

# REIQ JOURNAL

FOR MEMBERS OF THE REAL ESTATE INSTITUTE OF QUEENSLAND

## Buyer's agents are back!

**REIQ CREATES BUYER'S AGENTS  
CHAPTER COMMITTEE FOR 2016!**

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**TIPS FOR MARKETING  
STIGMATISED PROPERTIES**

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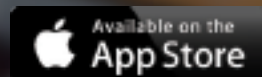
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## In this edition:

- Feature 1:** 18  
How to get more buyers to bid at auctions



- Feature 2:** 20  
A partnership between a selling agent and a buyer's agent could mean better business success - for both agents

- Feature 3:** 22  
Why buyer's agents are real estate's best-kept secrets

- Feature 4:** 34  
Tax tips on selling your real estate agency business

- Agency Advice** 27  
Top tips for marketing stigmatised properties



- Risk Management** 40  
Retail Shop Leases Amendment Bill 2015:  
What does it mean for agents?  
Trust accounting best practice procedures revisited

- Recruitment Page** 45  
Check out our new recruitment section

## Regular:

Industry News	4
Realworks Tips	15
Training	24
Letters to the editor	30
OFT	32
Research	36
Zone Focus	37
Our Members	44
New Accredited Agencies	46
Done Deal	48
Supplier Directory	49



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## REIQ Mission Statement

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# Mandatory CPD is vital to being seen as professionals

WORDS: ROB HONEYCOMBE, REIQ CHAIRMAN

*Are we serious about raising professionalism in real estate? Not just you and I and the REIQ, but the broader industry? The “real estate profession”, as we like to refer to ourselves. How committed are we really to improving ourselves and raising the bar?*



Do we want to be paid “what we’re worth” and demonstrate a high level of value for clients – individually and collectively as a profession? If we simply talk about this we’ll achieve nothing. Talk is cheap and it’s time for action.

Before last year’s state election the ALP gave support to the REIQ’s call for continuing professional development (CPD) to be mandated at law; to require every one of us with a real estate registration or licence to complete a minimum amount of training each and every year.

At our Awards dinner last February the ALP’s Anthony Lynham publicly

confirmed Labor’s support for what the REIQ views as a major step forward in raising professionalism.

Mandatory CPD is not a new idea. For example, it’s a legal requirement in this state if you want to be a solicitor, a vet and every kind of health practitioner. It’s especially relevant where legislation or work practices change regularly and where consumers need confidence their service provider’s knowledge is up to date and their skills are current and competent.

If we really are serious about calling ourselves real estate professionals we need to make this happen. We can’t afford to work alongside uneducated “professionals” without current knowledge and skills. The public will continue to judge us on the worst performers amongst us and, to my mind, enough is enough.

Right now we’re working with the State Government to bring mandatory CPD to reality and I wanted to share some of the details with you. Our proposal is for a minimum of seven hours training each year, with four hours of core content prescribed by the OFT. The OFT would consult annually with the RTA, Body Corporate Commissioner’s office and others whose legislation impacts us, addressing key areas of concern in each sector of the industry – PM, res, commercial, business broking etc.

The REIQ’s proposal would allow the remaining three hours to be electives – content that broadly helps you and I improve our skills every year. This system would ensure greater

consumer protection while balancing this with personal development in areas that are relevant and of interest to each of us.

On my count there’s more than 8,700 hours in each year so the idea that requiring each of us to commit seven of them to CPD is somehow a time burden is simply rubbish. If that is your view please get out of our profession now – the rest of us have had enough of you dragging us down.

This year the REIQ will be working hard to see mandatory CPD introduced for Queensland real estate. It’s the most important issue I’ve witnessed in my time on your Board and I’m tired of delays and excuses.

Shortly we’ll be asking for you to take action; to write to your local Member of Parliament; to sign a petition; to pick up the phone and ask for Government’s decisive action on this hugely important initiative.

If we’re serious about improving the service levels in real estate, our standing in the community and our sense of pride in what we do for a living; if we’re serious about calling ourselves professionals, now is the time to stop talking and make a commitment.

**#ProudToBeARealEstateProfessional**

# Sticking to those new year resolutions!

WORDS: ANTONIA MERCORELLA, REIQ CEO

*Welcome back and happy new year! I hope that 2016 is off to a wonderful start for you. I recently heard an alarming statistic about the high probability of Australians breaking new year resolutions just weeks after making them.*



Why are our new year resolutions so likely to fail despite our fervent commitment at the time of making them?

Perhaps the reason is that we over-commit ourselves. There are only so many hours in a day and creating additional commitments in an already jam-packed timetable can feel like mission impossible.

I think new year resolutions should be about making new priorities rather than just creating an additional burden.

Time is precious and we can all benefit from doing less of certain things. Doing so frees us to do more

important things; things that make us happier, wealthier and wiser.

That's my 2016 personal challenge – to focus less on time-consuming and low-value things and concentrate on more important things which can produce high quality and rewarding outcomes.

Real estate can be a stressful profession. So many agents tell me they work seven days a week and they still struggle to get everything done. There is no doubt that working hard can be financially rewarding in real estate but are you focusing on quality or quantity? Could you be working smarter and not harder? Could you be delegating certain task to others to free yourself to focus on higher-value tasks?

Maybe 2016 is the year to reassess your priorities and achieve some of those big goals you've always dreamed of but have never managed to get around to?

Speaking of new year resolutions, the REIQ has set itself a key objective in 2016 – the establishment of a mandatory continuing professional development program (CPD) for the real estate profession.

You've all heard our Chairman and myself talk about the importance of CPD. If we are serious about raising the professionalism of the real estate sector and earning the respect of the community, this must happen.

Like lawyers and accountants who are trusted advisors to consumers, real estate practitioners should be required to upgrade or consolidate their knowledge on an ongoing basis.

There's a lot of talk about the real estate profession being ripe for disruption. Some have suggested that it's only a matter of time until the human real estate agent role is replaced by a digital solution.

I don't share that view.

There is no technological replacement for what a real estate agent does. There's no doubt however, that higher education levels are an important factor in preserving and protecting the role of the real estate agent. Higher entry level requirements and ongoing compulsory CPD will help to improve quality and establish higher standards across the board. All of us will benefit from this.

I look forward to seeing you soon at our Awards night or other REIQ events throughout the year.

**Best wishes,  
Antonia**

A handwritten signature in black ink that reads "Antonia".

# REIQ marketing activity ramps up



*The REIQ marketing campaign, “Are you with the REIQ?” is being joined by a second campaign that will promote training to anyone considering a new career in real estate.*

“Are you with the REIQ?” will move into its second stage this year, with a more extensive television roll-out and the launch of the digital component.

REIQ Membership and Marketing Manager Sheila Andrews said the strategy behind the campaign had been extended due to its success.

“We rolled out the radio component of the campaign in November and the results were really positive.

“The campaign’s impact was measured and all indicators, such as brand recall and understanding of REIQ’s business, improved dramatically,” she said.

“We want to leverage this initial success and get the most impact we can for our members by increasing our television segment and adding

the digital component of the campaign,” she said.

The campaign was originally scheduled for radio and a six-week block of television on Network Ten but has now been extended to include another block of radio, along with television on the Gold Coast, on Nine affiliate NBN.

“The Gold Coast is a very busy regional area and we’re using our resources judiciously, to ensure we get the most bang for our buck,” Ms Andrews said.

The REIQ has also created a social media component of the campaign, with member agents able to download a Facebook cover image that answers the question. “Yes, I’m with the REIQ” is available from the members-only website: [www.institute.reiq.com](http://www.institute.reiq.com).

Ms Andrews said this membership interaction with the campaign was a key component. “We wanted to create a campaign that members could participate in and see the direct value of their membership dollars,” she said. “We’ve had a really positive response, with countless members downloading the image to share on their Facebook pages,” she said.

In January, the REIQ launched a smaller campaign with Queensland Rail, promoting training courses and new career opportunities on seatbacks and carriage sides.

“The start of the year is a time when many people reassess their jobs and





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many would be travelling to work on the train, thinking about their new year's resolutions," she said.

"We wanted to capture that market right at the moment they were thinking of making a change," she said.

The campaign is running in QR trains on seat backs, side panels and ceiling panels. It was designed to promote a career in real estate and the campaign featured three different executions: "REIQ Registration Courses Open Doors", along with "REIQ has the keys to your new career" and "A career in

real estate: A wealth of opportunity".

REIQ CEO Antonia Mercorella said the marketing campaigns were part of the strategy to create a dynamic, energised image of the REIQ, adding benefits and greater value for members.

"Marketing is a key plank in our strategy for growth and as every real

estate professional knows, a good marketing campaign is crucial to building ongoing success.

"We are really excited with this strategy and the success of these campaigns is very promising," she said.

The QR campaign will run for six weeks and ends in early March.



# Buyer's Agents Chapter formed

*The REIQ has re-introduced a Buyer's Agents Chapter this year, as part of its commitment to serving the needs of the growing group of buyer's agents in Queensland, and to advocate the benefits of buyer's agents to the general public.*

The Buyer's Agents chapter will be the sixth chapter within the REIQ group of chapters, joining the auctioneers, property managers, sales agents, business brokers and the commercial and industrial chapters.

REIQ CEO Antonia Mercorella said the chapter would help serve a section of our membership that was not as well represented as it could be.

"Chapter committees are a vital bridge between REIQ corporate affairs and the members and it's a proven, successful way to bring the two closer together and improve communications.

"Creating the Buyer's Agents chapter

will give this small, but growing, section of our membership the same opportunities for growth and access to organisational support that the rest of our membership enjoys," Ms Mercorella said.

Committee members include previous REIQ Award for Excellence winner Karen Young (see Karen's article on page 20), along with REIQ Awards finalists Meighan Hetherington (see Meighan's article on page 18 and REIQ Awards finalist Simon Pressley (see Simon's article on page 22) and Tony Coughran and Nathan Wunsch.

Ms Hetherington has been elected chair and said the chapter was a great step forward and she was looking forward to working with other agents on the committee.

"In 2005 a small group of exclusive buyer's agents formed a special interest group with the view of promoting the small but growing sector within the profession and to the broader consumer market.

"Eleven years later, following continued growth in the buyer's agent sector and a change in leadership

in the REIQ, there is now a genuine enthusiasm to regulate and continue to grow the sector.

"Not only does this new sector allow the monitoring and regulation of buyer's agents activities through the REIQ Accredited Agency program, but also, has added structure to support intra-industry interactions between buyer's agents and real estate agents.

"The Buyer's Agents chapter means that consumers can readily access information about REIQ accredited buyer's agents and gives clarity to the consumers about the difference between an exclusive buyer's agent (who works for the buyer) and a real estate agent (who provides a service to a buyer but is still representing the seller)," Ms Hetherington said.

Mr Pressley said being part of the chapter committee was a great way to contribute to development of the sector.

"There are a number of things we can implement to heighten awareness among the buying public. The entire real estate profession will benefit from buyer's agents having a stronger presence," he said.

## REIQ Chapter Committees 2016

### **Auctioneers**

- Jason Andrew
- Peter Burgin
- Doug Disher
- Des Edmonds
- Tony Illing
- Justin Nickerson
- Phil Parker

### **Residential Sales**

- Daniel Argent
- Doug Disher
- Rebecca Herbst

### **Business Brokers**

- Bruce Coudrey
- Graeme Donaldson
- Ron Frank
- Russell McVey
- Ian Salter

### **Buyer's Agents**

- Tony Coughran
- Meighan Hetherington
- Simon Pressley
- Nathan Wunsch
- Karen Young

### **Property Management**

- Amanda Carr
- Clint Dowdell-Smith
- Jill Eisenhuth
- Barbara Mayfield
- Jess Mazzocato
- Loretta Morgan
- Donna Sands
- Kaitlyn Schneider

### **Commercial Property Agents**

- Rauhena Chase
- Doug Smith
- Gregory Wood

# Dowling & Neylan expands offices

*The Noosa real estate market is firmly in recovery, and with a rising median house price and increasing sales turnover to strengthen the local economy REIQ member agency Dowling & Neylan seized the opportunity to expand and opened three new offices.*

Now in Sunshine Beach, Noosa Sound and Noosa Heads, the agency adopted a streamlined, modern, fresh look for its offices.

