



Yukon Legislative Assembly
32nd Yukon Legislative Assembly

**Report of the Select Committee
on the *Landlord and Tenant Act***

November 2010


November 8, 2010

Honourable Ted Staffen, MLA
Speaker of the Yukon Legislative Assembly

Dear Sir:

Your Select Committee on the *Landlord and Tenant Act*, appointed by Order of the Assembly on November 18, 2009, has the honour to present its report and commends it to the House.

Steve Nordick
Chair of the Committee
(MLA – Klondike)



Steve Cardiff
Vice-chair of the Committee
(MLA – Mount Lorne)



Darius Elias
Member of the Committee
(MLA – Vuntut Gwitchin)



Select Committee on the *Landlord and Tenant Act*

Members of the Committee:

Steve Nordick, Chair of the Committee
MLA (Klondike)

Steve Cardiff, Vice-chair
MLA (Mount Lorne)

Darius Elias
MLA (Vuntut Gwitchin)

Clerk to the Select Committee:

Sandra Rose
Committee Clerk
Yukon Legislative Assembly Office

Acknowledgements

The Select Committee would like to acknowledge the significant contribution of those individuals and organizations who expressed their views to the Committee at public hearings, by completing the questionnaire, or through written submissions. We sincerely thank them for their valuable input. Their participation was fundamental to our work and has informed our recommendations.

The Select Committee appreciates the technical advice provided to us by staff from the departments of Community Services and Health and Social Services. Thank you.

The Committee also wishes to acknowledge the helpful contributions of staff from the Legislative Assembly Office who provided administrative and procedural support throughout the consultation process.

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Introduction

The Select Committee on the *Landlord and Tenant Act* is an all-party committee of the Yukon Legislative Assembly established on November 18, 2009 by Order of the House. Members of the committee include Steve Nordick (MLA – Klondike), Darius Elias (MLA – Vuntut Gwitchin), and Steve Cardiff (MLA – Mt. Lorne).

Yukon's existing *Landlord and Tenant Act* was substantially amended in 1972 to include a section specifically on residential tenancies (part 4 of the Act). The Act was most recently amended in 1994 to address interest on security deposits and mobile home park tenancies.

The Act was developed to serve and balance the interests of both the landlord and the tenant. Part 4 of the Act establishes standard obligations for residential tenancies and includes provisions for increases in rent, security deposits, and remedies for both parties if obligations are not fulfilled.

Mandate

The Committee's mandate is set out in the motion (Motion #850) that created the committee. The motion specifies that the Committee is charged with receiving views and opinions of Yukon residents and interested groups on the *Landlord and Tenant Act* and that the Committee is to report to the Legislative Assembly its findings and recommendations with respect to changes to the regulations made pursuant to the Act, substantive amendments to the Act, or the introduction by the government of a new Act.

The text of the Order, as recorded in the *Journals*, follows:

THAT this House establish a Select Committee on the *Landlord and Tenant Act*,

THAT the membership of the Committee be comprised of equal representation from the Government caucus, the Official Opposition caucus and the Third Party caucus to be determined by the Premier, the Leader of the Official Opposition and the Leader of the Third Party,

THAT the Committee conduct public consultations for the purpose of receiving views and opinions of Yukon residents and interested groups on the Act,

THAT the Committee report to the House its findings and recommendations respecting:

- (1) changes to the regulations made pursuant to the Act,
- (2) substantive amendments to the Act, or
- (3) the introduction by the Government of a new Act,

THAT the Committee report to the House no later than the 2010 Spring Sitting of the Legislative Assembly,

THAT the Government introduce in the House legislation no later than the 2010 Spring Sitting of the Legislative Assembly,¹

THAT the Committee have the power to call for persons, papers and records and to sit during inter-sessional periods,

THAT the Committee have the power to seek background information from experts and to be able to call and hear these experts as witnesses,

THAT if the House is not sitting at such time as the Committee is prepared to present its report, the Committee transmit its report to all Members of the Legislative Assembly and then, not more than one day later, release the report to the public; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the Committee.

On April 6, 2010, the Yukon Legislative Assembly adopted a motion (Motion #1009) to amend the Committee's reporting timeline from the spring to the fall of 2010. The text of that motion follows:

THAT the Terms of Reference of the Select Committee on the Landlord and Tenant Act, as established by Motion #850 of the 1st session of the 32nd Legislative Assembly, be amended by changing the date of its reporting to the House from the 2010 Spring Sitting of the Legislative Assembly to the 2010 Fall Sitting of the Legislative Assembly; and

THAT the Government of Yukon introduce in the House legislation no later than the 2010 Fall Sitting of the Legislative Assembly.²

Methods through which opinions were expressed to the Committee

There were three ways in which Yukon residents and interested groups could provide their views on the *Landlord and Tenant Act* to the Committee – written submissions, the Committee's questionnaire (online or hardcopy), and the public hearings.

Note: Some individuals availed themselves of more than one means of voicing their concerns. That is, some individuals or groups who spoke at the public hearings also submitted questionnaires and/or written submissions to the Committee.

¹ It should be noted that this part of the order is not binding on the government. Once the Select Committee's report has been presented to the House, the government can choose to accept, or reject, any or all of its recommendations.

² *ibid*

Written Submissions

The Select Committee on the *Landlord and Tenant Act* began soliciting feedback on the Act from Yukon residents and other interested parties through ads placed in local newspapers in mid-January 2010. The consultation process was ongoing to September 30, 2010.

During that time the Committee received a total of 24 written submissions, all of which supported some form of amendment to the existing *Landlord and Tenant Act* and/or regulations pursuant to the Act.

Once permission was confirmed, copies of individual submissions were posted on the Committee's webpage at <http://www.legassembly.gov.yk.ca/725.html>. The Committee did not receive permission to post two of the submissions.

Written submissions were received from:

- Avoledo, Dave
- Blaker, Richard and Sheri
- Blood Ties Four Directions Centre
- Cable, Dan
- Champapagne & Aishihik First Nations
- Canadian Bar Association, Yukon Branch
- Cramp, Christiane
- Elizabeth Fry Society Yukon
- Grey Mountain Housing Society
- Johnson, Dustin
- Lemphers, Andrea
- Lyle, Kerry
- Moorcroft, Lois
- Northern Lights Ministries
- Racz, Michael
- Residential Landlord Coalition
- Rogan, Susie
- Second Opinion Society
- Tribes, Mike
- Yukon Anti-Poverty Coalition
- Yukon Human Rights Commission
- Yukon Status of Women Council and Working Group

Public Hearings

The Select Committee on the *Landlord and Tenant Act* held public hearings in September 2010 in the communities of Whitehorse, Watson Lake and Dawson City.

The views and opinions expressed at the public meetings closely align with what the committee had heard previously through written submissions.

The schedule of public hearings was as follows:

Whitehorse	September 8, 2010	65-70 people in attendance
Watson Lake	September 13, 2010	3 people in attendance
Dawson City	September 15, 2010	1 person in attendance

Questionnaire

Completion of the Committee's questionnaire was the third method available to Yukoners and interested groups to register their opinions on the *Landlord and Tenant Act*. The Committee received a total of 48 completed questionnaires.

The questionnaire was posted on the Legislative Assembly's website³ in both English and French. In addition to the online version, hardcopies were available at the hearings and through the Legislative Assembly Office. Questionnaire responses were received both online and by mail. One response was received in French.

The issues raised and comments received on the questionnaires are in line with what the Committee had previously heard by way of the public meetings and written submissions.

The questionnaire is attached as Appendix 1.

Input from First Nation Governments

In July 2010, letters explaining the formation of the Committee and its mandate were sent to each of Yukon's fourteen First Nations, as well as the Council of Yukon First Nations. The letters asked First Nation governments for any comments or concerns they may have with the existing *Landlord and Tenant Act*.

The Committee received one submission from First Nations. The Champagne & Aishihik First Nations emailed comments in which the writer indicated receiving input from the CAFN Housing Committee, staff, and CAFN citizens in completing the submission.

The Committee did not receive input from other First Nations so was not able to consider their views or opinions in formulating its recommendations with respect to the *Landlord and Tenant Act*.

"What We Heard"

Pursuant to the Select Committee's terms of reference⁴, the Committee is to report to the House its findings and recommendations "respecting:

- (1) changes to the regulations made pursuant to the Act,
- (2) substantive amendments to the Act, or
- (3) the introduction by the Government of a new Act,"

³ The Yukon Legislative Assembly's homepage is: www.legassembly.gov.yk.ca

⁴ Contained in Motion #850 (see pg. 6 of this report)

Opinions and suggestions (“what we heard”) about the *Landlord and Tenant Act* tended to fall into broad categories. Samplings of what the Committee heard, grouped by theme, are listed below:

(1) General Comments

- Under the current Act there are expectations on both the tenant and the landlord. With minor amendments, the Act is fair and equitable.
- The current wording is difficult to understand and is often misinterpreted. Rewriting the Act in plain language and including a preamble or statement of purpose would help. It would be useful to have in writing that the intent is to have a balanced piece of legislation that is easily interpreted and enacted.
- The existing name sets up an adversarial system. Consider renaming the Act to something like “Residential Tenancy Act.”
- To provide more clarity, consider consolidating provisions for various types of tenancies under section headings (e.g. Commercial, Residential, Mobile Homes, etc.), or consider separate acts.
- Yukon is one of only two jurisdictions in Canada which has one piece of legislation to address both residential and commercial tenancies.
- Lack of familiarity and understanding of the Act is a major problem.
- The lack of available information and public education about the Act is an issue. Regularly scheduled information workshops would help.
- It is not the responsibility of the private sector to provide social housing. Government is responsible for social housing.
- Creating more barriers for landlords will exacerbate the already tight housing market. Risk and cost increases will impact rental rates and inventory of units.
- Consider adding provisions for early termination of a tenancy agreement for women escaping domestic violence.

