REIANEWS

ISSUE 21: MARCH 2013

2013 REIA NATIONAL AWARDS FOR EXCELLENCE

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Mr Peter Bushby
REIA President

PRESIDENT'S REPORT

WELCOME
FROM REIA'S PRESIDENT

The 2013 REIA National Awards for Excellence have been run and won and what a night was had in The Great Hall at Parliament House in Canberra.

Congratulations to all winners and finalists! There was such a terrific atmosphere of camaraderie on the night of March 14 with a beautifully decorated room full of goodwill for our peers.

All states and territories celebrated the evening and REIA CEO Amanda Lynch was heard to quip that Queensland had won "enough plates to make a dinner set" (taking note of the six hand-crafted disc-shaped awards that were handed to the Sunshine State). Victoria ran a close second with four Awards.

A full list of winners can be found inside this edition of REIA News.

Thank you to all who made the journey to the National Capital. Mother Nature looked after us superbly and the locals will tell you that March is the finest month to visit Canberra, particularly this year, with the Capital celebrating its Centenary.

To the Awards sponsors, our sincerest thanks. Without the support of Terri Scheer, Direct Connect, allhomes.com.au, REI Super, Rockend, Top Snap and Deposit Power, a night of such magnificence would not occur.

Finally, a hearty thank you to the REIA team for bringing to life such a wonderful event. You'll be pleased to know that next year's preparations are already underway for something extra special in Hobart, so stay tuned.

The Adelaide Bank/REIA *Housing Affordability Report* and Bendigo Bank/REIA *Real Estate Market Facts* have just been released and have attracted a good deal of national media. The stand-out issue is the dramatic drop in first home buyers (see REIA Policy Manager Jock Kreitals' article in this edition).

However, the property market signs are positive with a rise in median house prices nationwide and data showing that housing is becoming more affordable for Australians, with the proportion of income required to meet loan repayments decreasing 1.4 percentage points to 30.4%.

Finally, REIA welcomed newcomers to the Affiliates' Council as Professionals, First National Real Estate and Estate Agents Cooperative joined forces with REIA. We look forward to continuing to work closely with the Council members and welcome their participation in ongoing policy discussions.

Until next month...

Mr Peter Bushby
REIA PRESIDENT

Follow us on Twitter @REIANational

COVER STORY

2013 REIA NATIONAL
AWARDS FOR EXCELLENCE

THANK YOU SO MUCH FOR ATTENDING THIS YEAR'S REIA AWARDS!

Photos will be uploaded on our Facebook account.

REAL ESTATE'S NIGHT OF NIGHTS **HONOURS PROFESSION'S BEST**

Pre-awards drinks and canapés in the marble foyer of Parliament House

The Real Estate Institute of Australia's 8th REIA National Awards for Excellence were held on Thursday March 14 in The Great Hall at Parliament House in Canberra.

Queensland celebrated, taking six of the sixteen categories, while Victoria also had a successful night, receiving four major awards.

The Awards recognise the outstanding contributions of those in the real estate profession, rewarding them for their hard work, community service and consumer focus.

The prestigious President's Award was presented by REIA President, Peter Bushby, to 94 year old Les Wearne of Western Australia, who has spent over six decades working in real estate.

To the delight of the audience, Les bounded up the stairs onto the stage declaring, "Well, this award beats an obituary anyday."

Minister for Housing, the Honourable Mark Butler spoke at the opening of the evening and Shadow Minister, the Honourable Kevin Andrews presented an award.

MC Ross Solly of ABC Local Radio, had the audience in the palm of his hand right from the start and Mo Award winner Adam Scicluna's astounding operatic talent and side-splitting comedy was one of the evening's highlights.

Winners of sixteen categories were awarded the highest honour in Australian real estate.

Your feedback is so critical in our ongoing effort to improve this annual event, please take a moment to fill out our quick online survey regarding your Awards experience click here.

» *article continues*

Les Wearne

PRESIDENT'S AWARD

Leslie John Wearne has left his mark on the WA real estate sector over more than six decades and at 94, continues to volunteer his time and passion to the industry.

Respected for his innovative, ethical business practices and tireless REIWA Council and committee work, the industry elected Les Institute President from 1965 to 1967.

Les was a WA delegate to REIA and national vice president in 1978. He's always been an outstanding leader of and contributor to community groups, medical causes and charities. Les continues to organize, preserve and archive REIWA's written history.

He is no doubt one of Australia's national treasures.

The recipients of the 2013 REIA National Awards for Excellence are:

- Business Broker of the Year – Simon Winter, Raine & Horne Corporate Business Sales, SA
- Buyer's Agent of the Year – Simon Pressley, Propertyology, Qld
- Corporate Support Person of the Year – Greg Tate, Raine & Horne Commercial, Qld
- TERRI SCHEER Residential Property Manager of the Year – Ranita Patel, Place Newmarket, Qld
- Commercial Property Manager of the Year – Kim Knox, CBRE, Qld
- DEPOSIT POWER Community Service Award – Luton Properties, ACT
- DIRECT CONNECT Innovation Award – 4one4 Real Estate, Tas
- TOP SNAP Communications Award – Toop&Toop Real Estate, SA
- Achievement Award – Jack Dixon, Jack Dixon Estate Agents, Qld
- Commercial Salesperson of the Year – Wayne Bunz, CBRE, Qld
- allhomes.com.au Residential Salesperson of the Year – Tim Heavyside, Fletchers, Vic
- Commercial Agency of the Year – Colliers International, Vic
- Small Residential Agency of the Year – Maria Selleck Properties, ACT
- Medium Residential Agency of the Year – Jellis Craig Doncaster, Vic
- Large Residential Agency of the Year – Fletchers, Vic
- President's Award – Les Wearne, WA

CONGRATULATIONS!

