



REI ACT

REAL ESTATE INSTITUTE
OF THE AUSTRALIAN CAPITAL TERRITORY

March 2017

Attorneys behaving badly

Tips for agents
when receiving
instructions from
third parties
and Enduring
Powers of Attorney

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FROM THE *President*

Hello everyone, What a year that was!!!

Will 2017 be any different? We don't think so. This year will have strong housing demands whether it is selling or renting. It will also be a year where we will need to be mindful of changes being mooted around the Residential Tenancy Act. It will be important to ensure these possible changes do not adversely impact on our property managers and their landlords.

Demand for new and established housing is exacerbated by the lack of suitable land for detached housing. Allhomes indicate some 2700 properties are available for sale however, in the main these are apartments and town houses. Whilst there will be quite a few Mr Fluffy blocks available it is not enough to satisfy demand.

Land released in Moncrieff, Throsby and Taylor coupled with areas outside the ACT such as Googong will all take some time to be ready to build on.

All this means is that our limited housing stock is going to sell faster and that auctions will be the order of the day.

I noticed our office issued the vacancy rate for the December Quarter being a low 2.2%. This means we will find increases in rental properties as there are less than 2000 properties available to rent. This is not a healthy sign as many disadvantaged people are going to find it difficult to secure reasonable accommodation.

On a bright note, (no pun intended) Craig Bright has replaced the hard working Stan Platis on the National Board of REIA. Stan has served on this Board for 12 years as our Director and now Craig will carry the flag promoting our views on policy direction for the entire real estate industry. We wish Craig well and we are grateful for the contribution made by Stan.



THIS YEAR WILL HAVE STRONG HOUSING DEMANDS WHETHER IT IS SELLING OR RENTING

Michelle Tynan has been Ron's deputy for the past 3 ½ years and will assume the role of General Manager from 1 April. We are very confident our Institute will continue to grow with Michelle at the helm providing more services and products for our members.

***Frank Pompeani* REIACT President**

At the end of this month our CEO Ron Bell is going to retire after 4 years dedicated to lifting the professionalism of all engaged in real estate and creating relevance when dealing with our government and the various agencies. Our membership has increased and our focus to serve our membership has been strengthened through a range of new initiatives. On behalf of the REIACT Board and I'm sure our many members we wish Ron all the best in his well earned retirement.

FROM THE *CEO*

Hello,

After four years I have decided it's time to step down and try to steel myself for retirement.

I am so pleased that the Board of REIACT has appointed Michelle Tynan as your General Manager effective 1 April. Michelle has been my trusted deputy for 3 ½ years and together we have achieved, in my view, a great deal for the Institute and its members.

The responsibilities we have adopted cover many aspects of our industry.

In dealing with our government and their various agencies we had to be relevant to the industry we represent and have the ability to work through any change that was going to affect our industry.

WE HAVE THE ABILITY TO WORK THROUGH ANY CHANGE

So far we have worked with senior compliance officers regarding underquoting and auction procedure, made suggestions on real estate sign policy, worked with Justice and Community Safety, made submissions on the Residential Tenancy Act, produced brochures on discrimination with the Human Rights Commission, worked closely with ACT Housing including the NDIS and the Migrant and Refugee Settlement Service.

Everything we have done had the objective of lifting the professionalism of those who work in this fantastic industry.

On a lighter side, the Awards for Excellence attracts more quality entries and gets stronger each year as does the Auctioneering Championships. Our first Women in Real Estate luncheon was a sell out and was held 1 March at the Glasshouse in Pialligo. This is a major event with REI Super and our Principal Corporate Partner Allhomes.

Following our governments bold and courageous decision to demolish 1000 Mr Fluffy homes, I was appointed to the Community Expert Reference Group to assist those elderly home owners who were going to have difficulty in finding a new home. It has truly been a privilege to serve on this body with many talented and special people.

At REIACT there is still a lot to achieve and there are many changes coming, some through our National office and through technology. I leave knowing that REIACT now represents most of the Canberra agencies and certainly most of the agents and property managers. The past 4 years have been interesting and enjoyable, essentially because of my Presidents and Board Directors, I thank them for their confidence and friendship.

Cheers.

Ron Bell



Political contact

Due to the change of CEO's, meetings have been held with Chief Minister Andrew Barr, Attorney General Gordon Ramsey, Housing Minister Yvette Berry and Planning Minister Mick Gentlemen.

Meetings were also held with the Deputy Opposition Leader Nicole Lawder and Shadow Housing Minister Mark Parton.

Western Australia Premier Promise

Premier Barnett said if his government is re-elected he will cut stamp duty by up to \$15,000 for seniors wishing to downsize.

The discount will apply to new and established homes and will affect more than 4000 eligible seniors aged over 65 years. Eligible seniors will pay no stamp duty on property worth up to \$440,000, and the tax will be roughly halved on a property worth \$750,000. The initiative, which will be introduced for two years from the start of 2018, will include a requirement for the senior to sell their existing home.

The policy will also give a concession of up to \$10,000 for vacant blocks.

The CEO has raised this initiative with the Chief Minister Andrew Barr.

NEWS *in brief*

Agents (Unclaimed Trust Money)

REIACT is attempting to get clarification on a new change to section 123 of the Agents Act and met with the Delegate of the Commissioner for Fair Trading M/s Wendy Harrison.

On reading the Notice dated 23 January 2017, it seems to indicate that any unclaimed money held for longer than 90 days is to be sent to the Public Trustee.

If this applies to all money held, we will oppose this change as there could be very valid reasons when the money is held for a longer period than 90 days.

Did You Know?

A report released by Choice confirms that Australia's tenancy laws have not kept pace with the new reality that more people are renting and that they are renting for longer periods.

Since 1995, the proportion of Australian households renting from a private landlord has increased from 20 percent to 26 percent. The report shows that 83 percent of renters have no fixed term lease or are on a 12 month lease or less.

REIACT says, this is hardly surprising and will worsen when initiatives like the NDIS really gets going.

Independent living is and will continue to be a very important issue for a long time and security of tenure will be a key element.

Icon Water — New Charges to Commercial Development.