Principal Dan Neylan said the expansion was part of the agency's long-term business plan.



"We started this process in 2007 but put plans on hold to manage the GFC.

"We purchased our properties freehold, which was important to us. (This strategy) meant we didn't move as quickly as we would have liked but the business has solid foundations," he said.

"With the growth we expect to see in Brisbane and across southeast Queensland over the next few years we feel the timing is right.

"It's obvious we are not the only ones,

the influx of interstate agents trying to gain traction in Queensland is evidence we are on the right track," he said.

Dan Neylan has 22 years of real estate experience, and in 2004 was named the REIQ Salesperson of the Year. In 2012 the business was named Medium Agency of the Year. Last year they moved into the Large Agency category and were finalists. This year, again, the agency has been named a finalist in the Large Agency category.

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# REIQ appoints two new Directors

*The REIQ has appointed two new non-member Directors to the Board, Julie Boyd and Anita Brown, who took up their positions 1 January, 2016.*

The two appointments increase the Board of Directors from seven to nine and also increase the number of non-member directors from one to three.

The addition of the two non-member directors is designed to equip the REIQ Board with additional skills and knowledge that complement the professional knowledge brought to the Board by the member directors.

Julie Boyd is a former Mackay Mayor (1997 – 2008) and brings to the REIQ an extensive background in governance and strategic thinking. She has chaired the Urban Land Development Authority, an innovative organisation working in the area of housing affordability and bringing land to the market through improved planning processes. She has also been a Special Trade Representative for Queensland to Africa, and a Special Trade Representative for Queensland to Japan, Republic of Korea, and the Philippines.

Her professional qualifications include:

- Graduate of the Australian Institute of Company Directors
- Fellow of the Australian Institute of Management
- Level 2 IECL Executive Coach (business coaching organisation)
- Director Australian Institute of Management Group, chair of the Strategy and Stakeholder committee
- Director CQ Rescue Helicopter
- Director YWCA Queensland

Anita Brown is an experienced business leader with a strong background in corporate governance, risk-management and mentoring at board level.

Her background includes experience in advising businesses on how to improve board and organisational performance through strategy, board structures, board composition and governance systems.

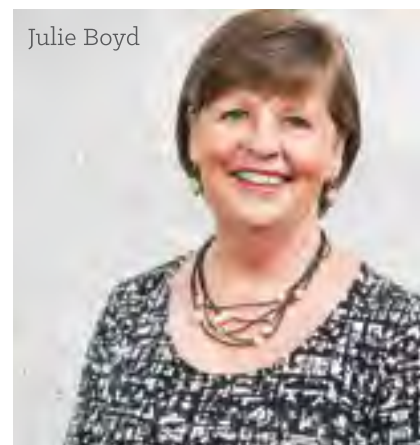
Ms Brown's professional qualifications include:

- Certificate in Risk Management (GIA)
- Certificate in Governance Practice and Administration (GIA)
- Master of Laws (Dispute Resolution) (Bond University)
- Bachelor of Laws (QUT)
- Bachelor of Business (Accountancy) (QUT)
- Solicitor of the Supreme Court of Queensland and High Court of Australia
- Non-executive Director TAFE Queensland

REIQ Chairman Rob Honeycombe said the two new appointees would bring considerable knowledge and experience that would benefit the Board.

"Julie Boyd and Anita Brown are highly accomplished and will bring a wealth of business credentials and leadership to their roles.

"We are looking forward to their contributions at our Board meetings and I'm confident the Board and the REIQ membership will benefit from their experience," he said.



Julie Boyd



Anita Brown

The REIQ recently also changed its Constitution to ensure representation of all members throughout the state, adding two mandated regional directorships to the role.

"These two positions ensure that the REIQ is a reflection of all its members in every corner of the state, not simply those who live and work in the southeast corner," Mr Honeycombe said.

"Ms Boyd has extensive experience in Mackay and the surrounding region and is very much in touch with those communities.

"Our current regional Board Directors Deb Duffy, who hails from Cairns, and Linda Bland, from the Fraser Coast, will continue to bring a sharp regional focus to everything we do as a Board," Mr Honeycombe said.

REIQ CEO Antonia Mercorella said she was proud to work in an organisation that so clearly valued women and their knowledge.

"Julie Boyd and Anita Brown, together with current Board Directors Linda Bland and Deborah Duffy bring the number of women on the Board to four out of a total of nine," she said.

"It is clear that we are a modern organisation for a modern time and are successfully equipping ourselves with the best people for the job," she said.

"It is definitely an exciting time to be part of the REIQ," she said.

# New Zone Chairs commence

*The REIQ has welcomed eight new faces and reappointed nine to its stable of 17 zone chairs for the 2016-17 term.*

REIQ CEO Antonia Mercorella congratulated each chair on their appointment and welcomed them to the REIQ.

“The zone chairs provide a valuable service for the REIQ and are a crucial link between the management and the membership, providing two-way communication between these two groups,” she said.

“They are also our local representatives in regional Queensland when we talk to the media and provide expert commentary on their zone.

“We are grateful for their time

and for their contribution to this organisation,” she said.

Outgoing chairs include Alan Guyder, Andrew Reibelt, Greg Clyde-Smith, Robyn Lachmund, Mark Spearing, Toby Disher and Michael Dempsey.

Ms Mercorella also paid tribute to the outgoing zone chairs who provided their time and expertise to their role.

“We rely on the zone chairs for additional information and support with our research and with our media activities and we thank the outgoing chairs for their stellar efforts,” she said.

The REIQ 2016-17 Zone Chairs are:

**Bundaberg:** Le-Anne Allan

**Caboolture:** James Brown

**Cairns:** Thomas Quaid

**Eastern Suburbs:** Peter Barrett

**Fraser Coast:** Damian Raxach

**Gladstone:** Vicki Brown

**Gold Coast:** John Newlands

**Ipswich:** Darren Boettcher

**Mackay:** Peter McFarlane

**Northern Suburbs:** Jason Bond

**Redcliffe:** Joshua Kindred

**Rockhampton:** Noel Livingston

**Southern Subs/Logan:** Stanley Crook

**Sunshine Coast:** Amber Werchon

**Twb/Darling Downs:** David Snow

**Townsville:** Damien Keyes

**Western Suburbs:** Colin Hawkins

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# Obituary: Jack Hatchman

*A giant of the real estate profession, well-known Caboolture identity Jack Hatchman, passed away late last year, aged 90, after a long illness.*

Mr Hatchman began his working life as a cane cutter before becoming a cane farmer, working mostly in Yandina on the Maroochy River. When he decided to get out of the cane business, Mr Hatchman chose real estate and found that he had a gift for selling.

“Dad was really appreciated by the solicitors and by everyone involved in the sales process because he could really put an accurate value on a farm,” son Barry Hatchman told REIQ Journal.

“He understood land and could look at a farm and understand the yield that a farm could get and knew how much the equipment was worth,” he said.

“He also had a gift for selling; he was able to sell anything and throughout his career was regularly selling anything from properties in the CBD to rural farming land,” Barry said.

Jack was the inaugural winner of the REIQ Salesperson of the Year award



in 1990, and was well-known to all throughout the profession. He worked for former REIQ vice-president Nev Kane at his agency, Nev Kane Real Estate.

Jack married twice; his first wife was Dorothy and they raised their family on cane farms in Valdory, between Nambour and Coolumb Beach.

Jack’s son Barry followed his father into real estate and was a successful sales agent before moving into teaching real estate registration and licensing courses at TAFE.

Mr Hatchman is survived by his second wife, Pam, and his six children.



Jack and Pam Hatchman



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## WHAT WE DO?

We survey the property to ensure that all smoke alarms are the correct type, quantity and placed in the appropriate location to meet legislation.

We clean, test and maintain the smoke alarms as per manufacture's specification. We replace the battery where replaceable.

We record all details of the property including smoke alarm quantity, make, model, expiry date, decibel reading and positioning, and verify the alarms meet current Australian Standards.

We Issue a certificate of compliance.

## HOW MUCH DOES IT COST?

Our annual service is \$99.00 including GST for unlimited visits and including FREE alarms.





*Agents will also benefit from features such as one-touch click for customers to connect with agents.*

## New realestateview desktop site creates smooth search experience

*The newest player in the online real estate listings portal business, realestateVIEW.com.au, has launched a new-look website. This site offers customers a seamless and user-friendly search experience.*

The re-launched desktop site completes a busy nine months for the brand, following the release of the portal's iPad app and iPhone app.

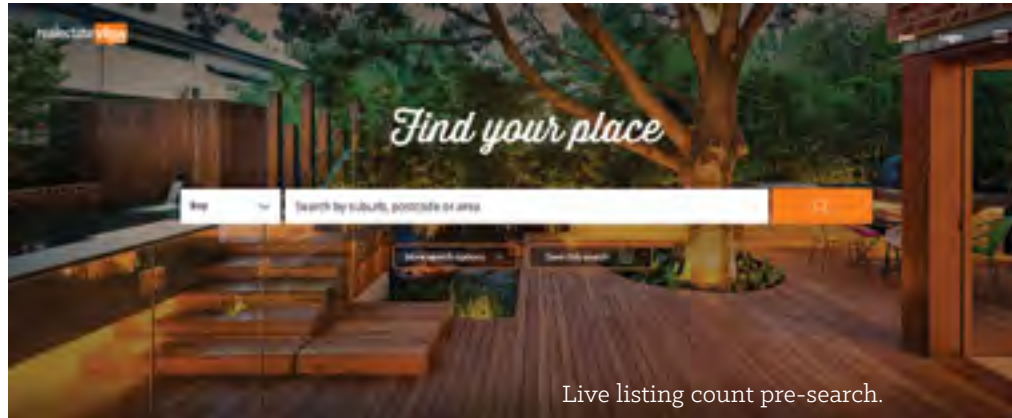
"Technology and innovation have been at the centre of the continual development of the real estate industry," Managing Director Enzo Raimondo said.

"Over 60% of our customers told us they require detailed online information to help make more informed decisions. People come to us to find their home and our focus is to make the experience as easy as possible."

Customers will benefit from a superior user experience over other portals with less clutter and greater simplicity.

Key features include:

- Enhanced photo gallery with larger, more responsive images
- Live listing count pre-search
- One-click to connect with agents
- A new Refine Search location
- Local data integrated into search results

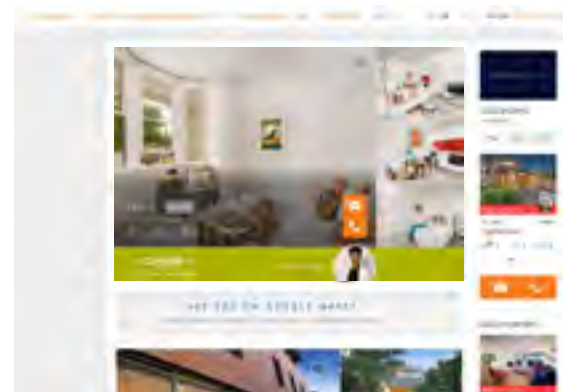


Live listing count pre-search.

Agents will also benefit from features such as one-touch click for customers to connect with agents.

Jacob Caine from Caine Real Estate said: "As an agent, this is a big step forward for the portal. Aside from the increased spotlight it gives agencies, we're really impressed with how much easier it is for customers to connect with agents and we're looking forward to seeing the positive impact this will have on our business".

Advertising sales for the new realestateVIEW.com.au site will be represented nationally by Media Tonic.



