



**Western Cape
Government**

Human Settlements



Annual Report 2012/13
Western Cape Rental Housing Tribunal

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ANNUAL REPORT

1 APRIL 2012 - 31 MARCH 2013

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FOREWORD BY CHAIRPERSON

It is with pleasure that we submit this annual report, covering the period 1 April 2012 to 31 March 2013, to the Western Cape Provincial Minister of Human Settlements and to the Western Cape Provincial Legislature.

Being aware of the imperatives in the Rental Housing Act, 1999 (Act No. 50 of 1999) to settle cases within 90 days, I have, over the past three years, come to realize that due to a number of factors, this seems to be an almost impossible goal to reach.

According to Blue Gheko, the Western Cape: Rental Housing Tribunal (WC: RHT) official statistics recorder, the WC: RHT had registered three thousand five hundred and fifty three **(3053)** official complaints as compared to the two thousand four hundred and forty two **(2442)** complaints in the 2011/ 2012 financial year. Coupled with capacity problems, the above increase contributed to an increase in the WC: RHT backlog. At the end of this financial year (2012/2013), the WC: RHT had a backlog of two hundred and sixty three **(263)** cases.

In an effort to address the increase in cases and thereby the backlog challenges, the Department of Human Settlements has agreed to employ five **(5)** additional support staff (two case officers and three administrators) to provide further support to the demanding work of this sub-directorate. Further employment of additional support staff has been made possible through the Organizational Design Investigation (ODI) unit. The findings of the ODI have led to the provision for the employment of an additional seven **(7)** Case Officers.

Taking into consideration some of the challenges that WC: RHT has been beset with, and also in keeping with the obligations of the Rental Housing Act 1999, (Act No. 50 of 1999) the WC: RHT has

- engaged with rental estate agents and shared possible solutions for a better management of rental properties;
- conducted training programs for Community Development Workers (CDWs);

- started a process of setting up Rental Housing Information Offices at municipalities in the Province (an ongoing process);
- put up posters at local government offices and public institutions such as libraries, SAPS and Thusong Centers (an ongoing process);
- Continuously assisted the Tribunal support staff with training and support.

The WC: RHT finds itself in a delicate position in that it is required to function independently, reporting to the Western Cape Provincial Minister of Human Settlements, but is dependent on different directorates of the same Department in order for it to perform effectively. These directorates often do not have the same urgency to attend to matters in the way required by the WC: RHT. Contentious matters such as these often lead to unproductivity and a lack of morale amongst officials.

In conclusion, I would like to thank all the senior officials in the Western Cape Provincial Department of Human Settlements (who have played a supportive role towards the work of the Tribunal), the support staff and Tribunal Members for their unwavering hard work, support and enthusiasm in rendering an invaluable service to the public.

ARNO BOTHA

A handwritten signature in black ink, appearing to read 'Arno Botha', with a long horizontal stroke extending to the right.

Chairperson: Western Cape Rental Housing Tribunal

PART ONE: GENERAL INFORMATION

1.1 Introduction

Formed in 2001, the Tribunal consists of five members (including a chair- and vice-chairperson), and one alternate member appointed by the Western Cape Provincial Minister of Human Settlements. These individuals have extensive expertise in property management, housing development and consumer matters pertaining to rental housing. The Tribunal is assisted by the support component of the Directorate: Communications and Stakeholder Relations. The Tribunal provides a free service to tenants and landlords in the Western Province, and its main function is dispute settlement between tenants and landlords.

The Tribunal is established in terms of Section 7 of the Act. The activities of the Tribunal are funded from moneys appropriated by the Western Cape Provincial Legislature and the Head of Department (HOD) of the Western Cape Provincial Department of Human Settlements functions as the Accounting Officer in respect of moneys appropriated.

1.2 Legislative framework

The following legislation provides 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 harmonize 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 Rental Housing Tribunal does not have personnel within its employ. The administrative and technical support functions are performed by staff within the employ of the Western Cape Provincial Department of Human Settlements that provides a Support Component in terms of Section 11 of the Act.