(2) Individual Rights and Responsibilities

- Consider a rights and responsibilities section in the Act that clearly sets out the expectations and entitlements of all parties.
- Consider stating in the Act or preamble that the *Human Rights Act* applies to tenancy agreements and acknowledge in the *Landlord and Tenant Act* the paramountcy of the *Yukon Human Rights Act*.
- Consider producing and distributing a facts sheet that clearly explains the legal rights of both the landlord and the tenant.
- The Act has to ensure the landlord has control over the asset.
- Landlords have to retain the right to ensure properties provide some return on their investment.

- Require justification for large rent increases and consider a cap on increases.
- Consider establishing a set check-out time in the Act, similar to the BC Act.
- Clearly articulate and enforce minimum rental standards.

(3) Dispute Resolution and Enforcement Mechanisms

- Increase the prominence of the Rental Officer's role. Mandate public education.
- Strengthen the role of the Rental Officer in the areas of mediation and arbitration of disputes.
- There seems to be a lack of enforcement of existing laws. Include enforcement provisions within the Act, not in other Acts. Build in penalties for failure to comply that are commensurate with the infraction.
- There is no enforcement other than court. Consider the use of inspectors.
- Consider establishing an independent "safe housing committee" to deal with building standards and complaints.
- Promote equal access to court processes. The court process is daunting for both the landlord and the tenant. Provide a step-by-step guide of the process. Create a package that explains the process – rights and responsibilities of both parties.
- Consider the appointment of a "pro-bono" court officer who could assist the underprivileged and uneducated (both landlords and tenants) with the legal process.
- Prohibit retaliation or harassment for complaints and provide consequences.

(4) Eviction

- The major issue with eviction is a lack of familiarity and understanding of the legislation.
- There needs to be a fair process. It is important that circumstances for eviction be defined.
- Require landlords to provide tenants with a written notice of eviction, identify the causes for eviction, and allow an appeal period for notice of eviction.
- Allow sufficient time after an eviction notice for remedial action by the tenant.
- Landlords must retain ability to evict with cause.
- Landlords must retain the right of eviction in winter months. Landlords cannot provide free or social housing.
- Landlords shouldn't have to explain why they are evicting someone if proper notice is given.

- Require that the landlord provide explicit legal cause for eviction.

(5) Security/Damage Deposits

- Clauses in this area are general and non-specific. Security deposit vs. damage deposit vs. last months rent needs clarification.
- Calculation of interest payable on security deposits is complicated. Consider interest payable as a fixed percentage or provide a calculation tool on the website similar to B.C.
- Allow landlords to collect and hold an additional damage deposit specifically for pets.
- Allow landlords to collect and hold a fuel tank deposit.

In summary, the Committee heard over and over that there is a need for affordable, safe, and adequate rental accommodation combined with an Act that is understandable and fair and equitable to both landlords and tenants.

Recommendations

Within the Select Committee's terms of reference,⁵ it may make recommendations to the Legislative Assembly with respect to changes to the regulations made pursuant to the *Landlord and Tenant Act*, substantive amendments to the Act, or the introduction by the government of a new Act.

It should be noted that once the Select Committee's report has been presented to the House, it is up to the government to accept, or reject, any or all of the Select Committee's recommendations.

The recommendations of the Select Committee on the *Landlord and Tenant Act* are as follows:

1. THAT, Yukon's *Landlord and Tenant Act* incorporate best practices in residential tenancy legislation from across Canada.
2. THAT, the Act be revised to modernize the language and principles of the Act, and that provisions for residential tenancies be consolidated within the Act.

The Act, as it stands now, is difficult to understand and is outdated. It lacks clarity and its language is legalistic. It is not organized in a logical manner. To make the legislation and its processes more accessible, the Committee recommends the Act be written in plain language and in manner that is easily understood by landlords, tenants, and the public. It should reflect today's

⁵ Contained in Motion #850

understanding of basic human rights and be in keeping with best practices in law-making in Canada.

The current Act is broad in scope. It is not immediately clear which provisions in the Act apply to residential tenancies. The Committee recommends either separate legislation for residential tenancies or distinct and better compartmentalized parts of the Act.

3. THAT, the Act include a “Rights and Responsibilities” section that is fair and equitable and articulates in detail the expectations and entitlements of all parties.

“A ‘rights and responsibilities’ approach is empowering ... [and if] ... delineated clearly and early in the Act [will] serve as a foundation and reference point for everything that follows.”⁶ Balanced and clear legislation will help to ensure high standards and respectful relationships. The Committee recommends a clearly defined statement of rights and responsibilities for landlords and tenants that is fair and equitable to both.

4. THAT, the Act clearly define minimum rental standards.

Clearly defined standards for residential tenancies that are easy to understand and enforceable will assist both tenants and landlords and will ultimately reduce disputes.

5. THAT, causes, timelines, and appeal provisions for eviction and termination of tenancy be clearly spelled out in the Act.

The Act must offer basic protection to tenants while at same time affording landlords protection and control of their asset.

6. THAT, the terms “security deposit” and “damage deposit” be clearly defined in the Act.

The clauses in the existing Act are general and non-specific and are a source of confusion for both landlords and tenants. Provisions dealing with security deposits should be revised to clarify the definition and application of both security and damage deposits.

⁶ Yukon Anti-Poverty Coalition Submission, March 2010, page 2.

7. THAT, the process and steps for dispute resolution be clearly spelled out in the Act.

Having a formal dispute resolution process, with ultimate appeal to the courts, clearly articulated in the Act would benefit both landlords and tenants. The Committee recommends an enforcement mechanism to hear complaints, carry out inspections, and mandate repairs; and that enforcement provisions and repercussions for non-compliance be clearly defined.

The Committee also recommends the informal dispute resolution services which are now offered through the Rental Officer's role be retained and strengthened, and that the Act encourage participation by both parties if and when either party applies for remediation or dispute resolution services.

8. THAT, the Act encourage ongoing public education.

Lack of familiarity and understanding of the legislation contributes to the ongoing inaccessibility of the law. A handbook or information package that clearly explains the rights and responsibilities of both parties, includes a step by step guide to the dispute resolution and court processes, and clearly describes all legal remedies available under the Act would be beneficial to all parties.

The Committee recommends the department(s) responsible for the Act initiate ongoing public education workshops and prepare printed information packages about the Act. The Committee further recommends that landlords be required to provide a copy of the printed information to tenants at the beginning of a tenancy agreement.

The information, in both English and French, should be available in hard copy from the department and online.

Conclusion

The Select Committee believes that the Yukon's *Landlord and Tenant Act* needs to be reviewed and updated.

The Committee feels that the primary purpose of the Act is, and should remain, to balance the rights and protections of the landlord and the tenant. The Committee believes that principles must be kept in mind when the Act is amended so that it promotes positive and respectful relationships. The Committee believes the Act should contain a preamble or statement of purpose which attempts to capture these principles and which should guide the remainder of the Act. The preamble should also reflect the need to balance the interest of both the landlord and the tenant, and the concept that along with rights come responsibilities.

The Committee believes that a fair and equitable *Landlord and Tenant Act* will clearly lay out the rights and responsibilities of all parties. It will clearly define to whom it applies. It will balance the rights and protections of both landlords and tenants. It will provide clear definitions. And finally, the legislation will be accessible to the majority of Yukoners.

The Committee believes that implementation of its recommendations with respect to the *Landlord and Tenant Act* will result in better and more effective residential tenancy legislation.

Appendix 1: Landlord and Tenant Act Questionnaire



Yukon Legislative Assembly

Select Committee on the *Landlord and Tenant Act*

32nd Yukon Legislative Assembly

Questionnaire

The Select Committee on the *Landlord and Tenant Act*

What is this questionnaire about?

In November 2009 the Yukon Legislative Assembly set up an all-party committee to ask Yukoners what they think about the current *Landlord and Tenant Act*.

Who should fill out this questionnaire?

The Committee wants to hear from Yukon residents who have something to say about the *Landlord and Tenant Act*. There are no right or wrong answers.

How will my information be used?

The answers you give will help the Committee decide if the current *Landlord and Tenant Act* should be changed or updated. The Committee will use your answers to identify problems with the existing Act and to make recommendations to the Legislative Assembly for change.

How will my privacy be protected?

This is a voluntary questionnaire. The Committee will keep your name and answers confidential. In the Committee's final report, your name will not be disclosed, nor will comments be identified by individuals' names.

If I have questions, or need help with the questionnaire, who can I call?