Icon Water seeks to impose a new charge on all developments — from dual occupancies, to offices, shops, hotels and apartment buildings to raise about \$90 million in order to pay for upgrades over 20 years. Icon will pay the same, for a total of about \$180 million.

The charge would apply to only four areas being Belconnen, Woden, Fyshwick and north Canberra.

The inner south, Tuggeranong, Weston Creek, the Molonglo Valley and most of Gungahlin are exempt because no population related upgrades are needed in those areas.

Development will be most expensive in Woden, at a proposed \$3,000 for each extra person.

Icon says the charge will "increase clarity and fairness" and bring Canberra into line with other areas.

CEO Ron Bell and Board Director Andrew Stewart met with Icons CEO to discuss and understand the impacts that will affect landlords and property managers. Most importantly is the impact on housing affordability and charges such as the \$3000 proposed is clearly not in the interest of government or our industry.

REIACT does not support the augmentation charges in the form as suggested by Icon.

REIACT has joined with other Peak industry bodies to make a submission opposing the charges. These include the Master Builders Association, Canberra Business Chamber, Property Council of Australia, Community Housing Canberra and the ACT Council of Social Services.

Our submission seeks greater consultation on how to properly treat capital contributions.

Warning — Use of Pesticides

We are advised that a number of carpet cleaning companies are also undertaking to carry out "Flea" control. Perhaps at the end of a lease.

The use of pesticides in the ACT is supposed to be strictly controlled.

Property Managers should ensure that contractors are suitably qualified.

welcome NEW MEMBERS



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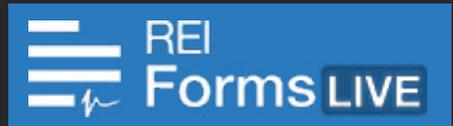
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NEW REI ACT AND REINSW *member benefit*



REI ACT and REINSW members can now benefit from a new agreement which will allow them to share access on REI Forms Live.

Following a reciprocal arrangement, REI ACT and REINSW full firm agency members will be able to access both ACT and NSW online agreements and forms.

The deal will also save members money with no need to sign up to gain the additional benefit. The charge to access REI Forms Live will be on a 'pay per form' or 'subscription' basis.

This will help members whose agency falls on the borders of NSW and ACT when forms from both states are needed.

REI FORMS LIVE HITS 11 MILLION

REI Forms Live recently celebrated a milestone when its 11 millionth form was produced.

Over the past six years it has seen a steady increase across Australia.

REI Forms Live integrates with most CRMs and the major property management systems which saves time, money, duplication and mistakes. It is also interactive, user-friendly, and always available.

For more information please contact admin@reiact.com.au

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Our commitment to your customers...

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Talk to us today

Contact your BDM or Lender

ACT SHINES AT REIA 2017

National Awards for Excellence

The Real Estate Institute of Australia recognised the profession's most outstanding performers at the 12th Annual REIA National Awards for Excellence last night at the Hyatt Hotel Canberra.

REIA President Malcolm Gunning said more than 250 real estate professionals came together to celebrate winners across sixteen categories.

"To be presented with an REIA National Award for Excellence is the highest honour in Australian real estate," Mr Gunning said.

"Competition was fierce across all award categories and shows the strength and talent of our great industry.

"Our hosts for the evening REIACT performed exceptionally well on the evening taking out four categories including Medium Residential Agency of the Year, awarded to Ray White Belconnen, while Independent Property Group celebrated with three awards, including Residential Property Manager of the Year, Renee Bink, Corporate Support Person of the Year, Sofia Ligeros and the Achievement Award went to Stephanie Graham.

"South Australian agency Toop&Toop had a stellar night winning Large Residential Agency of the Year as well as the Innovation Award and Communication Award which entitles Toop&Toop to be inducted into the REIA Hall of Fame in 2018 as the winner of the Communications category in 2015, 2016 and now 2017.



REIA National Awards Chair Stan Platis

"Buyer's Agent of the Year, Kent Cliffe of Momentum Wealth Property in Western Australia will also be inducted into the REIA Hall of Fame next year, having won this category in 2015, 2016 and now 2017. CBRE Victoria was inducted into REIA Hall of Fame this year for Commercial Agency of the Year having won the category in 2014, 2015 and 2016.

"Commercial Agency of the Year went to CBRE NSW and Commercial Salesperson of the Year to Michael Crombie of Colliers International NSW.

"Residential Salesperson of the Year was awarded to Natalie Downton of Downton Property Hobart and represents the first time a Tasmanian has taken home the award in this category," Mr Gunning said.

Mr Gunning presented the prestigious President's Award for 2017, recognising significant contribution made by an individual to the real estate profession, to REIA immediate past President Neville Sanders, Victorian Manager of Whittles Australia.

"A member of the Real Estate Institute of Victoria (REIV) since 1971 and joining the REIV Board in 2006 Neville was REIV President in 2013 and 2014 before being elevated to REIA President in 2015 and 2016. With more than 50 years experience in the industry he has most recently focused on owners corporations and is well deserving of this accolade," Mr Gunning said.

ACT NATIONAL *Award Winners*



Medium Residential Agency of the Year —
sponsored by RealestateVIEW
Ray White Belconnen — ACT



Residential Property Manager of the Year —
sponsored by Terri Sheer
Renee Bink
Independent Property Group — ACT



Achievement Award —
sponsored by RealestateVIEW
Stephanie Graham
Independent Property Group — ACT



Corporate Support Person of the Year —
sponsored by Coverforce Insurance Broking
Sofia Ligeros
Independent Property Group — ACT

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Michelle Winckle, REI Super participating employer

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WIRE

women in real estate



The REI ACT held its inaugural Women in Real Estate, proudly sponsored by REI Super and our Corporate Partner Allhomes, at the beautiful Pialligo Glass House on 1st March 2017.

MC Alex Sloan welcomed the ninety eight guests who enjoyed the opportunity to listen to influential and accomplished guest speakers Dr Nicola Powell — Data Scientist for Domain Group, Beth Stratfold – REI Super Board Member, Leanne Pilkington — Managing Director Laing & Simmons, and Melina Cruickshank — Chief Editorial & Marketing Officer, Domain Group share their experiences. The Q&A panel proved the most popular session of the day with all our guest speakers being able to offer practical and useful advice for all of our amazing women in real estate. A special thanks to Mercedes Benz Canberra and the Pialligo Estate for the fabulous lucky door prizes.



allhomes

REISuper

UNDERQUOTING AND AUCTION PROCEDURE FORUM

draws attention

This important REIACT Forum attracted almost 150 agents and their Principals.

