

## SHARING THE SPIRIT: THE IMPACT OF THE SYDNEY 2000 OLYMPICS ON HUMAN RIGHTS IN AUSTRALIA

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### I. INTRODUCTION

The NSW Government is promoting the Sydney 2000 Games by calling on Australians to 'share the spirit', invoking the ancient ideals of the Games: fairness, community, solidarity, and celebration of diversity. Certainly the Olympics are providing a golden opportunity for business, short-term employment and tourism. At the same time, however, the Government is turning a blind eye to the plight of many members of local communities in Sydney. This paper argues that the economic bonanza brought by the Olympics will adversely affect those sections of the community who are already most vulnerable.

This contradiction between the promotion and the practice of the Games preparation threatens to make an hypocrisy of Australia's attempt to reignite the Olympic ideal. The Commonwealth and NSW governments have taken no significant steps to recognise the rights of vulnerable citizens, let alone to protect them. Amid the hype and heated debate that surrounds the run up to the Olympics, there seems little prospect that their legitimate interests will be protected.

### II. HUMAN RIGHTS AND THE OLYMPICS

Increasingly, the Australian community is looking to international law for remedies and redress against human rights violations by government. This is particularly due to the fact that there is no express recognition of human rights in the Australian constitution, yet Australia is a signatory to a number of

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international human rights conventions and covenants which, if domestically implemented, have the potential to change Australian domestic law.<sup>1</sup> In the context of the impact of the Olympics on Sydney's local community a plethora of international human rights instruments are of significance - the Universal Declaration of Human Rights (Art 25, para 1) the International Covenant on Economic Social and Cultural Rights (Art 11, para 1), the International Convention on the Elimination of All Forms of Racial Discrimination (Art 5(e)(iii)), the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. A series of United Nations resolutions have also reaffirmed housing as a fundamental human right.

### III. THE RIGHT TO SHELTER

Approaching housing concerns from a human rights perspective puts a clear focus on the legal obligations of government to respect, protect and fulfil housing rights.<sup>2</sup> The International Covenant on Economic Social and Cultural Rights was signed by Australia in 1975. This covenant guarantees the right to shelter. In 1996 at an 'Expert Seminar on the Practice of Forced Evictions', the United Nations Economic and Social Council identified a number of characteristics of domestic law necessary to guarantee this right. Most significantly, they pointed to the need for domestic legislation which provides security of tenure.<sup>3</sup>

Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection.<sup>4</sup>

### IV. RESIDENTIAL TENANCY LAW

Australian tenancy law is dealt with on a state by state basis. There are no laws that guarantee tenants security of tenure. In NSW since 1989 a tenant can be evicted for no reason with 60 days notice.<sup>5</sup>

Rent increases are often a reason for a tenancy to be relinquished because the tenant cannot afford the amount of the increase. Currently there is only limited

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1 A recent example of this is the case of *Rodney Croom v The State of Tasmania* (1997) 191 CLR 119.

2 D Wiseman, *Human Rights and Forced Evictions*, p17.

3 Report of the Secretary General, *Expert Seminar on the Practice of Forced Evictions*, E/CN.4/Sub.2/1997/7.

4 Committee on Economic, Social and Cultural Rights, *General Comment No 4* (1991), para 8(a).

5 *Residential Tenancies Act 1987* (NSW), s 58.

regulation of rent levels in Australia,<sup>6</sup> leaving all tenancies potentially insecure. There is no legislative control on the amount by which rent can be increased. In NSW, legislation was introduced in 1987 allowing a landlord to increase rent with 60 days written notice. If a tenant wishes to contest a rent increase they have the onus of proving that the rent is "excessive" in comparison with the market.<sup>7</sup> If the increase is not "excessive" in the current market climate it can not be reviewed.

In 1995, the Commonwealth Government conducted a major review of Australian tenancy law.<sup>8</sup> It found huge inconsistencies between the various states and territories with respect to residential tenancy legislation. It recommended that minimum standards should be introduced across Australia for all tenancy legislation. In particular the report recommended restrictions on the number of times rent can be increased and the amount of notice a tenant should receive before being evicted.<sup>9</sup> While these recommendations are not sufficient to meet Australia's human rights obligations, they are an improvement on the current law in NSW. There are no plans to implement these recommendations in NSW.