For help with the survey, please call the Yukon Legislative Assembly Office at 867-667-5494 or Toll-free: 1-800-661-0408 (ask for extension 5494).

For information about the work of the Committee, visit the Committee's webpage at: <http://www.legassembly.gov.yk.ca/679.html>

What is the deadline for sending in my response?

The Committee will accept completed questionnaires or written submissions until September 30, 2010.

For additional hardcopies of the questionnaire, contact the Yukon Legislative Assembly Office.

*La version française du sondage est disponible en ligne au <http://www.legassembly.gov.yk.ca/fr/679.html>
Pour obtenir un exemplaire papier, veuillez communiquer avec le bureau de l'Assemblée législative.*

Questionnaire – *Landlord and Tenant Act* Review

1. Are you: (Check all that apply)

- A landlord
- A tenant
- Neither a landlord nor a tenant.

2. Have you ever had difficulty understanding or using the *Landlord and Tenant Act*? (If "yes", please explain.) Yes No

3. Have you ever had difficulty resolving a dispute with your landlord or tenant? (If "yes", please explain.) Yes No

4. Have you ever had difficulty with enforcement of the Act? (If "yes", please explain.) Yes No

5. Do you understand your rights and responsibilities under the Act? Yes No

If "no", did you know that there is information available on the Government of Yukon Consumer Services website? Yes No

6. What are the main concerns you have with the *Landlord and Tenant Act*?

Other Comments about the Landlord and Tenant Act.

Statistical Information

1. You are: Male Female

 2. Your personal situation:
 - Single (also includes separated, divorced, or widowed)
 - Married or living with a partner

 - No children living with you
 - One or more children living with you at least part time

 3. Your age:
 - Under 25
 - 26-35
 - 36-50
 - 51-65
 - over 65

 4. Gross household income:
 - Less than \$30,000 per year
 - Between \$30,000 and \$59,999 per year
 - Over \$60,000 per year
-

For information about the work of the Select Committee on the *Landlord and Tenant Act* or to provide your views and opinions on the Act, you may contact the Committee at:

Select Committee on the *Landlord and Tenant Act*
Yukon Legislative Assembly Office
P.O. Box 2703 (A-9)
Whitehorse, Yukon Y1A 2C6

Email: yla@gov.yk.ca
Phone: (867) 667-5494
Toll-free: 1-800-661-0408 (ask for extension 5494)
Fax: (867) 393-6280

The Select Committee on the *Landlord and Tenant Act* will be accepting submissions until September 30, 2010.

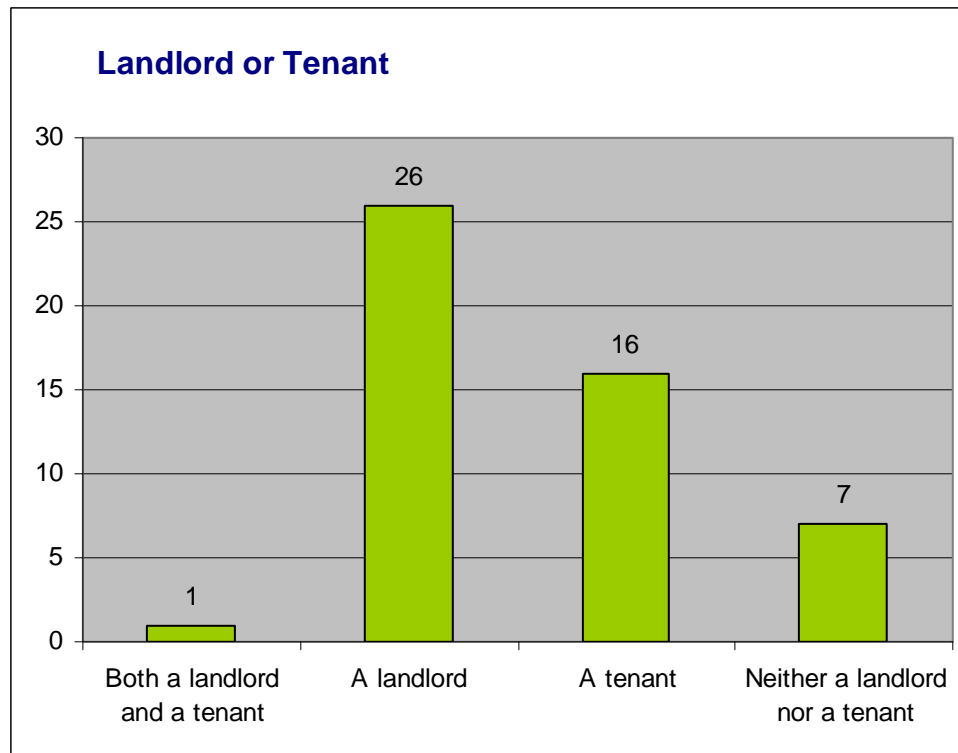
For additional hardcopies of the questionnaire, contact the Yukon Legislative Assembly Office.

A French version of the questionnaire is available online, or in hardcopy by contacting the Legislative Assembly Office.

Appendix 2: Questionnaire Results

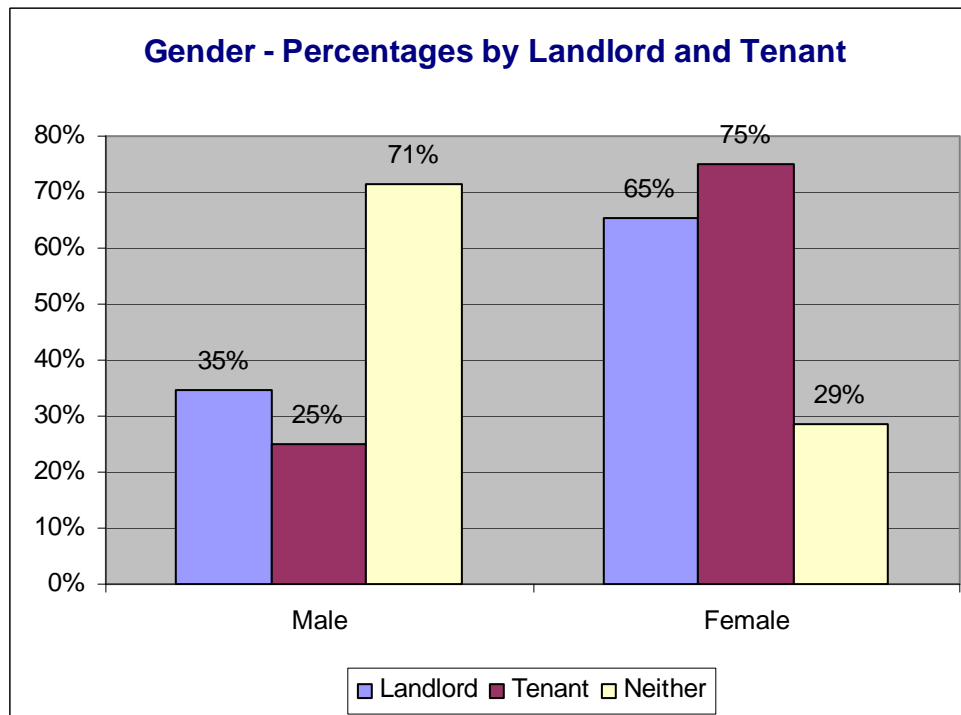
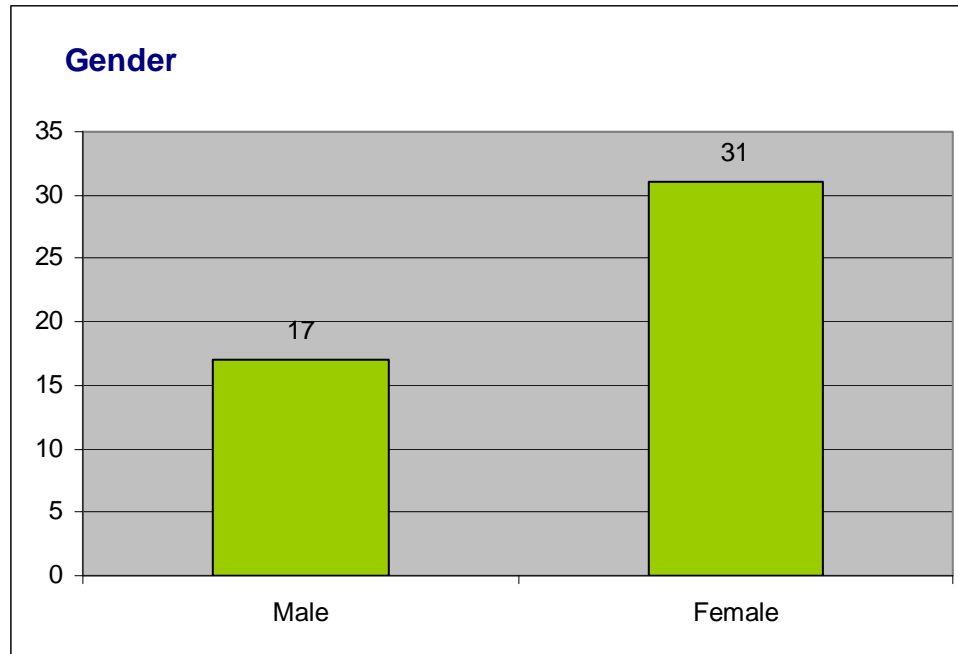
Demographics