CEO Ron Bell arranged the Forum and included Ed Stachow, Senior Inspector Compliance for Access Canberra, Rosalie Douglas, Principal, Real Mastery Consulting, and Peter Walker the 2016 ACT Auctioneer of the Year to explain the serious issue of underquoting and the necessary procedure for conducting an auction.



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INSTANT APPROVAL



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Property manager receives the full bond and \$52.00 (2%) commission the same day.

Potential revenue opportunity

10 x properties per week = \$520.00

52 weeks per year =

\$27,040.00 per year!

ATTORNEYS BEHAVING BADLY: *tips for agents when receiving instructions from third parties and enduring powers of attorney*



Ellen Bradley
Associate
BAL Lawyers

It is not uncommon for real estate agents to be approached by someone acting under a Power of Attorney on behalf of a registered proprietor.

Where a registered proprietor has appointed an attorney under an Enduring Power of Attorney, it is important that the agent make some enquiries to ensure that person has the legal authority to provide instructions.

We are living in an ageing population. It is fast becoming a luxury to remain in the family home until death. There is an increasing need for people to move into residential aged care facilities, where a standard method of payment is by way of a 'Refundable Accommodation Deposit' (RAD). A RAD is a lump sum payment that operates like a loan in favour of the particular aged care facility. The balance of the RAD is then refunded to the estate of the resident on their death.

For many elderly people, it is not financially viable to fund a RAD without selling their main residence.

To complicate matters, once an incoming resident elects to pay a RAD, they generally only have a period of six months to come up with the money. This increases the pressure on sellers, agents and conveyancers to efficiently bring about exchange and settlement of the property.

An Enduring Power of Attorney is a legal document under which a principal appoints an attorney (or attorneys) to make decisions on their behalf. The document is 'enduring' in that it continues to operate even if the principal loses decision-making capacity. In the Australian Capital Territory, an Enduring Power of Attorney typically gives an attorney broad decision-making powers, including in relation to the property and financial affairs of the principal. It is possible for a person to have a valid Enduring Power of Attorney that grants no powers in relation to property. If an attorney does have powers in relation to a principal's property matters, these powers may be of immediate effect, or, more often, the use of the powers is conditional on the principal having lost capacity.

The first thing a real estate agent should do when approached by an attorney is request a certified copy of the Enduring Power of Attorney. The agent should then review the document and consider the following issues:

- 1. Is the person giving the instructions actually appointed as an attorney?;**
- 2. Is the attorney granted powers over property matters?; and**
- 3. When does the attorney's power come into effect?**

If the power is expressed to be conditional on the loss of capacity, the agent should go on to request some type of supporting evidence. Generally, a letter from the principal's General Practitioner, treating Geriatrician, or other specialist is sufficient in this regard.

Real estate agents should also be aware that where an attorney intends to act on behalf of a person who is entering into contracts for the sale, purchase or

leasing of land, the Enduring Power of Attorney must be registered at the ACT Land Titles Office.

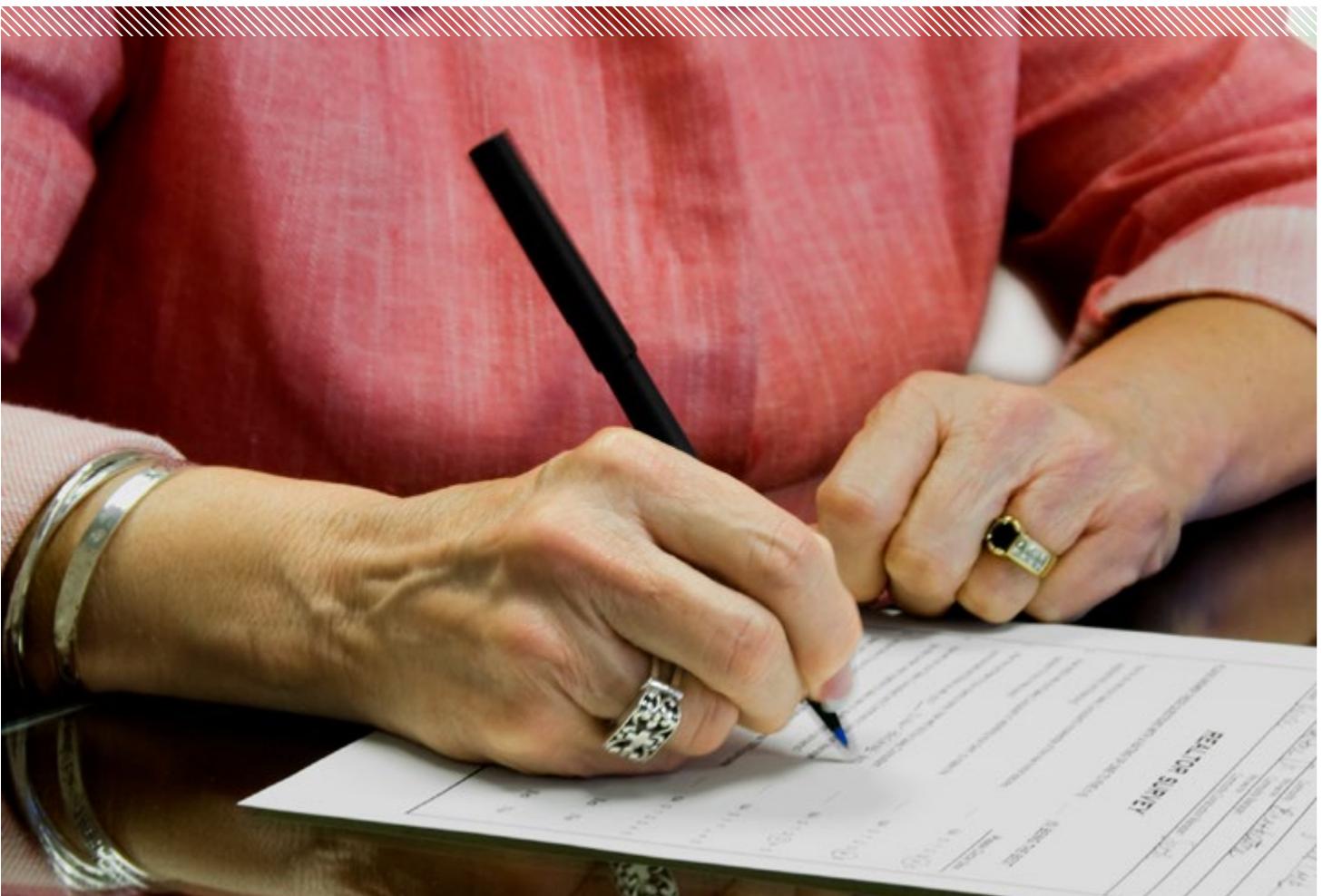
All Enduring Powers of Attorney must be witnessed by a qualified witness. If you are unsure about any of the issues discussed in this article, or if you would merely like some peace of mind, it is a good idea to contact the person who witnessed the document. Often this will be the solicitor who drafted the document, and who has acted for the client previously in relation to their estate planning arrangements. It was only last week that we had a telephone call from a concerned real estate agent:

"Joe Bloggs has turned up at our office waving a document and telling us to sell his mother's house, including its contents".

A significant percentage of elder abuse is committed by attorneys (frequently adult children) appointed under an Enduring Power of Attorney. Aside from superannuation, the family home is often a person's most valuable asset. Both of these facts highlight the importance of communication between real estate agents and solicitors, and the value in adopting a collaborative approach. As the saying goes, it is better to be safe than sorry. There are a few simple steps real estate agents can take when instructed by attorneys to protect not only themselves, but ultimately the interests of the vulnerable property-owner.

The Estates & Business Succession Team of BAL Lawyers, a Corporate Partner of REIACT, can assist agents and agencies in reviewing Powers of Attorney. Please give us a call to discuss.

ASIDE FROM
SUPERANNUATION,
THE FAMILY
HOME IS OFTEN A
PERSON'S MOST
VALUABLE ASSET.



**BAL LAWYERS
ARE PROUD TO BE A
CORPORATE PARTNER
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SIMPLE WILLS, POWERS OF ATTORNEY &
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I'VE GOT A DATABASE, *but I'm not sure I'm getting the most out of it?*

I hear a lot about how important the database is to an agent, and how I should be getting so much from it, but I'm not really sure if I'm getting the most out of it. How do I maintain my database and then use it properly?

You're absolutely right to be focusing your attention on your database.

It is probably the most important tool an agent has at their disposal and used correctly it can yield hot leads time after time. However, like all good tools, it needs to be maintained and operated according to the manufacturer's instructions or it will be more useless than the blown glass paperweight your aunt got you from Prague. At least that will hold the paper in place on your desk!

A well-organised database actually increases in value as time goes on (provided you regularly update it and maintain the hygiene of the data!).

IT'S PROBABLY THE MOST IMPORTANT TOOL AN AGENT HAS AT THEIR DISPOSAL.

A few key tips to maintaining your database:

Put a system or a process in place:

This is crucial. Every time you come into contact with someone who could be a potential buyer or seller have a process in place that captures their details and adds them to the database.

Permission-based marketing:

Equally as important as having a process in place to add people to your database is ensuring it is a permission-based process. It is important that people agree in writing to be included in your database. This is as simple as a checkbox in any online or paper transactions and it does not need to be a convoluted process. People are familiar with being on databases and have an understanding of what it entails.

Privacy Policy and Privacy Laws:

Have a privacy policy that is readily available. Again, this is as simple as a page on your website and a checkbox-step which when ticked is an acknowledgement by relevant individuals that they agree to the privacy policy. The privacy policy should be reviewed and approved by a lawyer or a privacy law specialist who can tell you if your privacy policy complies with Privacy Act 1988, the Australian Privacy Principles and other relevant legislation.

Don't add and ignore!

Maintaining a database doesn't need to be time consuming. There are many software programs now that will automate much of the process. However, you do need to set these up. You need to make sure that you are in regular contact with everyone on your database so that they remember you and also so that they don't unsubscribe the first time they hear from you in six months.

Useful and entertaining:

Ensure that the information you provide is interesting! The fastest way to see your unsubscribes climbing is to provide boring, spammy emails. It may be worthwhile to consider professional advice in terms of the material you are forwarding. There are plenty of former journalists who are now content marketers or content writers.

Simple opt out:

Make it easy to opt out. This is not just you being a good guy. It is the law. The opt out option must be visible, either down the bottom or up the top and it must be a simple process to be removed.

Hygiene issues:

Your database is useless if the contact details are wrong. Regularly check that contact details are up to date, including phone numbers and any other email addresses.

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REAL ESTATE AGENTS AND *the tax agent services act 2009*

Foreign resident capital gains withholding and the tax agent services regime

As a real estate agent, you may be aware that new rules apply to vendors disposing of certain taxable Australian property under contracts entered into from 1 July 2016.

You could be impacted by the Tax Agent Services Act 2009 (TASA) if your clients are affected by these new rules.

This means you may need to:

1. make it clear to your client that you are the transmitter of data to the ATO and not the provider of a tax agent service, or
2. be registered with the Tax Practitioners Board (TPB) if you are assisting your clients to meet their obligations under the foreign resident capital gains withholding measures.

Changes to foreign resident capital gains withholding

What does this mean for real estate agents?

Clearance certificate,
Variation application and
Purchaser payment notification

Summary of the requirements under the TASA and options available to real estate agents

Changes to foreign resident capital gains withholding

Australian resident vendors selling real property with a market value of \$2 million or more, will need to obtain a clearance certificate from the Australian Taxation Office (ATO) prior to settlement, to ensure that the 10% non-final withholding is not withheld from the purchase price.

Foreign resident vendors may apply for a Variation of the withholding rate in certain circumstances.

Purchasers are then required to pay the amount withheld at settlement to the ATO.

