



# Property Training Qld

*Your pathway to success in Real Estate*

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Property Occupation Bill 2013  
Submission 015

January 17, 2014

The Research Director  
Legal Affairs and Community Safety Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Sir

I wish to make a submission to the committee with respect to the Property Occupations Bill 2013.

I forwarded a submission to the Office of Fair Trading when the proposed bill was being formulated.

I have attached a copy of my submission to this submission to the committee. The purpose of this is to background my submission to the committee and to draw attention to some relevant sections in my original submission that have not been incorporated in the Bill before the house.

The Bill before the house goes a long way towards modernizing the legislative requirements of the Property Industry. I believe however, that the Bill fails to recognize the significant specialized occupations that have evolved over years.

I will detail these in my brief submission attached. I would welcome an opportunity to address the committee if it was considered appropriate.

Yours sincerely

Paul A Lupi  
Chief Executive Officer



PROPERTY OCCUPATIONS BILL 2013  
SUBMISSION TO LEGAL AFFAIRS and COMMUNITY SAFETY COMMITTEE  
BY  
PAUL LUPI CEO PROPERTY TRAINING QLD

I refer the committee to my original submission to the Office of Fair Trading. In particular I wish to draw attention to the fact that the Bill continues to advocate a generic licence for Real Estate Agents.

Modern society has seen a growth in residential rentals to the extent that agencies that specialise in residential property rentals only have eventuated. Under the current legislation and in the Bill there is no licensing category for Residential Leasing Agents or their employees. There is no provision for Business Brokers or their employees.

The Bill has a provision for the Chief Executive Officer to issue specific restricted licences as his/her discretion. I firmly believe that it would be better if categories were legislatively defined so as to avoid confusion.

In particular I refer the committee to the following sections from my original submission.

Pages 5 to 11.

# **Submission to the Property Occupations Act**

## ***Introduction***

This submission has been prepared by Paul Lupi, CEO of Property Training Qld. I am a licensed real estate agent and a licensed auctioneer in Queensland. I have been licenced since 1988. Since 2003 I have operated a Registered Training Organisation specialising in licensing training for the real estate industry in Queensland.

## ***Overview***

In this submission I propose to address all aspects of property occupations in Queensland and any associated legislation that may accompany the Property Occupations Act.

I am fully aware that it is the intention of the Queensland government to minimise, as much as possible, red tape in legislation in this state. It is my intention to detail in this submission all of the property occupations as I see them and detail where red tape may be causing confusion and problems for this industry and to make recommendations as to a structure that would better meet the requirement for effective and simplified regulation of a complex and specialised industry.

## ***The Present***

The Property Agents and Motor Dealers Act 2000 replaced the previous Auctioneers and Agents Act. Throughout the years, occupations in the real estate industry have evolved into specialised fields. Previous Acts and the current Act have failed to recognise the specialisation and very different occupational fields within this industry.

## ***Property Licences***

### **Real estate agent**

A real estate agent's licence, sometimes called the full licence is the generic licence that applies to all aspects of occupation within the property industry in Queensland. Employees of real estate agents are registered salespeople. If they have a real estate agent's licence they are referred to as an employed real estate agent.

### **Resident Letting Agent**

A resident letting agent licence is a licence required to operate a letting business within a community title complex. It is a restriction on this licence that licensees live on the

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premises. There is limited provision for an employee of a resident letting agent to obtain any form of registration or licence due to the live on premises restriction.

## Restricted Real Estate Agent Licence

This is a generic form of licence which allows the chief executive to apply, as he deems fit, restrictions to the licence.

The previous government at no time allowed sufficient funding within departmental budgets for there to be a major overhaul of the current Act despite the fact that it is struggling to keep pace with the various property occupations and property trends occurring in this state. Regrettably, the consultation process between the Department and major stakeholders was minimal. In determining the educational qualifications required for the respective licensors the department appeared to look at qualification *titles* rather than qualification *content*. Consultation with the training providers in the industry would have served to assist in formulating better choices of units of competency for the various licences.

In this submission I will detail the various occupations as I see them. I will suggest training qualifications that may or may not be required for the various occupations and I will suggest the type of restrictions that could be imposed on restricted licences.

## Occupations

### Real Estate Agent

A real estate agent is a person or a corporation who alone or with others can transact all forms of property sales and leasing in all areas of property. They can list and sell or lease residential property, rural property, businesses, industrial property and commercial property. They can operate management rights. They can employ salespersons.

