 94 hours (20 working days at 4.7 hours per day)
 March - 154 hours (22 working days at 7 hours per day)

- The Call Centre has already succeeded in screening calls by advising callers on their rights, responsibilities, obligations and the law and only escalating actual complaints to the Support Staff. This is evident by the percentage of actual enquiries versus formal complaints:

December - 996 calls with 6.3% formal complaints
 January - 1241 calls with 2.2% formal complaints
 February - 1377 calls with 3.4% formal complaints
 March - 1413 calls with 2.3% formal complaints

Monthly feedback is provided by the consultants and this proves to be an invaluable management information tool. From this feedback, the following has become evident:

- The majority of tenants and landlords that call in are uneducated around lease agreements and also that written contracts do not exist between the parties, which often means that there is no proof in terms of what was agreed upon.
- A large percentage of the callers are backyard-dwellers. They are unaware of the fact that, when they erect a structure (which they own) on someone else's property, the Rental Housing Act does not apply and the Tribunal can not take on their complaints as it does not have jurisdiction.
- Tenants call in under the misguided idea that the Tribunal is a way to punish landlords. This largely seems to be as a result of media coverage where the landlords are portrayed as being the guilty party.
- Most commonly lodged complaints are failure to refund deposit, failure to accept notice and failure to pay rental.
- The first time lessors usually want to know what a lease agreement should consist of when renting out their properties.
- The minority of tenants and landlords that call in to the Contact Centre are educated around their rights and when calling in, the landlords accept the advice the consultants provide in order to justify whether they are complying with the laws i.e. giving the appropriate notice to the tenants if a lease agreement does not exist between the tenant and landlord, or if the cancellation clause is not stipulated in the lease agreement.

3.3.5 Computerised Case Management System

During the reporting period, ongoing discussions around the design of a Computerised Case Management System for the Tribunal continued and it is hoped that this would be finalised in the next reporting period, as this process has now been ongoing for two years. The idea behind this aid, is to provide an invaluable management and information tool to be able to effectively manage the cases and to predict trends, through which government can be advised.

During March 2007, the Head of Department provided funding for the development of an interim Management System to provide a bridging tool towards the final Computerised Case Management System that is in the process of being designed. This shows the Department's commitment towards assisting the Tribunal in meeting its legislative requirement of resolving disputes within a 90 day period. The Tribunal would like to, although this system was not finally implemented within the reporting period, also express its gratitude for this farsightedness.

3.3.6 Inputs on Amendment Bills

The Rental Housing Amendment Bill and the Prevention of Illegal Eviction from and Unlawful Occupation of Land Bill (PIE Act) were published for comments and the Tribunal provided inputs via the Department. As the existence of Rental Housing Tribunals feature prominently in the Bills and as these were widely publicised in newspapers, the Tribunal gained invaluable publicity. The increase in enquiries dealt with by the call centre in February and March is evidence of this.

3.3.7 Hearings of the Tribunal

Hearings outside of Cape Town are held as close as possible to the point of complaint and the Tribunal is therefore dependent on the infrastructure provided by the local authorities. Hearings were held in George (twice), Elandsbaai, Paarl, Worcester and Hermanus. It must be stressed that this does not mean that these were the only complaints received from areas outside of the metropole. There has been a marked increase in complaints from other areas, but these could not be resolved by the Support Staff - hence formal hearings.

A total of 177 hearings were conducted in the report period with 21 cases being postponed, compared to 129 hearings in 2005/06. Of the 177 hearings, 37 were found in favour of the complainants (mostly tenants) and 26 in favour of the respondents (mostly landlords). A total of 32 hearings had a combination of rulings that favoured both parties and also settlement agreements that were made rulings.

Two applications for reviews of rulings of the Tribunal were initiated in the previous reporting period. One is to be heard in the next reporting period. These are the first since the appointment of the Tribunal in 2001. A total of 14 cases of non-attendance of hearings were referred for prosecution.

3.3.7 Implementation of a Help Desk

A Helpdesk facility was implemented by the Department in the newly approved establishment. This facility unfortunately only effectively provided a real support service to the functioning of the Tribunal during March of the reporting period. Although only 135 clients assisted by the Helpdesk staff during March related to enquiries where the Tribunal had jurisdiction, it is anticipated that, once this facility is further marketed, the actual enquiries

related to the Tribunal will also increase. However, in addition to the Call Centre, this already proves that the two facilities will definitely free up the hands of the Support Component to be able to deal with an expected increase in the need for case investigations.