Forty-eight completed questionnaires were received. The majority of participants were landlords (54%) as compared with 33% who identified themselves as tenants. 15% of the participants were neither a landlord nor a tenant, and one individual was both a landlord and a tenant.⁷

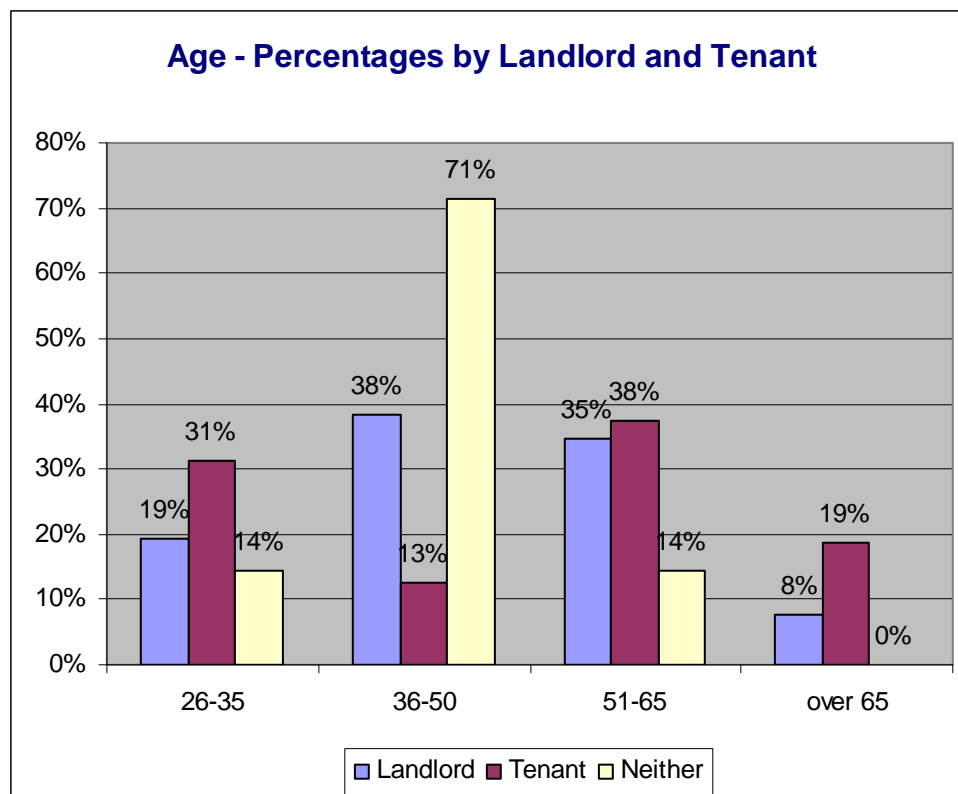
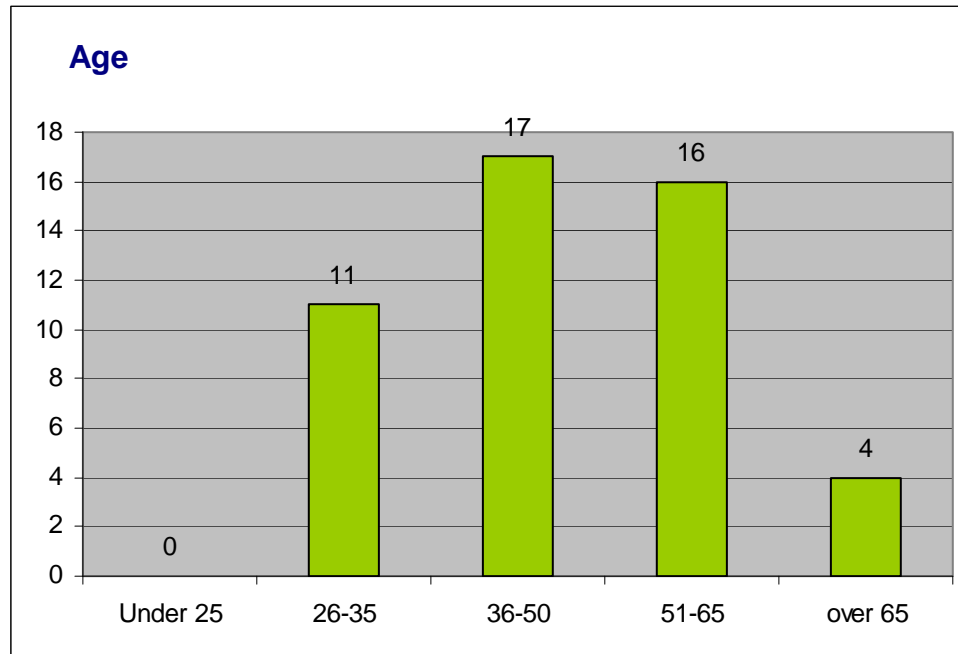


⁷ Percentage of participation by landlord and tenant is greater than 100% because one questionnaire is counted as both a landlord and a tenant).

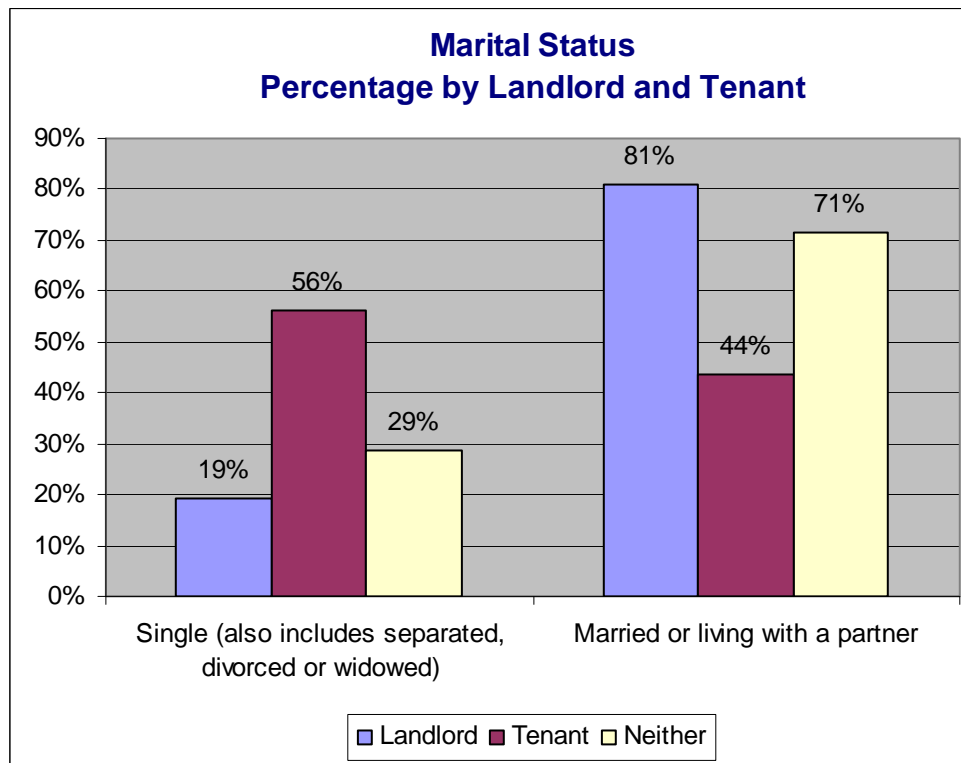
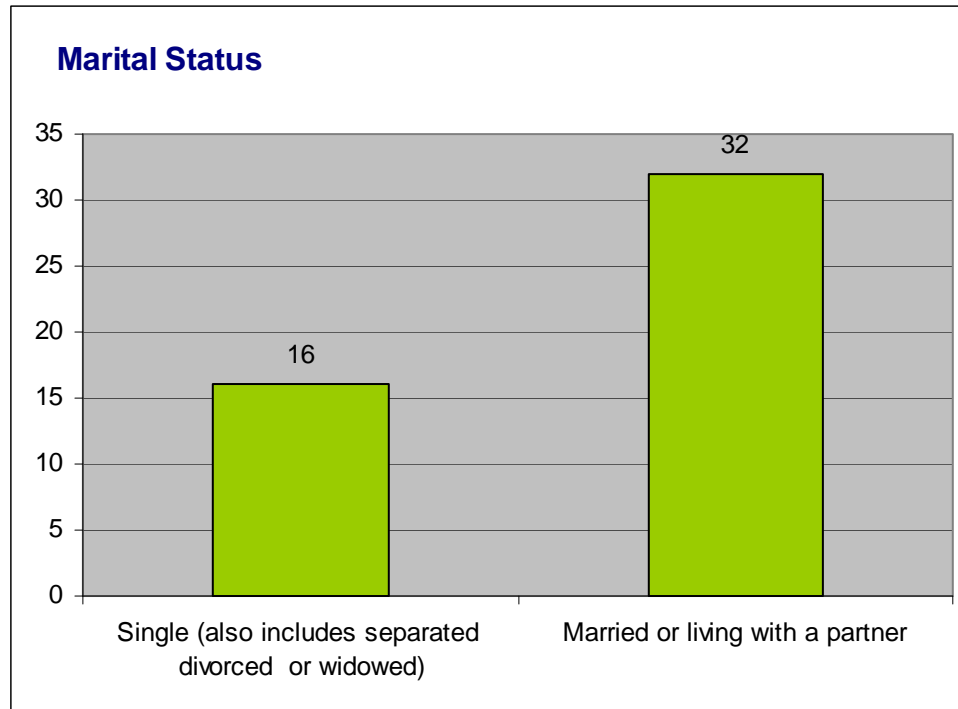
Gender of Participants