## V. RISING RENTS IN SYDNEY

Traditionally, Australians have opted for home ownership as their favoured form of housing. Increasingly, however, tenancy is becoming a long term housing option, with a large number of people renting for ten years or more. Currently, 31 per cent of NSW residents are tenants.<sup>10</sup>

In light of this shift in the housing circumstances of many Australians, the Commonwealth Government conducted a review of its housing strategy in 1992.<sup>11</sup> As part of this, the National Housing Strategy set a "housing affordability benchmark" of 30 per cent of a household income.<sup>12</sup> However, around 94 per cent of low income households in Sydney pay more than 30 per cent of their income on rent.<sup>13</sup>

Rents are monitored quarterly by the Department of Urban Affairs and Planning, through information held by the Rental Bond Board of the rents paid

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6 For example, ss 45-48 of *Residential Tenancies Act* 1987.

7 *Ibid*, ss 45-48.

8 Commonwealth Department of Housing and Regional Development, *Minimum Legislative Standards for Residential Tenancies in Australia*, May 1998.

9 Specifically, the recommendations were that rent should not be increased more than once every six months, and tenants should be entitled to three months notice of termination for no grounds: Commonwealth Department of Housing and Regional Development, note 8 *supra*, at 67-70 and at 75-80.

10 Department of Urban Affairs and Planning, *Housing Indicators Report*, 1999 at 5.

11 Commonwealth Department of Health Housing and Community Services, *National Housing Strategy*, 1992.

12 This is the maximum amount of household income spent on housing costs without causing economic hardship to a household.

13 Report of Ministerial Taskforce on Affordable Housing, *Affordable Housing in NSW - The Need for Action*, 1998, p 14.

on new tenancies during that quarter. However, this does not accurately reflect rents in Sydney as it does not record rent increases for existing tenancies. Even so, the limited data does show that rents are on the increase in Sydney by about 4.5 per cent per annum, which compares to an average of 2.8 per cent across the rest of NSW.<sup>14</sup> There are definitely higher increases in the inner-city and the Olympic corridor, which stretches from the city through the inner-west to Homebush. For example, the Department of Housing's June 1999 *Rent and Sales Report* shows a median annual rent increase for two bedroom units in the local government areas within the Olympic corridor of between 11 per cent and 14 per cent, with one local government area (Concord) recording an annual rent increase of 21 per cent.<sup>15</sup> These rent increases are far higher than increases in income and standards of living, Centrelink payments, or the rate of inflation.<sup>16</sup>

Sydney is the most expensive city in Australia in which to live. Since 1993, rents have increased by 40 per cent. Melbourne, the capital city with the next biggest rise in rents, experienced an increase of 9.6 per cent.<sup>17</sup> Sydney tenants pay almost double the rent for a three-bedroom home than tenants in Melbourne or Canberra.<sup>18</sup>

Rents in most areas across Sydney have been steadily increasing in the past year. In the South Sydney local government area rents for one-bedroom units have increased by 9.5 per cent, in the Sydney City Council area rents for three bedroom dwellings have increased by 15 per cent. There has been a 21 per cent increase in median rents for two bedroom units in Concord.<sup>19</sup> Given the trend towards increasing rents, and therefore increasing housing related poverty in the private rental sector, it is imperative that legislation be introduced to secure affordable housing for private rental tenants.

## VI. IMPACT OF THE OLYMPICS ON HOUSING

In 1994, Shelter NSW<sup>20</sup> commissioned a report on the potential impact of the Olympics on Sydney's housing situation.<sup>21</sup> It highlighted concerns about the potential impact of the Olympics on rent increases and evictions, as well as the criminalisation of homelessness.

The report identified a number of potential impacts of the Olympics, based on a study of similar 'hallmark' events and comparisons with the Sydney housing market. These impacts included:

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14 Department of Urban Affairs and Planning, *NSW Housing Indicators Report*, 1998 at 14.

15 Department of Housing, *Rent and Sales Report No 48*, June Quarter 1999.

16 Shelter NSW, *Ready! Set! Go!*, September 1999, p 55. For example, Sydney's Consumer Price Index (CPI) component was 1.2 per cent for 1998; the 1999 state wage case gave workers an \$8 per week wage increase; the average Centrelink payment is approximately \$180 per week.

17 Jennifer Sexton, "For rent: 3 rooms at twice the price" *The Australian*, 27 January 1998, p 10.

18 Real Estate Institute of Australia, 1998.

19 Department of Urban Affairs and Planning, *Rent and Sales Report No 46*.

20 Shelter NSW is the State's peak housing organisation. Its core business is policy development, liaison with non-government organisations, and developing campaigns.

