

## **PRODUCTIVITY COMMISSION 050208**

*I believe that Retail and Commercial leases are completely different and I have no comment to make about the latter. My comments are based on being a shopping centre tenant for 30 years that is now in the situation where we should be retiring but have been financially destroyed by the conduct of Lend Lease at Erina Fair. We are not alone as over 80 tenants at ErinaFair have been forced out.*

- 1. Retail leasing legislation should be similar to that in ACT*
- 2. Retail tenants have no protection against landlords bringing in unfair and unnecessary competition during a lease term knowing that it will destroy them without a reduction in rent.*
- 3. Percentage rent clauses that require increased rent when sales turnover increase beyond a certain agreed level should also work in the other way.*
- 4. Tenants need an easily accessible affordable tribunal to resolve difficulties*
- 5. The 51AC unconscionable conduct provisions of the Trade Practices act are not helping tenants*
- 6. Tenants should be allowed (encouraged) to form tenant associations with a proper constitution and management.*
- 7. It should be easier to walk away from a lease when the business is not trading well. This would be to the advantage of both the landlord and the replacement tenant. It is so wrong when landlords enforce a lease to the end and destroy a tenant financially*
- 8. Leases should be more easily registered and the detail more readily available to enable a fairer distribution of expense. Eg figures should be available showing rent/m2, amount of annual increases and when a “review to market” is required.*
- 9. Leases should be a partnership between landlord and tenants. Tenants that do well are good for the centre and other businesses. Tenants that are “struggling” should be allowed to leave for the benefit of all.*

10. When it is believed that a centre has caused the demise of a tenant through bad design, poor traffic flow and consequent failure of that business there should be some way of the tenant being compensated without going to expensive legal proceedings. The landlords always seem to win with their armoury of highly paid legal expertise. In the rare occasion that a tenant does receive compensation they are usually “gagged” or too frightened to speak out or to help other tenants that may be in similar trouble.

For the Commission to say that the present system is working OK does not take in to account the high failure rate of retail businesses. The consequent financial devastation caused by these failures is taking an enormous toll on people with attempted suicides, marriage breakdowns and severe depression. The people that have been destroyed financially are unable to fight the all powerful landlords allowing them to continue their practices of taking unfair advantage of people.