The 2014 REIA National Awards for Excellence will be held in Hobart, in March 2014.

REIA ACKNOWLEDGES HALL OF FAME RECIPIENTS

WAYNE BUNZ from Brisbane won the Commercial Salesperson of the Year Award but was unable to attend the ceremony in Canberra as his wife had bought him tickets to see Bruce Springsteen.

His boss (no pun intended) collected the Roger Apte designed award on the night, however Wayne won't be getting it back for a while. The Award is doing a little tour of CBRE offices around the world, having its photo taken with clients and colleagues.

Indeed, CBRE are trying to organise for a photo of it with Bruce Springsteen while he is in Sydney. Wayne will be presented his well-travelled Award and a book of all the photos in a few months' time at the end of the "tour".

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REIA administers a national accreditation system to recognise and promote the professional standing and dedication of real estate practitioners.

REIA presents certificates of Associate (AREI) and Fellow (FREI) of the Real Estate Institute of Australia to approved applicants to recognise achievement of members' tertiary qualifications, and their continuous involvement with Real Estate Institutes at state and territory level.

AREIs and FREIs are an enduring acclamation of talent and dedicated service to the industry. Recipients are awarded the right to use the initials AREI or FREI after their name provided they remain members of a state or territory Real Estate Institute, or have specifically applied to retain the post nominals.

Martin Cardozo and David Airey

Industry recognition to the real estate practitioner provides weight to the commitment shown by the established professional. In over 30 years since their inception, REIA has presented only about 3500 AREIs and 3000 FREIs, maintaining the exclusive and prized nature of the accreditation.

To obtain an AREI or FREI applicants must be current members of their state or territory Real Estate Institute (for the past 5 or 7 years respectively), satisfy a number of by-laws listed in the application forms, show relevant documents to support their application, and satisfy licensing requirements in their state or territory.

For further information on how to apply contact your state or territory real estate institute or the REIA.

David Airey

PRESIDENT • REIWA

COSBOA

NEW CHAIR AND DEPUTY CHAIRMAN

REIA CEO, Amanda Lynch was appointed as the new Chair of the Council of Small Business of Australia (COSBOA) in February. Amanda brings a lifetime of experience in government and policy development to COSBOA. Robert Mallett, from the Tasmanian Small Business Council, was appointed the new Deputy Chairman.

Dr Michael Schaper

BUSINESS CLAIMS ABOUT MEMBERSHIP TO AN INDUSTRY OR PROFESSIONAL ASSOCIATION

What happens when a business claims it's a member of an industry or professional association, but really isn't?

Being a member of an industry or professional association can send a powerful message to prospective customers. It may indicate that you care about your profession, you are in touch with the latest industry developments, and you value ongoing professional education in your field. It may also suggest that your business adheres to a particular code of conduct or the best practices in the industry.

But business operators – including real estate agents – need to ensure that such statements are truthful and accurate.

Promotion is a powerful tool to help real estate professionals establish a brand, attract new customers and build loyalty with existing customers. Home buyers and sellers base their decisions on promotional statements and what agents say, so it is important to ensure that all communications with potential customers are truthful and not misleading.

The Australian Consumer Law (ACL) is a national law that contains simple rules to ensure that businesses trade fairly with consumers. The ACL states that businesses must not mislead or deceive consumers in any way. This applies to all forms of advertising and promotion, as well as verbal statements from staff about products or services. The ACL carries serious penalties for businesses that fail to meet these requirements.

It's important to note that it doesn't matter whether the representations actually misled anyone, or whether the business intended to mislead. If a statement or representation about a product or service is likely to mislead and deceive, the ACL is contravened.

There are some situations where you need to be extra careful not to mislead consumers about your professional affiliations. For example, if the membership term for the business has expired, even for a short time, any statement of membership immediately becomes false and is likely to breach the ACL.

Deliberate attempts to mislead prospective customers about endorsements or your credentials through false membership claims would amount to a clear breach of the law.

» *article continues*

Under powers which came into effect in April 2010, the Australian Competition and Consumer Commission can issue an infringement notice where it has reasonable grounds to believe a person or business has contravened certain consumer protection laws including misleading and deceptive conduct. The infringement notice can be issued as an alternative to the institution of court proceedings.

In 2010, the ACCC issued a fine of $6,600 to ACA Constructions Pty Ltd, trading as Roll Away Shutters, in response to a false claim on its website that it was a member of the Master Builders Association and the Housing Industry Association.

At the time, the ACCC made it clear that building improvements and renovations are a significant expense and membership of industry associations may be a factor which influences consumer and business decisions.

The important message is that traders should not make false membership or industry claims.

CHECKLIST

When making claims about the services provided by your real estate agency

DO:

Give current, correct and relevant information

- Ensure the overall impression is accurate
- Avoid ambiguous statements
- Make sure any claims you make about being a member of an industry or professional association by keeping all relevant records. Back up claims with facts and documented evidence where appropriate
- Note important limitations or exemptions
- Correct any misunderstandings

DON'T:

- Guess the facts
- Omit relevant information
- Use unnecessary jargon
- Make promises you cannot keep, or make predictions without a reasonable basis

For the latest information about false or misleading advertising claims visit the ACCC website at www.accc.gov.au/business/advertising-promoting-your-business .