To qualify for a real estate agent licence an applicant must currently complete 19 specified units from the CPP 07 training package. Within these 19 units there are no units that cover specifically aspects of business broking commercial and industrial sales and leasing. Under the present legislation a person wishing to conduct the business of residential property management only, commercial and industrial leasing only or all business broking only are required to complete these 19 units and apply for a real estate agents licence.

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Current trends in residential housing have seen owners progress from large single blocks of land on which a single residential dwelling was situated to smaller land parcels, unit living and gated communities. There is also a trend away from owning your own home to renting your own home and having a different lifestyle due to having more disposable income. In the past 10 years there has been a proliferation of property management only agencies in Queensland to cater for this trend.

To operate these agencies the principal must have a real estate agent's licence and all of the employees of that principal must have a salesperson's registration certificate. In the 19 units required for such a licence only 4 are specifically related to property sales. This may be regarded as a form of red tape.

With the evolution of offices that deal with property management only, there has been an increase in the number of offices that deal in residential real estate sales only. To obtain a licence in such an office that principal must complete the above-mentioned 19 units of which only 6 are Property Management specific. Further red tape is evidenced here.

A resident leasing agent who desires to live off the complex site, or who owns management rights that have not incorporated an on-site manager's residence within the complex, must also obtain a real estate agents licence. Again 19 units of competency are required, of which a percentage are property sales specific.

### **Salesperson**

Any person who works for a real estate agent and who performs real estate activities must be a registered salesperson. To obtain salesperson's registration, the applicant must complete seven units of competency from the above-mentioned training package. Three of these units are sales specific, one is Property Management specific and the remaining three cover real estate in general.

It is particularly frustrating for persons who wish to work for offices that deal in solely Property Management to have to complete the units of competency that are sales specific when they do not intend to work in a sales environment. It is even more frustrating for those salespersons who wish to work for a business broker. They have to complete the

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seven units of competency currently required for salespersons just so that they can be employed by a specialist business broking agency. These people attend class for the sole purpose of satisfying the legislative requirements for registration and duly forget 90% of what they learn in the classroom because it has no relevance in their job occupation.

### **Resident letting agent**

A person or corporation that owns management rights in a complex that is covered by the community titles act must hold this licence if they wish to let lots in the complex. It is a restriction on the licence that the licensee must live on the premises. The educational qualifications required for such a licence consists of 6 units of competency from the CPP 07 training package.

### **An employee of a resident letting agent**

The current Act states that an employee of a resident letting agent will be a resident letting agent. This is a non-workable situation as few complexes have living quarters for employees.

## ***Proposed new occupational licences for the property industry.***

**I would propose the industry would be better served if the following occupational licences and certificates be incorporated in the new bill.**

### **Real Estate Agent**

There is no need for major change in this classification of licence other than as outlined further in this submission with respect to employees of real estate agents. With a view to the possible implementation of a national occupational licensing system it may be worthwhile at this stage to upgrade the educational qualifications for a real estate agent from 19 units of competency to a Certificate IV in Property.

To obtain a Certificate IV requires 24 units of competency. NOLA has recommended 21 specific units and three optional units in their proposal for a national licensing. Whilst it is important to regulate some specific units 21 is too large a number and excludes the opportunity for licensees in specific areas of work to select units of competency that relate to that area of work. I would

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propose that a real estate agent be able to perform all of the activities that are covered under the current act.

I would propose the following licence structure be introduced.

## ***Other Agent licences***

- a) ***Restricted real estate agent - business broking*** - a restricted licence that restricts the licensee to conducting the business of listing and selling businesses, including the Freehold of those businesses, should be introduced. Appropriate units of competency from the training package can be regulated as part of the educational qualifications. The restriction on this licence may also include a restriction on listing and leasing residential and commercial premises where such premises are not associated with the sale of a business. The educational qualifications for this licence should include a selection from the units highlighted in yellow in the addendum.
- b) ***Restricted real estate agent commercial and industrial***. This licence could be issued to agents who wish to specialise in the sale and leasing of non-residential property. NOLA proposes that such agents not be licensed. Such a proposal from NOLA has met with widespread condemnation within the industry and serves to prove how out of touch with occupational licensing that body is.  
The growth in self-managed superannuation funds has seen more small investors entering into the industrial and commercial property investment market. These investors require the consumer protection afforded to all others who buy and sell property. The educational qualifications for such a licence should include some units of competency that relate specifically to that type of operation.
- c) ***Restricted real estate agent residential property leasing***. Principals of a property management only office would be licensed under this category. The restrictions on the licence would prohibit them from conducting any form of property sales. This type of licence could also be granted to on-site managers with a letting business. This would take away the residential requirement restriction on a resident letting agent licence and allow the licensee to manage property outside of the complex in which the business is situated. There is a growing trend for developers to build complexes without a managers residence, just a manager's office. Current

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legislation deems that only a real estate agent can operate such a business. This may be seen as unnecessary restriction or red tape.