3.4 Actual performance of the Tribunal

A total of 767 cases were opened during the reporting period, compared to 487 in the previous year. Of the 767 cases, only 177 were finalised through hearings. This means that 23% of cases have been resolved through hearings and 77% were resolved through involvement by the Support Staff.

This means that the total of 767 cases to be worked on, entails an average of 154 cases handled by each of the 5 staff members who actually investigate cases. This high case load has led to the following:

- Staff stress
- Possible decrease in the quality of service provided
- Increase in the inability to meet the requirements of the Act – on average it takes 6 months to resolve a case with the number of current staff and the level of awareness created of the Tribunal.

A comparison of the number of cases per year is set out under Figure 2.

Figure 2:

NUMBER OF CASES PER YEAR						
2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
102	120	233	299	352	487	767

This shows the increase in the number of cases that are, and have been dealt with, due to extraordinary efforts by the Support Staff and the extra efforts of the members of the Tribunal to hold more hearings. From 2000/01 to 2001/02

the cases increased by 18%, from 2001/02 to 2002/03 it increased by 95%, from 2002/03 to 2003/04 it increased by 29%, from 2003/04 to 2004/05 it increased by 18%, from 2004/05 to 2005/06 it increased by 39% and for the current reporting period the number of cases increased by 57%.

This should be read together with the increase in the number of hearings held and the increase in the number of cases that have been closed in a financial year.

A comparison of the number of cases closed per financial year is set out in Figure 3.

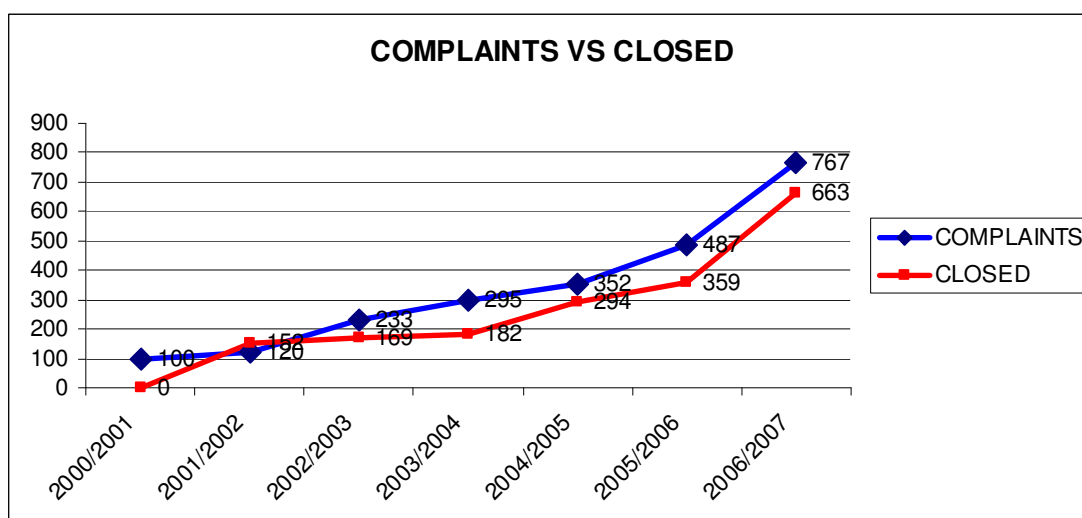
Figure 3:

CASES CLOSED IN A FINANCIAL YEAR						
2000/01	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
0	152	169	182	294	359	663

Figure 2 shows that there was dramatic increase in the number of cases per year from 2005/06 to 2006/07 (57%). This has to be read together with the dramatic increase in the number of cases closed for the same period (85%) under Figure 3. This has been due to the re-engineering of systems and processes, as well as extraordinary efforts by the Support Staff and the members.

A visual comparison regarding the number of cases per year and the number of cases closed per year is set out in Figure 4.

Figure 4:



A superficial analysis and comparison of the data under Figures 2 and 3 would indicate that the Tribunal is coping with the case load. However, an analysis of the duration of open cases should also be taken into account. A historical comparison of case duration over the years is set out in Figure 5.