If you have a complaint or inquiry, contact the ACCC small business helpline on 1300 302 021.

Dr Michael Schaper is Deputy Chair of the Australian Competition and Consumer Commission

This article is brought to you by REIA Manager Policy, Jock Kreitals
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jock.kreitals@reia.com.au

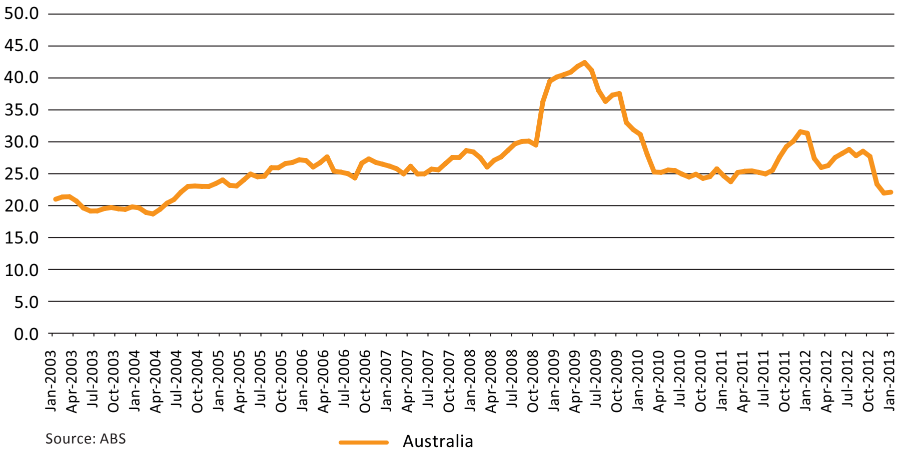
FIRST HOME BUYERS, INTEREST RATES AND FIRST HOME BUYERS' GRANT

An earlier article in REIA News (June 2011) explored the positive correlation between interest rates and the proportion of first home buyers in finance approvals. It showed that when official interest rates go up, the proportion of first home buyers declines and vice versa.

For the last two interest rate cuts—October and December 2012—this relationship does not appear to hold any more as shown in Figure 1, with first home buyers dropping to levels not seen since 2004 when official interest rates were 5.25 per cent compared to the current 3.0 per cent. This has resulted in the paradoxical situation where, as affordability has improved, the proportion of first home buyers has declined, suggesting that another dynamic is influencing first home buyers' decisions either nationally or at a state level.

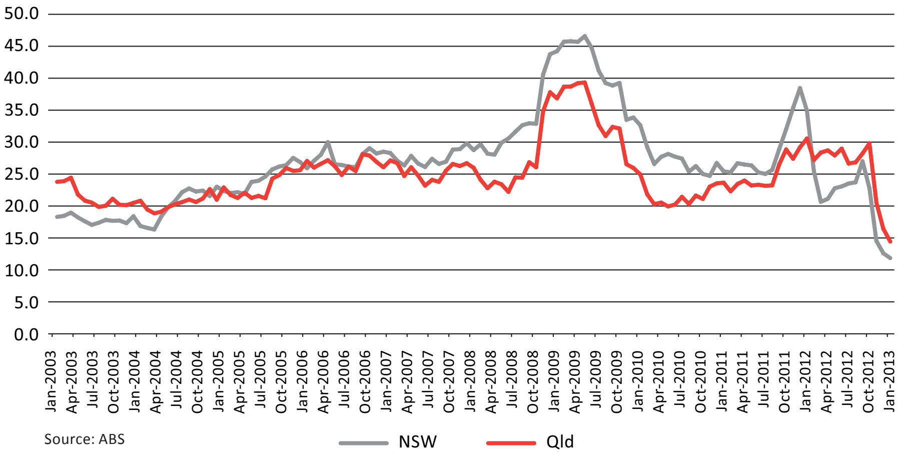
Changes made by some state governments to the eligibility criteria for the First Home Owner Grant (FHOG) go a long way to explaining this.

FIGURE 1 *Proportion of first home buyers in the Total Number of New Housing Finance Commitments (excluding Refinancing), %*



Source: ABS

FIGURE 2 *Proportion of first home buyers in the Total Number of New Housing Finance Commitments (excluding Refinancing), %*



Source: ABS

» article continues

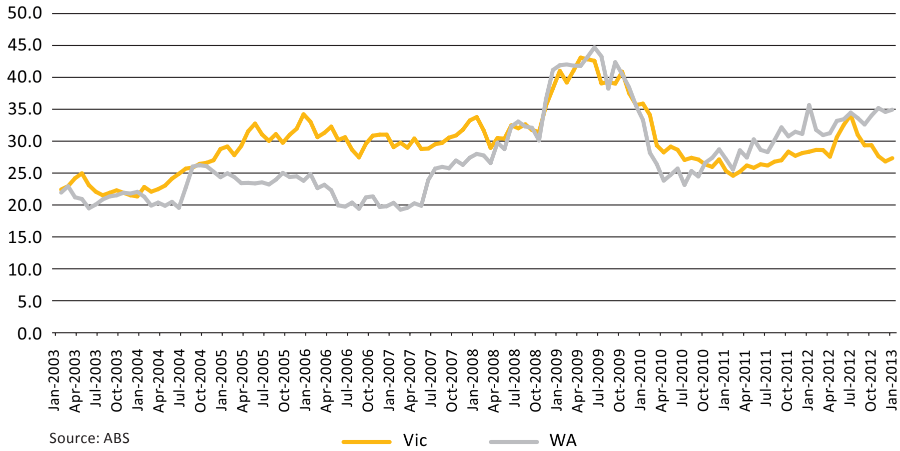
The Governments of New South Wales and Queensland in late 2012 announced that they would only provide the FHOG to purchasers of new property and not to those buying established housing. This decision was made against the evidence that first home buyers have a clear preference for established houses—first home buyers in New South Wales and Queensland are above the national average (82 per cent) in their preference for established homes at 85.7 per cent and 83.5 per cent respectively.

