AFFIDAVIT

PART A: APPLICANT'S AND RESPONDENT'S DETAILS

Applicant

State of Queensland through the Department of Communities, Housing and Digital Economy

Respondent

Mr David Barker

PART B: CASE NUMBER (if known)

PART C: DETAILS OF AFFIDAVIT

I, Mollie Beresford Fortitude Valley Housing Service Centre (Fortitude Valley HSC) solemnly and sincerely affirm and declare:

1. I am the acting Senior Housing Officer that manages Mr David Barker's tenancy. I have access to the records of the department including Mr Barker's tenancy file kept by the department in relation to his public housing tenancy at 5/25 Waverley Rd, Taringa, QLD, 4068.

Orders sought by the Fortitude Valley HSC

1. The Fortitude Valley HSC is seeking a Termination Order under section 293 'failure to leave' which states:

> *(1) The lessor may apply to a tribunal for a termination order because---*
> *a. The lessor gave a notice to leave the premises to the tenant; and*
> *b. The tenant failed to hand over vacant possession of the premises to the lessor on the handover day.*
> *(2) An application under this section must be made within 2 weeks after the handover day.*
> *(3) An application made under this section is called an application made because of a **failure to leave.***

2. The Notice to Leave was issued on 23 February 2022 and expired on 9 March 2022 for failure to keep the internal and external areas of the premises and inclusions clean as stated in the State Tenancy Agreement.

General Tenancy History

3. On 21 October 2016, Mr Barker (aged 47) commenced his tenancy at 5/25 Waverley Rd, Taringa, QLD, 4068 which is a 1-bedroom apartment constructed in 1970. Mr Barker is the sole legal tenant of the property and has no other occupants listed on his household.

4. Mr Barker's current weekly rent payable is $103.35.

5. As of 23 March 2022, Mr Barker owes $491.63 in rental payments which is equivalent to 4 weeks in arrears. Mr Barker has been issued with 5 Notice to Remedy Breaches for rent arrears on the following dates: 30 August 2021, 11 October 2021, 21 November 2021, 07 March 2022 and 23 March 2022.

6. Mr Barker owes $1413.97 in maintenance debts.

History of action taken by the Fortitude Valley HSC

7. In March 2020, the Department of Communities, Housing and Digital Economy, service delivery ceased non-essential services to our customers due to COVID-19, to protect the health of our staff, customers, and broader community. This has impacted the Fortitude Valley HSC's ability to take action to investigate property conditions.

8. On 15 April 2021, QCAT heard the departments submission for a Warrant of Possession for property Condition, this was rejected, and Mr Barker was provided additional time to improve the property condition.

9. On 22 June 2021, department staff attended Mr Barker's property, staff observed the external areas of the premises was filled with household rubbish and recyclables. As a result, a complaint investigation was opened.

10. On 23 June 2021, the department issued a 14-day warning letter to remove all improperly kept items in the front yard via priority post. This letter expired on 6 July 2021.

11. On 5 July 2021, Mr Barker emailed the Fortitude Valley HSC requesting an extension to rectify the property condition. Mr Barker advised due to the COVID-19 lockdown it has been challenging to rectify the property condition within 14 days. The department approved the request and extended the date to 16 July 2021.

12. On 20 July 2021, department staff conducted a home visit to inspect the external condition of the property. Department staff deemed the external property condition to be satisfactory, consequently the complaint investigation was closed.

13. On 26 July 2021, a complaint was received from Brisbane City Council in relation to unsightly materials, rubbish, recyclables at the property. As a result, a complaint investigation was opened.

14. On 4 August 2021, a complaint was received from a neighbour advising Mr Barker was using the communal laundry to wash plastic bottles which was a health and safety concern considering the COVID-19 outbreak.

15. On 10 August 2021, department staff conducted a home visit to inspect the external property condition. Department staff deemed the property to be of an unacceptable standard.

16. On 17 August 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition had deteriorated since the previous week and remained of an unacceptable standard.

17. On 18 August 2021, a complaint was received from the private neighbour, requesting immediate removal of rubbish items, and advised that Mr Barker had been illegally dumping rubbish on their property. The complaint stated this was causing diminishing value in their property and appeal for owners who wish to rent out a property and undermining the peaceful enjoyment of their property.