Depending on whether the client is the vendor or purchaser, the following foreign resident capital gains withholding forms may need to be completed and submitted to the ATO:

1. Clearance certificate application
2. Variation application
3. Purchaser payment notification.

The TPB considers there are sections of each of these forms that may involve the provision of a tax agent service. If you complete and submit these forms to the ATO on behalf of a client for a fee or other reward, you may need to be registered with the TPB.

What does this mean for real estate agents?

Before assisting clients to meet the requirements of the foreign resident capital gains withholding regime, all real estate agents who are not registered with the TPB as tax agents, need to understand what they can or cannot do under the TASA. A summary of what this means for you is contained in the table below.

Clearance certificate, Variation application and Purchaser payment notification

Completing and submitting a clearance certificate or variation application on behalf a client for a fee or reward may constitute a tax agent service which can only be done by a registered tax agent or an Australian legal practitioner.

Completing the Purchaser payment notification form on behalf of clients for a fee or reward may also constitute a tax agent service and can only be done by a registered tax agent, Australian legal practitioner or a conveyancer.

If your client asks you to complete and submit these forms to the ATO and you are not a registered tax agent or Australian legal practitioner (or, until 31 December 2017, a conveyancer in relation to the Purchaser payment notification), you need to make it clear to your client that you are the transmitter of data to the ATO and not the provider of a tax agent service.

¹ The requirement to be registered with the TPB will depend on whether you are providing a tax agent service for a fee or other reward.

Furthermore, you should advise that you can assist your clients with data entry only and you can undertake the following steps for them:

- provide the client with a hard copy of the relevant form for them to complete (you cannot assist the client to complete the form)
- enter client-provided information from the hard copy form into the ATO's online environment (for example, data entry)
- transmit the information you have entered into the ATO's online environment.

Importantly, to provide the above assistance, you need to have appropriate procedures/processes in place to ensure that you are not regarded as providing a tax agent service. Such procedures/processes should include, amongst others:

- you retaining, and providing to the client, a hard copy of the client signed form and evidence of the transmission to the ATO, or
- providing a mechanism for your client to review the data about to be transmitted and to verify the correctness and appropriateness of that data for transmission (you will need to retain evidence of this verification).

Further, you should have an appropriately worded declaration to make it clear to your clients that you are not a registered tax agent or Australian legal practitioner (or, until 31 December 2017, a conveyancer in relation to the Purchaser payment notification) and if the client is seeking tax related advice to rely on in order to meet their tax obligations, they should seek advice from a registered tax agent or Australian legal practitioner (or, until 31 December 2017, a conveyancer in relation to the Purchaser payment notification).

Ultimately, your clients need to be aware that you are simply the transmitter of data to the ATO and not the provider of a tax agent service.

Summary of the requirements under the TASA and options available to real estate agents:

Real estate agent completes and submits form on behalf of client for a fee	Requirement to be registered with the TPB?	Options available to real estate agents
Clearance certificate application	Yes	<ul style="list-style-type: none"> • Perform a data entry service only.[^] • Seek registration with the TPB as a tax agent. • Refer clients to a registered tax agent. • Refer clients to a legal practitioner, who can undertake this work if it is part of a legal service. • Decline to undertake this part of the work
Variation application	Yes	<ul style="list-style-type: none"> • Perform a data entry service only.[^] • Seek registration with the TPB as a tax agent. • Refer clients to a registered tax agent. • Refer clients to a legal practitioner, who can undertake this work if it is part of a legal service. • Decline to undertake this part of the work
Purchaser payment notification* <small>* This refers to the form on the ATO's website as at 17 August 2016</small>	Yes	<ul style="list-style-type: none"> • Perform a data entry service only.[^] • Seek registration with the TPB as a tax agent. • Refer clients to a registered tax agent. • Refer clients to a legal practitioner, who can undertake this work if it is part of a legal service • Refer clients to a conveyancer (up until 31 December 2017) • Decline to undertake this part of the work

[^] For more information refer to information under the heading 'Clearance certificate and Variation application'

For further information, visit the TPB website.

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travelling costs and the **NEW WITHHOLDING TAX ON PROPERTY PURCHASE**

Investors who buy and sell properties from you are more often than not highly sensitive to the operation of the tax law in relation to their properties because tax has a direct impact on their return on investment. Understanding how the tax rules apply to your clients may give you some insight into what motivates their behaviour, which could very well help you push a property sale across the line.

Below are two common tax issues that are often encountered by property investors.

Travelling costs

The general legal principle that allows a property investor to claim a tax deduction is that the relevant cost must be incurred in the course of them producing their assessable income to the extent that the cost is not capital, private, or domestic in nature. In other words, any non-capital and non-private cost they incur that is related to them deriving rental income from their investment property will generally be tax-deductible if they can establish a direct nexus between the cost and them earning the rental income.

The same principle applies to travelling costs they incur that are related to their investment property.

The key question you need to ask is — *Is there a direct nexus between the travelling costs and the property investor earning income from their investment property?*

As simple as this question may appear, it is not always easy to determine if travelling costs incurred are directly related to the derivation of income from a rental property and that the costs are not treated as private or domestic expenditure.

Perhaps the most salient point regarding this question is whether the travelling costs are incurred at the time when the property investor is in the course of earning rental income. In that regard, it is generally accepted that once an investment property is available for rent, as distinct from it actually being rented out, the investor is taken to be in the course of deriving rental income.

What this practically means is that if a property investor incurs travelling costs at the time when their property is available for rent, which may be evidenced by their property manager having listed the property to procure tenants from the public at large, the travelling costs should be tax deductible. The same applies if they incur travelling costs to maintain the property (eg, cleaning, gardening, repairing) while it is available for rent or actually being rented.

Travelling costs incurred will also be tax-deductible if they are attributable to a period during which the property was rented out to tenants, even after the tenancy has ended, including the investor travelling to the property to:

- Fix up the property in-between tenants;
- Inspect the property at the end of a tenancy; and
- Undertake repair work on the property due to wear and tear caused by tenants while the property was rented out.