The impact of this on the proportion of first home buyers in these two states is shown in Figure 2.

This contrasts starkly to the situation in Western Australia and Victoria, shown in FIgure 3, where no changes have been made to the eligibility criteria. In these two states first home buyers have responded to the interest rate cuts as expected.

This illustrates that contrary to the view of critics of the FHOG, it does influence the decisions of first home buyers and assists them purchase their first home.

FIGURE 3 *Proportion of first home buyers in the Total Number of New Housing Finance Commitments (excluding Refinancing), %*



Source: ABS

The actions of the governments of NSW and QLD appear to be in breach of the intent of the FHOG. In June 1999, an Intergovernmental Agreement (IGA) on the Reform of Commonwealth-States Financial Relations was signed by all the states and territories, whereby they agreed to provide financial assistance to Australians who are buying their first home through the establishment of the FHOG. The IGA stated that assistance would be "uniform" and that "an eligible home would be new or established". All states and territories, in signing off the IGA, had the clear intention of providing assistance to all first home buyers.

REIA has approached the Commonwealth Treasurer, strongly urging him to not allow the states to renege on their earlier commitment.

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INDUSTRY ARTICLE

by Carolyn Majda, Manager, Terri Scheer Insurance

MODIFIED RULES

MAKING ALTERATIONS TO RENTAL PROPERTIES

Every property manager dreads conducting a routine property inspection and finding that unauthorised alterations have been made to the property. This may include walls painted a different colour, built-in shelves removed and walls knocked out.

As property managers would know, tenants are required to leave rental properties in the same condition as when the tenancy commenced. They are not permitted to attach new fixtures, remove existing fixtures or make alterations to a property without written permission from the landlord.

While alterations may in some cases add value to the property, landlords can be left significantly out of pocket if they oppose the change and need to return it to its previous condition.

Some insurers may not cover these costs.

The following tips may help to remind tenants of their rental obligations and reduce the risk of financial loss for your landlords:

TENANCY AGREEMENTS

All tenancy agreements should clearly explain that tenants are not permitted to make alterations or renovations to the property without written consent from the landlord.

You may like to add a non-exhaustive list of alterations that are not permitted, including nailing picture hooks and shelves into walls and modifying fencing and gates.

CONDITION REPORTS

Prior to each tenancy, it is a good idea to complete an accurate and detailed condition report. Include photographs and videos of the property and pay particular attention to details and fixtures.

Once the tenant has moved in, ensure they assess the property, confirm the condition report and sign it before returning a copy to you.

If any alterations are made by the tenants to the property during the lease, the condition report - that was agreed upon by both parties at the beginning of the lease - will make it easier to identify the change and may help to avoid any disputes.

ALTERATION REQUESTS

During the lease, a tenant may ask for permission to make an alteration to the property at their own expense. If the alteration is reasonable and will increase their comfort or security, written consent should be obtained from the landlord and provided to the tenant. At the end of the tenancy,

» *article continues*

the tenant will have the right to remove any fixtures they paid for, providing that no damage is caused to the property by doing so.

However, you may consider suggesting to the landlord that they pay for the alteration. This would enable the landlord to retain control over who does the work and what type of materials are used so it remains consistent with the existing style of the property.

The landlord has the right to say no to requests for alterations to the property. If this occurs, you may like to encourage the landlord to provide the tenant with a written document explaining why they oppose the change. Providing a detailed explanation could discourage the tenant from going ahead and making the change anyway, which would be a breach of the tenancy agreement.

For further information, visit www.terrischeer.com.au or call 1800 804 016

Media contact: Corporate Conversation, 08 8224 3535

ABOUT TERRI SCHEER INSURANCE

Terri Scheer Insurance Pty Ltd ABN 76 070 874 798 (Terri Scheer) provides insurance cover for landlords, helping to protect them against the risks associated with owning a rental property. These include malicious damage by tenants, accidental damage, landlord's legal liability and loss of rental income. Terri Scheer acts on behalf of AAI Ltd, the insurer which issues the insurance cover. Terri Scheer has not taken into account the reader's or their client's objectives, financial situation or needs. If you or your client is interested in any of Terri Scheer's insurance products, the relevant Product Disclosure Statement should be considered first. It can be viewed online at www.terrischeer.com.au or obtained by calling 1800 804 016. Based in Adelaide, Terri Scheer services all states, territories and capital cities.