# Aon Real Estate Insurance

Supported by Australia's leading Real Estate associations, Aon has over 40 years' experience in the Real Estate industry. This means we understand the risk you and your business face every day, and have created tailored products to protect you.

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- Professional Indemnity Insurance
- Landlords Insurance
- Office Contents Insurance
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Online | Face-to-face | Over-the-phone



MEET YOUR LOCAL EXPERT

## **Joanna Boyd**

Joanna is the lead Client Relationship Manager within the Aon Real Estate Team in Queensland. She has over 12 years' experience within the Queensland property and real estate market, including time working as a registered real estate agent.

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**[aon.com.au/realestate](https://aon.com.au/realestate)**

# Marry your relations!

WORDS: ANITA O'CONNOR, THE FORM GURU

*Just like us, forms can be related (but without the bickering).*

In Realworks (your form and agreement creation tool) we have a feature which allows you to automatically marry information from one Related Form to another – the perfect match of convenience and efficiency.

For example, the Appointment Form (PO Form 6):

Have you ever created an Appointment form for Residential Sales then realised you actually needed one for Commercial Sales?

Or maybe you've created an Appointment form for Residential Property Management and had to duplicate the information on a General Tenancy Agreement or even an EF136 Smoke Alarm Responsibilities!

What a pain!

However, by using the RELATED FORM button, common information is populated from one form to another! No more retyping information! No more repeating yourself! If only real life was like Realworks!

The list of available Related Forms can be found here:

<http://help.realworks.com.au/#new-related-form>

The list is ever expanding (like my post-Christmas waistline). So as new groups of Related Forms are added, we will notify you via the news page in Realworks!



(figure 1)

## How to populate common information to a related form

1. Select the Parent Form from the list of forms available (figure 1)
2. Click the <New Related> button near the top right of the screen (figure 2)
3. Select the Related Form you wish to create
4. Type a name for your form in the Description area at the top of the screen and click
5. You will now be redirected into the newly created Related Form (with common information populated from the parent form)



(figure 2)



# How to get more buyers to bid at auctions

WORDS: MEIGHAN HETHERINGTON

IMAGES: SEAN SMITH (INDUSTRIE MEDIA), SHUTTERSTOCK

*Recommending a buyer's agent can turn a nervous, tentative buyer into a confident, decisive bidder on auction day.*

Have you ever been doing your follow up calls on a Monday, just days out from an auction and thought, "I've got five bidders in the bag, this is going to be a cracking auction!" Then you arrive at the auction to find that all of your potential bidders have cold feet? Your vendor will be dazed and confused, and probably more than a little cranky and you're left to explain the disappearing buyers.

There are a multitude of reasons why buyers don't turn up to bid. Aside from the uncontrollable factors, such as they decided to purchase a different property, the usual controllable factors can be boiled down to a few typical reasons.

An auction can be overwhelming for

inexperienced, or novice bidders. Many house hunters have heard grim tales of friends, family or acquaintances who get caught up in the frenetic pace of a heated auction and exceed their buying limit. In Queensland, the property purchasing public hasn't embraced the auction as a method of sale as wholeheartedly as other markets have, such as Sydney, Melbourne and at the moment, Auckland.

But the good news is that most newbies who are averse to auctions can be moved past those fears with the use of a great buyer's agent.

Sure, the potential buyers seemed to be madly in love with the property at the open home and they seemed

really keen when you were talking to them on site. And many selling agents pride themselves on building a good rapport with potential buyers, providing helpful information and guiding them through the process. But once those buyers were home in the comfort of their living room and they were making a choice between two homes that were pretty close to ticking all the boxes, except one was for auction and one was for sale by private treaty, well, in the comfy living room the auction probably just seemed too hard and the safety of private treaty too alluring.



*But the important part for the selling agent is that buyer's agents will make sure the buyer is fully prepared, unconditional and committed.*

And while you worked very closely with them to help get them over their fears, the reality is that you are the vendor's advocate, not the buyer's, and some buyers will be unable to overcome their uncertainty.

*A recommendation to a buyer's agent can be the answer that both of you are looking for.*

If there is any indication that a buyer may be wavering, unable to commit to the purchase and clearly tempted to walk away, then perhaps a recommending a buyer's agent may be the solution.

Yes, a buyer's agent is going to represent the buyer's interests and will be looking to buy the property at the best price possible. That is a given. But the important part for the selling agent is that buyer's agents will make sure the buyer is fully prepared, unconditional and committed.

A buyer's agent will always bid on the day, and most likely open the bidding. So straight away your vendor is going to be feeling positive.

Also, recommending a buyer's agent brings another advantage. An exclusive buyer's agent is usually more available and more flexible with their time and so they are able to attend mid-week auctions, when buyers are at work, which immediately expands your group of potential bidders.

If it is a one-bidder auction then the property often passes in on a vendor's bid, which is not a great outcome for the vendor or you, or for the post-auction negotiations with conditional buyers. But a buyer's agent is more likely to negotiate under auction terms so an outcome could be reached, even if there is only one bidder.

This is a great outcome for all concerned. Vendors and potential vendors love seeing as many bidders as possible and a sale under the hammer is very positive for you, your profile, your agency and your vendor.



# A partnership between a selling agent and a buyer's agent could mean better business success – for both agents

WORDS: KAREN YOUNG

IMAGES: SEAN SMITH (INDUSTRIE MEDIA)

*It may seem counterintuitive to form an alliance with a buyer's agent but the advantages to selling agents are compelling and can mean more completed sales.*

For most buyers, a property is one of the biggest investments they will make and getting a successful outcome hinges on making the right choices at every point throughout the process.

Whether the buyer is an owner occupier or an investor a buyer's agent can help make the process easier and ensure that the right decisions are made along the way. Ultimately, a smooth property transaction with a successful outcome benefits everybody – the buyer, the seller, and of course the seller's agent. This

is why buyer's agents and sellers' agents should work together because when that relationship is strong, everybody wins.

## **Building the right team – the case for adding a buyer's agent to the mix**

Property buying is a team sport. The finance broker is the expert in obtaining finance, the solicitor is the expert in providing legal advice and assisting with the transfer of property, and the building inspector is the expert in assessing the building state and integrity.

Gone are the days where people try

to be a one-stop shop. We surround ourselves with experts in each part of the process. A buyer's agent is the expert in buying property and we are seeing more and more investors and homebuyers recognising this and engaging a buyer's agent to help them with their purchase.

## **What can a buyer's agent do?**

Although many recognise the benefits of employing an expert to help them with their purchase, there are still many who assume a buyer's agents sole purpose is to save money on the purchase price. That is one narrow component of what a buyer's agent

does. The advantages of using a buyer's agent are far greater than this.

Advantages of using a buyer's agent include time-saving benefits such as researching properties and creating a shortlist, doing considerable legwork checking development applications in the surrounding areas, offering advice, and providing services and suppliers that will help the buyer save time and money in other areas of the property purchasing process.

### **Building relationships between buyer's agents and seller's agents**

A good buyer's agent can provide assistance to a selling agent by bringing the right buyers, who are educated about the process and are ready to buy, to the table.

If a buyer's agent has a list of clients with a specific set of criteria ready to go and they regularly speak with a selling agent who has a steady stream of properties coming in, there are opportunities to match buyers with properties quickly and easily. For the selling agent this means potentially saving on a marketing budget, saving the vendor time (who doesn't love a quick sale?) and improving their days on market statistics. It's a win for everyone.

These relationships continue to bring rewards for both parties, including for the buyer's agents client, with less competition for the property and for the seller's agent, knowing that the buyer is already qualified and committed. The selling agent can be more confident in contracts submitted by a buyer's agent working with these clients.

Another way that a selling agent can benefit when a buyer's agent is involved is that buyer's agents can be available at all times, or be more flexible in their time management, where often buyers are not, with commitments such as work, weekend sport, and so on. A buyer's agent can move the process forward by attending things like building and pest inspections when the buyer is not able to do so.

### **Helping with long-distance logistics**

As the southeast corner of Queensland continues to attract interstate investors a buyer's agent can help expedite the process by being available to inspect properties that the selling agent presents.

If you, as a selling agent, have a buyer contacting you from interstate, it's in your best interests to bring a buyer's agent into the mix because the buyer's agent can help the buyer choose from the range of properties that you present (helping to mitigate the risk that you'll lose the buyer altogether to another agency).

For many investors who are purchasing interstate, they have extremely limited capacity to attend locations. Even for local buyers the logistics can be tricky with work, family and other commitments. A buyer's agent can keep the process of finding the right property on target and moving forward, this is a benefit for the selling agent.

### **Negotiations on price and conditions**

Where a seller's agent may be reluctant to bring a buyer's agent on board is when it comes time to negotiate. It can be much easier to get an inexperienced buyer up to a certain price than it can to get an experienced buyer's agent to the same number.

However, here again, there are benefits to the seller's agent if they are working with a buyer's agent.

Time and hassle can be saved. Avoid the problems associated with buyers who come in with outlandishly low offers or who come with unrealistic conditions attached to settlement.

Also, the benefits that a buyer's agent brings to the rest of the process are important considerations and should not be dismissed.

*Contracts fall over less often, time is not wasted and in many instances costs can be saved by having an experienced operator on the other side of the table.*

Finally, there are advantages to negotiating with someone who is not emotionally involved in the transaction; someone who doesn't let emotional attachment cloud their judgement or expectations. This is a person who can see reason and who understands the reality of the situation. This is a person you want to be negotiating with!



## Why buyer's agents are real estate's best kept secrets

WORDS: SIMON PRESSLEY

IMAGES: SEAN SMITH (INDUSTRIE MEDIA)

*Queensland real estate professionals are familiar with buyer's agents and many work closely with them, however, the broader real estate-buying public has limited knowledge of this powerful advocate's existence.*

Residential sales agents who work with buyer's agents talk positively about the experience, commenting on the decisive buyer who was clearly educated about the purchasing process and its complexities.



Those agents experienced in working with a buyer's agent may talk about the time saved thanks to finances being organised and they may mention realistic price negotiations that didn't waste unnecessary hours with tedious back-and-forth discussions to get buyers into the right ball park.

So while many sales agents see the benefit of working with buyer's agents, why doesn't the general public?

If you talk to the members of the public you'll get a blank stare. It's not that buyer's agents are unpopular, it's that they are largely unknown. Buyer's agents are the equivalent of the white rhinoceros, an almost mythical creature that a select lucky few have come across on safari in the wilds of Africa.

Stand in a busy shopping centre anywhere in Queensland and ask 100 people if they know the difference between a buyer's agent and a sales agent and I reckon you'll be lucky to get five who answer correctly. Most have never heard of buyer's agents.

Even in Sydney or Melbourne, where awareness of buyer's agents is highest, most people would describe buyer's agents as people who bid on properties at auctions on behalf of others.

The real estate profession needs to take control so that the buying public becomes familiar with the very significant value proposition that buyer's agents offer. Imagine if sales agents across the country were able to describe the positive experiences of working with a buyer's agent on a regular basis. People would soon learn, and quickly, about these wonderful buyer's agents who help people through the property purchase.

Not many know about the white rhinoceros but if those who have seen one in action share their positive experience with others then more people will know of them, and perhaps seek them out to see for themselves.

While a marketing campaign will help educate the public, it is important to get the language right at the grassroots level. When considering a marketing campaign to educate the property-buying public, we should also include broad educational components about what a buyer's agent can do for the buyer. For example, most consumers would be delighted to learn that there are professional property buyers who specialise in niche areas such as luxury homes, renovators, investors, and property market research.

There are other strategies, aside from a marketing campaign, that can raise awareness of buyer's agents. The REIQ can be more specific in its language, replacing the broad, encompassing term agent with sales agents and buyer's agents. Every document, contract, advertisement, website, and newsletter needs to distinguish between those who sell and those who buy. We'll all be pleasantly surprised at how effective this simple strategy of using specific terms and specific language will be.

A key area where language plays a critical role is in contracts.