However, applying the same principles, travelling costs will not generally be tax-deductible if the costs are incurred by the investor to:

- Inspect the property before they have actually bought the property;
- Negotiate with a seller in the course of them buying the property; and
- Inspect the property or travel to the property to ready it for rent but before the property has become available for rent.

Importantly, the above applies regardless of where the property is physically located.

Eddie Chung
Partner, BDO



IS THERE A DIRECT NEXUS BETWEEN THE TRAVELLING COSTS AND THE PROPERTY INVESTOR EARNING INCOME FROM THEIR INVESTMENT PROPERTY?

Having said that, if the property is located far away from where the investor lives and they have to undertake extensive travel to get to the property (eg, travel interstate or overseas), they will be required to substantiate the travelling costs in addition to keeping the normal documentary evidence to substantiate the costs (eg, invoice for airfare, receipts for fuel purchased from a service station, etc).

If the trip requires the investor to travel away from home for more than six nights or more in a row or to a location outside of Australia, they are required to keep a detailed log book of their trip to substantiate the purpose of the trip. To that end, if they undertake the trip for multiple purposes, eg, they use part of the trip to inspect their investment property and have a holiday, then they will need to apportion the travelling costs on a reasonable basis to only claim the portion of the costs that relate to their investment property.

For completeness, tax-deductible travelling costs are not limited to trips to and from the investment property. Travelling costs associated with the investor collecting rent from, say, their property manager and meeting with their accountant to discuss their tax affairs will also be deductible, subject to them satisfying the substantiation rules, if relevant, as detailed above.

New withholding tax on property sales and purchases

From 1 July 2016, new tax rules will apply to any real property contract entered into on or after that date where the market value of the property is \$2 million or more. In normal circumstances where the seller and buyer have negotiated the purchase price on an arm's length basis, the purchase price will be accepted as the market value of the property.

How are buyers affected?

The new rules will require a buyer to withhold 10% of the purchase price of real property valued at \$2 million or more and pay that amount to the Australian Taxation Office (ATO) upon settlement unless the seller provides a 'Clearance Certificate' to the buyer on or before settlement. Upon receipt of a Clearance Certificate, the buyer's obligation to withhold will be discharged.

Without a Clearance Certificate, the buyer's statutory obligation to withhold will apply regardless of whether the seller is a resident or non-resident of Australia for taxation purposes. This is an important point to note because many people think that the new rules are targeted at collecting tax from foreigners who own properties in Australia. In contrast, the rules apply to everyone, regardless of their tax residency status in Australia.

On the other hand, if the seller provides a 'Rate Variation' to the buyer before settlement, the buyer will still have an obligation to withhold but the amount to withhold will be based on a lesser (ie, less than 10%) withholding rate as determined by the ATO on the Rate Variation.

If the buyer has failed to withhold the relevant amount at settlement and pay it to the ATO, a penalty for failing to withhold equalling the amount that was required to be withheld may be imposed on the buyer, together with an administrative penalty and general interest charges.

Therefore, there may be potential adverse consequences if the buyer is not aware of these rules and has failed to withhold tax where it is required.

How are sellers affected?

A seller who is selling a property with a purchase price of \$2 million or more under an arm's length transaction may either apply for a Clearance Certificate or Rate Variation from the ATO, which should be provided to the buyer before settlement. Otherwise, the buyer will withhold tax from the sale proceeds at settlement.

The seller may apply for a Clearance Certificate at any time but the certificate will only be valid for 12 months and must still be valid at the time the certificate is provided to the buyer.

The ATO will only issue a Clearance Certificate to a seller who is a resident for Australian tax purposes. Once an application for a Clearance Certificate has been submitted, it will usually take a few days for the ATO to issue the certificate. However, in less straightforward cases, the certificate may take up to 28 days for it to be issued. Complex cases may take even longer.

If the seller is not entitled to a Clearance Certificate but believes that the default 10% withholding rate is inappropriate, the seller may apply for a Rate Variation from the ATO. Provided that the variation is provided to the buyer before settlement, the buyer will be required to withhold tax at the lesser rate on the Rate Variation. The variation will be issued within 28 days in the majority of the cases.

If tax has been withheld from the sale proceeds, the seller may offset the withheld tax against their Australian tax liability on the sale of the property, regardless of whether the sale has given rise to a capital gain or revenue in the hands of the seller.

Therefore, if a seller is not aware of these rules, they could find themselves not receiving the full proceeds on the sale of their property on settlement, which could cause other headaches that could potentially be avoided.

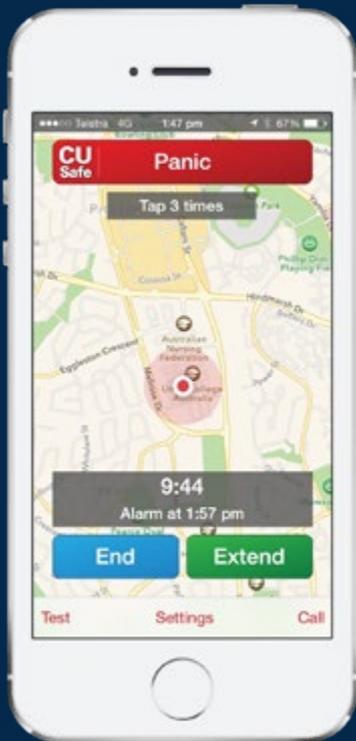
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WHAT YOU NEED TO KNOW *about international lead generation*

Chinese buyers purchased \$24.3 billion of Australian residential real estate last year, nearly double the amount of the year before.

These buyers include many people who are already your neighbours. Chinese are our biggest immigrant group in recent years. The millions who already live in Australia can and do buy existing property, as well as new developments.

If you estimate the average commission at 2%, that means agents earn nearly \$500 million per year in commissions — just from working with Chinese buyers.

But how can property professionals in the ACT tap this fountain of cash?

Two Approaches to International Lead Generation

On a practical level, you have two choices when it comes to international lead generation. The first is to go deep and focus primarily on just one source market of foreign buyers.

Your other option is to go shallow, spreading your international marketing investment thinly across many international markets.

To choose between these two options, simply look at the potential return on investment for each. In Australia, the top foreign buyer source market is China, and Chinese buyers alone account for one out of every four offshore dollars invested in Australian real estate, according to the FIRB.