2.2 Personnel and related information

The Tribunal Members are appointed by the Western Cape Provincial Minister for Human Settlements. In terms of the Rental Housing Act, the Minister is vested with the powers to appoint members of the Tribunal who have expertise in property management, housing development and consumer matters pertaining to rental housing. The current Tribunal consists of the following members;

Table1

Name	Capacity	Profession	Term as a Member
Mr JJA Botha	Chairperson	Practicing attorney	01/07/10 1 st Term
Ms M Wotini	Deputy Chairperson	Manager	01/01/10 4 th Term
Mr RJ Vincent	Member	Retired legal advisor	01/08/09 2 nd Term
Mr I Higgins	Member	Practicing attorney	01/08/09 2 nd Term
Ms V Marks	Member	Property Consultant	01/07/10 3 rd Term
Ms P van Renen	Alternate Member	Social Worker	01/07/10 1 st Term

The term of office of members is 3 years, unless extended for a further term. For the reporting period, the Western Cape Tribunal Members have remained the same.

2.3 Expenditure

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

1. Compensation and benefits of staff:	R 5 139 422.20
2. Compensation of Tribunal members:	R 1 531 160.44
3. Other expenses:	R 1 186 690.13
Total:	R 7 857 272.77
4. Budget:	R 7 857 272.77
5. Underspent:	R 0.00

Due to the demand of the work of the Tribunal, the WC RHT budget was increased from **R 6 773 389.70** in the (2011/2012) financial year to **R 7 857 272.77** in the (2012/2013) financial year. The expenditure on compensation and benefits of staff was furthermore increased from **R 4 105 238.26** in the (2011/2012) financial year to **R 5 139 422.20** in the (2012/2013) financial year due to the appointment of new employees.

PART THREE: PERFORMANCE OF THE TRIBUNAL

3.1 REVIEW OF ACTIVITIES

3.2.1 STAFFING

3.2.1.1 Administration unit

Three **(3)** administration clerk posts have been filled during this financial year. In total, the administration unit now comprises of five **(5)** administration clerks. With the opening of a Rental Housing Tribunal office in the Eden District (George), it is anticipated that additional administrative staff will be employed to assist with the processing of Rental Housing Tribunal complaints in the George Rental Housing Tribunal Office.