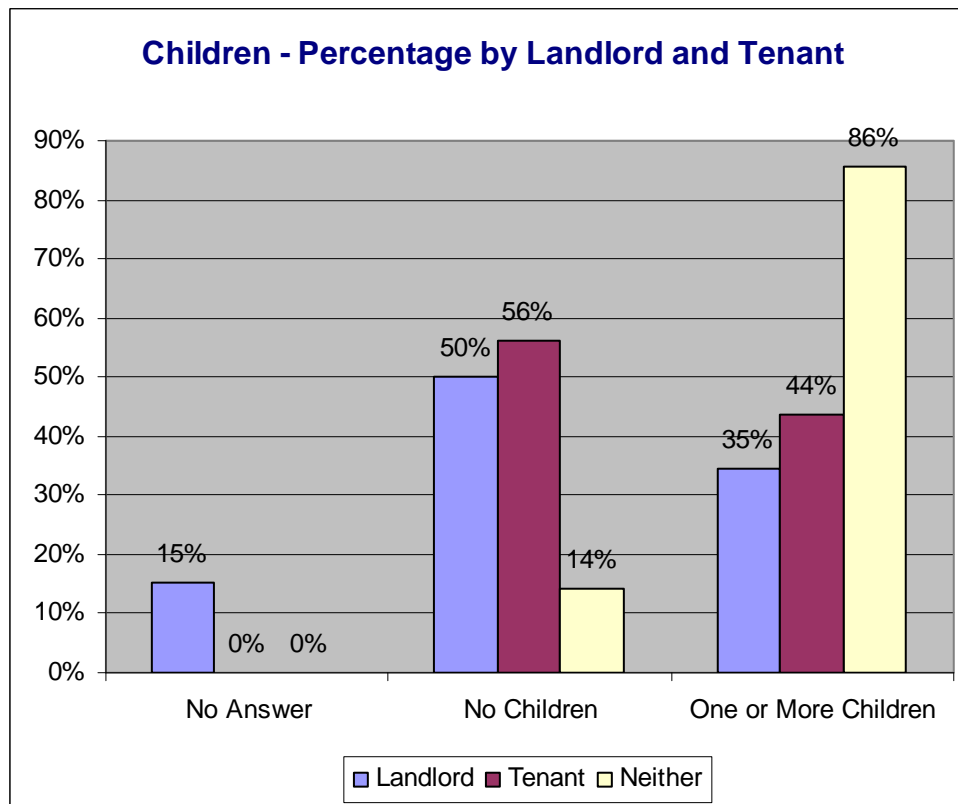
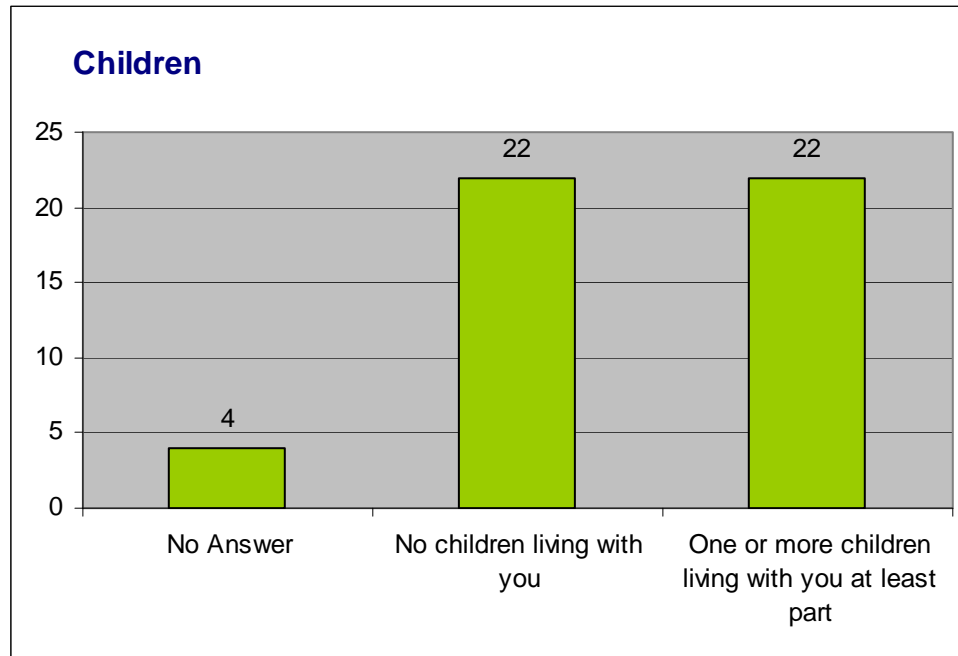
Age of Participants



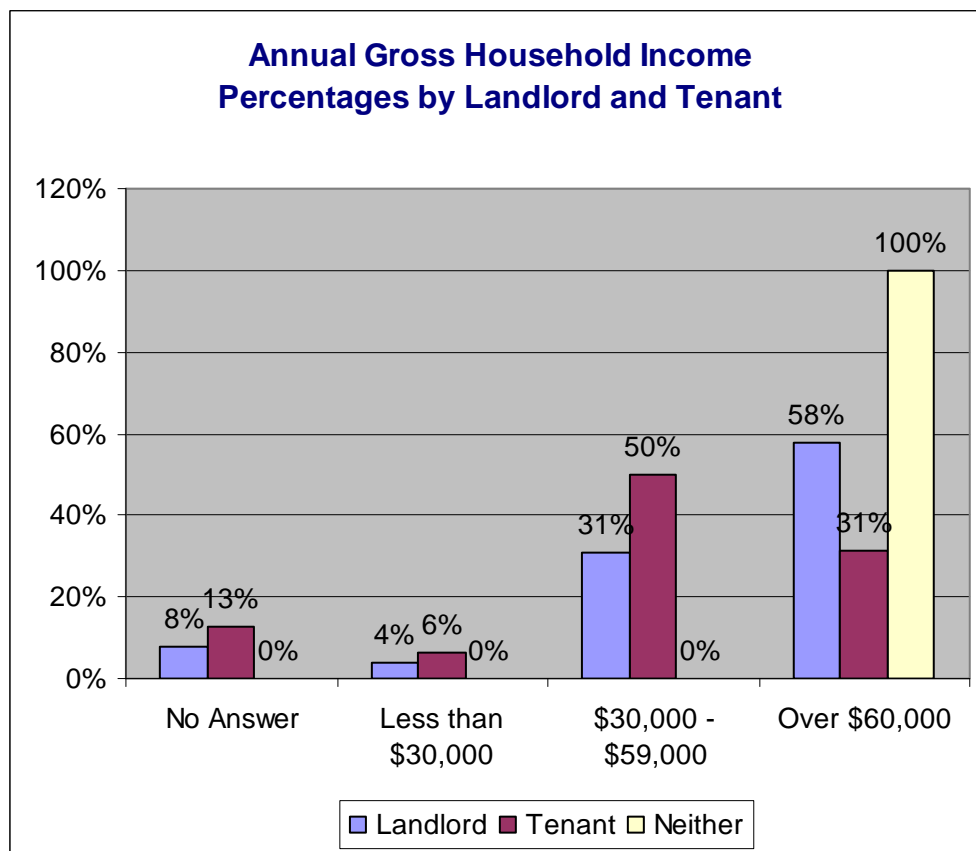
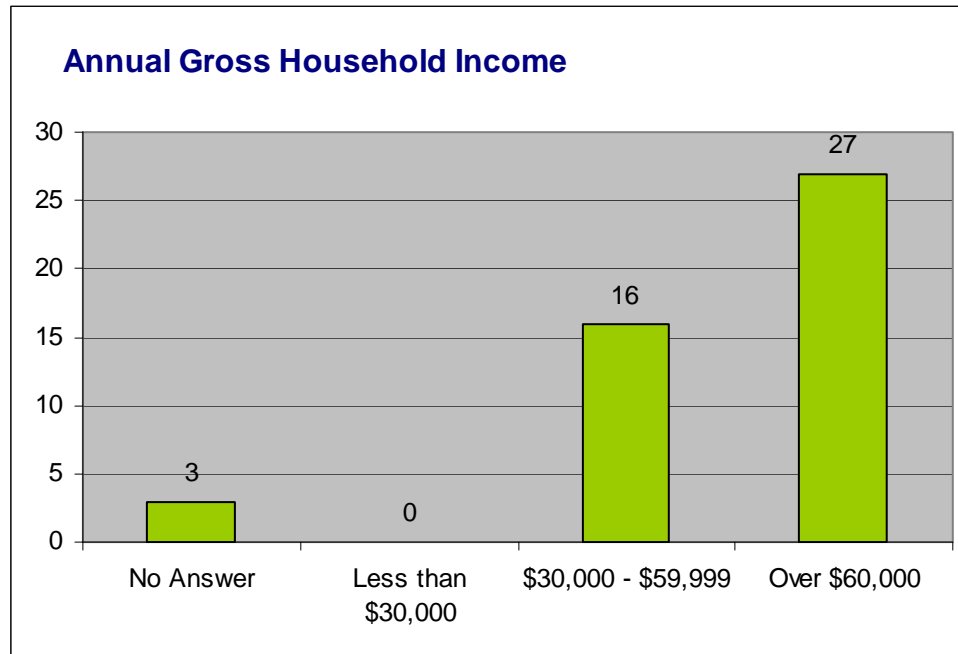
Marital Status of Participants