*There's a section on property purchase contracts to record details of sales agents and conveyancers but nowhere to write buyer's agent details!*

Our profession and our peak body needs to change the template of our contracts so that there is provision to insert details of the buyer's professional representative. This subtle but significant change will contribute significantly to raising awareness that the rarely seen, almost-mythical creature known as a buyer's agent actually exists and is worth seeking out.

**Editor's Note: The REIQ has developed specific terms and conditions for buyer's agents to use with Form 6. It allows for specific mention of the buyer's agent appointment. Realworks reference: EF002. The REIQ continues to work with the Buyer's Agents on the chapter committee.**

# Specialised courses in February and March

February kicks off the specialised training for the year, and 2016 sees innovative new courses and old favourites back on the calendar. Coming up in February and early March are:

## Property Management Webinars

An ongoing challenge for property managers is how to find timely, relevant training that is accessible at your desk in a quick bite. These monthly one-hour webinars are designed for experienced property managers, and feature sessions which focus in-depth on hot issues in the world of property management.

*Webinar #1 (16 February): Completing the Form 6 Appointment of Agent (Residential Property Management Schedule): 2016 Refresher*

*Webinar #2 (22 March) Routine Inspections and Vacates*

## Effective Agency Administration and Corporate Support

This session focuses on documentation, legislation and practical guidance for administrators. Efficient and well trained administrators are the backbone of any successful agency. Keep up-to-date with best practice and compliance issues, and learn how to implement and improve office processes and procedures.

*Brisbane 18 February*

## Trust Accounting for Agency Principals and Managers

Use basic accounting skills coupled with knowledge of your real estate business to accurately manage the trust account records and eliminate the risk of trust account misappropriation and errors, a crucial course for anyone responsible for operating a trust account.

*Brisbane 18 February*

## Put Your Best Foot Forward – online safety and reputation

More than ever, safety is on our minds. Having an online presence means more people having access to you than ever before. You need awareness and vigilance to make sure you, your family and your business stay safe, and that your online reputation is protected. Whether new to the online space or a veteran of the internet, we'll teach you how to put your best foot forward online in 2016. We'll touch on basic dos and don'ts of online content, how to safely check suspicious emails and links, two-step verifications, safety measures to take on popular social media platforms, basic practices to help keep your website safe and even how to see who's tracking you online. We'll focus on protecting your online reputation - from your name to your content to your testimonials - and how to deal with internet "trolls".

Learning safe practices now will lessen the impact of problems down the road, and ensure you're always putting your best foot forward.

*Brisbane 26 February*

## Recruitment and Retention in Real Estate

In this session we'll cover leadership, becoming an employer of choice and how to create brand ambassadors. We'll also learn how to identify disengaged employees and how to enhance team engagement. The session also covers the pre-recruitment process, new employee induction programs, performance management and how to hold successful career nights.

*Gold Coast 24 February  
Brisbane 9 March*

## Property Management Breakfasts

Property Management Breakfasts are run throughout Queensland and are an opportunity for property managers to meet their peers, discuss issues and share ideas in open and interactive sessions. Each Breakfast features an hour of practical and relevant training for property managers, and run from 7.15-8.45am.

*Brisbane 25 February*

*Gold Coast 3 March*

*Sunshine Coast 23 March*

## Workplace Health and Safety in Real Estate – Minimise Your Agency's Risk

Understand your obligations under the new Work Health and Safety Act and Codes of Practice, identify office hazards and the risks out of the office (working from home and vehicular safety issues) and learn about strata title bodies corporate under WH&S, a critical area of risk management for every agency.

*Brisbane 4 March*

## Commercial Sales Series

Commencing with the foundations of commercial and industrial sales and leasing, this series encompasses prospecting and networking, inspection skills, creating proposals and submissions, pricing, marketing, negotiation of lease documentation, contracts and client communication.

*Commences Brisbane 7 March*



### Assessing and Listing Businesses

This full day session will address:

1. How to assess a business including the risk assessment and financials –What information you will need on the business at the time of listing and where/how to research the popularity of the type of business with buyers.
2. How to properly list the business on the required Appointment of Agent Form 6 and go through each point of the REIQ Schedule and Terms and Conditions in detail.
3. How and where to market the business for sale and guidelines to wording of titles and associated documentation to gain more attention from buyers

*Brisbane 8 March*

### Starting an Agency

This course will provide the foundations for a successful business. The session focuses on practical considerations of operating a new office including location, agency structure, roles and responsibilities, and corporate support. It also highlights legal considerations, operating a trust account, risk management strategies, practical processes (software, signage, website, communications and marketing) and business planning, market demographics and KPIs.

*Brisbane 10 March*

### Feature Day: Property Management Einstein

The Property Management Einstein Day has been designed to help you start 2016 with a renewed focus on the profitability and efficiency of the day to day management of the rent roll by analysing the following 5 key property management systems:

- Establishing new managements to minimise disputes and maximise profitability
- Establishing new tenancies to minimise disputes
- Rent arrears management
- Maintenance mayhem to maintenance control
- The vacate process

Learn how experienced practitioners incorporate the law, best practice and technology to work smarter not harder in these areas of PM practice. Commit to a five-point action plan at the end of day and engage the PMSS team (if eligible) to help guide the implementation of your plan over the following five months.

*Brisbane 11 March*

Visit [www.reiq.com](http://www.reiq.com) to download the full 2016 Specialised Courses Calendar for January – June for all courses running in your city. For more information or to book email [jmcguire@reiq.com.au](mailto:jmcguire@reiq.com.au) or phone 3249 7373.

**Registration and Licensing Courses**  
Feb - Mar 2016

BRISBANE	
1 - 4 Feb	9.00am - 4.30pm
9 - 12 Feb	9.00am - 4.30pm
22 - 25 Feb	9.00am - 4.30pm
29 Feb - 3 Mar	9.00am - 4.30pm
14 - 17 Mar	9.00am - 4.30pm
21 - 24 Mar	9.00am - 4.30pm
5 - 8 Apr	9.00am - 4.30pm
8 Feb	Registration evening classes commence 8 evenings (6-9pm Mon & Tues)
4 Apr	Registration evening classes commence 8 evenings (6-9pm Mon & Tues)

GOLD COAST	
1 - 4 Feb	9.00am - 4.30pm
16 - 19 Feb	9.00am - 4.30pm
29 Feb - 3 Mar	9.00am - 4.30pm
21 - 24 Mar	9.00am - 4.30pm
29 Feb	Registration evening classes commence 8 evenings (6-9pm Mon & Tues)

SUNSHINE COAST	
23 - 26 Feb	9.00am - 4.30pm
15 - 18 Mar	9.00am - 4.30pm

IPSWICH	
16 - 19 Feb	9.00am - 4.30pm

FRASER COAST	
5 - 8 Apr	9.00am - 4.30pm

ROCKHAMPTON	
9 - 12 Feb	9.00am - 4.30pm
5 - 8 Apr	9.00am - 4.30pm

TOOWOOMBA	
22 - 25 Feb	9.00am - 4.30pm
14 - 17 Mar	9.00am - 4.30pm

TOWNSVILLE	
1 - 4 Feb	9.00am - 4.30pm
14 - 17 Mar	9.00am - 4.30pm

CAIRNS	
22 - 25 Feb	9.00am - 4.30pm
21 - 24 Mar	9.00am - 4.30pm

MACKAY	
23 - 26 Feb	9.00am - 4.30pm

**Resident Letting Agents Licence**

BRISBANE	
8 - 12 Feb	9.00am - 4.30pm

GOLD COAST	
4 - 8 Apr	9.00am - 4.30pm

**Specialised Courses**  
Feb - Mar 2016

SPECIAL EVENT	
Selling homes of the future and elite leadership	Brisbane Convention Centre: 15 Apr (9.00am - 5.00pm)

FEATURE DAY	
PM Einstein	Brisbane: 11 Mar (9.00am - 5.00pm)

PROPERTY MANAGEMENT	
Job ready property management	BRISBANE: 18 - 19 Feb (9.00am - 4.00pm)
Property management documentation and legislation refresher	HERVEY BAY: 4 Apr (1.00am - 4.30pm)
Property management IQ	TOWNSVILLE: 18 Mar (9.00am - 4.00pm)
A-Z of property management maintenance plus	BRISBANE: 18 Mar (9.00am - 12.30pm) SUNSHINE COAST: 22 Mar (9.00am - 12.30pm) TOOWOOMBA: 18 Mar (9.00am - 12.30pm) ROCKHAMPTON: 4 Apr (1.00pm - 4.30pm)
Property management thought leader growth	TOWNSVILLE: 17 Mar (2.00pm - 5.30pm)
Property management	WEBINAR: 16 Feb (11.00am - 12.00pm)
Property management	WEBINAR: 22 Mar (11.00am - 12.00pm)
Property management breakfasts	BRISBANE: 25 Feb (7.15am - 8.45am) GOLD COAST: 3 Mar (7.15am - 8.45am) SUNSHINE COAST: 23 Mar (7.15am - 8.45am)

AGENCY MANAGEMENT AND ADMINISTRATION	
Starting an agency	BRISBANE: 10 Mar (9.00am - 3.00pm)
Trust account for agency principals and managers	BRISBANE: 18 Feb (1.00pm - 4.30pm)
Effective agency administration and corporate support	BRISBANE: 18 Feb (9.00am - 12.30pm)
Recruitment and retention	BRISBANE: 9 Mar (1.00pm - 4.30pm) GOLD COAST: 24 Feb (1.00pm - 4.30pm)

COMMERCIAL AND BUSINESS BROKING	
Commercial sales series: Part 1	BRISBANE: 7 - 8 Mar (9.00am - 4.00pm)
Commercial sales series: Part 2	BRISBANE: 18 - 20 Apr (9.00am - 4.00pm)
Assessing and listing businesses	BRISBANE: 8 Mar (9.00am - 3.00pm)

SALES AND AUCTION	
Job ready sales	BRISBANE: 16-17 Feb (9.00am - 4.00pm)
Sales and auction documentation and legislation refresher	HERVEY BAY: 4 Apr (9.00am - 12.30pm)

TECHNOLOGY	
Put your best foot forward: online safety and reputation	BRISBANE: 21 Mar (1.00pm - 4.30pm)

SAFETY	
Workplace health and safety in real estate - minimise your agency's risk	BRISBANE: 4 Mar (9.00am - 12.30pm)

**Career Networking Lunches**

BRISBANE	
24 Feb	12.30 - 1.30pm
23 Mar	12.30 - 1.30pm

SUNSHINE COAST	
16 Mar	12.30 - 1.30pm

GOLD COAST	
3 Feb	12.30 - 1.30pm

# When is it a stigmatised property and how do you manage it?

WORDS: RAY MILTON, REIQ AGENCY ADVISOR

*Stigma is a subjective concept and deciding if a property is stigmatised can be challenging. Here REIQ Agency Advisor Ray Milton offers some helpful tips.*

## What is a stigmatised property?

A property may become stigmatised if it has been associated with an unsavoury event that has occurred (or which is suspected to have occurred). While having no physical impact on the property stigmas can affect the way some people feel about the property psychologically.

Examples of psychological stigma may include:

- Death, such as a murder, suicide or natural causes
- Crime, such as an assault, theft, drug dealing, or sexual crimes
- Health-related issues, featuring contagious diseases
- Troublesome neighbours (such as the presence of sex offender)
- Environmental conditions, which could include soil contamination, aircraft noise, industrial odours

- Other psychological factors of significance to the buyer (for example, the rumoured presence of ghosts)

Stigmas may be current and persistent, however, most stigmas will eventually dissipate over time. The important thing to remember about stigmas is that they are subjective and may be dependent upon cultural or religious beliefs.