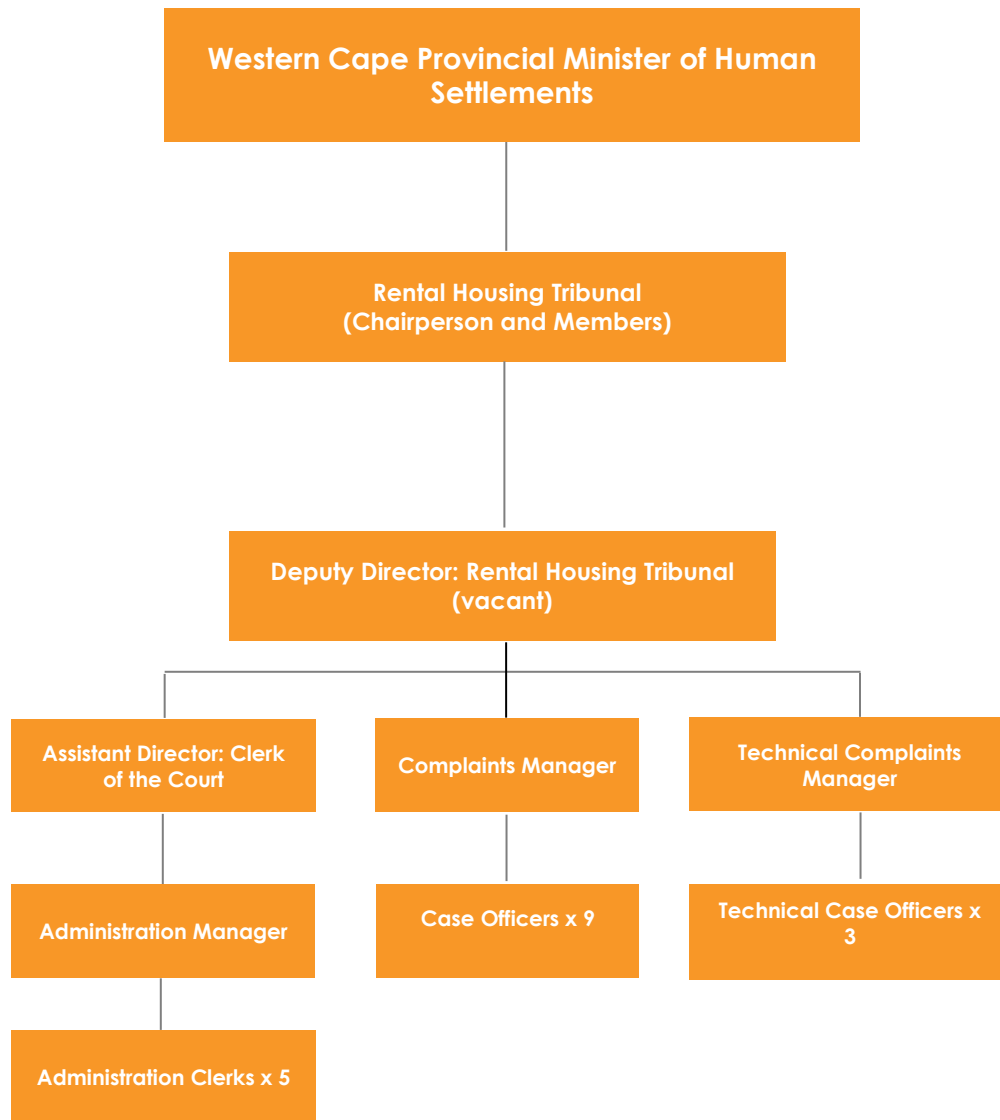
The administration component of the Rental Housing Tribunal is of vital importance for a fully functioning and effective Western Cape Rental Housing Tribunal. The Tribunal administration component is where all the complaints from the public are processed and registered. The timeous registration of these complaints is crucial in terms of ensuring that the Tribunal meets its legislative mandate of finalising registered complaints within 90 days from the date in which the complaint was reported.

3.2.1.2 Case Officer's unit

Due to the drastic increase in reported cases, and the demand for the services of the WC: RHT, the Organization Design Unit (ODU) with the Department of the Premier was requested to review and re-examine the staff capacity constraints within the Rental Housing Tribunal sub-directorate. Said study (*report available on request*) yielded to an extension of the services of the WC: RHT. The study made provision for the appointment of an additional seven **(7)** Case Officers. These officials will be employed in the next financial year (2013/2014). It is hoped that the employment of these officials will help to address the challenges associated with the increased number of cases.

Management of the unit

The Support Component consists of the following structure:



3.2.1.3 Call Centre

The Western Cape Rental Housing Tribunal (WC: RHT) Call Centre came into being in 2007. The aim of establishing the Call Centre was to streamline calls which were received by the Western Cape Rental Housing Support Staff, and to reduce the time spent by the officials attending to queries from the public.

Below is a comparison of calls received by the Call Centre as from the 2010/2011 to 2012/2013 financial years. As can be seen from the table below (table.2) there has been a drastic increase in the number of calls attended to by the WC: RHT Call Centre. The Call Centre has led to a reduction of the number of enquiries that came to the attention of the Case Officers. Ongoing training of the Call Centre officials is provided by the Tribunal Members on a monthly basis.