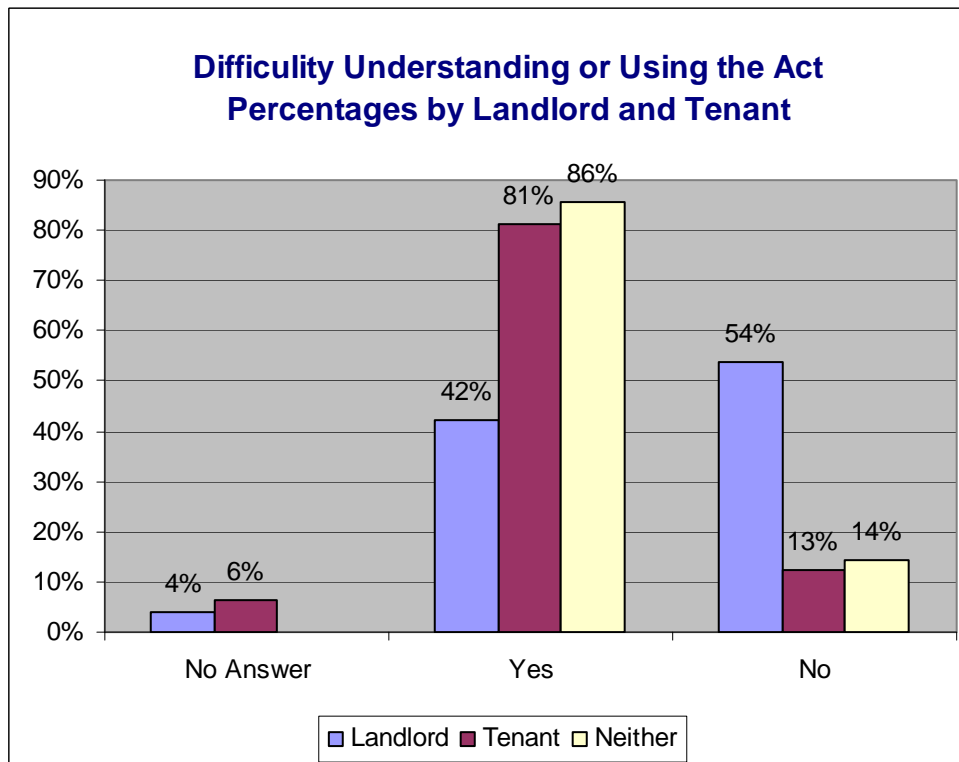
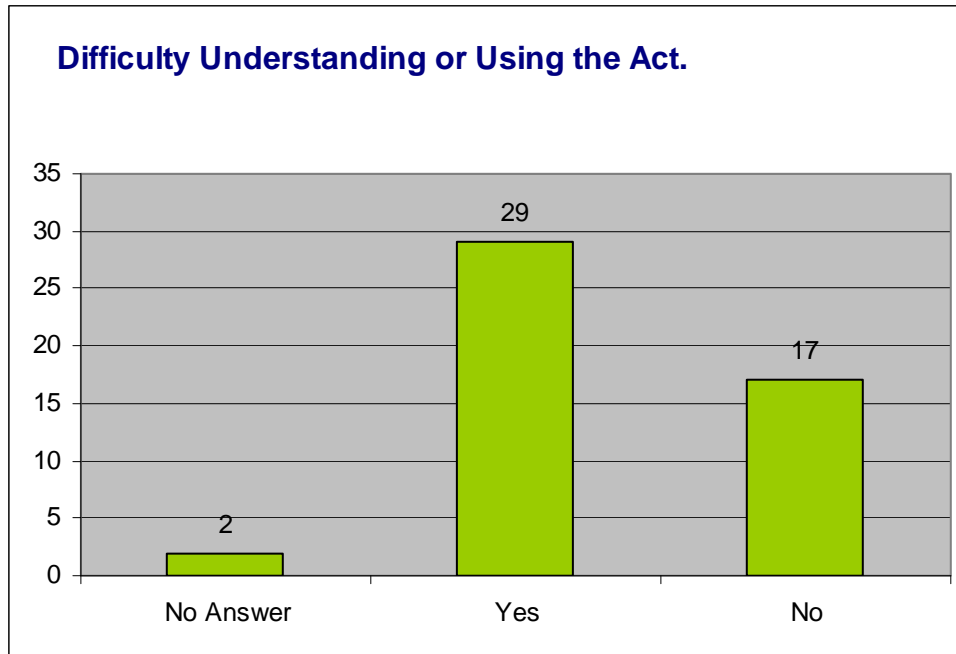
Children living with Participants



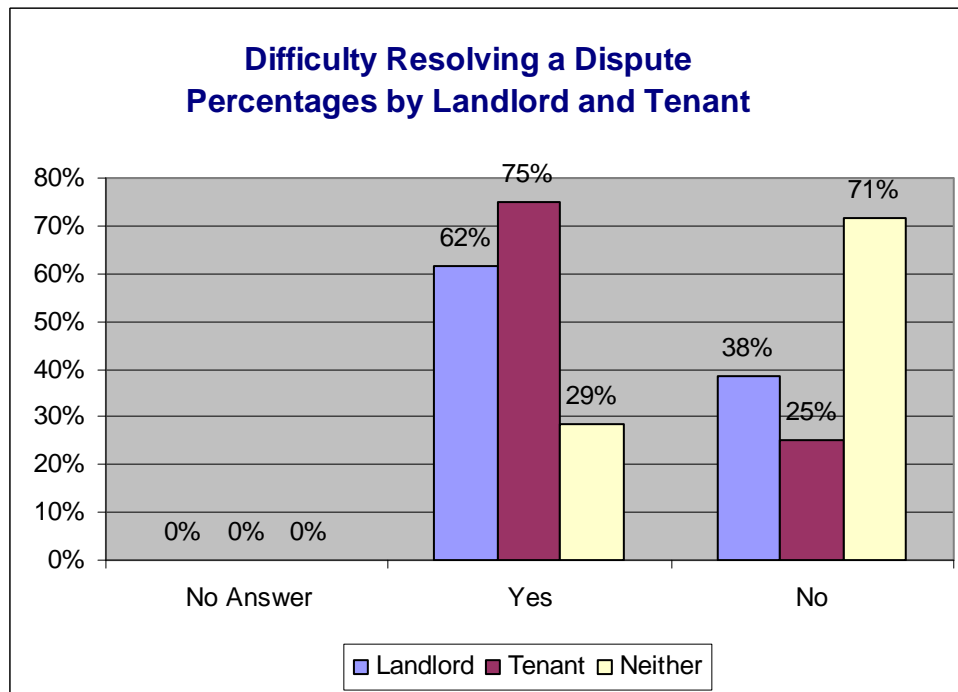
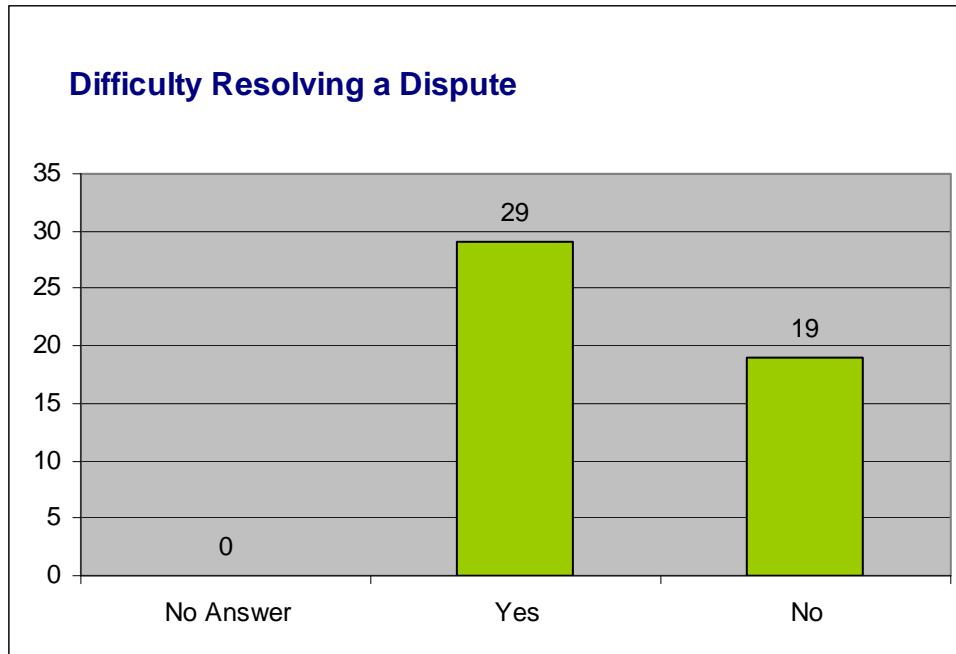
Annual Gross Household Income of Participants



