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To Parliamentary Social Services and Community Committee,

Please find attached DPA’s submission on Residential Property Managers Bill 2023

For any further inquiries, please contact:

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**Introducing Disabled Persons Assembly NZ**

**We work on systemic change for the equity of disabled people**

Disabled Persons Assembly NZ (DPA) is a not-for-profit pan-impairment Disabled People’s Organisation run by and for disabled people.

**We recognise:**

* Māori as Tangata Whenua and [Te Tiriti o Waitangi](https://www.archives.govt.nz/discover-our-stories/the-treaty-of-waitangi) as the founding document of Aotearoa New Zealand;
* disabled people as experts on their own lives;
* the [Social Model of Disability](https://www.odi.govt.nz/guidance-and-resources/guidance-for-policy-makes/) as the guiding principle for interpreting disability and impairment;
* the [United Nations Convention on the Rights of Persons with Disabilities](https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html) as the basis for disabled people’s relationship with the State;
* the [New Zealand Disability Strategy](https://www.odi.govt.nz/nz-disability-strategy/) as Government agencies’ guide on disability issues; and
* the [Enabling Good Lives Principles](https://www.enablinggoodlives.co.nz/about-egl/egl-approach/principles/), [Whāia Te Ao Mārama: Māori Disability Action Plan](https://www.health.govt.nz/publication/whaia-te-ao-marama-2018-2022-maori-disability-action-plan), and [Faiva Ora: National Pasifika Disability Disability Plan](https://www.moh.govt.nz/notebook/nbbooks.nsf/0/5E544A3A23BEAECDCC2580FE007F7518/%24file/faiva-ora-2016-2021-national-pasifika-disability-plan-feb17.pdf) as avenues to disabled people gaining greater choice and control over their lives and supports.

**We drive systemic change through:**

* **Leadership:** reflecting the collective voice of disabled people, locally, nationally and internationally.
* **Information and advice:** informing and advising on policies impacting on the lives of disabled people.
* **Advocacy:** supporting disabled people to have a voice, including a collective voice, in society.
* **Monitoring:** monitoring and giving feedback on existing laws, policies and practices about and relevant to disabled people.

**UN Convention on the Rights of Persons with Disabilities**

DPA was influential in creating the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), [[1]](#footnote-2) a foundational document for disabled people which New Zealand has signed and ratified, confirming that disabled people must have the same human rights as everyone else. All state bodies in New Zealand, including local and regional government, have a responsibility to uphold the principles and articles of this convention. There are a number of UNCRPD articles particularly relevant to this submission, including:

* **Article 3 – General principles**
* **Article 5 – Equality and non-discrimination**
* **Article 7 – Children with disabilities**
* **Article 8 – Awareness raising**
* **Article 9 – Accessibility**
* **Article 14 – Liberty and security of the person**
* **Article 17 – Protecting the integrity of the person**
* **Article 19 – Living independently and being included in the community**

“States Parties to the present Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement.”

* **Article 28 –  Adequate standard of living and social protection**

 “d.) To ensure access by persons with disabilities to public housing” programmes.

**New Zealand Disability Strategy 2016–2026**

Since ratifying the UNCRPD, the New Zealand Government has established a Disability Strategy[[2]](#footnote-3) to guide the work of government agencies on disability issues. The vision is that New Zealand be a non-disabling society, where disabled people have equal opportunity to achieve their goals and aspirations, and that all of New Zealand works together to make this happen. It identifies eight outcome areas contributing to achieving this vision. There are a number of Strategy outcomes particularly relevant to this submission, including:

* **Outcome 5 – Accessibility**

# The Submission

DPA welcomes the opportunity to engage with the Social Services and Community Committee on the Residential Property Managers Bill.

DPA generally supports the general principles and intent of the legislation which are to:

* *establish minimum requirements for residential property managers:*
* *ensure that residential property managers meet professional standards of practice:*
* *provide accountability by establishing an independent, transparent, and effective complaints and disciplinary process that applies to residential property managers and the delivery of residential property management services.*

DPA will make recommendations around the legislation, especially when it comes to property managers dealing with both tenants and property owners from diverse communities, including the disabled community.

DPA supports enhancing the voice of rental tenants in this process and we make recommendations around how this can be done within the various bodies being created by the Bill.

**Background: Disabled people more likely to rent**

Data shows that disabled people are more likely to rent than non-disabled people; Statistics New Zealand figures show that 38% of disabled people rent compared to 30% of non-disabled people.[[3]](#footnote-4) This trend towards renting over property ownership amongst disabled people is due to many in the disabled community earning lower incomes than non-disabled people and facing higher living costs due to disability.[[4]](#footnote-5)

Many disabled people are also renting for longer or even for life: the lack of accessible rental properties and other barriers to accessing rental properties means that many experience major challenges accessing suitable private rental homes.[[5]](#footnote-6) These challenges include affordability, accessibility and discrimination on the part of landlords and property managers and the increasingly prohibitive cost of market-based rents.