This article is brought to you by REIA Research Officer, Evgeniya Hawthorne
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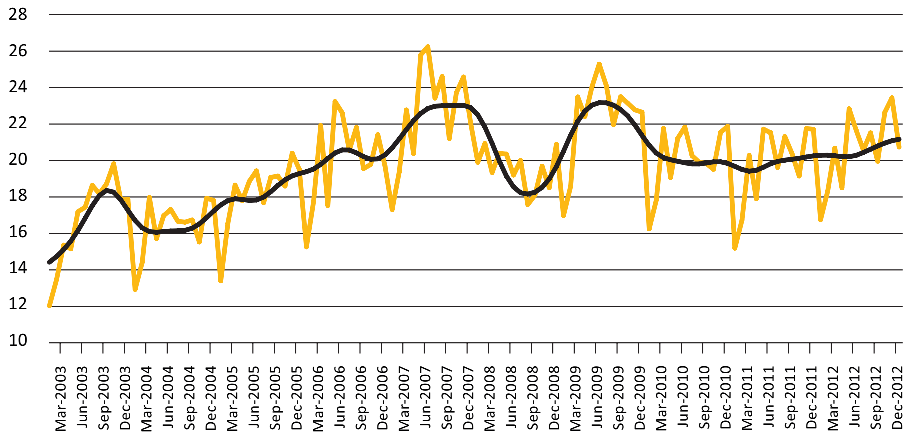
evgeniya.hawthorne@reia.com.au

INVESTORS LEAD THE HOUSING MARKET TO RECOVERY

Despite the fundamentally strong nature of our economy, Australia's housing market has been experiencing challenges for the last two years. Largely driven by pessimistic sentiments, housing prices have been flat, clearance rates low and it has taken longer to sell properties, with vendor discounts often the result. Across the country, the value of housing loans, in trend terms, dropped 15.7 per cent from $23bn in November 2007 to $19.4bn in March 2011. Naturally, some home buyers were more active than others. Some preferred to wait and see some used the conditions to their advantage.

Figure 1 shows movements in the value of all dwellings financed over the last ten years. Values increased up until the end of 2007, dropped at the beginning of the GFC, then experienced a short-lived recovery caused by the First Home Owner Boost Scheme. However, since the end of the government incentive, the value of all dwellings financed remained relatively flat.

FIGURE 1 *Value of all dwellings financed, $bn*



Source: ABS, 5609.0 Housing Finance

Since November 2011, the Reserve Bank of Australia (RBA) has cut the official cash rate by combined a 1.75 percentage points to 3 per cent—the lowest level since the GFC. Although the banks declined to pass the cuts on in full, this resulted in historically low mortgage rates.

While first home buyers did not respond to the cuts, investors became more active, attracted by higher yields from property compared to returns from cash deposits and government bonds. (See REIA Policy Manager Jock Kreitals' article on FHB in this edition). FIgure 2 shows that first home buyers were hardly affected by the cash rate cut; by contrast, changeover buyers and investors were more responsive.

The return of investors to the housing market is hardly unexpected. Rents are rising due to tight vacancy rates—

» *article continues*

figures for Sydney, Brisbane and Perth sit at 2 per cent and lower. Mortgage repayments are declining due to stable dwelling prices and interest rates. The tightening gap between average monthly loan repayments and monthly rental payments is shown in Figure 3.

The current economic environment helps sustain property as a key investment for many Australians. The recently released Bendigo Bank/REIA Real Estate Market Facts report December quarter 2012 shows an upturn in the housing market with the median house price up by 3.8 per cent for houses and 2.8 per cent for other dwellings (year-to-year comparison). According to RP Data, auction clearance rates are rising, the number of days on the market is declining from 58 to 49, as are vendor discounts—from 7.3 per cent to 6.6 per cent (October 2011 to October 2012).

REIA is pleased to see the housing market turned a corner in 2012. Although it is desirable to see improvements in the activity of first home buyers, increasing demand from investors and changeover buyers is already a positive sign of early recovery. Housing investments are expected to strengthen further, factored by increasing population, historically low interest rates, increasing dwelling prices and relatively high returns.

FIGURE 2 Value of home lending and cash rate

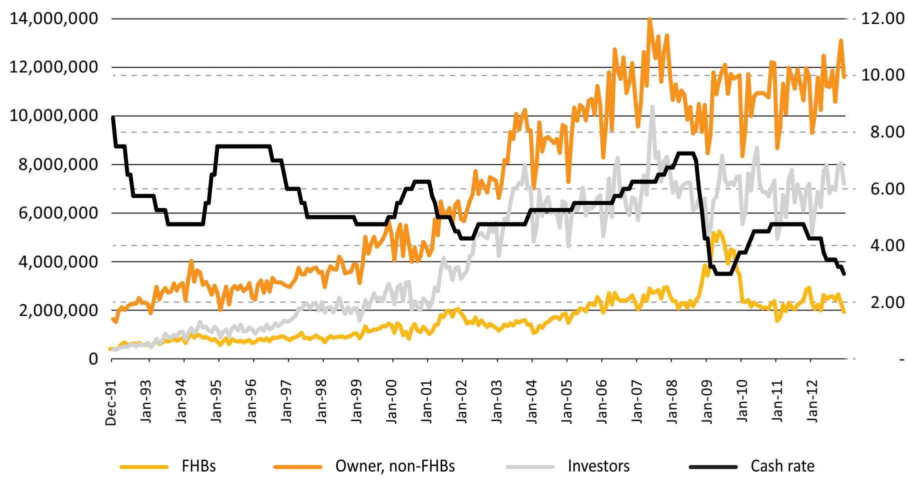
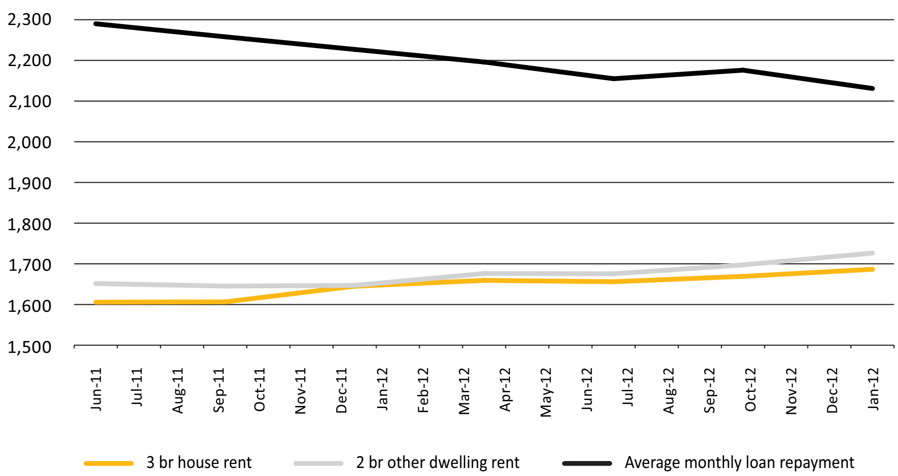


