

Australian state Supreme Court dismisses legal case of public housing towers' residents

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18 April 2025

The Victorian Supreme Court earlier this month flatly rejected a legal challenge to the state Labor government's planned demolition of public housing towers in Melbourne, which was brought by a group of residents in three of the targeted apartment blocks.

The court ruling was a class decision, making clear that the residents have no real rights and that the government faces no legal restrictions in demolishing the towers and selling off the lucrative properties to corporate developers.

The legal action, brought by 479 residents from three of the first five of 44 high rise towers slated for demolition, aimed at halting the government's agenda on the basis that residents were not consulted before the decision was made and announced, and that residents' rights were violated under the Charter of Human Rights and Responsibilities Act. The specific rights cited in the legal challenge were the right not to have residents' home and family unlawfully or arbitrarily interfered with, their right to protection of family, and their right not to be deprived of their property other than in accordance with law.

On every ground, Supreme Court Judge Melinda Richards dismissed the residents' case and sided with the government and its public housing agency, Homes Victoria.

She ruled that under the Housing Act, there is no requirement for Homes Victoria "to consult with anyone before exercising its powers to manage land." On residents' human rights, the court found that "human rights protected by the Charter are not absolute, but may be subjected to lawful, reasonable, and justified limits," and that "the limitation of Group Members' right to home under s 13(a) [of the Charter of Human Rights and Responsibilities Act] is reasonable and has been demonstrably justified."

This makes clear that the state's recognition of human rights ceases immediately whenever critical issues related to the accumulation of corporate profit are concerned.

The 44 public housing towers are located on prime inner-city real estate. Their demolition and reconstruction by private developers will result in a massive windfall for construction and real estate companies.

This reality was covered up in the Supreme Court ruling. In one section of the judgement, the rights of hypothetical private apartment owners and renters were invoked against the rights of public housing residents.

Judge Melinda Richards declared: "Also relevant are the rights of other Victorians who may be struggling to find housing in the current housing shortage.... The implementation of the Redevelopment Program will substantially increase the amount of housing on the sites, to the benefit of a much wider group than the current renters in the Towers."

This absurd pseudo-legal argument underscores the political nature of the Supreme Court ruling. The "rights of other Victorians who may be struggling to find housing" in fact has no bearing on any aspect of the state Labor government's agenda. The entire ruling elite in Australia has engineered one of the most polarised housing markets among advanced capitalist countries, with the banks and ultra-wealthy property investors reaping extraordinary profits from exorbitant mortgages and rents charged on working people.

The Supreme Court ruling dismissed out of hand evidence provided by independent architects that the public housing towers can be refurbished, addressing structural and other issues without smashing up the long standing communities developed around the estates.

A report, "Retain, Repair, Reinvest," by a non-profit organisation of architects called OFFICE, provided detailed expert evidence on how the existing towers could be maintained, also adding the same number of new units as the government's plan, while spending less than is allocated under the demolition agenda. Judge Melinda Richards responded to the report by invoking section 136 of the Evidence Act, which allows the courts to "limit the use to be made of evidence if there is a danger that a particular use of the evidence might, (a) be unfairly prejudicial to a party; or (b) be misleading or confusing."

At the same time, the Supreme Court accepted Homes Victoria's claim that it had commissioned an expert

assessment that found that the towers could not be refurbished.

Judge Richards stated: “In light of Mr Newport’s evidence [Homes Victoria chief Simon Newport], I am satisfied that Homes Victoria did obtain a feasibility assessment as to whether it would be possible to retrofit the 44 public housing towers. [...] Newport was in my view an honest witness, and I have no reason to believe that he misrepresented the advice he had received about the feasibility of retrofitting.”

The government’s feasibility assessment has never been made public, and is therefore impossible to scrutinise and challenge. The Supreme Court earlier ruled that because the Homes Victoria documents were part of the state government’s cabinet deliberations, they are immune from release.

The Supreme Court similarly dismissed residents’ arguments that they had not been consulted on the demolition decision.

The judge insisted that government authorities were fully aware of “the significant disruption that the Redevelopment Program would cause existing renters, ‘by disrupting their home life, their connections to local supports and services, and their links to their communities in the towers and the surrounding area’,” before concluding that “I am not persuaded that a better understanding of these impacts could realistically have changed the [demolition] Decision.”

The Supreme Court added that previous government promises to consult with residents were legally meaningless.

Under a government initiative begun in 2021–22, called “Paving The Way Forward,” residents were told that they “would be involved in the key decisions that affect their home, neighbourhood, and services.” During the residents’ legal case, Homes Victoria responded by insisting that this was merely a “broader goal” and not “a specific undertaking that Homes Victoria or the Department would consult renters on all future decisions about the Towers.” The court agreed, ruling that the promise of residents’ involvement in decision-making was “not legally binding on Homes Victoria or the Victorian Government.”

The Supreme Court ruling is indicative of the contempt and hostility that the ruling elite has towards public housing residents.

The judgement underscores the reality that a struggle to prevent the demolitions and privatisations cannot advance on the basis of appeals to the political establishment. The way forward has been shown by the group of residents who last month formed a Neighbourhood Action Committee. Its orientation was outlined in a resolution adopted at a forum organised by the Socialist Equality Party:

We resolve to establish a Neighbourhood Action Committee that must be independent of all pro-business political parties and organisations, including the trade union bureaucracies, the Greens and the various fake left organisations that promote futile efforts to appeal to and pressure the Labor Party.

The Neighbourhood Action Committee will provide a forum for democratic discussion and debate over its future actions, as well as presenting accurate information to counter the propaganda campaign conducted by Labor and the media. This Committee will make a sustained appeal to the widest layers of the working class, the community and families, and all those who oppose this historic attack on public housing. Public housing is being privatised as part of a broad assault on the working class imposed by the Albanese Labor government, an assault on education, health and all social spending.

An appeal must be made to construction and other workers to stop the demolition, including by strike action in defiance of the union leadership. Such a call should come from the Neighbourhood Action Committee, emphasising the shared interests of public housing tenants and all workers and youth in the fight against austerity, rising social misery and the social right to adequate and affordable housing for everyone.

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