21 G Cox et al, *The Olympics and Housing*, Shelter NSW, September 1994.

- accelerating processes of urban change, especially gentrification;
- pressure on private rental market – increased rents and conversions to other uses;
- conversion of boarding houses to tourist accommodation;
- displacement of low income tenants;
- event site development displacing existing residents;
- increased house prices;
- ‘crowding out’ of affordable housing investment;
- harassment of homeless persons.

The report noted that while many of these effects reflected pre-existing trends, the Olympics would accelerate or exacerbate these problems.

In Australia, special events like the Bicentennial in Sydney, Expo 88 in Brisbane, and the America’s Cup in Fremantle have all had demonstrated impacts on those cities’ housing costs. The Bicentennial led to the conversion of boarding houses into short term tourist accommodation. The America’s Cup led to a boom in apartment construction, many of which are now vacant. Expo 88 led to large rent increases in the suburbs where the event took place. The rents have never returned to their pre-Expo level. Similar developments can be observed in Sydney in the lead up to the Sydney 2000 Games.

In 1996, the Atlanta Olympic Games demonstrated the particular vulnerability of tenants and homeless people to unfair and discriminatory housing and policing practices during international sporting events. In Atlanta, this included large rent increases in the private rental market, the conversion of emergency accommodation into tourist accommodation, the introduction of vagrancy laws and the use of capsicum spray against the homeless. Over 9000 homeless people were arrested under the new vagrancy laws. Rather than easing the housing situation, these measures left behind serious social and economic problems for the people of Atlanta after the Olympics bandwagon moved on.<sup>22</sup>

In 1997, a further report was commissioned by the NSW Department of Fair Trading. This report raised similar concerns to those canvassed in the 1994 Report, but emphasised that these trends were already established in the Sydney housing market. The only recommendation to be acted upon was the establishment of a ‘Rent Monitoring Committee’, which will report periodically to the government. Monitoring is hardly sufficient to protect the rights of low-income tenants, nor will it do much to prevent the kind of problems experienced in Atlanta.

The impact of the Olympics is already being felt in Sydney. There has been a boom in construction and property development. About \$9 billion worth of sporting facilities construction is taking place, along with \$4 billion worth of work on 10 office blocks, four luxury hotels, and 11 residential and apartment blocks, \$200 million is being spent on ‘beautifying’ the city, and \$1.5 billion is

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22 See Appendix 1.

being spent on refurbishing Darling Harbour, the second largest Olympic venue outside Homebush.<sup>23</sup> These developments are mostly concentrated along a 12 kilometre spine stretching west from the city centre along the foreshores of the harbour and the Parramatta River to Homebush Bay, where most Olympic events will take place. These areas have traditionally housed a high proportion of low-income and working class people. The result is accelerated gentrification, rising rents and house prices - impacts identified by Shelter NSW in 1994.

The real estate industry has forecast the potential impact the Olympics will have on housing in Sydney:

Sydney's international exposure due to the Games may be enough to keep prices propped up in both sales and rentals, particularly in the inner city.<sup>24</sup>

An even more horrifying scenario is looming in 2000 when tenants, already facing crippling effects of rent increases from land tax,<sup>25</sup> will be forced to face the anticipated rises to rent stemming from the Olympics.

Client monitoring by tenants services shows that many tenants are extremely concerned about the effect of the Olympics on their housing.<sup>26</sup> They are worried that their landlords may evict them for the period of the Olympics. They are equally concerned that their rent will be increased to an unaffordable level forcing them to move.

## VII. PROPOSED LEGISLATIVE REFORM

On 13 May 1999, the Hon Ian Cohen of the Greens introduced the Residential Tenancies Amendment (Olympics Games) Bill 1998 to the NSW Upper House. This Bill has been drafted in consultation with Rentwatchers, the Tenants' Union of NSW and Redfern Legal Centre.

In his second reading speech Mr Cohen said:

The Greens have introduced the Residential Tenancies Amendment (Olympic Games) Bill because we are concerned that many of those living in rental housing will be disadvantaged by the current housing trends and the speculative activities of landlords in the lead up to and during the year 2000 Olympic Games. With less than 500 days until the Olympics, now is a particularly appropriate time to amend the *Residential Tenancies Act 1987* to put in place measures to ensure that moderate to low income residential tenants have a measure of security of tenure, as well as affordable rents, and that they are dealt with fairly during the 2000 Games. Although the Greens believe that most landlords will do the right thing during the Olympics and will recognise the benefit of keeping their standing tenants, others will profiteer by raising rents and evicting tenants in order to cash in on the accommodation needs of Olympic visitors. The termination of an agreement around the time of the Olympics, when accommodation is at a premium, could severely disadvantage many NSW tenants. The potential for excessive rent hikes and

23 *The Australian*, 18 July 1998.