FIGURE 3 Housing costs per month, $



Chris McGregor

FIABCI AUSTRALIA REPORT

I am pleased to announce that my nomination for our Past Australian President, Robyn Waters, to run for World President in 2014-2015 has been very well received. I have been receiving a lot of well wishes from around the globe supporting Robyn which is heartening. Let's hope those wishes turn into votes.

Robyn has been a member of FIABCI since 1977 and will be attending her 25th World Congress this year in Taichung, Taiwan. She's attended 10 APREC Congresses and is in Italy this month to attend the European President's meetings. She is very passionate about FIABCI and will do the Australian Chapter proud as the World President if she is successful when the votes are counted in May.

There is still plenty of time to register for the 64th FIABCI Congress in May 27-29 Taiwan. Go to www.fiabci64.tw

The Judging for the for the Prix d'Excellence Awards closed on the 1st March and the final top five in each category will be judged by the Oversight Committee chaired by Yeow Thit Sang at the European meetings. Each winner will be announced at the World Congress in Taiwan. These are very prestigious awards and a lot of work goes into each submission. The rewards make it very worthwhile for all involved and it would be tremendous for an Australian to win.

Global I and Global II courses will be available online soon.

Our Members are connected through the world's Premier International Real Estate Network!

These two eight hour courses are designed as an introduction to the FIREC or FIABCI International Real Estate Consultant Designation. Global I and Global II are the first steps to earning the distinguished FIREC Designation. Join your colleagues around the world who have already obtained the FIREC Designation.

Visit www.fiabci.org for complete details and application forms for the FIREC Designation.

For questions on the FIREC Designation, please contact fiabcihq@fiabci.org or Patricia Delaney, FIABCI Secretary General +33.1.73.79.58.30

I am also pleased to report that our Australian Membership base is back in growth mode.

Chris McGregor
PRESIDENT • FIABCI AUSTRALIA

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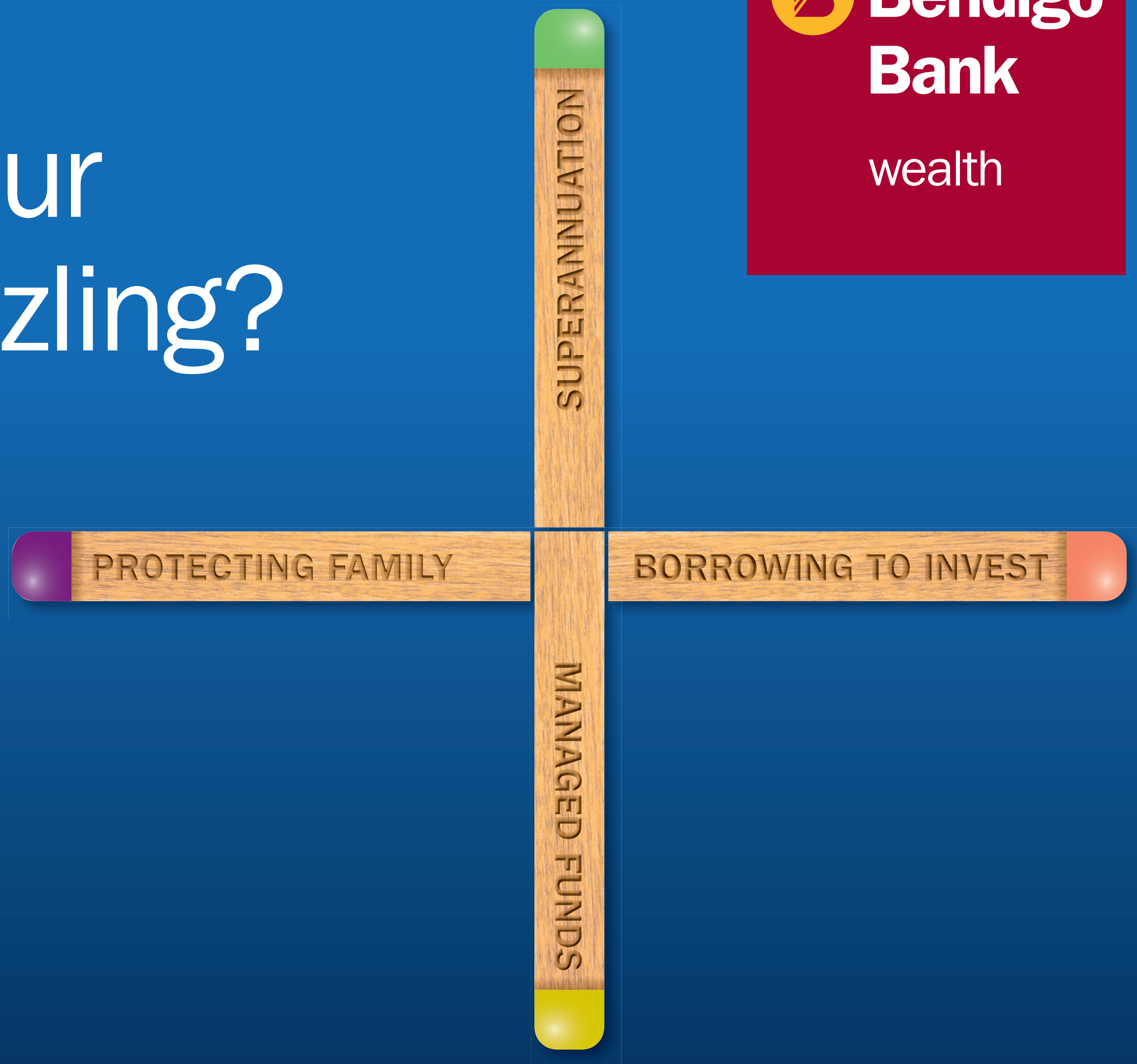