- d) **Resident letting agent.** This licence can be similar to the requirements of the existing resident letting agent licence. It should be noted that NOLA proposes the abolition of this type of licence. This has again highlighted the inadequacies in NOLA's understanding of the property industry in particular the tourism property industry in Queensland. This licence would be well-suited to an on-site manager who is required by the body corporate to live on the premises and restricts the licensee to conducting business within the confines of that complex. This type of licence is well-suited for managers in holiday resorts. The letting of lots for holiday purposes is often referred to short term letting. Managers of such complexes often take deposits for advance bookings which can be up to 12 months in advance. The absence of a licence for short term letting would result in an absence of regulatory requirements for trust accounts and would put forward deposits at risk. The educational requirements for a resident letting agent require some adjustment. I will refer to the educational requirements in an addendum to this submission.
- e) **Restricted real estate agent licence - other.** There may be other classes of restricted licence that the chief executive may see fit to issue. These may include such entities as shopping centre management, affordable housing. I will not address these classes of licence in my submission, as I have limited knowledge in this area.

## Employee registration

- a) **Salesperson registration.** This registration certificate would be issued to suitable applicants who wish to work in the sales department of a real estate agency. Appropriate educational qualifications will be required.
- b) **Property management employee registration.** A registration certificate for persons who wish to work in the Property Management department only of a real estate agency or who wish to be employed by a Property Management restricted real estate agency or who wish to work for a resident letting agent.
- At this point it is necessary to elaborate on the latter. When the occupational licence of resident letting agent first came into being a resident letting agents business



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consisted of a small to medium block of individually owned, self catered apartments. The number of units managed range from 12 to 50. Typically a husband and wife team owned and operated such a business. It was deemed more of a lifestyle occupation.

As has been mentioned previously community title scheme residential dwellings have evolved from this style to become gated communities and apartment blocks with anything up to 300+ apartments in the complex.

It is an impossible task to expect a single licensee or a licensed couple to conduct such a business. There is a need for the licensee to employ property management personnel to work in the business. It is an unreasonable requirement that *employees* of a resident letting agent *be* a resident letting agent that has the residential restriction on the licence. Most resident letting agents do not want their staff living with them.

- c) ***Business broking employee registration.*** A business broking real estate agent should be able to employ salespersons who are educationally qualified to conduct the business of a business broker. Currently the only qualification required to work for a business broker is to possess a salesperson's registration certificate. The educational qualifications for this certificate should contain some of the units highlighted in yellow in the addendum.

### Conclusion

Whilst at first glance the addition of extra categories of licensing may seem to be increasing red tape rather than reducing it, I believe the opposite is the case. By continuing the “one size fits all” model in the new Act, real estate professionals and their staff are either inadequately trained for their specialised field or having to obtain educational qualifications in excess of a reasonable requirement to fulfil their roles. I strongly encourage the Government to introduce licence categories specific to job roles, and require educational qualifications that best suit the role.

I strongly urge the Government to make Compulsory Professional Development (CPD) a requirement for licence renewals. NOLA has not recommended this and again has earned the condemnation of most professional organisations in the country. A previous position held by the Office of Fair Trading was that the Government should not regulate to improve a training providers revenue stream. What happened to Professionalism and Consumer Protection?

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## Addendum to submission by Paul Lupi

Below are the packaging rules and the Units of Competency for the **CPP40307 Certificate IV in Property Services (Real Estate)**

I have highlighted those Units of Competency that I believe should be included in the required qualifications.

Units highlighted in **yellow** are suggested units for business broking licences and registration certificates.

Any Unit highlighted in **red** is a **must** for resident letting agents and property management agents. Currently this unit is not in the resident letting agent required educational qualifications.

At a recent OFT information seminar OFT financial compliance staff made particular note of the number of invalid appointments (PAMDA 20a's) they come across. Little wonder, as completion of these is not part of the current required training. However, they do have to learn how to complete a tenancy agreement. Managers in a holiday resort never use tenancy agreements but all must have valid PAMDA 20a's.