As more disabled people rent, they are more likely to end up with property managers overseeing their tenancies.

The level of disability responsiveness and knowledge possessed by many people operating in the housing space is low. A report on New Zealand’s implementation of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) *My Experiences, My Rights: A Monitoring Report on Disabled People’s Experience of Housing in New Zealand* notes that people in positions of power in the housing sector, including landlords and property managers, can unfairly exclude disabled people from rentals.[[6]](#footnote-7)

Some property managers use broad criteria to screen out tenants that effectively discriminate based on disability. These exclusions can take the form of blind and low vision people and people with psychosocial disabilities who have assistance animals or people who use mobility or assistive devices being denied tenancies by landlords and property managers on the basis that their assistance animals and/or devices could cause property damage.[[7]](#footnote-8)

This exclusion contributes to the high level of homelessness and the generally poor standard of housing experienced by disabled people.

DPA sought out the views of disabled people about their experiences with property managers and one person contributed their story which amply demonstrates the need for this legislation.

Our member experienced one property manager (a married couple) who initially attempted to discriminate against them on the basis of their being unemployed at the time of their signing the tenancy. After our member assumed the tenancy, the property managers then blatantly disregarded their queries and complaints, which led them to undertake and even pay for any necessary repairs themselves. In this case, the errant managers were only found out after the actual landlords made queries during which they found that they were (amongst other things) being billed by the property managers for repairs which had not been undertaken by them.

DPA welcomes the proposed legislation for all the above reasons as it will contribute towards shifting the balance of power between tenants and property managers, contributing to the development of more equitable relationships between the two groups over time.

**Amendments to the Bill**

DPA supports the proposals contained in the Bill to develop a Code of Professional Conduct and Care to govern the property management industry.

DPA recommends that Clause 109, which mandates public consultation at ministerial direction is amended so that it contains the need for targeted consultation with population groups who are more likely to rent including disabled people, Māori, Pasifika, ethnic communities, women, rangatahi/young people, older people, and all tenants/tenant's organisations across the country.

These population groups should specifically be focused upon to provide feedback on the codes of conduct and licensing requirements for property managers to ensure that responsiveness towards the needs of each of these groups (including disabled people) and renters in general is met.

DPA recommends that Subpart 5, Clause 34 outlining the grounds for cancellation of licenses be amended to insert a clause permitting the Registrar of Property Managers to suspend or cancel any licensee who discriminates against people in tenancies based on upheld complaints taken under either the Human Rights Act 1993 or this Act.

DPA recommends that this section be further amended to ensure that landlords who have committed offences against the Residential Tenancies Act are unable to become licensed property managers.

The Bill should also be amended to bring property managers contracted by community housing providers under its remit. Adding this clause would mean that nearly all property managers in the country would be regulated.

We also recommend that the REAA keep a publicly available list of landlords who use property managers. Having a landlord–property manager list available would mean potential tenants would know whether their future homes were managed directly by landlords or via property managers who are covered by the Act.

All the above recommendations will guide property managers in better meeting the needs of any disabled (or other marginalised group) customers either seeking access to rentals or in sustaining successful tenancies.

**Complaints procedures and processes**

DPA welcomes the complaints and disciplinary procedures outlined in Part 2, Subpart 3 and Part 4 of the Bill.

DPA believes that complaints and disciplinary processes should be accessible, low cost and as streamlined as possible to ensure that tenants and landlords have the right to take effective actions against property managers who violate the Code of Professional Care and Conduct.

For disabled tenants, many are on low incomes as we pointed out earlier and making the taking of complaints either low cost (as is the case with Disputes Tribunals) or free of charge (as with the Human Rights Commission/Tribunal) to both the Complaints Assessment Committees and Disciplinary Tribunal would be one way the process could be made more accessible for everyone.

DPA recommends that all reasonable steps are taken to make communications and information about the legislation and its complaints processes accessible to everyone, including disabled people.

DPA supports the provisions allowing for hearings by audiovisual link or on papers only, which will enable disabled people to participate more easily if any are party to proceedings.

DPA welcomes the formation of Complaints Assessment Committees and the proposals to have the REAA appoint these panels.

DPA recommends that Subpart 3 is amended to ensure that the REAA has balanced representation on these committees and that there are tenant representatives appointed via a nominations process run in partnership with tenant’s rights organisations.

DPA recommends that Subpart 3 is amended to ensure that the REAA makes appointments to the complaints committees from communities who have higher than average house renting rates including Māori, Pasifika, ethnic communities, women, rainbow communities, rangatahi/youth, older people, and disabled people.

DPA recommends that any proceedings of the Disciplinary Tribunal should include the right for all complainants to automatically have their name and other identifying details suppressed unless they opt otherwise.

This would be akin to the practice used by the Tenancy Tribunal, which now grants complainants automatic name suppression so that any future tenancies are not negatively impacted. Accordingly, this will protect tenants in this situation in any future dealings with property managers as well.