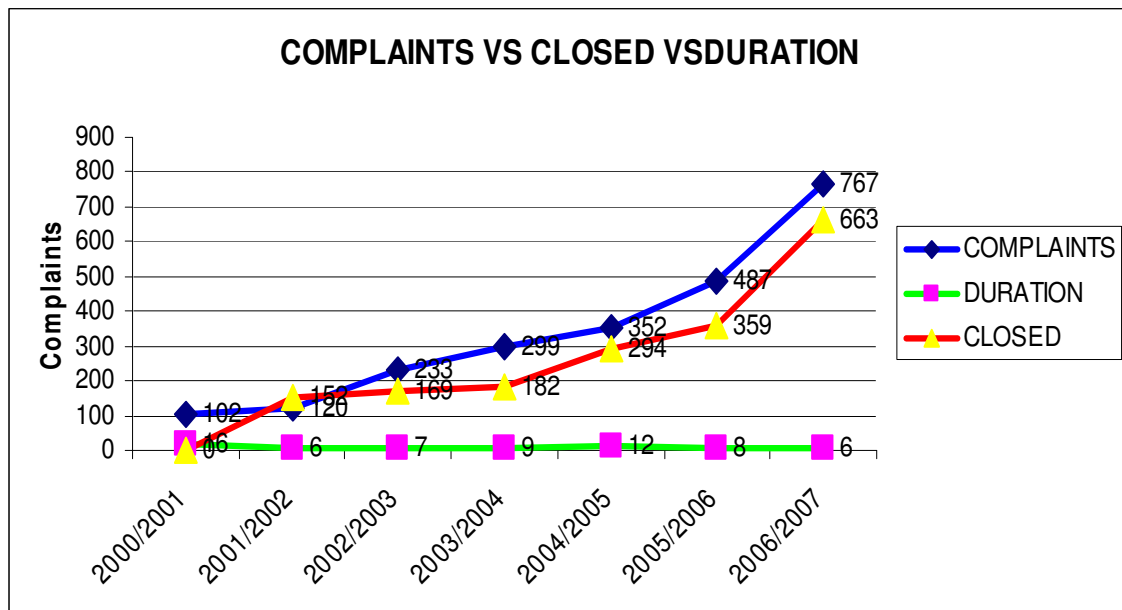
Figure 5:

DURATION OF CLOSED CASES					
2000/2001		2001/2002		2002/2003	
Complaints per year	Duration (Months)	Complaints per year	Duration (Months)	Complaints per year	Duration (Months)
102	15.9	120	5.8	233	7

DURATION OF CLOSED CASES							
2003/2004		2004/2005		2005/2006		2006/2007	
Complaints per year	Duration (Months)	Complaints per year	Duration (Months)	Complaints per year	Duration (Months)	Complaints per year	Duration (Months)
295	8.7	345	11.7	447	7.9	767	6

A comparison of number of cases, versus the number of cases closed, versus case duration is set out in Figure 6.

Figure 6:



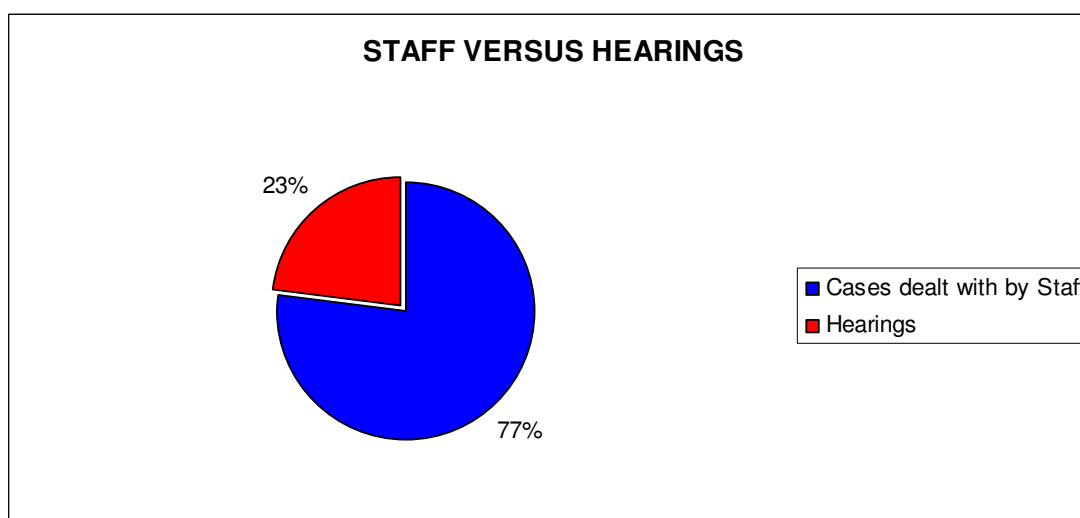
Note: The duration of closed cases in 2004/05 and 2005/06 meant that the cases were closed in 2006/07, as the average duration of cases was more than 90 days.