Table.2

2010/2011 MONTH	CALLS RECEIVED	2011/2012 MONTH	CALLS RECEIVED	2012/2013 MONTH	CALLS RECEIVED
April	1047	April	877	April	1 005
May	1102	May	1101	May	1 212
June	1026	June	1026	June	1 059
July	1118	July	1051	July	1 181
August	973	August	1308	August	1 329
September	1062	September	1324	September	1 090
October	1131	October	1242	October	1 296
November	1064	November	1371	November	1 335
December	816	December	921	December	942
January	999	January	1259	January	1 330
February	1031	February	1366	February	1 302
March	1157	March	1369	March	195
	12526		14215		14 376

However, it must be stressed that not all calls received by the Call Centre were converted to official complaints. The number of calls received ranged from:

- Advice about rental problems;
- Queries about the case number and the official working on the complaint of the caller;
- The need to lodge an official complaint;
- Wanting to be transferred to the Rental Housing Tribunal office.

85% of the calls received are about deposit refunds, questions on lease agreements, advice on failure to pay rental and failure to do maintenance. Staff of the Call Centre is continuously trained on the provisions of the Rental Housing Act and other legislation relating to the rental housing sector. In cases where the calls received are of a complex nature, the Call Centre officials would transfer the call to the Rental Housing Tribunal office or to the Western Cape Provincial Department of Human Settlements' Helpdesk..

3.2.3 Department Helpdesk

In this financial year (2012/2013), the Western Cape Provincial Department of Human Settlements' Helpdesk attended to five thousand seven hundred and seventy five (**5775**) queries from the public, as compared to four thousand six hundred and ninety eight (**4698**) queries in the 2011/2012 financial year. All of these queries consisted of people who came to the Western Cape Provincial Department of Human Settlements' Helpdesk office at 27 Wale Street in Cape Town for advice and made enquiries on rental housing related matters.

These Helpdesk enquiries ranged from:

- People who came to lodge an official rental housing tribunal complaint;
- People who came to get advice on their rights as either a landlord or tenant;
- People who came to drop off rental housing official complaint/s.

Table.3

MONTH 2011/2012	RHT ENQUIRIES ATTENDED TO	MONTH 2012/2013	RHT ENQUIRIES ATTENDED TO
April	254	April	246
May	270	May	497
June	330	June	540
July	323	July	565
August	361	August	539
September	427	September	421
October	413	October	535
November	477	November	522
December	304	December	289
January	532	January	608
February	545	February	557
March	462	March	456
	4698		5775

The above table (table.3) reflects the number of people who walked in to the Department Helpdesk for rental enquiries. Of the three thousand and fifty three (**3053**) of the WC: RHT registered official complaints, only one thousand two hundred and fifty five (**1255**) cases were reported via the Department Helpdesk. However, this does not take away the important service that the Department Helpdesk is providing for the WC: RHT.

The rest of the reported cases came via fax, post and through the WC: RHT e-mail account.

3.3 Performance of the Tribunal

3.3.1 Reported Cases

This financial year (2012/2013) saw an increase of six hundred and eleven (**611**) reported cases as compared to the previous financial year. Reported cases increased from two thousand four hundred and forty two (**2442**) to three thousand and fifty three (**3053**) cases.

Table.4

	NUMBER OF REPORTED CASES PER YEAR 2000 - 2007					
Financial year	2001/2002	2002/2003	2003/2004	2004/2005	2005/2006	2006/2007
Number reported	120	233	299	352	487	767
Percentage	+17%	+94%	+28%	+17%	+38%	+57%

Table.5

	NUMBER OF REPORTED CASES PER YEAR 2006 - 2012					
Year	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013
Number reported	904	1237	2454	2710	2442	3053
Percentage	+17%	+27%	+49%	+10%	-9%	+25%

The above increase (2012/2013) is, among other reasons, attributed to the following:

- Word of mouth;
- WC: RHT posters which provide information on the services rendered by the Tribunal which is displayed at certain local government offices and public institutions such as libraries, SAPS and Thusong Centers;
- Various engagements with Municipal Management Forums (MMF).