18. On 18 August 2021, the department issued a 14-day warning letter to remove all improperly kept items in the front yard via email and priority mail. This letter expired on 31 August 2021.

19. On 31 August 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained of an unsatisfactory condition.

20. On 31 August 2022, Fortitude Valley HSC raised a work order to have the items removed from the property, which was outlined in the previous warning letter supplied to Mr Barker.

21. On 1 September 2021, Mr Barker emailed the Fortitude Valley HSC enquiring the outcome of the inspection on 31 August 2021. Staff replied to Mr Barker's email advising the property condition remains unacceptable and contractors have been organised to remove the leftover items.

22. On 3 September 2021, department staff attended Mr Barker's property to meet contractors on site. Department staff observed that the external property condition had significantly improved since the inspection on 31 August 2021. The work order was cancelled as the external premises has been returned to a satisfactory condition.

23. During this visit Mr Barker began filming department staff with demands to show their Government Identification and refused to engage with staff when trying to address ongoing tenancy concerns.

24. On 3 September 2021, Mr Barker emailed the Fortitude Valley HSC requesting confirmation that the contractors did not remove any items from the property. Staff replied to Mr Barker's enquiry confirming the contractors did not complete any work at the property. Department staff advised Mr Barker that they had ongoing concerns with his property condition, and that staff would continue to complete site visits to the property.

25. On 14 September 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition had deteriorated and remained of an unsatisfactory standard.

26. On 21 September 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

27. As a result, a tenancy sustainment support referral was submitted to Communify for assistance with property condition and rental arrears.

28. On 1 October 2021, Communify emailed Fortitude Valley HSC advising that Mr Barker consented to engage with their service for tenancy sustainment support.

29. On 11 October 2021, a complaint was received from Brisbane City Council in relation to unsightly materials, rubbish, recyclables at the property.

30. On 12 October 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition had deteriorated and remained of an unsatisfactory condition. It was also observed recyclable items were accumulating in the communal areas of the complex.

31. On 13 October 2021, a Notice to Remedy Breach was issued for failure to keep internal and external areas of the premises and inclusions clean as stated in the State Tenancy Agreement, sent via email and priority mail, and expired on 27 October 2021.

32. On 13 October 2021, department staff requested Mr Barker attend Fortitude Valley HSC to discuss tenancy concerns on the 21 October 2021. Request was sent via email and priority mail.

33. On 21 October 2021, Mr Barker did not attend the scheduled interview at Fortitude Valley HSC.

34. On 26 October 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained of an unsatisfactory condition.

35. On 7 November 2021, a complaint was received from a private neighbour requesting immediate removal of rubbish items that Mr Barker had illegally placed on the property fence. The complaint stated this is a health and safety issue which is significantly impacting the ability for owners to rent their properties.

36. On 9 November 2021, department staff conducted a home visit of the property to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

37. On 9 November 2021, department staff left a calling card for Mr Barker to engage with him about the ongoing property condition.

38. On 16 November 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

39. On 16 November 2021, a second Notice to Remedy Breach was issued for failure to keep internal and external areas of the premises and inclusions clean as stated in the State Tenancy Agreement, sent via email and priority mail, and expired on 30 November 2021.

40. On 23 November 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

41. On 26 November 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition during the breach period.

42. On 7 December 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

43. On 14 December 2021, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

44. On 17 January 2022, a complaint was received from a neighbour advising that Mr Barker was using the communal laundry to store rubbish and the property condition is in an extremely bad condition.

45. On 25 January 2022, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

46. On 2 February 2022, a third Notice to Remedy Breach was issued for failure to keep internal and external areas of the premises and inclusions clean as stated in the State Tenancy Agreement, sent via email and priority mail, and expired on 16 February 2022.

47. On 2 February 2022, department staff requested Mr Barker attend Fortitude Valley HSC to discuss tenancy concerns on the 9 February 2022. Request was sent via email and priority mail.