Chinese buyers invest more in Australian real estate than the next three biggest foreign buyer countries — combined.

That makes it obvious, any dollar invested in marketing to China will work much harder for you than the same dollar would if spent on investing anywhere else. There is a larger number of potential buyers in China than anywhere else in the world, so your marketing investment will reach more of them.

When you go into a listings presentation, what do you want to tell the vendor? That you advertise in the No. 1 foreign buyer market, or that with you they can only get their property marketed in the No. 2 or No. 3 foreign buyer markets? Most people believe Chinese buyers are willing to pay more. Listing with Juwai.com is like taking out insurance on attracting a Chinese buyer. There are no guarantees, but if it's not on Juwai.com — they cannot see you.

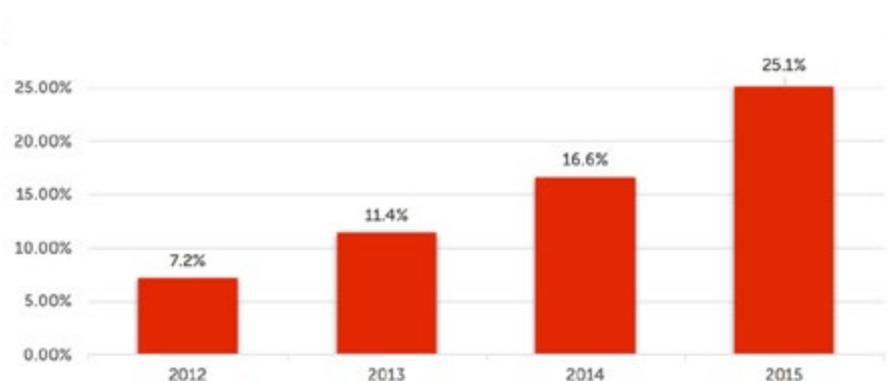
If you had to choose just one country to focus on, I believe the data suggests China is the obvious choice.



NIGEL WILSON

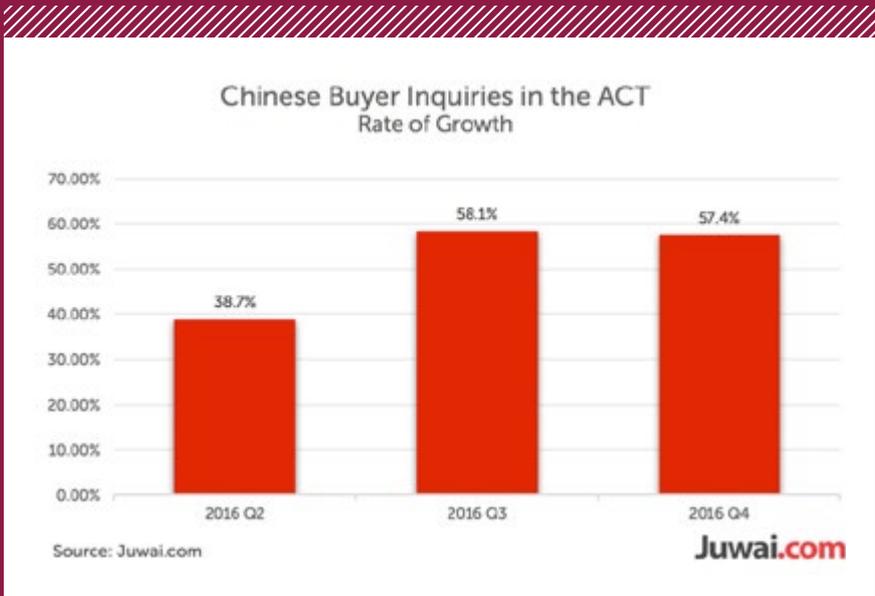
Head of Australia and New Zealand Residential for Juwai.com, the Number One Chinese international property website.

China's Share of Total Foreign Real Estate Investment (Australia)



Source: Juwai.com, Foreign Investment Review Board

Juwai.com



THE NUMBER OF BUYING INQUIRIES MADE BY CHINESE BUYERS ON PROPERTIES IN THE ACT HAS LEPT BY 40%

China's gross domestic product already accounts for 17% of the world economy and continues to grow at 6% per year. Nor is this a temporary blip. Within five years, China is likely to pass the US and become the world's biggest economy. It is already the world's most populous.

Chinese buyers are not going away. Acquisitions to date have only scratched the surface of potential investment from Chinese individuals.

Getting a Return on Your Investment

Our latest data shows that Chinese buyers are turning their attention to Canberra. Over each of the last three quarters, the number of buying inquiries made by Chinese buyers on properties in the ACT has lept by 40% to 50%.

International real estate websites like Juwai.com are the fundamental marketing tool for generating leads from overseas buyers.

By hosting your listings in country, in the native language, and with a website that is locally known and trusted, you obtain a beachhead from which to carry out further marketing efforts.

The reason I hope you will consider Juwai.com is that we offer not just listing and banner advertising, but also free tools to help you stand out at listing presentations. We also provide email marketing blasts, text message marketing (where appropriate), WeChat marketing, public relations in China, advertorials and a team of first responders in Shanghai.



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REIA LAUNCHES COURSE FOR *agents providing financial advice*

The Real Estate Institute of Australia in partnership with the Institute of Public Accountants (IPA) has launched a new training course for real estate agents providing advice regarding property as an investment.

REIA President Malcolm Gunning said the RG146 Advice in Real Estate Course designed by IPA and provided through Mentor Education will allow property investment advisers, mortgage brokers, accountants, real estate agents and property developers to discuss the general drivers and considerations associated with a property investment decisions.

“Offering this course to agents is part of a broader strategy to professionalise the industry and to provide clients the level of advice they desire from agents providing a comprehensive service.

“Upon completion of the course, agents will have satisfactorily fulfilled ASIC’s RG146 requirements and will be able to offer general advice on financial products and services. This will also allow them to provide factual advice on what the products are and what they do,” Mr Gunning said.

Agents undertaking the course will gain a nationally recognised competency to provide factual advice on financial products and services. Factual advice is defined by ASIC as “objectively ascertainable information whose truth or accuracy cannot be reasonably questioned”. This compares to general advice which ASIC defines as “advice prepared without taking into account the client’s objectives, financial situations or needs.