24 Comments attributed to Di Jones (Real Estate Agent) in J Chancellor, "Home sales are set to flourish" *Sydney Morning Herald*, Property Section, 13 March 1999, p 1.

25 Comments attributed to Chris Todd, EAC Multitist, "Housing crisis fears on the rise" *Inner Western Suburbs Courier*, 22 March 1999, p 20.

26 There are over 20 Tenants Advice and Advocacy Services across NSW.

evictions during the period up to and including the 2000 Games is real. This Bill will counter the potential for homelessness during the period up to and including the 2000 Olympics.

The Bill will change the laws about rent increases and evictions in Sydney from late 1999 to 31 December 2001. Under this law, landlords will be limited to increasing rent once every 12 months in line with CPI. Landlords will need a 'just cause' to evict tenants.

Finding secure, affordable housing has become much harder for vulnerable members of the community over the last decade. The Olympics should be seen as an opportunity to address this long-term problem, rather than an excuse for allowing it to deteriorate further, with predictable and negative long-term consequences for everybody.

The Bill was rejected by the NSW Legislative Council in September 1999.<sup>27</sup>

## VIII. BOARDING AND LODGING HOUSES

Unlicensed boarding houses (also known as lodging houses or dwelling houses) have long been a source of accommodation for low-income people in Sydney. Boarders generally pay one to two weeks rent for a room, often to a caretaker who lives on the premises, and they share the bathroom, kitchen and common areas. In the past, some services (such as cleaning) were provided but it is more common for boarders to receive few or no services at all.<sup>28</sup>

Two recent publications have revealed that boarding houses are home to some of Sydney's most vulnerable people.<sup>29</sup> About a quarter of residents in boarding houses are young singles aged between 20 and 29; about half were born overseas; the majority were on government benefits; and about 20 to 30 per cent identify as having some form of disability.<sup>30</sup> The primary reason nominated by boarders for living in a boarding house was because it was lower rent than any other form of accommodation.<sup>31</sup> Approximately 40 per cent of residents had previously been living in privately rented accommodation and had moved because of unaffordable rents.<sup>32</sup>

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27 See Handsards, 15 September 1999 for debate on the Bill.

28 These boarding houses are not to be confused with licensed boarding houses, which are supported by the Department of Community Services to provide long-term accommodation, meals and services for people with disabilities. Residents are mostly referred to these boarding houses by aged care workers or hospitals.

29 Davidson, Phibbs, and Cox, *Inner Sydney Boarding House Report*, University of Sydney, June 1998; Marrickville Council, *1998 Marrickville Boarding House Survey*, November 1998.

30 Davidson, Phibbs, and Cox, note 29 *supra*, pp 13-16.

31 *Ibid*, p 21.

32 *Ibid*, p 20.

## IX. LACK OF LEGISLATIVE PROTECTION FOR BOARDERS AND LODGERS

The legal difference between a boarder/lodger<sup>33</sup> and a tenant is often unclear, depending on vague terms such as whether the resident has “exclusive possession” of their room or whether the landlord retains “mastery” of the premises.<sup>34</sup> If the landlord (either personally or through a caretaker) retains mastery of the premises—for example by enforcing house rules, doing the cleaning, letting themselves into the rooms, providing linen—the residents are boarders/lodgers. If, however, the residents are left fairly much on their own and can exclude the landlord and others from entering their rooms, they may be tenants.

This difference is crucial. Boarders and lodgers are specifically exempted from protection under the *Residential Tenancies Act* 1987. There is no other legislation which prescribes their rights. They hold common law licence agreements. Boarding house residents can be evicted with no notice or right to a hearing at the Residential Tribunal. Rent can be increased with little notice. In 1991 the ALP made a commitment to introduce legislation to protect boarders and lodgers.<sup>35</sup> Eight years later there is still no legislation in place.<sup>36</sup>

In the lead-up to the 1998 Bicentennial, concerns about the numbers of boarding houses being converted into backpacker hostels led the NSW Government to introduce “State Environmental Planning Policy No 10 - Retention of Low-cost Rental Accommodation” (SEPP10), which is a policy made under the *Environmental Planning and Assessment Act* 1979 (NSW). This policy attempts to restrict the redevelopment of boarding houses and “low-rental residential flat buildings”. It requires the Department of Housing and local government councils to refuse development applications converting boarding houses into strata-titled residences (which includes service apartments, residential apartments and hotels) if the development would result in a reduction in low-income housing in the area.