48. On 7 February 2022, a seven-day warning letter was hand delivered to all tenants at the complex from the Fortitude Valley Property Team advising all items of furniture and other refuse in the communal arears would be removed and disposed of by 14 February 2022. It was also explained that tenants who are dumping items in the communal areas would be putting their tenancy at risk.

49. On 9 February 2022, Mr Barker did not attend the scheduled interview at Fortitude Valley HSC.

50. On 9 February 2022, department staff contacted Communify following up on update regarding engagement with Mr Barker. Mr Barker advised Communify he was self-isolating.

51. On 15 February 2022, Communify contacted the department to advise Mr Barker has not engaged with the service. Communify advised the property condition had worsened and was unsafe to access his front door.

52. On 15 February 2022, department staff attended the complex as per scheduled rubbish removal warning letter. Contractors removed the rubbish from the communal laundry which included industrial waste bins, broken washing machine, fridge, and household recyclables. All items removed were a health and safety risk. Staff noted during visit, Mr Barker's property remained cluttered with rubbish out the front of his property which was overflowing onto the communal footpath.

53. On 16 February 2022, an Entry Notice was issued to gain access to Mr Barkers property on 23 February 2022. The Entry Notice was sent via priority mail and email allowing extra time for Mr Barker to remedy the breach.

54. On 16 February 2022, Mr Barker responded to email and acknowledged the entry notice.

55. On 22 February 2022, a complaint was received from a private neighbour advising that Mr Barker's unsatisfactory property condition is attracting rodents and remains unsightly to the public.

56. On 23 February 2022, department staff attended Mr Barker's property as per scheduled Entry Notice. Mr Barker refused to engage with staff, as per Entry Notice staff gained access to Mr Barker's property and observed the internal property was in an unsatisfactory condition.

57. On 23 February 2022, department staff issued a Notice to Leave for Unremedied Breach in relation to failing to keep the internal and external areas of the premises and inclusions clean as stated in the State Tenancy Agreement. The notice expired on 9 March 2022.

58. On 4 March 2022, a complaint was received from a private neighbour requesting immediate removal of rubbish items that Mr Barker had illegally placed on the property and nearby grounds. The complaint stated this has an ongoing impact to the peaceful and quite enjoyment of their property and impacts their ability to rent or sell the properties.

59. On 8 March 2022, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

60. On 15 March 2022, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

61. On 16 March 2022, a complaint was received from Brisbane City Council in relation to piles of rubbish made up of recyclable items covering the courtyard and spilling on the footpath.

62. On 18 March 2022, Communify emailed the Fortitude Valley HSC confirming Mr Barker has not engaged with their service. Communify advised they offered a skip bin to assist Mr Barker with cleaning the external premises which Mr Barker declined, during this conversation Mr Barker also acknowledged Fortitude Valley HSC's QCAT submission. Senior Officer responded to email requesting continued support be attempted with Mr Barker to address the property concerns prior to QCAT.

63. On 22 March 2022, department staff conducted a home visit to inspect the external property condition. Department staff observed that the condition remained in an unsatisfactory condition.

Mr Barker has been issued with x 3 Notice to Remedy Breaches for failing to keep the internal and external of the premises and inclusions clean. In addition to this, interview requests and warning letters have been issued in relation to the property condition concerns and advising the potential for further action to be taken against Mr Barker's tenancy if the matter was not rectified. The property condition poses a health and safety risk to other neighbours within the complex as well as the adjoining properties. The department has afforded Mr Barker multiple opportunities to remedy the situation, however Mr Barker refuses to engage with the department or support services to sustain his tenancy.

PART D: SIGNATURE

Sworn (or affirmed) by:

Mollie Beresford

on

23 March 2022

at

Brisbane, Queensland

COMMISSIONER FOR DECLARATIONS
QUEENSLAND GOVERNMENT
Reg.No.: 77079
DEPARTMENT OF JUSTICE QUEENSLAND
P Carlton

PAUL CARLTON
C-DEC

in the presence of:

Person making affidavit to sign	**Person taking affidavit to sign**
PAUL CARLTON.	P Carlton
Print name	**Commissioner for declarations/ ~~solicitor/justice of the peace.~~**