A superficial analysis of merely the above figures would indicate that the number of cases have increased from 102, to 120, to 233, to 295, to 352, to 487 and to 767, whereas the duration of resolving the cases have actually shown a decrease or has remained relatively stable over six years.

The dramatic increase in cases closed in 2006/07 and the information derived from Figure 5, should be read together with the way in which cases were closed.

The comparison between the percentage of cases closed by hearings and cases closed by the Support Staff is set out in Figure 7.

Figure 7:



Although there was an increase of 57% in the number of cases, the number of cases closed in the year also increased by 85%. This should be read together with the fact that 77% of the 767 cases were finalised by the Support Staff and also that hearings increased from 129 to 177.

This bears testimony to the efforts in the current reporting period by the Members to deal with more hearings and the efforts by the Support Staff. The Support Staff initiated changes in internal processes and systems and worked excessively long hours on a continuous basis. The appointment of two additional staff members in the latter half of the year also contributed to the efforts.

It is, however, questionable whether the efforts put in by the Support Staff during the year are sustainable if there is an even larger increase in the following years. The internal systems and processes have been redesigned and streamlined to the point where further changes will only be superficial and cosmetic. The only way to shorten the case duration would be to increase the staff and number of hearings held, as the increase in the number of complaints was achieved with no active marketing being done.

An active education and marketing campaign needs to be done to educate landlords and tenants around their rights and responsibilities and the precepts of the Rental Housing Act. However, this would invariably lead to an increase in the number of cases as the effectiveness of the Tribunal is measured through the number of cases increasing. Changes in legislation would also mean that the Tribunal will have to deal with more cases and this will put more pressure on the capacity of the Support Staff.

PART FOUR: OVERVIEW OF CASES

4.1 General

The following can be reported on an analysis of the cases dealt with by the Tribunal:

- Most of the cases originated from the Cape Metropolitan Area and is more evenly distributed on a geographical basis than the previous years. However, there are still problems experienced around awareness creation in certain communities, but capacity constraints prevent the Tribunal from marketing, as this will lead to an increase in cases that will lead to the system not being able to resolve disputes within the legislative prescript of 90 days.
- Most of the cases have been resolved by the Support Staff through negotiated settlements. This methodology has become an ever increasing method of resolving disputes and it is anticipated that this will increase even more in future, as it is a very cost-effective mechanism that will contribute to having cases resolved within the 90 days prescribed period. Most settlement agreements are made rulings of the Tribunal to ensure enforceability. There are, however, problems around enforceability of rulings, on a national scale, that will have to be addressed in legislative amendments and other initiatives from a national level.

4.2 Statistics of types of complaints

An analysis of the types of cases over the past three years would indicate an increase in the number of complaints and also new types of complaints having been lodged. The reasons for this are twofold, namely more

complaints registered per case and also more hearings being held, as was referred to above.

The types of complaints that were dealt with in hearings during the reporting period, compared to the previous two years, are set out in Figure 7.

Figure 7:

TYPES OF COMPLAINTS	2004/05	2005/06	2006/07
Failure to refund deposits	35	71	65
Exorbitant rental increases	17	11	16
Arrear rentals	6	8	33
Failure to do maintenance	2	24	66
Unlawful repossession of property	1	6	7
Unlawful entry	1	0	5
Failure to pay rental & claim for compensation	1	1	4
Liability for basic charges/levies	1	3	0
Failure to accept notice & Failure to vacate premises	3	0	11
Failure to provide municipal services	0	4	16
Unlawful notice	0	10	22
Unilateral changes to lease agreements	0	2	14
Unlawful eviction	0	3	7
Failure to provide monthly statements	0	2	6
Failure to allow remission of rent	0	0	9
Intimidation	0	1	6
Failure to provide a copy of the lease	0	0	5
Failure to issue receipts	0	1	11
Compensation for improvements	0	1	2
Unlawful seizure of possessions	0	3	3
Claim for damages to property	0	0	2

An analysis of the figures would indicate the following trends, taking into account that ordinarily, only cases that are very urgent where a ruling is

required to restore the status quo or to resolve a dispute that borders on an emergency and cases where the dispute cannot successfully be resolved by the Support Staff is scheduled for a hearing:

- Complaints pertaining to a failure to refund deposits have consistently for the past years been one of the highest (this year second highest with 65), despite an increased focus on education of landlords affiliated to organised bodies. This would indicate that there is still an ignorance of the stipulations of the Rental Housing Act. A trend has also been observed where landlords would include terms in their lease agreements that a tenant would forfeit their deposits when certain conditions are not met. This is against the law and is not enforceable.
- Complaints about exorbitant increases in rental (16) were mostly related to old rent controlled properties and these have shown an increase, probably due to landlords demanding so-called “market related rentals” after years of low rentals.
- Complaints regarding arrear rentals and failure to pay rental with claims for compensation have shown alarming increases. These are lodged by landlords and are probably due to the Debt Collectors Act that forces landlords to only use registered debt collectors or attorneys to demand payments. The trend is that rental agents are now seeing the Tribunal as a free debt collecting agent which could totally clog the system if all agents start following this route. It is probably an unforeseen consequence of the enactment of the legislation.
- Complaints regarding a lack of maintenance have increased dramatically to 66 (the highest). This would indicate that there is still an ignorance of the stipulations of the Rental Housing Act, as well as bad property management practices by landlords in this sector. It is

also noticeable that there is an increase in complaints of lack of maintenance being brought against private landlords. This could be due to an increase in awareness regarding tenant's rights, as well as the adverse weather conditions of the past year, which has led to poor and neglected maintenance being exposed by the weather.

- Complaints regarding unlawful repossession of property and unlawful evictions are also on the increase, which could be indicative of landlords not having faith in the justice system and taking the law into their own hands.
- Complaints regarding unlawful entry have also increased probably due to the complaint form having been changed to allow for a more streamlined methodology. This has led to tenants also lodging this type of complaint merely because the form caters for this. On the other hand, it also shows an attitude of certain landlords having an attitude of "this is my property and I will do as I like".
- Complaints of failure to accept notice and to vacate premises have also shown a dramatic increase. This is attributable to tenants having a misguided belief that they can never be evicted as they have the protection of the PIE Act. This issue will, however, hopefully be dealt with when the PIE Act is amended.
- Complaints of a failure to provide municipal services have seen an alarming increase. The Tribunal deals with these types of cases as emergency hearings, as landlords are starting to use this as a method of evicting tenants by making their occupying the properties impossible.
- Complaints regarding unlawful notices have also increased dramatically. These are mainly due to lease agreements having not

been formally renewed in writing after expiration of the initial lease agreements and landlords then having the misguided belief that tenants are now renting on a month-to-month basis. There were also some cases where properties were sold while having tenants in occupation and landlords then giving them notice in the hope that they would vacate the properties to ensure transfer does take place. It is also indicative that the education of tenants in this regard is bearing fruit.

- Complaints relating to unilateral changes to lease agreements also showed a worrying increase. These relate to an attitude problem with landlords where they believe that they can change any agreement as the tenants are desperate and will accept this. It is also indicative that the education of tenants in this regard is also bearing fruit.
- Complaints of unlawful eviction also showed a dramatic increase. What is most disconcerting about this, is the situation that these have the most harrowing effect on the tenants as it usually affects the poor and the marginalised. It is also alarming that the SAPS, when they are called out to such an event, view it as civil matters and do not restore law and order by preventing tenants being evicted without a court order.
- Complaints relating to failure to provide monthly statements usually relate to municipal accounts where a tenant is not provided with statements every month, but confronted with a huge bill at the end of the lease period. This is mostly attributable to bad property administration practices.
- Complaints relating to failure to allow remission of rent have also increased and are usually linked to maintenance problem or other

issues that impacted on the tenants not having the full use and enjoyment of the properties.

- Complaints of intimidation have increased probably due to the complaint form having been changed which has led to tenants also lodging this type of complaint merely because the form caters for this.
- Complaints regarding a failure to provide copies of the lease agreements are also probably due to the complaint form having been changed which has led to tenants also lodging this type of complaint merely because the form caters for this. On the other hand, it could also be indicative that tenants are more aware of their rights.
- Complaints of failure to issue receipts also increased and this is also probably due to the complaint form having been changed which has led to tenants also lodging this type of complaint merely because the form caters for this. On the other hand, it also shows an attitude of certain private landlords that they will only accept cash payments for which no receipts are issued.
- Complaints relating to compensation for improvements are usually lodged due to ignorance of the law, or due to the complaint form having been changed which has led to tenants also lodging this type of complaint merely because the form caters for this.
- Complaints relating to unlawful seizure of possessions, although fairly few, are a worry, as it shows that certain landlords are willing to take the law into their own hands by seizing possessions in lieu of rentals that are owed, without first obtaining a court order. What is also worrying is that the SAPS, when called out, also view these as civil matters.

- Claims for damages to property have also increased, probably due to tenants standing up for their rights.