## Dealing with stigmatised property

Under the Commonwealth Competition and Consumer Act 2010 (CCA), agents are prohibited from engaging in conduct that may be misleading or deceptive, or that is likely to mislead or deceive, including via the omission of relevant material facts. The Fair Trading Act 1989 (FTA) and the Property Occupations Act 2014 (POA) have similar requirements. Property owners are generally not subject to the CCA, FTA or POA as they are neither a corporation, nor engaged in trade or commerce, per se.

*The sale, or letting, of stigmatised property is an emerging issue in Australia that has not yet been fully dealt with; thus, common sense needs to prevail.*

At present, it appears that caveat emptor (buyer beware) generally applies and there is no specific obligation for an agent to disclose the presence of a stigma to a consumer. However, in circumstances where a stigma is considered to be a material fact, non-disclosure would be considered misleading under the CCA, FTA or POA.





### Is the stigma a material fact?

In real estate, a material fact is any fact that may have a bearing on a reasonable person's decision to proceed with a property transaction. Conversely, an immaterial fact is one that is irrelevant to the transaction. In determining whether or not a perceived stigma is a material fact, the agent should ask interested consumers if they bring any particular sensitivity to the transaction, and then carefully consider the following questions:

- Does the stigma relate directly to the property itself (as opposed to the surrounding area)? Note: while some stigmas may relate to the surrounding area, they may also relate directly to the property itself; e.g. an unpleasant industrial odour.
- Does the stigma currently affect the market value of the property?
- Is it likely that knowledge of the stigma would affect a consumer's decision to proceed with the transaction?
- Could consumers reasonably expect that disclosure ought to have been made (particularly in circumstances where it is unlikely that the consumer could become aware of the stigma of their own accord)?

Agents may not simply rely on having no knowledge of a particular stigma and it is therefore prudent that agents ask the property owner about possible stigmas affecting the property - so as to determine whether or not these are likely to constitute a material fact. To facilitate this process, agents should include a clause in selling or letting agreements requiring the property owner to disclose all material facts, including those relating to potential stigmas. If the property owner has any doubt about the presence of a stigma, they should seek their own legal advice.

Agents are not obliged to conduct their own research into the existence or otherwise of stigmas but may be aware of potential stigmas through local knowledge or media reports. Agents should inform the property owner if the presence of a stigma is suspected. The property owner and agent may subsequently come to an arrangement on any role the agent may play in verifying the presence or otherwise of the stigma.

If the stigma relates directly to the property itself and the answer to any of the remaining questions is yes, then the agent is obliged to make a full disclosure on an up-front basis. In other circumstances, caveat emptor is likely to apply and disclosure will only be required in response to a direct consumer enquiry.

When dealing with stigmas that relate to race, religion, disability, gender or political viewpoint, agents should have regard for Commonwealth and State and Territory anti-discrimination laws that may be applicable. Generally speaking, agents should avoid perpetuating stigmas relating to these matters.

If any doubt remains as to whether or not disclosure is required in a particular circumstance, the agent should err on the side of caution and make a disclosure (subject to the considerations contained in the sections to follow).

*On real estate, a material fact is any fact that may have a bearing on a reasonable person's decision to proceed with a property transaction. Conversely, an immaterial fact is one that is irrelevant to the transaction.*

### Permission to disclose

Making a disclosure about a particular stigma will often affect the saleability of the property and ultimately the likely market price. Even if the particular stigma is of little or no concern to a particular consumer, it is likely that the consumer may attempt to use the stigma as the basis for price negotiation in their favour. This should be considered a normal part of the sale process in these circumstances and a judgement will need to be made as to whether or not any proposed price reduction is reflective of actual market conditions. Understandably, property owners will sometimes be reluctant to disclose the presence of potential stigmas to consumers.

Agents have a duty to act in accordance with the instructions given by their client, however, where a conflict between these instructions and the law is evident, the law prevails.

While disclosure is required by law in the circumstances outlined above, agents who disclose the presence of a stigma without the permission of the property owner may be exposed to a claim for civil damages. For this reason, the agent should first obtain written permission from the property owner prior to disclosing the presence of a stigma and, if the owner refuses permission, the agent should consider whether or not to take any further part in the transaction. Consistency in this approach by agents will both protect the reputation of the real estate profession and help educate sellers that deliberate non-disclosure of material facts is unacceptable.

Once permission to disclose has been granted, the agent and the seller should agree on the words that will be used by the agent when making the disclosure, and the agreed words are recorded in writing as an attachment to the selling agreement.

### Making a disclosure to a consumer

Disclosures may be made to consumers orally, however, disclosures should be made in writing to protect the agent against any later claim that disclosure was not made. Disclosures must be made in full, not in part, in the form agreed between the agent and the property owner. In making the disclosure, the agent should not go into unnecessary detail or express a personal opinion about the stigma.

Where disclosure concerning a stigma is to be made on an up-front basis, the agent should make this disclosure at the point where the consumer has expressed more than a passing interest in the property. While the agent may first point out the more positive aspects of the property, disclosure should be made early in the sale negotiation process and certainly before an offer is communicated to the property owner or the consumer incurs a significant expense as part of the negotiation process (e.g. through commissioning a building compliance inspection). Disclosure in response to a direct enquiry should be made immediately, or as soon as possible.

In the case of auctions, the auctioneer should make a direct reference to the stigma before the auction is conducted. Again, disclosures should be made in writing to protect the auctioneer against any later claim that disclosure was not made. For instance, written notices concerning the stigma could be displayed prior to the auction.

It is not a requirement that the presence of stigmas be disclosed within advertising materials. However, agents must be mindful to ensure that the advertisement does not mislead consumers by including information that contradicts the presence of the stigma. For example, an advertisement relating to the sale of a rural property should not include a reference to 'fresh air' if a disclosure relating to the periodic presence of unpleasant industrial odours may later be made.

The licensee or person in charge of the business should consider establishing a policy on the disclosure of certain stigmas. To avoid any potential conflict of interest, this policy should be available in writing to provide to sellers that may engage the services of an agent, prior to any arrangement to do so being entered into.

## REIQ sells part of HQ

Plans to sell off part of the REIQ's Coorparoo headquarters continued this month with appointed agents Savills launching the marketing campaign on February 1. CEO Antonia Mercorella said streamlined business processes meant the REIQ needed much less space than in years gone by. "We are looking forward to hearing from anyone interested in buying half of this amazing site, that is just 5kms from the CBD," she said.

## Rate gap widens

*AFR:* The gap is widening between the interest rate that an owner-occupier will pay on their mortgage and the rate an investor will be charged for the same mortgage. New RateCity research reveals owner-occupiers with a greater than 20% deposit will have an even lower rate than owner-occupiers who have less than 20%. Banks are facing tougher competition for owner-occupiers as APRA restrictions mean they are limited in how much they lend to investors.

## Qld's new migrants

ABS data has revealed that Queensland's migrant population is changing, with the majority now coming from overseas, rather than its traditional source, which has always been interstate. Demography think tank .id said during the 1990s, Queensland's net migration rate was around 40,000 per annum, mostly from NSW and Victoria. But the trend from 2003 to 2015 has shifted with the majority of net migration now coming from overseas countries such as New Zealand, the UK, India, and China.

# Letters to the editor

Dear Editor,

Regarding the issue of emailed contracts, does the new REIQ contract have the provision for the emailing of contracts so that they are enforceable, or do we still need the special condition?

The current one has the Electronic Settlement condition, but nothing about the emailing of contracts, only notices.

Regards,

Brett Andreassen  
Doug Disher Real Estate

### REIQ Responds:

Dear Brett,

The Electronic Transactions Act requires the parties to consent to receipt of the documents via email. We strongly recommend these are completed prior to the contracts being sent/executed. We have forms on Realworks to cover this situation:

EF135B for a buyer Consent to receive electronic communication

EF 135S for a seller Consent to receive electronic communication

These forms must be signed off by the parties before the documents are forwarded to them.

Dear Editor,

I am a member agent on the Sunshine Coast who doesn't have a 'shop front', nor do I take listings. When I have a client who wishes to sell, I refer them to an agent who I feel will work well with, and for, the seller.

When I have a client wishing to purchase a property, I qualify them, find their top 3 criteria in a property and then search for the property, either on the internet or from signage on properties in the buyer's preferred area. I then research the asking price and send an enquiry to the listing agent, along with a query regarding their conjunction arrangements. Until recent weeks, conjuncting wasn't an issue. However, now that the property market is more buoyant, many agents have a policy of not conjuncting in the first two weeks of a listing, while others refuse to conjunct at all. Many don't even give the courtesy of a reply when I enquire about a property on behalf of a buyer.

I wonder whether other agents are experiencing the same difficulty? And, what is the REIQ's view?

I believe that agents who refuse to conjunct are not working in the best interests of their sellers.

Kind regards,

Gail Hunter  
H2O Property

### REIQ Responds:

Dear Gail,

According to REIQ Standards of Business Practice, agents are expected to respond within a "reasonable timeframe" of no more than three business days after the request is made. Also, be aware that there is no longer any statutory requirement to conjunct. However, REIQ members are expected to abide by our Standards of Business Practice.





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# Don't let your holiday home dream become a nightmare

WORDS: BRIAN BAUER, OFFICE OF FAIR TRADING

*Holiday makers dreaming of owning their own slice of paradise can now find a wealth of information online about what they'll need to factor in when looking at holiday apartments. The Office of Fair Trading (OFT) has added to its suite of consumer advice to include tips for buying a holiday unit in the sunshine state.*

Fair Trading Executive Director Brian Bauer said it's not uncommon for holiday makers to see the end of their holiday approaching and start to calculate when they can return, with many browsing the real estate listings.

"We all know someone who has considered buying a holiday apartment to guarantee an annual beach holiday, with the idea of renting it out to other holiday makers for the rest of the year to help pay the mortgage," Mr Bauer said.

"Unfortunately, one of the biggest issues potential owners face is not understanding the level of ongoing income and cost involved.

"Having your own holiday unit to access during the summer holidays could be a great thing for you and your family, but if you're not renting it out during the peak periods this will significantly alter the income return you can expect from the property.

"On the other side of the balance sheet, potential owners need to consider if there are unit complex specific expenses that need to be factored in. From how often you need to upgrade furniture and fittings, to 'brand' specific requirements such as the quality of furniture, cleaning contractor costs, or maintaining internet connectivity and cable television, ongoing costs can significantly influence your budget.

"That's why the OFT has put together this practical information to help people make informed decisions about whether investing in a holiday unit is right for them.

"We don't want to burst anyone's holiday bubble, we just want to ensure consumers have the information they need to develop a realistic budget so they can enjoy their investment."

Mr Bauer said the OFT had also included information on appointing a property manager and keeping on top of fees and charges.

"From choosing a property manager and negotiating management fees, to how your agent must report your income and expenses to you—it's all on our website," Mr Bauer said.

There is also information for those people who already own a holiday unit.

"The Property Occupations Act 2014 came into effect in December 2014, bringing with it some changes to fees and management terminations," Mr Bauer said.

"It is important for people to understand how the changes affect them so they can best manage their holiday home.



"It is also important they check their monthly statements to ensure any fees and charges are in line with their management agreement.

"The biggest issue we see with holiday unit owners is not checking their monthly statements.

"Even with the best of intentions mistakes can happen, and sometimes when someone comes to us with concerns about what they're being charged, it has already been happening for several years.

"It will save investors a lot of time and heartache if they can stay on top of their monthly statements and promptly question their agent about anything they don't agree with."

**For more information, visit [www.qld.gov.au/fairtrading](http://www.qld.gov.au/fairtrading)**



# Tax tips on selling your real estate agency business

WORDS: EDDIE CHUNG, PARTNER, BDO, REIQ BOARD DIRECTOR

*There are many tax implications that arise when selling a business and while there is no one-size-fits-all tactic that will maximise your tax position, here are some tips for business brokers or anyone selling a business that could help improve your position.*

## **Do not apportion the sale price across various assets on the contract**

because it is likely that maximising or minimising the values associated with certain assets (eg, trading stock, depreciating assets) to optimise your tax position may deteriorate the purchaser's tax position. Not contractually attributing set values to the assets enables the parties to attribute independent values to those assets based on a reasonable allocation and apportionment of the total transaction value across all of the assets sold. This will afford both parties some flexibility in independently optimising their respective tax positions.