Unfortunately, SEPP10 has not worked. To begin with, it is only a policy: without the status of law, the application of SEPP10 is a matter of discretion for local councils. If a development application is refused because of SEPP10, developers often threaten legal action, and the weakness of the policy means that some councils feel they have no choice but to decide that a particular proposal will not result in a loss of low-cost accommodation in the area. Some local councils, for example South Sydney and Waverley have tried to deal with this problem by approving the conversion of boarding houses into luxury flats, on the condition that a few units of low-cost housing are incorporated into the

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33 A boarder is a lodger who is provided with meals.

34 *Radaich v Smith* (1959) 101 CLR 209 at 223.

35 Australian Labor Party, *ALP Housing Strategy—A statement of principles*, 1991.

36 There is currently a review of the rights of boarders and lodgers being conducted by the NSW Department of Fair Trading but the review will probably take until the end of 1999 to complete.



plans.<sup>37</sup> Clearly, this does not replace the many units of low-cost housing that are lost.

Secondly, if a property owner or developer is merely converting a boarding house into tourist lodgings, rather than turning it into strata units, there is no need for development consent. So long as they comply with local government health and safety standards, the property owner can evict the boarders, give the rooms a lick of paint, increase the rents and advertise the premises as tourist lodgings or a backpacker hostel.

The result is a rapid decrease in the availability of boarding house accommodation in Sydney particularly in the South Sydney local government area, for example Kings Cross, Darlinghurst, Paddington, Surry Hills and Redfern. Since 1988, 76.05 per cent of boarding houses in the South Sydney local government area have been lost, most of them being converted into medium/upper income flats or backpacker hostels.<sup>38</sup>

The majority of people living in boarding houses pay rent of between \$76-\$100 per week.<sup>39</sup> When this is contrasted to the median rents for one-bedroom units in inner Sydney, which range between \$280-\$355,<sup>40</sup> it is clear that the conversion of boarding houses to flats results in the exclusion of low-income residents from Sydney:

The decline of the boarding house sector, and the associated loss of affordable accommodation, is of particular concern to the many residents who stated that they could neither afford nor access alternative housing in the private rental market. . . . The survey results suggest that increasing demand within the lower end of the private rental market may have squeezed more people from this sector into the boarding house accommodation.<sup>41</sup>

The trajectory from private tenancies to boarding house accommodation and finally into homelessness is now becoming a common path for many of Sydney's residents. Evictions are the primary reason for people seeking support from homelessness services, especially for families and young people. The Supported Accommodation and Assistance Program (SAAP)<sup>42</sup> National Data Collection indicates that evictions are the primary reason for people seeking support from their services in 6 per cent of all support periods. Families who have been evicted make up 11 per cent of SAAP's client base. Young people who have been evicted make up 8 per cent of their clients.<sup>43</sup> The Inner Sydney Boarding House Report states:

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37 Redfern Legal Centre advocated on behalf of a boarder in Kings Cross in 1998 who was facing eviction by property developers. South Sydney Council imposed a development consent condition that two low cost units be retained in the block of ten units.

38 Davidson, Phibbs and Cox, note 29 *supra* at 11-12.

39 *Ibid* at 18.

40 Department of Housing *Rent and Sales Report No. 48*, June Quarter 1999, p 3.

41 Davidson, Phibbs and Cox, note 29 *supra* at 83.

42 SAAP is a Commonwealth funded crisis accommodation program for homeless people. It provides a range of short to medium term housing.

43 Commonwealth Advisory Committee on Homelessness, *Exploring the Links between Housing and Homelessness*, March 1999.

As the level of demand for affordable accommodation continues to grow and more boarding houses close, many residents will be left with few options, and a number may be forced into insecure informal arrangements or homelessness.<sup>44</sup>

## X. HOMELESSNESS AND HUMAN RIGHTS

Under the International Covenant on Civil and Political Rights, it is a fundamental human right that people have the right to freedom of assembly and movement and the right to protest.<sup>45</sup> Many homeless people in Sydney are at risk of having this right derogated due to the introduction of repressive public space laws.