DPA would like to see Clause 115(c) of the Bill amended to delete discriminatory wording to read

***(c.) that the licensee is unable to properly administer its trust account, or, if the licensee is an entity, no officer of the entity is able to properly administer the trust account;***

**Amendments to the Real Estate Agents Act 2008**

DPA recommends that Section 13 of the Real Estate Agents Act be amended to include that Ministers appoint at least three members who have experience in the real estate and wider residential property management industries to the REAA but at least one tenant representative to provide a tenant’s perspective as well.

DPA believes that with the REAA being given additional responsibilities for the regulation of the property management sector that consideration is given to changing its name to the New Zealand Real Estate Agents and Property Managers Authority.

This name change would recognise that not all individual property managers and firms are linked to real estate companies and vice versa.

# Recommendations Summary

**Recommendation 1:** that Clause 109 of the Bill be amended to require targeted consultation on the Code of Professional Conduct and Care and licensing requirements with population groups which are more likely to rent, including disabled people.

**Recommendation 2:** that Subpart 5, Clause 34 of the Bill be amended to permit the Registrar of Property Managers to suspend or cancel the licenses of any property managers who are found to have discriminated against people in tenancies based on upheld complaints under the Human Rights Act 1993 or this Act.

**Recommendation 3:** that nearly all property managers including those contracted by community housing providers are covered by the Bill.

**Recommendation 4:** that landlords who have committed offences under the Residential Tenancies Act are unable to be licensed as property managers.

**Recommendation 5:** that the REAA create a property manager–landlord list, which would be freely available to all prospective tenants/clients.

**Recommendation 6:** that complaints and disciplinary processes should be accessible, streamlined and either low cost or free, particularly for cases taken by tenants to either the Complaints Assessment Committees or Disciplinary Tribunal.

**Recommendation 7:** that complaints, disciplinary processes and hearings should be accessible to everyone including disabled people.

**Recommendation 8:** that all reasonable steps are taken to make communications and information about the legislation and its complaints processes accessible to everyone, including disabled people.

**Recommendation 9:** that Part 2, Subpart 3 of the Bill is amended to ensure that the REAA has balanced representation on Complaints Assessment Committees including tenant representatives nominated via tenant’s rights organisations.

**Recommendation 10:** that Part 2, Subpart 3 of the Bill is amended to ensure that the REAA appoints representatives from communities to the Disputes Committees who have higher than average house renting rates including Māori, Pasifika, ethnic communities, women, rainbow communities, rangatahi/youth, older people and disabled people.

**Recommendation 11:** that the Bill is amended to ensure that all complainants who appear either before the Disciplinary Tribunal or Complaints Assessment Committees have their name and other identifying details automatically suppressed unless they opt otherwise.

**Recommendation 12:** that Clause 115(c) of the Bill around the ability of licensees to be excluded from running property management trust accounts be amended to remove discriminatory wording.

**Recommendation 13:** that Section 13 of the Real Estate Agents Act be amended to also include that Ministers appoint at least one tenant representative to the Real Estate Agents Authority.

**Recommendation 14:** that the name of the Real Estate Agents Authority be changed to the New Zealand Real Estate Agents and Property Managers Authority.

1. United Nations. (2006). *United Nations Convention on the Rights of People with Disabilities.* Retrieved from: <https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf> [↑](#footnote-ref-2)
2. Office for Disability Issues. (2016). *New Zealand Disability Strategy.* Retrieved from: <https://www.odi.govt.nz/nz-disability-strategy/> [↑](#footnote-ref-3)
3. Figures NZ. (n.d.) Disabled people in New Zealand who live in a rented home. Retrieved from <https://figure.nz/chart/ThXaIxtaFP4CSN0j> [↑](#footnote-ref-4)
4. Wilkinson-Meyers et al. (2015). To live an ordinary life: resource needs and additional costs for people with a physical impairment. Disability & Society, 30(7), 976-990. [↑](#footnote-ref-5)
5. Clent, D. & Franks, J. (2022, March 22). Lack of accessible homes leaves disabled people without dignity. *Stuff.* <https://www.stuff.co.nz/pou-tiaki/300425033/not-built-for-me-lack-of-accessible-homes-leaves-disabled-people-without-dignity> [↑](#footnote-ref-6)
6. Donald Beasley Institute. (2020). *My Experiences, My Rights: A Monitoring Report on Disabled People’s Experience of Housing in New Zealand*. New Zealand Disabled People’s Coalition. Pg. 37 <https://www.donaldbeasley.org.nz/assets/projects/UNCRPD/Health-and-Wellbeing-Report/My-Experiences-My-Rights-A-Monitoring-Report-on-Disabled-People_s-Experience-of-Health-and-Wellbeing-in-Aotearoa-New-Zealand-Short-Report.pdf> [↑](#footnote-ref-7)
7. Ibid. [↑](#footnote-ref-8)