**Delay the contract date where possible if the agreement to sell is near the end of the financial year.** For capital gains tax (CGT) assets, which include assets such as goodwill and rent roll, the CGT event associated with their sale is generally crystallised on the date of the contract, rather than the settlement date. Therefore, delaying the contract from, say, 30 June 2016 to 1 July 2016, will have the effect of delaying any CGT payable on the sale for 12 months. Tax deferred is tax saved.

**Negotiate to make a separate 'accrued leave transfer payment' to the purchaser where possible** as the payment will be tax-deductible to you as the seller. This contrasts the situation where the unpaid leave liabilities are adjusted against the overall sale price of the business, which may reduce your CGT instead. Given the potential application of the 50% CGT discount or other CGT concessions, the tax benefit

associated with paying the unpaid leave employee entitlement and claiming a tax deduction for it is likely to be significantly greater than the tax benefit from reducing the sale price of the business by the liabilities assumed by the purchaser.

A word of caution – specific conditions must be satisfied before the payment is treated as an 'accrued leave transfer payment'. For instance, the payment must be made to another entity that has begun (or is about to begin) to be required to make payment in respect of the leave liability under an Australian law, award, order, determination, or industrial agreement under an Australian law; therefore, if you are selling your trading entity to the purchaser and that entity will continue to be liable to the payment of the leave liability in future, the payment may no longer qualify as an accrued leave transfer payment.

**Consider if there are ways to pass on any carried forward tax losses you have incurred during the course of your ownership of the business to the purchaser** to give you negotiation leverage and potentially increase the sale price. Be mindful that the ability of the purchaser to use those tax losses will depend on a number of factors. For instance, as tax losses are attached to a particular entity that incurred the losses, the purchaser will need to purchase the trading entity to acquire those losses; certain conditions associated with the loss recoupment rules for the specific type of entity must also be satisfied for the losses to be available to the purchaser.

Further, being able to sell your interest in the entity (eg, shares in a trading company), rather than selling your business out of the entity, may also enable you to access other concessions such as the 50% CGT discount that would otherwise not be available.

If the purchaser is reluctant to buy the entity and inherit the historical trading risks of the business, you may consider offering contractual warranties over a finite future period to provide indemnities to the purchaser if those risks materialise. Sometimes reducing the purchase price works too if the price reduction is more than compensated by tax concessions that would otherwise not be available.

**Do not forget to apply available tax concessions that allow you to legally reduce your tax bill on the sale of your business.** The most common concession is perhaps the 50% CGT discount, which allows you to reduce the capital gain on the sale of a CGT asset by half, provided that the business asset has been held by an individual or a trust for at least 12 months before sale.

In addition, the 'small business CGT concessions' is a suite of extremely potent CGT concessions that have the potential of substantially reducing or even eliminating your CGT liability altogether if your aggregated group net asset value is less than \$6 million (excluding your main residence and superannuation benefits) or your aggregated group turnover is less than \$2 million. Special rules apply to how you calculate these amounts and which entities within your group are to be included.

*The sale of a business may appear straightforward but it is often not the case when you get down to the detail.*

Proceed with caution if you are applying these concessions – these rules can be complex and prescriptive, so you need to ensure that you ‘tick every box’ to qualify for the concessions. Getting them wrong may have the potential of the tax office coming back to you later on to deny your claim.

For completeness, under the ‘look-through approach’, if you structure the business sale such that you get paid by the purchaser in instalments that are dependent on the future performance of the business (commonly known as an ‘earn-out arrangement’), those future instalments may also qualify for any CGT discount or small business CGT concessions that may have been claimed when the business was sold.

**Ensure that you correctly apply the relevant GST exemption that may apply to the business sale.**

For instance, under the ‘supply of a going concern’ GST-free treatment, if you sell all of the things that are necessary for the purchaser to continue the operation of your enterprise (or part of an enterprise), it is likely that the business sale will not attract GST despite the fact that you are the ‘supplier’ in the transaction.

Again, the devil is in the detail, so you need to ensure that how you structure the sale will enable you to access the exemption, eg, if you sell the business and business premises to separate entities that belong to the purchaser.

As a precautionary measure, it is always desirable to incorporate a ‘GST recovery clause’ on the sale contract to enable you to recover any GST from the purchaser if the tax office subsequently decides for whatever reason that you were not eligible to apply the GST exemption.

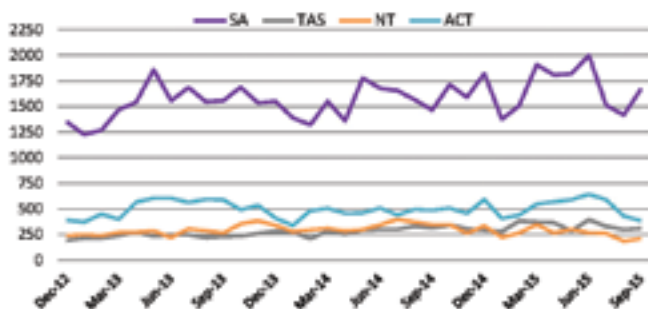
The sale of a business may appear straightforward but it is often not the case when you get down to the detail. It is always advisable to involve both your lawyer and accountant to advise you on the sale and ensure that they work together to achieve the best result for you. In particular, all draft contracts and agreements should be reviewed by your accountant from a tax perspective to ensure that you legally minimise your tax liability and maximise the return on all your sweat and tears in building the business up for sale.

# Investor activity heads north as Sydney, Melbourne cool

WORDS: YVETTE BURTON, REIQ RESEARCH ANALYST

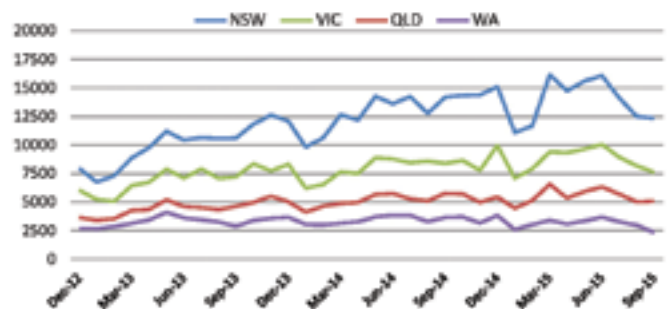
*Earlier this year, APRA imposed changes on the banking sector, requiring the big four to hold greater capital reserves as a banking stability measure, creating a buffer against potential losses on mortgages.*

State v State - Est. Investor Numbers



Source: ABS Lending & Housing Finance series, prepared by REIQ.

State v State - Est. Investor Numbers



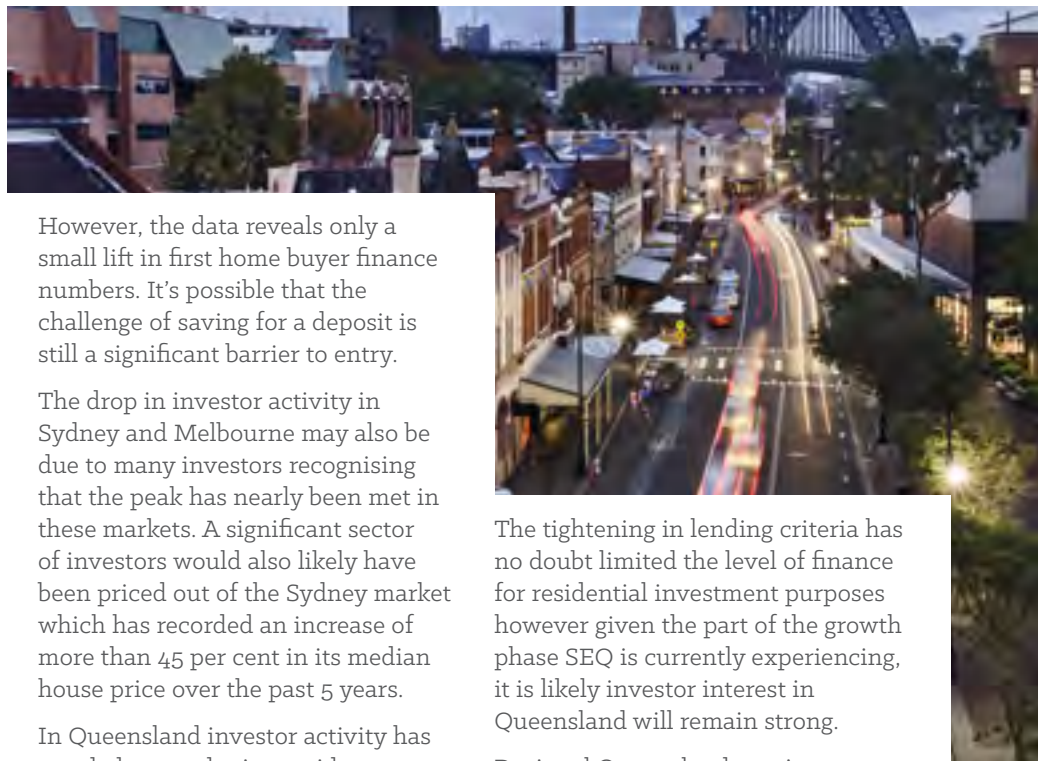
Source: ABS Lending & Housing Finance series, prepared by REIQ.

The impact of APRA's changes became clear in June, with the tightening of restrictions resulting in a reduction of investment loans being written.

Latest Australian Bureau of Statistics (ABS) data reveals that the volume of lending finance for residential investments peaked in June 2015 at nearly \$14.5 billion and has since fallen for four consecutive months.

As a proportion of the residential market, investors have gone from a peak market share of 42.2 per cent in May to 31.6 per cent in October last year, a level not seen in four years. Since June 2015, there has been a fall in approximate investor loan numbers of more than 30 per cent across all states in, except for Queensland (down 25.3 per cent), Tasmania (down 25 per cent) and Northern Territory (down 22.5 per cent).

Theoretically, when investors leave the market this should clear the way for first home buyers to return.



However, the data reveals only a small lift in first home buyer finance numbers. It's possible that the challenge of saving for a deposit is still a significant barrier to entry.

The drop in investor activity in Sydney and Melbourne may also be due to many investors recognising that the peak has nearly been met in these markets. A significant sector of investors would also likely have been priced out of the Sydney market which has recorded an increase of more than 45 per cent in its median house price over the past 5 years.

In Queensland investor activity has trended upwards since mid-2012 however over the three months to October, this trend has begun to level off. As a proportion of the residential market, investors' share dropped to 31 per cent over the month of October with non-first home buyers taking up a greater share.

The tightening in lending criteria has no doubt limited the level of finance for residential investment purposes however given the part of the growth phase SEQ is currently experiencing, it is likely investor interest in Queensland will remain strong.

Regional Queensland continues to remain at the lower end of their respective property cycles which local investors are beginning to recognise and take advantage of. Meanwhile the growth being seen in southeast Queensland is likely to attract more investors from interstate.

# Zone Focus

*The outlook for the Queensland property market is promising, with the green shoots of recovery emerging in some of the areas hardest hit by the resources downturn. However, while 2016 looks to be more positive than 2015, it would be premature to say the entire state was out of the woods. This is part 1 of our two-part zone focus that looks at the developments and major considerations for each of the zones throughout the state. Part 2 will be published in our March edition.*

Broadly speaking, the southeast corner is doing well, with steady and consistent growth in the housing market and the unit market. Eight consecutive quarters of growth are evidence that the property-buying public has confidence in bricks and mortar again.

Regional Queensland's market is more patchy, but areas such as Gladstone, Bundaberg and the Fraser Coast are showing signs of a firming market. The next two quarters will be the litmus test on how stable the recovery is. Rockhampton and Mackay continue to struggle, but we're seeing indicators that the bottom has been reached and we expect 2016 to show more consistent, positive growth.