There has been a massive increase in homelessness in Sydney since 1994. Inquiries to the Homeless Persons Information Centre, run by Sydney City Council, tripled over the past seven years and currently stand at around 29 000.<sup>46</sup> Recent surveys of homeless people have revealed alarming statistics of the prevalence of mental and physical illness. About 75 per cent of all homeless people using inner city hostels and refuges have had a mental disorder in the previous 12 months.<sup>47</sup> Moreover, 93 per cent of homeless people in the inner city have experienced at least one major trauma event - such as a physical or sexual assault - in their lives.<sup>48</sup>

Most homeless people rely on hostels or boarding house accommodation for short stays. If you are homeless and in Sydney, the scarcity of this type of accommodation means you may have little choice but to sleep on the streets or in the parks. Recently, a whole raft of new offences and ordinances have been introduced which will have a direct effect on homeless people and other people who socialise in public space.

In 1998, amendments to the *Summary Offences Act* 1988 were introduced allowing police to search people "suspected" of carrying a knife and increasing police move-on powers.<sup>49</sup>

There have also been a number of local government ordinances introduced over the last year controlling the movement of homeless persons in the inner city area of Surry Hills. New policing practices in the inner city are targeted at moving homeless people off the streets. In September 1998 police in Surry Hills/Darlinghurst were given a directive to move 'vagrants' off the streets at the

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44 Davidson, Phibbs and Cox, note 29 *supra* at 3.

45 Article 21.

46 G Cox, *Ready! Set! Go!*, Shelter NSW, September 1999, p 31.

47 St Vincent de Paul, Sydney City Mission, the Salvation Army, Wesley Mission and the Haymarket Foundation, *Down and Out in Sydney: Overview*, April 1998, p 2.

48 *Ibid*, p 7.

49 *Crimes Legislation Amendment (Police and Public Safety) Act* 1998 inserted sections 28A-G into the *Summary Offence Act* 1988.

request of local business owners, apparently to clean up in the lead-up to the Games.<sup>50</sup>

In October 1998 Blacktown Council put up a motion at the Local Government Association Conference calling for laws controlling "homeless persons, vagrants and beggars loitering upon city streets". Canterbury, Illawarra, Gilganderra, Taree, and Nambucca Local Councils have erected such notices. Their power to create such zones is found within the *Local Government Act 1993*. Under Chapter 16 of this Act, local government councils can erect "notices" prohibiting certain behaviour (for example loitering). Police or council employees are given power under the Act to fine or "move on" people who are in breach of the signs. Currently the fines are \$550.<sup>51</sup>

Local government councils around Sydney have also begun introducing large numbers of "alcohol-free zones". Again, the power to create such zones is found in the *Local Government Act 1993*. If a person is found drinking in a designated "alcohol-free zone" they can be issued with an on-the-spot fine and will have their alcohol confiscated. Zones have been created in parts of Surry Hills, Darlinghurst, Newtown, to name but a few suburbs. Zones under consideration include The Rocks, Circular Quay, Darling Harbour, the Botanic Gardens, Sydney Airport, Bondi Beach, Moore Park and Centennial Park.

The above ordinances and offences give police, and in some cases local council employees, a great deal of discretion to deal with people in public spaces. Some may argue that these new offences are merely a natural extension of the NSW Labor Government's law and order policies which were apparent prior to the Olympics. However, in this context it is worth turning to the experience of Atlanta in the lead-up to the 1996 Olympics:

The Olympics planners in Atlanta were smart enough to know that they needed to do whatever they did in terms of creating a very inhospitable street environment for homeless people before 1995 was over, because the World began to descend on Atlanta at the beginning of 1996.<sup>52</sup>

In Atlanta, over 9000 homeless people were arrested during the Olympics period. In Sydney, it is not far-fetched to expect that just before and during the Olympics, the NSW Commissioner of Police will direct police to remove from the public eye any people who may destroy Sydney's image.

## XI. THE RIGHT TO PROTEST

The International Covenant on Civil and Political Rights is perhaps the best known international human rights instrument. Enshrined in this covenant is the

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50 Reported in B Clifton and M Ogg, "Homeless hunted off the street", *Daily Telegraph*, 21 September 1998, p 3; see also A Piedade and T Vinson "Operation Gateway-Olympic City Part II" *Uniya Focus*, No 39, Oct 1998; G Cox, note 21 *supra*, pp 27-44.

51 *Local Government Act 1993*, s 632(1).

