



14th September 2010
And reissued on 20th July 2011

Fair Trading Policy

agentsbills@deedi.qld.gov.au

Dear Sirs

Real Estate Excellence Academy welcomes the requested opportunity to contribute this submission and feedback to the Office of Fair Trading to assist the Department in examining ways to improve Fair Trading policy, and review current laws and services. Further consultations on matters that affect the Real Estate Industry are also welcomed for Real Estate Excellence to be part of.

Real Estate Excellence has a Queensland membership base of over 1000 Real Estate Agents (including Property Managers and Salespeople) and a subscriber client base of over 3000 Real Estate Agents. Regular education and training events are held throughout Queensland as part of the many industry services provided by Real Estate Excellence. Members, Industry and Clients were requested to contribute to this submission; their collective feedback has been collated to form part of this submission. The views of Real Estate Excellence are also expressed in this submission.

It is with great pleasure the Real Estate Industry receives the news that the Queensland Government are going to take the very welcome step of separating the *Property Agents and Motor Dealers Act*. It is also welcome news that the Government are taking the approach of making the significant change in line with National Real Estate Licensing regime which is expected to take effect in 2012. The consideration to the impact of these significant changes to the Real Estate Industry are appreciated and acknowledged.

The Draft Property Agents Bill 2010 appears to have been literally taken from the current Property Agents and Motor Dealers Act with the major changes being the title and the trust account regulations being placed into another Act called the Agents Financial Administration Bill 2010 and some other minor changes. Given the significant of the change of introducing a new Act, it would be an opportune time for the Government to review other issues currently contained in the PAMD Act as addressed below;

- Given that one of the main complaints Fair Trading receives in its portfolio is in relation to property management activities (lessor and agent allegations and disputes); it is an Real Estate Excellence Academy provides General Real Estate Agency Best Practice services and advice. www.realestateexcellence.com.au

opportune time for Government to review certain issues and practices relating to property management.

- Another matter that is encouraged to be considered and addressed is the property management qualification. Now, as has been for many years, the current PAMD regulations provides for the national learning outcomes to be studied in order to achieve the qualification. The major concern this industry has, especially since changes were made December 2008/January 2009 in relation to subjects studied, is the fact that a conservative estimate of today's learning outcomes allow for less than 10% property management education. This is a major concern for consumers, industry and government. Currently students of Real Estate do not see the Appointment of Agent Form 20a during a registration course, which is most alarming that the most critical document for a consumer and the industry is not addressed during the minimum industry qualification study period. Of course this may well also fit under the big picture of national real estate licensing and also the fact that the future regulations are yet to be seen in draft form, this issue may well be being addressed. It could also be said that it would helpful to include definitions or examples under the definition property agent's salesperson of other recognised professional activities in the Real Estate Industry, namely business brokerage, commercial sales and leasing and residential property management.
- It is also recommended that the historical industry issue and lack of statute provision for sole or exclusive property management appointments be addressed. Currently the industry deal with the issue through contractual law (dependant on schedules and attachments annexed to the PAMD Form 20a) which must be said is not commonly understood by consumers (lessors in Queensland) and causes utmost confusion and unnecessary dispute. Draft section 77 of the Property Agents Act 2010 makes provision (as is currently in the PAMD Act) for residential sales Sole and Exclusive Agency listings (current section 135 PAMD Act). Please note that section 77 (3) (a) appears to have a typographical error – it states resident as opposed to residential.
- It is noted that the current Real Estate Salesperson's title is proposed to change to Property Agent Salesperson and the Real Estate Licence changed to Property Agent Licence. This is welcomed however again the Government is encouraged to provide for further definition and or examples in the legislation to be clear and certain to industry and to consumers about specific industry career paths and professions.
- It is also noted that the future Code of Conduct draft regulations for agent, letting agent and auctioneer are also not yet available for viewing and therefore of course are unable to be commented on. The release of these will be eagerly awaited.
- It is noted that the current provision of approved forms of appointment appear to remain through section 74 and 75 of the Property Agents Bill 2010. It is recommended that Government consider deregulating the Forms of Appointment and make way for mandatory prescribed information to allow for more user and consumer friendly documentation. The current forms are confusing for most including consumers and difficult to use and understand. Mandating required prescribed information would surely have a three way win; Queensland Real Estate Consumers, Government and the Real Estate Industry.
- Given the amount of almost arguable onerous legislation and compliance matters that are imposed on today's Real Estate Industry and Real Estate Small Business, from the PAMD Act

(which will be replaced with the Property Agents Act), RTRA Act, Building Act, Smoke Alarms, Safety Switches and Sustainability to name just a few significant day to day issues faced; it is recommended that the Trust Account requirements remain as part of the Act. The re education process would be extreme for one, but secondly and more importantly, the practicality of day to day agency practice would be more favourable if the trust account provisions remained with the licensing provisions. The alternative, and what government are proposing, is again, another separate piece of legislation that does not have to be separated given the ties with real estate licensing provisions that will remain.

Real Estate Excellence will continue to assist the Industry in the required education, best practice and compliance issues relating to current PAMD Act (including welcome Chapter 11 amendments to take effect October 1 2010) and the progress into the Property Agents Act with the hopeful amalgamation of the Trust Account provisions back into the licensing legislation.

Thank you for the opportunity to provide this submission on behalf of Real Estate Excellence Members, Clients and the Real Estate Industry. If the Department have any further questions or require any further assistance, please contact the writer of this submission as per details provided below.

Yours faithfully

Stacey Holt

Director, Real Estate Excellence Academy Pty Ltd trading as Stacey Holt Real Estate Excellence

Sent via email - stacey.holt@realestateexcellence.com.au

0423 018 539