## **ZONE: CABOOLTURE**

WORDS BY CABOOLTURE ZONE  
CHAIR JAMES BROWN (RAY WHITE  
CABOOLTURE & BURPENGARY)

The Caboolture market should see the full benefits of the positive part of the property cycle this year with vacancy rates at record lows, new house and land packages on the market priced below \$400,000, and median rents of \$350 per week.

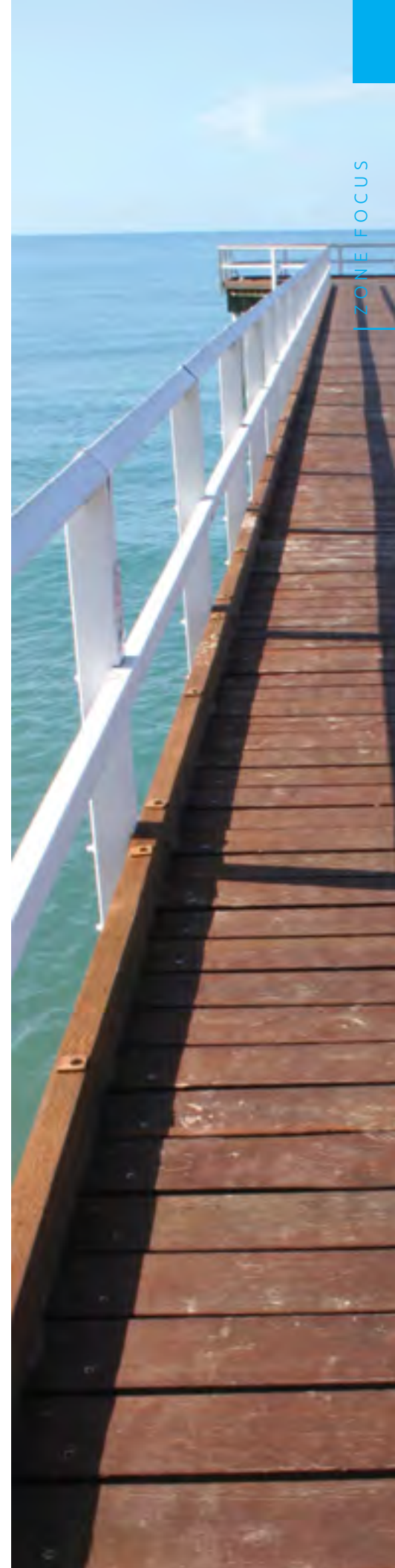
The 1400-lot North Harbour housing development and marina at Burpengary East will add to the property pool over a 10-year staged release. The marina will provide direct access to Deception Bay and its islands, Bribie Island, Moreton Island and North and South Stradbroke Islands.

## **ZONE: FRASER COAST**

WORDS BY FRASER COAST ZONE  
CHAIR DAMIAN RAXACH (ONE AGENCY)

While there are no new major projects planned the region will continue to benefit from the Building Better Regional Cities Grant which has delivered infrastructure upgrades. It has also delivered a program that offers a \$12,000 grant to anyone building in a designated new housing estate. Estates such as Hervey Bay Heights, Neighbourhood Park and Augustus are all major sub-divisions that have benefitted from around 585 grants. This has resulted in eight housing estates beginning construction or expanding dramatically and has given a boost to our construction industry and created a feeling that 'something positive is happening'.

The Fraser Coast market has noticeably turned the corner, shaking off the post-GFC downturn with buyers and sellers expressing confidence in the market. The data may not yet show any real uplift but anecdotally the confidence is definitely in the market. The year ahead looks very positive for the Fraser Coast.





*The region continues to go from strength to strength with a multitude of developments.*

## **ZONE: SUNSHINE COAST**

WORDS BY SUNSHINE COAST ZONE CHAIR AMBER WERCHON (AMBER WERCHON PROPERTY)

There is so much happening on the Sunshine Coast right now, such as the opening of the new golf course at Bli Bli, a possible additional runway at the airport, new apartment complexes in key coastal locations, and boutique developments such as “Mons Reserve” in Buderim. However, there are two key projects that will drive economic growth this year – the Sunshine Coast University Hospital and the Aura development.

Aura has commenced construction in Caloundra South. This 25-30-year project will create jobs and ensure our property market stays healthy. Stockland predicts that over the next 30 years Aura will become home to more than 50,000 people and accommodate a third of the region’s retail, commercial and industrial development.

The Queensland Government’s \$1.8 billion investment in the Sunshine Coast University Hospital has generated employment growth and subsequent economic benefits to the local region.

The hospital will save 10,000 patients a year from a trip to Brisbane for treatment. Exemplar Health will design, build and finance the hospital as well as maintain it for 25 years.

The region continues to go from strength to strength with a multitude of developments, both infrastructure and property, providing a boost to local employment opportunities.



**ZONE: BUNDABERG**

WORDS BY BUNDABERG ZONE CHAIR LE-ANNE ALLAN (RICHARDSON & WRENCH BARGARA BEACH)

The Bundaberg and coastal area is in an exciting time of change.

Following the 2013 flood, repair works have been completed and with the departure of those workers the rental market has weakened slightly. This triggered the sale of some investment properties as investors looked to get out of the market.

However, demand from purchasers for these properties has been steady and has come from new residents relocating from other areas such as southern and northern Queensland, New South Wales and other states.

This has reduced the numbers of vacancies and increased sales. While vacancy rates hover at around five per cent we are not too concerned at this stage and have a positive outlook for 2016.

Major projects in Bundaberg include:

- State Government is providing \$10 million to assist in major infrastructure for the region.
- The \$71 million Rubyanna Waste Water Treatment Plant will commence in the next couple of months
- Soil also being turned for the \$14.5 million Multiplex facility during this period.
- \$19 million gas pipeline
- \$70 million Knauf plasterboard factory at the port and we really do have an economic surge that is leading a major recovery for the region."

Major projects trigger jobs growth and this helps the property market with increased demand for rentals and purchases so the outlook is promising for this region throughout 2016.

**ZONE: SOUTHERN SUBURBS / LOGAN**

WORDS BY SOUTHERN SUBURBS/ LOGAN ZONE CHAIR STANLEY CROOK (QUEENSLAND RENT ROLL BROKERS)

Logan City has been transformed from a place that investors did not readily consider to a place that investors are very positive about. New subdivisions are popping up and the Logan City Council has created many parks and lakes to considerably improve the amenity of the city.

Logan City is a major economic destination within southeast Queensland. Key industries include manufacturing and retail, business and community services, the property sector, construction and agricultural industries.

The Beenleigh skyline will change dramatically following Logan City Council's approval of high-rise buildings.

Major developments in the area include three 12-15 storey buildings and two four-storey buildings by Cromcorp Pty Ltd for the corner of Alamein St and Market Place Drive. A new development by LendLease will become home to around 1500 people at Logan Reserve.

The mixed use residential retirement and aged care village will include a shopping centre, medical centre, childcare centre, commercial offices, and a 680-seat Cineplex and cafe.

Logan is clearly going to grow throughout 2016 and is in one of the fastest-growing regions of Queensland. We expect great things in this region over the coming year.





# Retail Shop Leases Amendment Bill 2015: What does it mean for agents?

WORDS: MICHAEL GAPES, PARTNER, CARTER NEWELL LAWYERS

*Agents who are engaged in the sale and leasing of retail premises should be aware that new legislation has been recently introduced into the Queensland State Parliament which, if enacted, will significantly alter the existing law in relation to retail shop leases in Queensland.*

As agents will be aware, the *Retail Shop Leases Act 1994* (Qld) (**the Act**) provides the mandatory minimum standards for retail shop leases in Queensland. On 13 October 2015, the *Retail Shop Leases Amendment Bill 2015* (Qld) (**the Bill**) was introduced into Parliament, with the intention of clarifying the scope and application of the provisions of the Act, following a mandatory statutory review.

The Bill has recently undergone a public consultation process and a Committee report is to be tabled in Parliament on 5 February 2016. In this article, we will highlight the key changes proposed under the Bill and detail how those changes will impact upon the leasing of retail premises in Queensland.

## **Exclusions of certain leases from the operation of the Act**

One of the key changes proposed under the Bill is the narrowing of the application of the Act. Specifically, the Bill provides that the Act will **not** apply to leases of the following type:

- Non-retail businesses in an area of a shopping centre regarded or identified as “commercial” or for non-retail service providers. Therefore, the Act would not apply to leases of premises located in a retail shopping centre, if they are not used wholly or predominantly for carrying on a retail business, and at the time the lease is entered into either:
  - i) the retail area is 25% or less of the total lettable area of that level, if the premises are located on a level of a multi-level building;
  - ii) the retail area of the building is 25% or less of that total lettable area of the building, if the premises are located in a single level building.
- A retail shop with a floor area of more than 1000 m<sup>2</sup>;
- Premises used wholly or predominantly for the carrying on of a business by a tenant for a landlord, as the landlord’s employee or agent.

Relevantly, the Bill also clarifies that the Act will not apply to premises within a common area of a retail shopping centre, if they are used for an automatic teller machine or vending machine.

### Changes benefitting tenants

The Bill proposes a number of changes that will enhance protection for tenants and prospective buyers of retail businesses, including the following:

- Tenants will be permitted to waive the disclosure period prior to entering into a lease, if they chose to do so;
- Landlords will be required to provide a Lessor Disclosure Statement to existing tenants, within seven days of receiving the renewing tenant's notice exercising an option of renewal under a lease; and
- The renewing tenant can give the landlord a notice to advise that its notice exercising the option is withdrawn within 14 days of receiving a current Lessor Disclosure Statement from the landlord.

The Bill also seeks to facilitate full disclosure by landlords to franchisees and sub-tenants. Therefore, landlords would be required to provide a Lessor Disclosure Statement within 28 days, where requested by:

- A franchisor who is a tenant of a leased shop, where the franchisor proposes to grant a franchisee a licence or similar contractual right to occupy and use all or part of the leased shop wholly or predominantly for the carrying on of a retail business; or
- A tenant who proposes to sub-lease the premises.

Other enhancements to tenant protection which have been proposed under the Bill include:

- Tenants would only be liable to refurbish the leased shop during the lease term where the lease gives sufficient details of the nature, extent and timing of the required refurbishment;
- Landlords would be required to provide a breakdown of centre management fees in the annual estimate and audited statement of outgoings;

- Landlords would be required to make available to the tenant a marketing plan detailing the landlord's proposed advertising/promotion expenditure;
- Tenants under a turnover lease would not be required to give the landlord monthly turnover certificates and an annual audited statement of turnover; and
- Landlords would be responsible for all mortgagee consent costs.

### Changes benefitting landlords

Some of the proposed amendments under the Bill that would benefit landlords include the following:

- Clarification that the Act does not apply to certain leases, as outlined above;
- A Lessor Disclosure Statement will not be regarded as a 'defective statement' if it omits information that is irrelevant to the lease or if its layout does not comply with the approved form;
- Although a tenant's right to terminate the lease within six months of entering into the lease if a defective Lessor Disclosure Statement is provided has been retained, the Bill introduces an objection procedure benefitting the landlord and for disputed terminations to be a retail shop lease dispute;
- Provision for the landlord's recovery of lease preparation costs where the tenant has negotiated, but does not proceed with, the final lease after instructing for it to be prepared;
- Clarification that the landlord's liability for compensation for business disruption does not apply where the landlord's action is a reasonable response to an emergency or in compliance with a statutory duty;

- Provision for landlords to include a lease provision limiting a claim for compensation for anticipated disturbances such as redevelopment, where such disturbances:
  - i) occur within one year from the date the lease is entered into, and
  - ii) the landlord gives the tenant a written notice which meets the specified minimum requirements before the lease is entered into; and
- Prohibition against tenants 'double-dipping' under sections 43(1), 46G (reasonable compensation) and section 46G (relocation costs) for compensation under the Act.