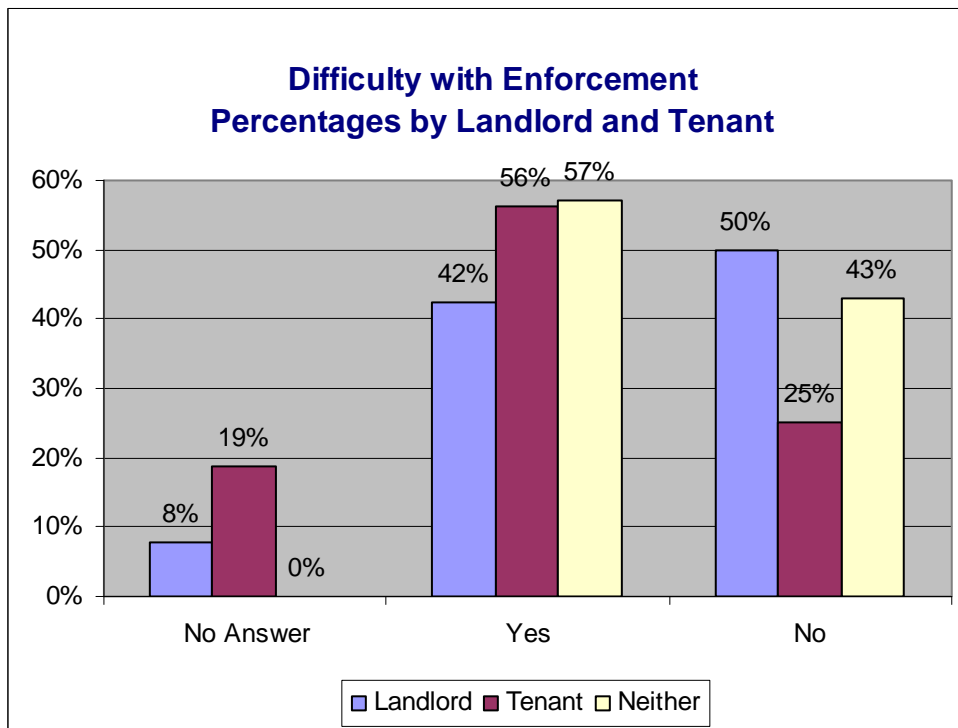
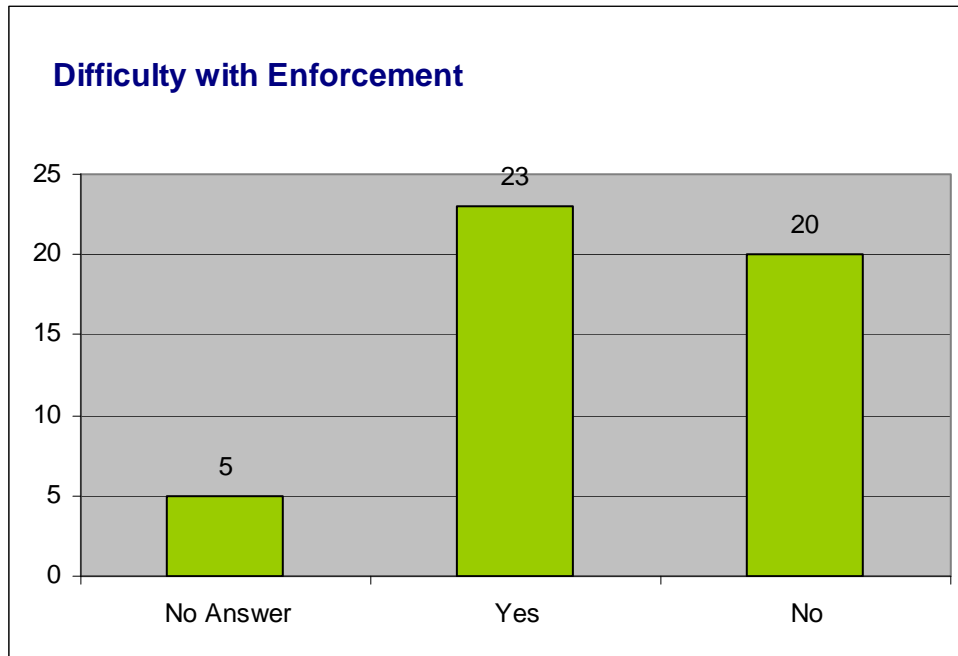
Question #2: Have you ever had difficulty understanding or using the Landlord and Tenant Act?



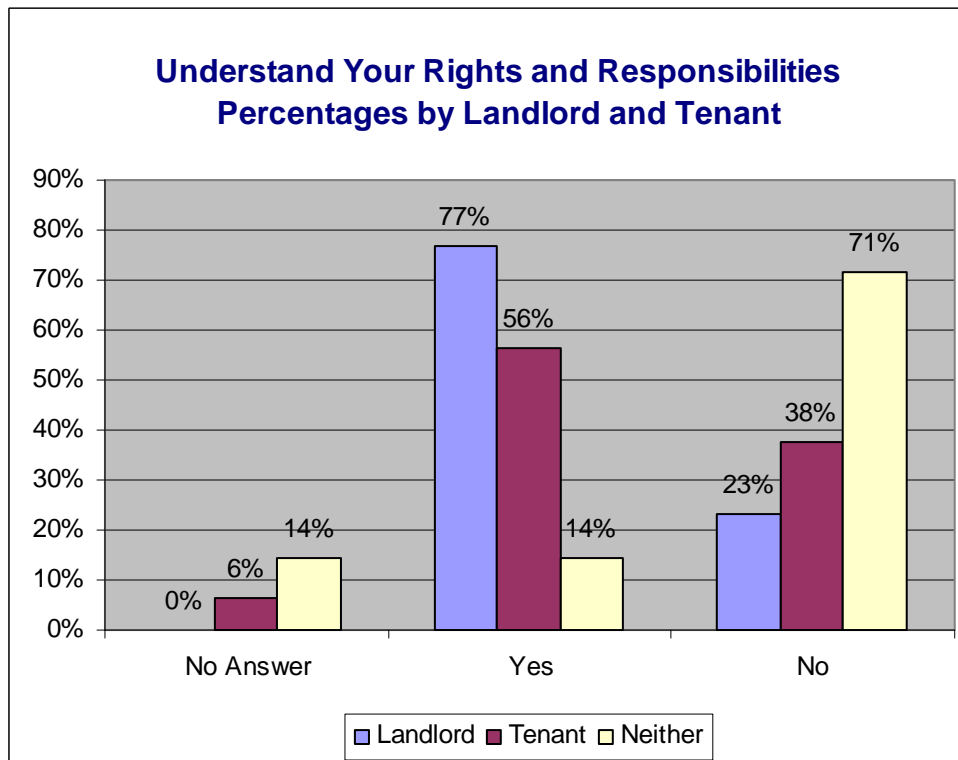
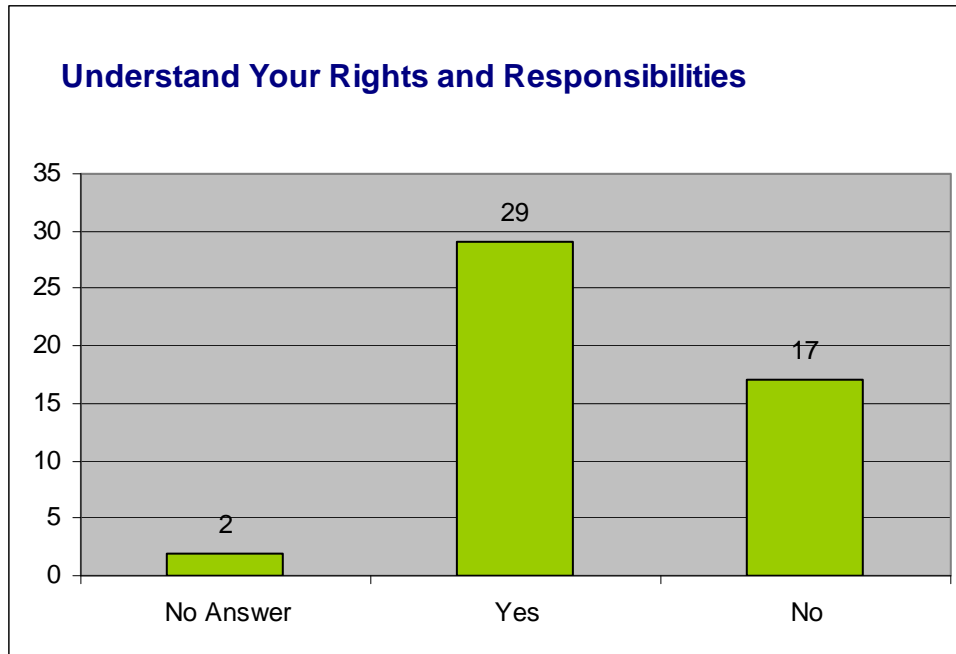
Question #3: Have you ever had difficulty resolving a dispute with your landlord or tenant?