“ASIC have indicated that successful completion of the RG 146 course would allow agents to conduct seminars, presentations, office and sales meetings and to discuss in general terms other such as Self Managed Superannuation Funds.

However, an agent would need to need to be authorised by an Australian Financial Services licensee to provide this advice or alternatively obtain an AFS licence themselves,” Mr Gunning said.

REIA commenced discussions with IPA regarding the establishment of a tailored course for Real Estate professionals in regard to property advice following a Supreme Court of NSW decision in October 2015 against Park Trent Properties Group Pty Ltd regarding advice real estate agents give particularly as it relates to SMSFs.

An outline of the course together with enrolment details can be found at www.publicaccountants.org.au/reia

Members of REI’s that are part of REIA will receive a 10 per cent discount.

The Real Estate Institute of Australia (REIA) is the national professional association for real estate agents in Australia.

For further information or interview opportunities, please contact:

Helen Hull, *Media Consultant*

0419 642 961 or media@reia.com.au

REIACT

training calendar

INTRODUCING THE ACT REAL ESTATE LICENCE COURSE

For Experienced Real Estate Agents

- 21 FEBRUARY 2017 – PROPERTY MANAGEMENT
- 16 MARCH 2017 - SALES
- 4 APRIL 2017 - AUCTIONS
- 12 MAY 2017 – LEGISLATION AND COMPLIANCE
- 8 JUNE 2017 – TRUST ACCOUNTING
- 22 JUNE 2017 - SALES & PROPERTY MANAGEMENT

CERTIFICATE OF REGISTRATION COURSE DATES:

- 21 & 22 FEBRUARY 2017
- 4 & 5 APRIL 2017
- 6 & 7 JUNE 2017

CPD TRAINING COURSES – 4 ACT CPD POINTS or 12 NSW CPD POINTS

- 23 FEBRUARY 2017 - 8-00AM – 12-00PM
STRATA MANAGEMENT TIPS FOR PROPERTY MANAGERS
- 23 FEBRUARY 2017 - 1-00PM – 5-00PM
PROPERTY MANAGEMENT NIGHTMARES AND SOLUTIONS
- 14 MARCH 2017 - 8-00AM – 12-00PM
DEVELOP PEOPLE WITH COACHING AND MENTORING
- 14 MARCH 2017 - 1-00PM - 5-00PM
AGENCY AGREEMENTS
- 6 JUNE 2017 – 8-00AM – 12-00PM
BE A TRIBUNAL CHAMPION
- 6 JUNE 2017 – 1-00PM – 5-00PM
TRUST ACCOUNT FRAUD PREVENTION

CPD TRAINING COURSES – 8 ACT CPD POINTS, 4 ACT CPD POINTS & 12 NSW CPD POINTS

- 21 FEBRUARY 2017 – PROPERTY MANAGEMENT
- 16 MARCH 2017 – SALES
- 4 APRIL 2017 – AUCTIONS
- 12 MAY 2017 – LEADERSHIP AND MENTORING
- 8 JUNE 2017 – TRUST ACCOUNTING, DISPUTES AND RESULTS DRIVEN NEGOTIATIONS
- 22 JUNE 2017 – SALES & PROPERTY MANAGEMENT

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The NSW Real Estate Training College RTO ID: 91003
CPD Category 2 and Category 3



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Dates

- Tuesday 21st & Wednesday 22nd February 2017
- Tuesday 4th & Wednesday 5th April 2017
- Tuesday 6th & Wednesday 7th June 2017

COURSE DETAILS

TIME: 9am – 5pm
LOCATION: All Homes
Training Room
1/67 Eyre Street
KINGSTON
ACT 2604

INVESTMENT

\$1,300.00 (No GST applies)
REI ACT Members
\$1,690.00 (No GST Applies)
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COURSE COVERS

- 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
- CPPDSM4080A Work in the real estate industry
- CPPDSM4009B Interpret legislation to complete agency work
- CPPDSM4015B Minimise agency and consumer risk

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For further details or to book your position, contact Real Mastery Consulting today.

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Training is delivered via mixture of distance learning and trainer mentoring
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Investment

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(payment plans available)

Non REI ACT Member Rate **\$4499.00pp** (Special introduction rate for February 2017) normal RRP \$4800.00pp (no GST Applies)
(payment plans available)

Venue: All Homes Training Room 1/67 Eyre St KINGSTON ACT 2604 **Duration:** 9:00am – 5:00pm

* IMPORTANT NOTE FOR EXPERIENCED AGENTS

Working in real estate? You could get exemptions for the below contact us now to find out more!!

Topic	Date	Yes I will attend
INTRODUCTION DAY – Overview of the programme and assessments, Prospecting tools for sales and Property Management	FRIDAY 17th FEBRUARY 2017	<input type="checkbox"/>
PROPERTY MANAGEMENT	TUESDAY 21ST FEBRUARY 2017	<input type="checkbox"/>
PROPERTY MANAGEMENT PART 2	FRIDAY 3rd MARCH 2017	<input type="checkbox"/>
SALES	THURSDAY 16TH MARCH 2017	<input type="checkbox"/>
SALES PART 2	FRIDAY 31st MARCH 2017	<input type="checkbox"/>
AUCTIONS	TUESDAY 4TH APRIL 2017	<input type="checkbox"/>
LEGISLATION AND COMPLIANCE	FRIDAY 12TH MAY 2017	<input type="checkbox"/>
TRUST ACCOUNTING	THURSDAY 8TH JUNE 2017	<input type="checkbox"/>
PROPERTY MANAGEMENT AND SALES	THURSDAY 22ND JUNE 2017	<input type="checkbox"/>
OVERVIEW DAY - Review of key Legislation, review of sales & property management checklists & procedures	FRIDAY 30th JUNE 2017	<input type="checkbox"/>

Your Registration for the Licence Course Includes an Individual LinkedIn Profile.

First Name: _____ Surname: _____

Contact Ph: _____ Email: _____

Office: _____ REI ACT Member: Y/ N

We are here to answer your questions and assist you! Please contact 02 8005 1292

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