52 A Beaty, "The Homeless Olympics", *Homelessness -The Unfinished Agenda* Conference Proceedings August 1998, University of Sydney.

right of every individual to freedom of assembly. There are concerns amongst Sydney activists that during the Olympics this right may be infringed.

For example recently the Greens MP Lee Rhiannon announced in Parliament that police informed her that rallies and protests in certain areas will be prohibited during the Olympics period.<sup>53</sup> Given there have been rumours of various protests during the Olympics, particularly from the Aboriginal community, these measures are clearly designed to quash any publicity that may put a dampener on Sydney's 'sharing the spirit' profile.

Also of concern is the possible use of capsicum spray as a crowd-control mechanism, for example, during protests. Capsicum spray was only introduced for use by the NSW police in November 1997. In Atlanta capsicum spray was used to move homeless people out of the public eye during the Olympics. Hopefully NSW police will not follow Atlanta's lead, but community groups have begun to express concerns about its use in NSW already. Examples include use on a fifteen year old, unarmed street kid; on a protester at an anti-uranium protest; and on a young man in a pub fight.<sup>54</sup>

## XII. PRIVATISATION OF POLICING

Security at the Sydney 2000 Olympics is under the command of the Commissioner for Police but undoubtedly private security firms will also be contracted for security at and around venues. Potentially private or council security guards may end up controlling more behaviour during the Olympics than police officers. This is of particular concerns to civil rights groups because security guards or council officers are generally not subject to the same safeguards governing the behaviour of the police, such as review of their actions by the Ombudsman.<sup>55</sup>

Rentwatchers own recent experience at a protest action marking the one year countdown to the Olympics have reinforced concerns about the privatisation of policing in Sydney. On 15 September 1999, Rentwatchers and other Sydney community organisations held a rally at Darling Harbour. Permission to hold this rally had been obtained from the NSW police under the *Summary Offences Act* 1988. Notwithstanding this, Darling Harbour security guards attempted to stop the rally, threatened to arrest one of the demonstrators for offensive language,<sup>56</sup> verbally abused female members of Rentwatchers and confiscated one of their banners.

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53 *Sun Herald*, 27 June 1999, p 7.

54 Information about these incidents was provided by the Capsicum Spray Monitoring Committee of the campaign group CopWatch, contactnswcopwatch@hotmail.com.

55 The NSW Council for Civil Liberties has vowed to fund Supreme Court challenges to the power of local councils to remove loiterers: L Doherty, "Police pressure local councils to punish loiterers" *Sydney Morning Herald*, 24 September 1999, p 2.

56 He was wearing a t-shirt with the slogan "fuck the olympics" on it.

### XIII. CONCLUSION

There has been excessive attention to the major infrastructure investment and economic boom promised by the Olympics. Rather than long term positive social effects this will create the potential for human rights violations. The lack of any legal measures or policy strategies to ensure that the most vulnerable Australians benefit from the Olympics flies in the face of the 'spirit of the Olympics' to which so much of SOCOG's advertising refers. There should be legislation ensuring that tenants, boarders and lodgers have secure affordable housing during a time when the accommodation capacity of Sydney will be stretched. Laws should also be introduced that protect the interests of the homeless and other people who frequent public space, not sweep them out of sight of Olympic tourists.

### APPENDIX 1: COMPARISON BETWEEN ATLANTA AND SYDNEY

Atlanta <sup>57</sup>	Sydney <sup>58</sup>
<ul style="list-style-type: none"> <li>• Rents increased dramatically - in extreme cases some people paying \$400 per month were asked to pay \$4000 a month or move out.</li> </ul>	<ul style="list-style-type: none"> <li>• Rents have increased beyond those of any other city; large increases recorded in the Olympic corridor and inner-city suburbs, for example Homebush had recent increases of 29 per cent.</li> </ul>
<ul style="list-style-type: none"> <li>• The Government failed to legislate to protect tenants.</li> </ul>	<ul style="list-style-type: none"> <li>• The Greens have proposed legislation protecting tenants against unfair rent increases and evictions in the lead-up to the Olympics: this was rejected.</li> </ul>
<ul style="list-style-type: none"> <li>• Athletes' housing was built with the justification that it could be low-income housing; but after the Olympics it became university accommodation not housing for people on low-incomes.</li> </ul>	<ul style="list-style-type: none"> <li>• The athletes' village in Homebush has been built with medium-income buyers in mind: no provision for long term, low cost accommodation</li> </ul>
<ul style="list-style-type: none"> <li>• Increase in law and order policies to remove undesirables from public view.</li> <li>• Introduction of greater police powers and vagrancy offences to arrest and move on the homeless.</li> <li>• In the lead-up to the Olympics this was justified with the catch cry of "making the city safe for business".</li> <li>• One of the laws made it an offence to cross a car-park if you didn't have a car.</li> </ul>	<ul style="list-style-type: none"> <li>• Between 1996-98, new laws were introduced allowing police to search people "suspected" of carrying a knife and to move on gatherings of three or more people.</li> <li>• Under "Operation Gateway", police in Surry Hills/Darlinghurst area have allegedly been given a directive to move 'vagrants' off the streets at the request of local business owners (<i>Daily Telegraph</i> 21 Sep 1998)</li> <li>• In October 1998, Blacktown Council asked the Local Government Association Conference to push for laws controlling "homeless persons, vagrants and beggars loitering upon city streets".</li> </ul>