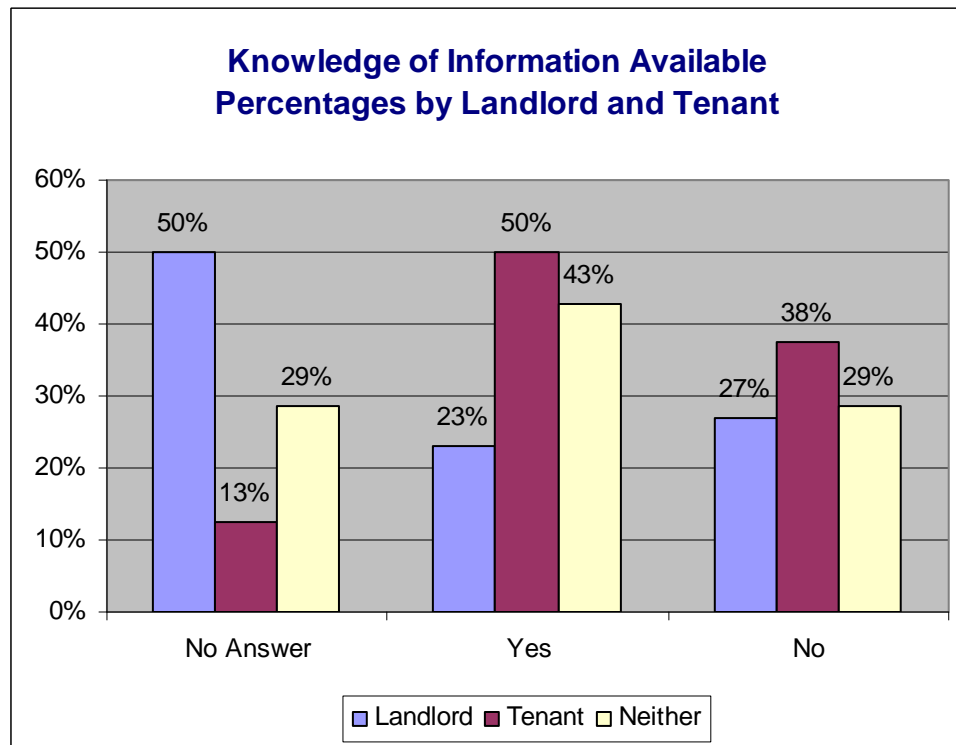
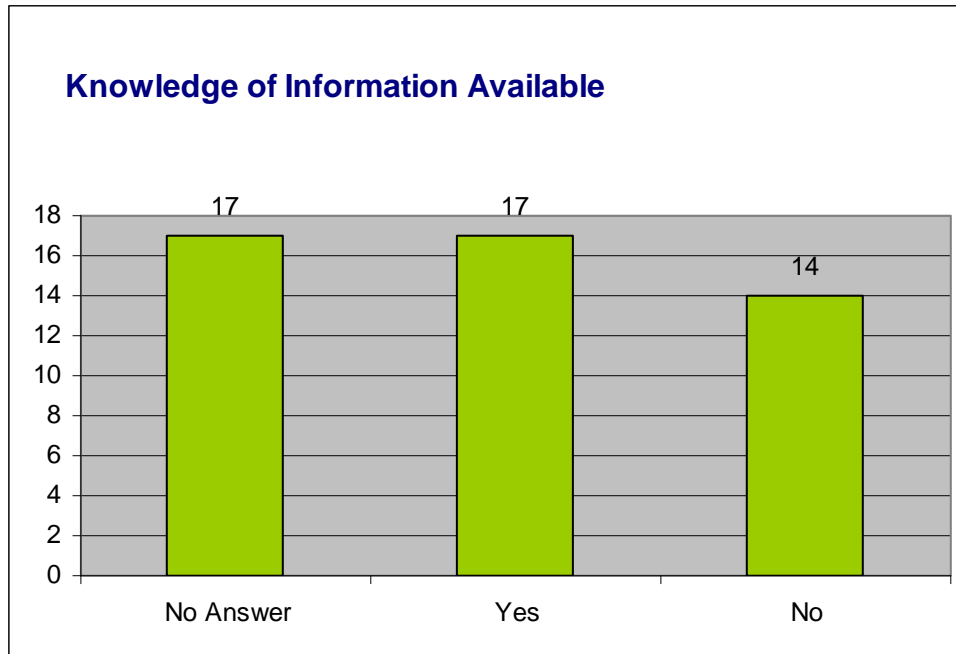
Question #4: Have you ever had difficulty with enforcement of the Act?



Question #5: Do you understand your rights and responsibilities under the Act?

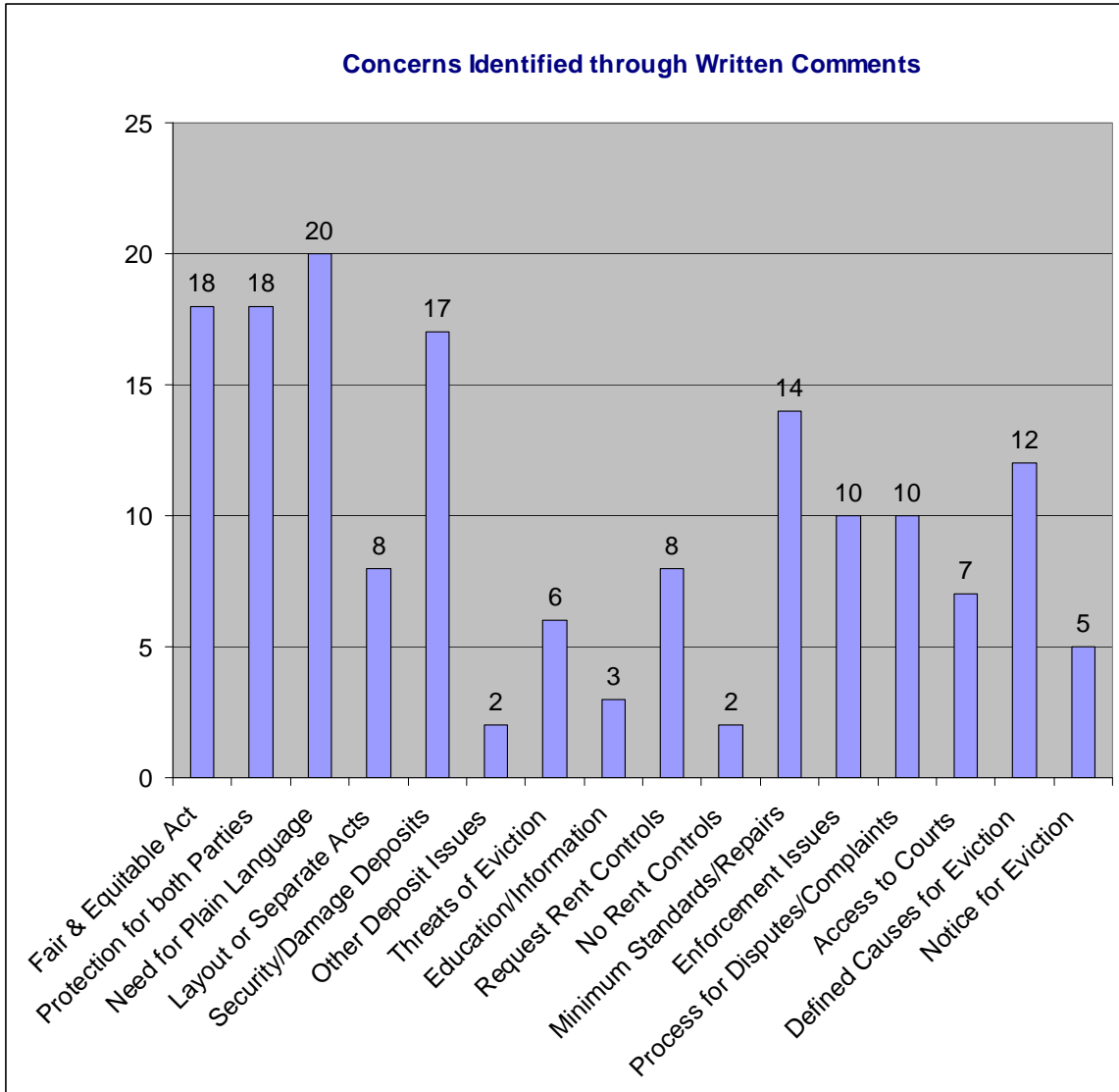


Question #5(a): If "no", did you know that there is information available on the Government of Yukon Consumer Services website?



Summary of Written Comments by Theme

Both landlords and tenants are calling for fair and equitable residential tenancy legislation. They are asking for an Act that it is easily understood and interpreted and which balances the rights and protection of both parties.



Written Comments by Landlord and Tenant

