

Australia: Court ruling undermines challenge to Victorian public housing demolition

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A Supreme Court of Victoria judge decided on February 10 that the state Labor government does not have to release the internal documents that led to its decision to demolish 44 public housing towers in Melbourne to make way for predominantly private redevelopment.

Justice Andrew Keogh ruled in favour of Homes Victoria (HV), weakening a class action by Inner Melbourne Community Legal Aid on behalf of 479 residents of three of the towers earmarked for demolition this year.

The class action asserts the human rights and procedural fairness rights of the residents were violated when they were not consulted prior to the government's decision in September 2023 to demolish, rather than renovate, the buildings.

Thousands of tower residents are living with a sword over their heads. Those living in Tranche 1 towers, the five blocks to be demolished first, have been subjected to a relentless program of intimidation and disinformation. This is designed to get them to move out of their homes, despite an interim court order preventing HV from issuing eviction notices on January 1 as planned.

HV is a government agency established in November 2020 to oversee the Labor government's housing privatisation agenda. This includes a \$5.3 billion Big Housing Build that aims to eliminate public housing and replace it with social housing, in which tenants have no security of tenure. HV has developed a secretive High Rise Redevelopment Program to demolish the towers.

The lead plaintiff, Barry Berih, is a long-term resident of the North Melbourne tower and a community worker in the same estate. State Labor Premier Jacinta Allan has contemptuously claimed that the case is waged by a

small group of tenants backed by the Greens.

Berih sought access to a crucial group of documents known as the Cabinet Submission, which is referred to in a redacted affidavit to the court by Martin McCurry, the HV Executive Director of Asset Management.

Significantly, Documents 8 and 9 are reports prepared for HV in March and April 2023 by Cushman and Wakefield, a real estate company. Its "technical advice" may have concerned the real estate value of the prime inner suburban land on which the towers sit. The same company helped prepare later documents 13, 14 and 16, for which no date has been given.

In a hearing last October, HV CEO Simon Newport testified during cross examination that matters concerning human rights were "interwoven throughout" the Cabinet Submission.

Justice Keogh admitted that the documents could contain evidence relevant to human rights, as well as "factual evidence that would be relevant to Berih's expert when considering the feasibility of tower retrofitting by comparison to redevelopment." That is, when considering refurbishment as opposed to demolition.

However, Keogh ruled that Berih's need to access the documents to challenge the government's decision was outweighed by the alleged "public interest" in protecting cabinet secrecy as "a proper function of the state," as specified in the state's Evidence Act.

Keogh said it was unacceptable to disclose any of the documents since this would likely allow inferences to be drawn about the cabinet discussion.

Labor government secrecy surrounding the demolition has constituted a veritable firewall. Numerous Freedom of Information requests were refused during 2024 relating to the Flemington estate, which has two towers in Tranche 1. The Melbourne

Age was denied access to 941 pages of documentation.

Keogh said there was a “forensic purpose” to Berih having the documents revealed to him, but then claimed they would not be important to the outcome of the legal proceedings. He asserted that the documents are only “peripherally related” to Berih’s procedural fairness case.

The judge claimed that CEO Newport did not have the Cabinet Submission physically before him when he made the “Implementation Decision” to set the demolition plan in train. Yet, Newport was clearly familiar with what he often referred to as the “Cab Sub.”

Keogh concluded: “The public interest in disclosing the documents weighs more heavily in the circumstances of this proceeding, which concerns the housing rights of vulnerable community members. However, taking into account the above matters, I conclude that the public interest in disclosure of the documents is not sufficient to outweigh the public interest in maintaining the confidentiality of Cabinet documents relating to a matter that is current and controversial.”

The ruling is another demonstration of the determination of governments and the courts to shield cabinet discussions from public scrutiny and thus stifle opposition. Keogh cited as a precedent the 1993 High Court ruling in *Commonwealth of Australia v Northern Land Council*, in which an indigenous land council tried to challenge an agreement relating to the Ranger uranium mine in the Northern Territory.

There is a profound social and housing crisis across Australia. There have been decades of punishing cuts by state and federal Labor and Liberal-National governments to public housing—reducing it to a tiny fraction of dwellings. This has fed into soaring residential property prices, homelessness and levels of household debt, which are among the highest in the world.

Residents of the public housing towers need to form rank-and-file neighbourhood committees to fight for the basic social right of all to a secure, affordable and habitable home against the state Labor government’s promotion of the profit interests of the property developers.

There is only one way to resolve the housing disaster, and that is through a socialist program. A workers’

government would redirect the obscene wealth accumulated by the developers and speculators, and the hundreds of billions being spent on war, to public housing, health, education and other critical social programs. It would place the banks, finance houses and property industries under public ownership and democratic workers’ control.

The Socialist Equality Party urges all public housing residents and their supporters throughout the working class to contact us and develop the discussion on the urgent next steps required.

Attend our upcoming public forum in Melbourne! Titled “Build a neighbourhood defence committee against public housing towers demolition!” it is being held Sunday, March 16 at 2 p.m. (AEDT), at Kensington Neighbourhood House, 89 McCracken Street, Kensington. Register here.



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