Puzzle:
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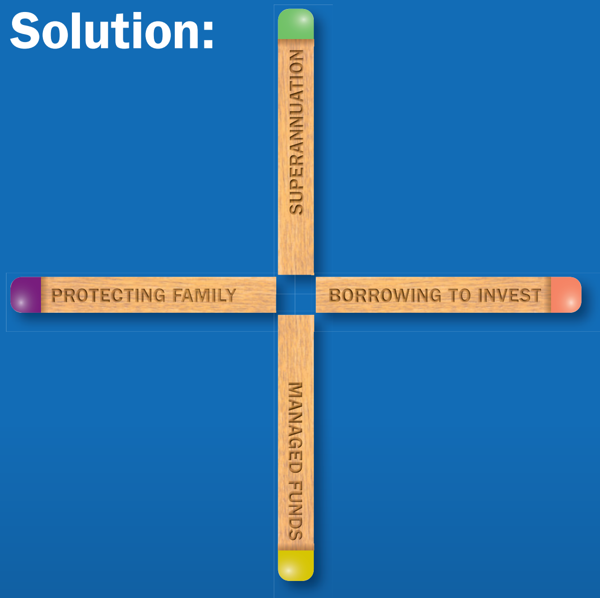

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INDUSTRY ARTICLE

Julie McKay

LOOKING INTO 2013 FOR SMSFS

Superannuation generally, and the Self Managed Super Fund (SMSF) sector particularly, is a tempting pot of savings to plug government budget gaps, for businesses that need long-term capital for infrastructure and growth and of course those businesses providing financial services to the sector.

Many see the SMSF as a tool for the wealthy semi-retired. On first glance this may be true. Average fund balances are moving toward $1 million and the typical member is 52 years old. Average balances per member are around 17 times the average balance of people with super in retail or industry funds.

This picture may be skewed by a few much larger and generally older funds. Key SMSF growth is now in the 35 to 54 age bracket, with over 2,000 net new funds established each month. Adjusting for a few very large funds, typical member balances are closer to just 9 times the average of non-SMSF member balances. This shift toward super self management suggests that a broader range of Australians see benefits beyond those offered by other superannuation and retirement savings vehicles on offer. And it appears that the mainstream industry funds are now shifting to accommodate and attract SMSFs.

GET THE RIGHT ADVICE AND THE BEST TOOLS

A SMSF is not for those without the time, stamina and knowledge to wisely invest their superannuation and comply with a confusing set of what seem to be constantly changing rules. Even with professional financial advice, it's like rubbing your stomach and patting your head - all while standing on one leg.

We can only speculate as to the changes the government may or may not implement this year. Uncertainty can cause trustees to lose sight of changes legislated in previous years that are now coming into effect. Some changes affect all superannuation, but responsible SMSF trustees and their advisers need to understand the impact on their own unique circumstances.

The rules that SMSF trustees still commonly contravene are financial assistance to members, in-house assets and separation of assets. These contraventions spring from a common mistake, particularly for the self employed holding business assets in their SMSF.

A customer's overall wealth includes superannuation, business assets and personal assets such as their home. From an economic perspective, all their financial capital should be employed in whatever way best grows wealth. However, while members may have a keen interest in their super balance, for those below their preservation age, that money does not in fact belong to them. To use the industry jargon it is 'preserved'. Regulations prevent not only an actual mingling of assets but also the *perception* that assets are or can be intertwined. There is a disconnect between customer's perception of their money and the legal reality.

LOOKING TO THE LONG TERM

It's important to remember that the overall intention is to ensure super is invested to meet long term retirement goals rather than short term investment or business goals. When trustees, members and business operators are the same people, as is often the case for a two member SMSF, it can be difficult to keep the roles of trustee, business person and member strictly separate.

Mingling can come about from simple clerical errors. Customers might intend to buy an asset in the name of their super fund but they forget the all important ATF (as trustee for) designation which means

» *article continues*

the account is in their personal name. This is particularly true for some long held assets where the ATF designation was not widely understood and recorded.