### Conclusion

The introduction of the Bill into Parliament highlights the government's clear intention to clarify and delineate landlord and tenant obligations in relation to retail shop leases. The increased protections offered to landlords and tenants under the Bill will no doubt be viewed as a welcome improvement by all industry participants.

We will await any further announcements from the government following the tabling of the Committee report in Parliament in February 2016 in relation to any amendments to the Bill and its commencement date. Whilst it is likely that there will be a reasonable lead in time to implement and comply with the new legislation, agents should gain some awareness and understanding of the key amendments the Bill proposes now, so that they can be ready to align their processes to comply with those requirements if and when the legislation is enacted.

# Trust accounting best practice procedures revisited

WORDS BY ANDREW PERSIJN, SENIOR ASSOCIATE, CARTER NEWELL LAWYERS

*As solicitors for the REIQ Professional Indemnity Insurance Scheme (underwritten by QBE (Australia) Limited and brokered by AON Risk Services), we are regularly contacted by real estate agents who have received a complaint from a client or third party regarding the agent's conduct.*



We were recently advised of a situation that has arisen where an agent has received a complaint from a lessor client who alleges that the agent recovered the rental bond for a property from the Residential Tenancies Authority (**the RTA**) and proceeded to disburse the bond from trust, without obtaining specific instructions from the lessor client.

We take this opportunity to advise agents of the trust accounting procedures under the *Agents Financial Administration Act 2014* (Qld) (**the AFA Act**) and remind them that non-compliance with the trust accounting procedures, including the disbursement of trust funds, can carry substantial financial penalties and the possibility of the suspension or cancellation of a licence. In the more serious cases of non-compliance, a term of imprisonment is possible.

## Receiving Trust Money

Section 15 of the AFA Act states that sections 16 and 17 apply if an amount of money is received by an agent:

- a) For a transaction; or
- b) With a written direction for its use.

Trust money can include an amount of money that is received as the deposit for the sale of a property, rental payments by tenants, or with a direction that the money be used to fund marketing expenses or to engage a contractor to carry out maintenance works at a property.

In accordance with section 16 of the AFA Act, if an agent receives trust money, it must be paid into the agent's general trust account before the end of the first business day after it is received.

However, pursuant to section 17 of the AFA Act, an agent may invest the trust money in circumstances where:

- a) The trust money is received for a property sale that is to be completed on a date that is more than 60 days after the trust money is received; and
- b) The trust money is received with a written direction from all parties to the sale that it be invested.

The agent must pay the amount, as required by the direction, into a special trust account with a branch of a financial institution within the State, operated for the investment of the amount. An agent must not pay into a trust account an amount of money other than an amount that must be paid under section 16 or 17 (section 18 of the AFA Act).

However, in some instances, an amount of money may be received that is comprised of both trust money and non-trust money, which cannot be divided (for example, where the amount has been paid by a single cheque). In those circumstances, the agent must immediately deposit the full amount into the agent's general trust account (section 18(2)(a) of the AFA Act).

The agent must then withdraw the non-trust money from the trust account within 14 days after that amount becomes available for drawing (section 18(2)(b) the AFA Act).


## Payments from trust accounts

Section 22(1) of the AFA Act provides that:

"An agent may draw an amount from the agent's trust account to pay the agent's transaction fee or transaction expenses for a transaction only if-

- a) the amount is drawn against the transaction fund for the transaction; and
- b) **the agent is authorised to draw the amount under this section**" (our emphasis added).

The maximum penalty for a breach of section 22(1) of the AFA Act is 200 penalty points (or \$23,560) or two years imprisonment.



The complainant in the situation outlined above, alleges that the agent had breached their obligations under section 22(1) of the AFA Act. The complainant alleges that after the agent received the bond from the RTA, an amount was drawn from the agent's trust account to pay for a transaction when the agent was not authorised to draw the amount.<sup>1</sup>

This situation is a timely reminder for agents to ensure that they obtain written authorisation from their clients before drawing and disbursing rental bond monies that have been paid into trust.

It is not enough to simply rely upon the terms of the PO Form 6 between the agent and the client or the instructions previously provided by the client to lodge a Refund of Rental Bond (**Form 4**) to recover the rental bond for the property.

Whilst a lessor client may provide an agent with instructions to lodge a Form 4 to recover the rental bond for the property in order to carry out maintenance works at a property, those instructions limit the agent to the recovery of the rental bond only. They do not authorise the agent to draw the amount from trust to pay for the maintenance works. Further specific instructions are required in order for the agent to draw the bond from the trust account to pay for the maintenance works.

Alternatively, when seeking instructions from a lessor client to recover the rental bond for the property, the agent may also wish to seek specific instructions regarding the disbursement of the rental bond after it has been paid into the agent's trust account.

Agents should ensure that any instructions from a lessor client regarding the recovery of the rental bond and the disbursement of the same are obtained in writing from the lessor client.

Further, agents should always ensure that they comply with their obligation under section 22(1) of the *Property Occupations Regulation 2014*, to "... act in accordance with a client's instructions unless it is contrary to this division or otherwise unlawful to do so".

### Best Practice

As outlined above, significant penalties may be imposed on agents who do not strictly comply with the trust accounting procedures prescribed by the AFA Act.

Accordingly, it is imperative that agents have appropriate mechanisms in place, including appropriate checks and balances, to ensure all trust monies and trust accounts are dealt with appropriately and strictly in accordance with the AFA Act.

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<sup>1</sup> A transaction expense is defined as an expense an agent is authorised to incur in connection with the performance of the agent's activities for a transaction.

# Member Feature

*Jonathan Jones - Associate Member*

## How long have you been in the real estate profession?

I joined First National Beerwah Real Estate with the required REIQ modules completed, late 2012. During three fantastic years with Mr Aaron W Peckitt as my Principal and Licensee, I moved over time into high end residential and rural property in the stellar Southern SC hinterlands and further afield, representing the excellent Owners of many standout residential, glorious small acreage and stunning unique boutique farms / cattle properties, to sale.

## What do you love most about the profession?

Without doubt, my professional and personal satisfaction in bringing to my respected Clients their own "DREAM TO REALITY" experience, in both sale and acquisition.

Prominent in that process, was their rewarding appreciation for high quality service from a respected locally based firm with the highest industry principles.

## What does REIQ membership mean to you?

My close association with REIQ, as an Associate Member, gives very strong emphasis to, among other things, the preferred models of industry professionalism, business integrity, professional and personal honesty, and unreserved loyalty to clients. The REIQ, as the state peak body, sets the bar very high indeed. Therefore, that yardstick is ever present in all day-to-day engagement with clients, and fellow real estate consultants, in the same REIQ Code of Conduct mould.



## Favourite song?

"Fields of Gold" by Sting; Classic "Jessica" by The Allman Brothers and Sisters' Band; and "Smooth Operator" by Sade.

## Favourite food?

Just about anything from the sea, curries and dark chocolate.

## Pet's name?

Velvet, a black labrador partially sponsored by me as an Assistance Dog under training - just adorable.

# Student Member Feature

*Ben Everingham - Student Member*



## What would you say to an employer who said traineeships were hard work?

They are hiring the wrong trainees. A trainee does not need to be hard work. The right trainee could potentially become the highest selling agent in an agency. Everyone needs to start somewhere and a trainee gives you an opportunity to shape an incredible sales person into your system.

## What is the most exciting thing about your new role in real estate?

As soon as I finished my REIQ training I started my own agency Pumped On Property. Over the last six months our business has grown exponentially. I am loving the opportunity to help interstate

and international investors enter the Queensland market. In October and November I personally made 22 sales which was a new record for our company. My desire to build a national brand, that I can be proud of is the most exciting part of my new role at this stage. My desire is to bring world-class service and values back into the real estate community.

## What are your career goals for the next 12 months?

Open our Sydney and Melbourne offices. Sell a percentage of our business to an ASX listed real estate company. Make 20 sales per month. Grow our property management book. Build our list of strategic partners. Enjoy the ride.

# Recruitment Page

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Pascal Pierre: 0414 758 753



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Marc Gregory:  
marc@ngurealestate.com.au



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## Welcome to our new agencies

<b>Ray White Rochedale</b>	UNDERWOOD 4119	Zishaan Omar
<b>Cummins Real Estate</b>	EMU PARK 4710	Lance Cummins
<b>Pinnacle Sales &amp; Management Pty Ltd</b>	HELENSVALE 4212	Steven Berry
<b>Wilson Prestige Property</b>	KEDRON 4031	Elise Neumann
<b>Mark Ward Property</b>	SALISBURY 4107	Mark Ward
<b>CQ Coast Harcourts Yeppoon</b>	YEPPOON 4703	Michael Suthers
<b>Raine &amp; Horne Spring Hill</b>	SPRING HILL 4004	Dean Scott
<b>NGU Real Estate Albany Creek</b>	ALBANY CREEK 4035	Marc Gregory
<b>Mitchell's Realty Hervey Bay</b>	URANGAN 4655	Scott Mitchell
<b>McKenzie Wu Property</b>	KENMORE 4069	Scott McKenzie
<b>Empire Property Group Australia</b>	SOUTHPORT 4215	Daniel Walker
<b>Kollosche Prestige Agents</b>	BROADBEACH 4218	Michael Kollosche
<b>Ernest Living</b>	MERMAID WATERS 4218	Nicholas Ernest
<b>Habo Pty Ltd</b>	STAFFORD 4053	Paul Murray
<b>Vowles Real Estate</b>	PALM COVE 4879	Wayne Vowles
<b>Pinnacle Properties Queensland Pty Ltd</b>	ENOGGERA 4051	Yvonne Barnes
<b>Enter House Realty</b>	SPRINGWOOD 4127	Aneta Fuller
<b>Ray White Rural Toogoolawah</b>	ESK 4312	Jade Jaenke
<b>Brothers Real Estate (QLD)</b>	WONDAI 4606	Phillip Costello
<b>Jim McKeering Real Estate</b>	SANDGATE 4017	John McKeering



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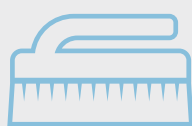
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## Done Deal

107 Albatross Avenue Mermaid Beach QLD –  
Ray White Surfers Paradise

### Sale price

\$8.4 million

### Sale type

Auction

### Where is the house?

107 Albatross Avenue,  
Mermaid Beach QLD 4218

### Tell us about the property?

This magnificent beachfront home has been constructed and architecturally designed to create a relaxed lifestyle.

Set on an 863m<sup>2</sup> allotment this home takes in long sweeping views of the Pacific Ocean from Stradbroke Island to Coolangatta, the hinterland and beyond.

This has seven spacious bedrooms, each with ensuite and walk in robes, his and hers generous sized offices, three massive living areas including an incredible roof-top terrace with spa and plunge pool, gymnasium, sauna plus home theatre/rumpus rooms and several outdoor entertaining options.



Beach living is at its best with soothing sounds of moving water provided by the ocean as well as the water features that cascade into the 25m lap pool.

The kitchen would delight the finest of chefs, boasting Miele and ILVE appliances, 90cm oven and gas cook-tops, coffee machine, steamer, microwave and integrated fridges and a dumb waiter from the basement just for convenience. Serve restaurant style meals on the edge of the ocean.

There is plenty of room for all of the grown-up toys – offering a 10-car basement and two turntables for easy access in and out with direct access to any of them five levels via elevator.

The use of rich timbers, exotic marbles and fine finishes within this home give a warm homely feeling.

The foresight and planning that has gone into making this home one of the Gold Coast's most superb is clearly evident and exactly what makes it one of the most unique and livable beach homes to be seen.

### How did Ray White Surfers Paradise get this listing?

Database - existing Sanctuary Cove client whom Matt already had a relationship with

### What were the marketing strategies used?

Various internet sites, professional photography and database management.

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