57 A Beatty, "Homelessness - the Unfinished Agenda", Atlanta Taskforce for the Homeless, NCOSS, Conference, August 1998.

58 Rentwatchers, "Atlanta v Sydney", *Rentwatchers Report No 4* at 4-5.

Atlanta <sup>57</sup>	Sydney <sup>58</sup>
<ul style="list-style-type: none"> <li>• Another law over-utilised was the offence against urinating in public places. Atlanta doesn't have any public toilets. Where else could homeless people urinate?</li> </ul>	<ul style="list-style-type: none"> <li>• Although the Local Government Association voted not to support the request, individual councils throughout Sydney, going as far as Wollongong Council, have begun putting up signs declaring "No-loitering zones". The <i>Local Government Act</i> gives police or other authorised people the power to fine or move on anyone "loitering" in such a zone.</li> <li>• Many councils have also created 'alcohol-free zones' under the <i>Local Government Act</i> which make it an offence to drink in designated areas. Alcohol free zones are being considered for nearly 300 areas across Sydney. People who drink alcohol in public places will be fined \$20 and have their drinks confiscated under the proposed local government laws.</li> <li>• The areas under consideration include The Rocks, Circular Key, Darling Harbour, the Botanic Gardens, Sydney Airport, Bondi Beach, Moore Park and Centennial Park.</li> </ul>
<ul style="list-style-type: none"> <li>• Capsicum spray used to move homeless people on.</li> </ul>	<ul style="list-style-type: none"> <li>• Capsicum spray has been recently introduced for use by NSW police. Examples of its use in NSW follow.</li> <li>• In January 1999, a fifteen year old boy known to police as a regular butane drinker was sprayed with capsicum spray. The boy did not have a weapon, nor was he harming himself or threatening police or others.</li> <li>• A young man was sprayed directly in the eyes by police after a scuffle had broken out in a pub in Bondi. The man was sprayed after being arrested for offensive language and resisting arrest.</li> <li>• In April 1999 a 20 year old anti-uranium protestor was sprayed in the face even though he was already in a police van.</li> </ul>

Atlanta <sup>57</sup>	Sydney <sup>58</sup>
<ul style="list-style-type: none"> <li>• Refuges and hostels either destroyed or turned temporarily over to house European backpackers who arrived in Atlanta to find all beds had been booked up.</li> </ul>	<ul style="list-style-type: none"> <li>• Over the last few years almost half the boarding house stock in Sydney has been converted into medium/upper-income flats (see <i>Rentwatchers Report #2</i>). Although the Government promises to strengthen development laws restricting conversion of hostels they have so far failed to do this.</li> </ul>
<ul style="list-style-type: none"> <li>• Use of surveillance cameras in the city streets.</li> </ul>	<ul style="list-style-type: none"> <li>• The "safe city strategy" includes: surveillance cameras in "crime hot spots"; agreement between police, Sydney City Councils and amusement centres in George St to dob-in "suspicious-looking customers".</li> </ul>
<ul style="list-style-type: none"> <li>• A special "Ambassador" police force hired by the city business community whose task it was to tell visitors and Atlantans to avoid eye contact with the homeless or to call the police to remove the homeless person.</li> </ul>	<ul style="list-style-type: none"> <li>• While security at the Sydney 2000 Games is under the command of the Commissioner for Police, there is no doubt that private security firms will be contracted.</li> <li>• No documentation available to the public as to powers security guards will have: for example, will they be able to police the anti-loitering zones?</li> </ul>