3.3.2. Hearings conducted

All hearings by the WC: RHT are held as close as possible to the point of complaint. As much as there is no mandate which indicates how many cases the Tribunal must hear per day, from this financial year (2012/2103) the Tribunal has started a process of hearing four **(4)** matters per day, as compared to the traditional three **(3)** cases per day that were heard in previous financial years.

This change was, among other things, necessitated by an increase in urgent matters (unlawful evictions, illegal lockouts) which were reported at the WC: RHT.

Table.6

MONTH 2011/2012	CASES REFERRED FOR HEARINGS	NUMBER OF CASES HEARD	MONTH 2012/2013	CASES REFERRED FOR HEARINGS	NUMBER OF CASES HEARD
April	28	22	April	37	19
May	32	18	May	31	23
June	64	44	June	38	22
July	29	20	July	43	32
August	34	22	August	88	51
September	54	46	September	114	16
October	29	25	October	33	18
November	36	20	November	95	14
December	15	15	December	102	14
January	27	16	January	103	10
February	37	20	February	115	20
March	55	42	March	43	20
	440	310		842	259

This financial year (2102/2103), the WC: RHT Members heard two hundred and fifty nine **(259)** cases as compared to the three hundred and ten **(310)** cases heard in the previous reporting period. The number of cases which were scheduled for hearing in this reporting period were much higher than the previous financial year due to the group complaints that the Tribunal had to deal with.

These group complaints entailed cases from De Novo residents **(75 in total)** and Communicare Tenants Association **(88 in total)**.

3.3.3. Promotion of Access to Information Act (Act of 2000)

The provisions of the Rental Housing Act, 1999 (Act No. 50 of 1999) gives the Tribunal the same powers as a magistrate's court in terms of the Magistrate's Courts Act of 1944. However, as much as much as the Tribunal has the same powers as a magistrate court, the proceedings of the Tribunal may be brought under review before the High Court within its area of jurisdiction.

In this reporting period (2102/2103) the WC: RHT received six **(6)** Promotion of Access to Information Act (PAIA) requests. The requests were from persons who were not happy with the findings of the Tribunal. All of these requests were complied with by providing the requested information and signed off by the Head of the Department (HOD).

3.3.4. Conclusion

All parties involved in the South African rental industry have access to Provincial Rental Housing Tribunals, which are administered by provincial governments. While most tenants may not be as ideal as landlords would prefer, they have legal recourse in exercising their rights outside the courts, through the Rental Housing Tribunal (RHT). The RHT's primary function is one of mediating to resolve disputes between tenants and landlords, and is a much less costly alternative to private legal assistance.

On the whole, both tenants and landlords are protected by the law, including the **Rental Housing Act**, the **Prevention of Illegal Eviction Act**, the **New Consumer Protection Act**, and the **Companies' Act of 2011**. Most common, are problems arising from the incorrect interpretation, or incorrect application of the law. This usually occurs as the result of tenants either having a limited understanding of their rights, of not fully comprehending the consequences of breaching contractual agreements, or of incompetent or unscrupulous behavior on the part of landlords.

For these purposes, the Rental Housing Tribunals provide information regarding agreements, legal rights, deposits and refunds, **rental property inspections**, forced removals, maintenance, damages and claims, as well as the **dispute resolution and arbitration process**. The marketing drive that we have started in the past financial year (2011/2012) and which we are continuing with, will yield positive results in balancing the rights of the landlords versus those of the tenants.

Secondly, as much as we are currently experiencing the challenge of not being able to resolve cases within the legislated prescribed 90-days turnaround time, we are pleased that staff capacity challenges have been decreased, with the hope of addressing the ever-increasing number of reported cases.

Thirdly, with the continued positive working relationship between the Western Cape Provincial Department of Human Settlements, the Tribunal support staff and the Tribunal Members, we are of the view that some of the challenges and achievements highlighted in this report will be strengthened as we move along to the next financial year (2013/2014).

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