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## CPP40307 Certificate IV in Property Services (Real Estate)

### Qualification requirements

<b>Packaging rules</b>	
<p>To achieve recognition at the Certificate IV level, the candidate must demonstrate competency in the five core units, plus nineteen electives (total twenty-four units).</p> <p>At least ten elective units must be selected from property, sales and management, with the remaining elective units chosen from one or more of the following:</p> <ul style="list-style-type: none"><li>• property sales and management</li><li>• specialist</li><li>• common.</li></ul> <p>Up to two of the elective units may be chosen from:</p> <ul style="list-style-type: none"><li>• the Diploma of Property Services (Agency Management)</li><li>• any Certificate IV qualification in CPP07 Property Services Training Package</li><li>• any Certificate IV qualification in BSB07 Business Services or FNS04 Financial Services Training Package, provided that the units do not duplicate units in CPP07 Property Services Training Package.</li></ul> <p>All units must contribute to a valid, industry-supported vocational outcome.</p>	
<b>Core units</b>	
CPPDSM4007A	Identify legal and ethical requirements of property management to complete agency work
CPPDSM4008A	Identify legal and ethical requirements of property sales to complete agency work
CPPDSM4009B	Interpret legislation to complete agency work
CPPDSM4015B	Minimise agency and consumer risk
CPPDSM4080A	Work in the real estate industry
<b>Elective units</b>	
<b>Property sales and management</b>	
CPPDSM3008A	Maintain and protect condition of managed properties
CPPDSM4001A	Act as a buyer's agent
CPPDSM4002A	Apply knowledge of state or territory legislative and regulatory framework to complete agency work

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CPPDSM4003A	Appraise property
CPPDSM4004A	Conduct auction
CPPDSM4005A	Establish and build client–agency relationships
CPPDSM4006A	Establish and manage agency trust accounts
CPPDSM4010A	Lease property
CPPDSM4011A	List property for lease
CPPDSM4012A	List property for sale
CPPDSM4013A	Market property for lease
CPPDSM4014A	Market property for sale
CPPDSM4016A	Monitor and manage lease or tenancy agreement
CPPDSM4017A	Negotiate effectively in property transactions
CPPDSM4018A	Prepare and present property reports
CPPDSM4019A	Prepare for auction and complete sale
CPPDSM4020A	Present at tribunals
CPPDSM4022A	Sell and finalise the sale of property by private treaty
CPPDSM4046A	Manage tenancy disputes
CPPDSM4049A	Implement maintenance plan for managed properties
<b>Specialist</b>	
CPPDSM3017A	Work in the strata/community management sector
CPPDSM4021A	Sell and finalise sale of rural property by private treaty
CPPDSM4023A	Act as a tenant’s agent
CPPDSM4029A	Appraise business
CPPDSM4030A	Appraise rural property
CPPDSM4033A	Assess and value goods, chattels, plant and equipment
CPPDSM4034A	Assess and implement strata/community management agreement
CPPDSM4036A	Broker sale of industrial, commercial and retail property
CPPDSM4038A	Conduct goods, chattels or equipment clearing sale or auction
CPPDSM4040A	Contribute to life cycle maintenance strategy
CPPDSM4041A	Contribute to development of a tenancy mix strategy

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CPPDSM4043A	Coordinate fit-out of property and facilities
CPPDSM4050A	Lease industrial, commercial and retail property
CPPDSM4051A	Lease rural property
<b>CPPDSM4053A</b>	<b>List business for sale</b>
CPPDSM4058A	Monitor service requirements in the property industry
CPPDSM4059A	Monitor space use in the property industry
CPPDSM4060A	Negotiate sale and manage sale to completion or settlement
CPPDSM4061A	Obtain prospects for listing
<b>CPPDSM4062A</b>	<b>Occupy space</b>
<b>CPPDSM4069A</b>	<b>Promote and market listed business</b>
CPPDSM4074A	Select and appoint contractors in the property industry
CPPDSM4078A	Sell rural property by tender
<b>CPPDSM4079A</b>	<b>Work in the business broking sector</b>
Common	
BSBCMM401A	Make a presentation
BSBHRM402A	Recruit, select and induct staff
BSBITS401A	Maintain business technology
BSBLED401A	Develop teams and individuals
BSBRKG304B	Maintain business records
BSBSMB404A	Undertake small business planning
BSBSMB406A	Manage small business finances
BSBWOR402A	Promote team effectiveness
CPPDSM4045A	Facilitate meetings in the property industry
CPPDSM4056A	Manage conflict and disputes in the property industry
CPPDSM4057A	Monitor a safe workplace in the property industry