

Australian High Court to hear limited challenge to Melbourne public housing tower demolitions

Margaret Rees
28 May 2026

The High Court of Australia this month granted leave for a legally narrow appeal by a small number of residents of public housing towers in Melbourne against Homes Victoria and the Allan state Labor government's truly criminal plan to demolish all 44 of the city's public housing towers.

The case, *Mallard v Homes Victoria*, has been dismissed by the Victorian Supreme Court and the Court of Appeal, making the High Court the last avenue available within the legal system.

Following those defeats, lawyers from Inner Melbourne Community Legal obtained an injunction preventing the eviction of remaining residents in three towers in the first tranche slated for demolition: two in Flemington and one in North Melbourne. The injunction will remain in force until the court delivers its ruling, with an expedited hearing scheduled on June 10.

Even if the challenge succeeds, however, it will not stop the demolitions; just require Homes Victoria to hold a consultation process. Homes Victoria has already exploited the protracted legal process to press ahead with what it calls "decanting"—the systematic removal of residents from the targeted towers, so that today only a small number of tenants remain in the three buildings protected by the injunction.

Furthermore, Homes Victoria, acting on behalf of Premier Jacinta Allan's Labor government, has not only driven out most of the residents in the first towers marked for demolition in Tranche One. It also has announced an extension to the Tranche Two demolition to include seven elderly persons towers.

When the case was heard on May 14, barrister Kateena O'Gorman presented the residents' case to

three High Court judges on two grounds. Ground one invoked procedural fairness under the *Housing Act 1984*, which nominally specifies a requirement to "seek the participation of tenants and other community groups in the management of public housing," and stipulates that "public housing authorities should ensure that tenants have maximum opportunity to participate in the management of their dwellings and estates and in the development of public housing policies." Ground two cited section 13 of the Victorian *Charter of Human Rights and Responsibilities*, which supposedly protects against unlawful or arbitrary interference with a person's "home."

The judges agreed to allow the case to proceed, but only on ground one. This is a critical limitation. Procedural fairness is not fairness in any substantive sense. It is, at best, the right to be heard, not the right to a different outcome. Even if the residents were to prevail on ground one, the court's ruling would only compel a form of consultation by Homes Victoria. It would impose no obligation to abandon or even modify the demolition program.

In addition, the judges agreed to a request by the government's barrister to accelerate the proceedings beyond the usual timeline of four to five months. O'Gorman, representing the residents, also agreed to the shortened timetable. The accelerated process serves the government's timeline to clear the towers and hand over prime inner-city land to private developers.

The legal proceedings, stretching across multiple cases and rulings, have slowed the timetable for demolition of the first tranche of towers. But they have not stopped it.

In the original Supreme Court dismissal, Judge

Melinda Richards sided with the government on every ground brought before her. She ruled that the *Housing Act* imposed no obligation on Homes Victoria to consult anyone before exercising its powers to manage land.

On the Charter of Human Rights, she found that the limitation of residents' rights was "reasonable and demonstrably justified"—a finding that amounted to a declaration that human rights protections evaporate whenever significant corporate profits are at stake. Government promises to involve residents in decisions affecting their homes, made under the 2021–22 "Paving the Way Forward" initiative, were ruled legally meaningless.

Residents were effectively told that they had no right to a home, no right to be consulted prior to the government decision to obliterate their communities, and no right even to have access to secret government documents used to justify the public housing sell-off. The government, it was made clear, has free rein to take whatever measures it wishes with regard to public housing, regardless of the devastating impact on thousands of families, including refugees, single parents, and other vulnerable layers of the population.

The High Court proceedings have done nothing to reverse that fundamental logic. The demolition of the 44 towers is an assault carried out to clear valuable inner-city real estate and deliver it, at enormous profit, to private construction and property development interests.

As the WSWS noted when the Supreme Court dismissed the case, it is entirely legitimate for residents to pursue every legal avenue available to them. But the history of this case provides a sharp political warning.

Legal battles for social rights are effective only insofar as they are part of the active mobilisation of the working class. The courts are instruments of the capitalist state. They function, in the last analysis, to protect private property relations and enforce the interests of the ruling class.

The Supreme Court's exclusion of independent architectural evidence that the towers *can* be refurbished, while simultaneously accepting on faith the government's secret and unpublished feasibility assessment, put its role beyond any reasonable doubt.

The residents of Melbourne's housing towers, thousands of working-class people, face a ruthless

privatisation drive by the Labor government. To halt the demolitions, an appeal must be made for support throughout the working class, including construction workers, teachers and health workers, who all confront battles against increasingly intolerable conditions.

The only force capable of halting Labor's wrecking operation is the organised working class, mobilising independently of the Labor and trade union apparatuses, the Greens and the various groups that have sought to channel opposition back into appeals to the government and the courts.

This means building independent rank-and-file committees of workers, residents and their supporters to organise action against the companies involved in the demolition and the Labor government itself.

The demand must be raised for the allocation of billions of dollars for the construction of new high-quality public housing to provide for those currently on waiting lists and everyone in dire need of secure housing.

That means a political struggle by the working class against the capitalist profit system and the refashioning of society from top to bottom on socialist lines. The vast resources created by the working class must be used to meet the pressing social needs of the majority, including for decent affordable housing, not the profits of the wealthy few.

The Neighbourhood Action Committee has been established by residents with the support of the Socialist Equality Party to spearhead this fight. We urge residents and their supporters to join us. Contact us at: nacodpht.publichousingaus@gmail.com.



To contact the WSWS and the Socialist Equality Party visit:

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