Keeping the various asset pools separate has always been part of the governing rules for an SMSF. Being just governing rules meant the Australian Taxation Office (ATO) had little power to enforce compliance. Legislative changes in the latter half of 2012 made asset segregation an SMSF operating standard. Operating standards give the ATO more potent enforcement powers.

Fines up to $11,000 can be imposed not only for intentional rule breaking but also reckless contraventions. Recklessness is a difficult test but a lack of good record keeping such as minutes, might indicate that the trustee isn't paying proper attention to all the finer points. Perhaps they are applying a lay-person's understanding of the rules which may not fully align to a legal interpretation in all circumstances. Lack of knowledge or misunderstanding isn't always a defence against recklessness and for those inclined to play 'fast and loose', it will ultimately end in tears and significant financial consequences.

PROPERTY WITHIN THE SMSF – AVOID EXPENSIVE MISTAKES

The potential for contravention is likely to increase as the number of SMSF's using Limited Recourse Borrowing Arrangements (LRBA) increase. For example, a common mistake is for the SMSF trustee to start the process of buying an investment property before putting in place the LRBA.

Depending on the nature of the deposit and sale agreement, the first owner may become the SMSF itself rather than the security trustee established under the LRBA. The rules prohibit borrowing against an existing asset of the SMSF even if the customer didn't intend the SMSF to become the owner or the SMSF was only the owner for a few minutes. Unwinding mistakes can be an expensive nightmare when it comes to SMSF's.

Similarly, a member may pay the deposit on an investment property with the intention of setting up a LRBA for their SMSF. If not handled correctly, it may be difficult to transfer the property to the security trustee without tripping on the 'related party transaction' rules. More importantly, repaying the loan at the end of the term and transferring the asset to the SMSF could potentially trigger stamp duty.

GET PROFESSIONAL ADVICE

This is not to suggest that mistakes can't be fixed or that one approach will be right or wrong in all circumstances or across all States. The examples above only highlight how easy it is to fall within the 'reckless' category of contravention or incur unnecessary expenses such as stamp duty. Sometimes it's cheaper and easier in the long run to get professional advice up front.

Other changes introduced late last year were the clarification of trustee responsibility for the investment strategy and member insurance. Trustees are now required to regularly review their investment strategy. The quality of investment strategies can be patchy. Strategies are either so generic – 'our strategy is to make as much money as possible' – as to be useless. Or the strategy is so detailed that frequent changes are necessary to remain compliant.

Trustees typically manage SMSF assets as one pot of money. It's easy to forget that each member, even husbands and wives, have separate superannuation balances. Each member can potentially have two accounts; an accumulation account and a pension account. In other words, each member can have significantly different investment objectives, constraints and liquidity requirements, particularly when there are significant age differences between members. The investment strategy should recognise these differences.

The goal 'make as much money as possible' appears sensible, and while superficially appealing, lacks alignment with the core purpose of superannuation. The core purpose is to provide retirement benefits for members. The investment strategy should link back to the member's retirement expectations.

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INDUSTRY ARTICLE

Bendigo Bank

HOW MUCH WILL I NEED TO RETIRE?

Estimating the amount customers need to retire has baffled even the smartest financial minds. Some years ago, the Senate Select Committee on Superannuation listened to a passing parade of experts and witnesses and concluded that about 62.5% of a person's pre-retirement income would be enough to spare them from a life of genteel poverty. The statement of advice or tools such as the MoneySmart website by the Australian Securities and Investment Commission (ASIC) are also reasonable guides. The target assumptions in these tools can become measurable risk and return parameters in the investment strategy.

For example, the return objective for a member with a long time before retirement might be 5% p.a. over inflation measured on a rolling 5 year period. This would align the investment strategy with the expected return assumptions for a high growth strategy in the MoneySmart retirement planning calculator for example. Such an objective has the benefit of being measurable and becomes part of the investment strategy review process.

MIND THE INSURANCE GAP

The ancillary purpose for superannuation relates to the other valid reasons for accessing superannuation, for example in the event the member is no longer able to work. This broadly links to Total and Permanent Disability (TPD), income protection and life insurance. Most SMSF advisers will have discussed insurance with the SMSF members but trustees are now obliged to consider member insurance. Modern insurance products now meet the complicated rules for holding insurance within super.

Considering insurance in the investment strategy will meet the trustee's obligations. But customers, particularly the self employed, need to be careful of insurance gaps. For example, 'any occupation' TPD insurance will usually meet the superannuation rules but may leave a gap for customers whose risk profile requires 'own occupation' cover.

Trustees and their advisers regularly monitor investment performance. They are less likely to review the structure of the SMSF. For example, older funds often have trust deeds that don't reflect updates to the law. This is particularly evident with binding death benefit nominations, separate pension accounts, the pro and cons of a corporate trustee and strategies such as transition to retirement and LRBA.

Altering trust deeds is no small matter and no one would advocate frequent changes. Yet trustees need to think about the very long term and make sure they discuss sensitive events such as the death of a spouse. In setting up and managing an SMSF, customers need to manage for today but also consider their end position, which ultimately means estate planning. This is typically far more complicated than a will. For example, a SMSF with two individual trustees can quickly become non-compliant following the death of one member while the surviving member deals with the emotional turmoil.

The ATO's main regulatory tool has been the sledge hammer of making an SMSF non-compliant. From July 2013, the ATO will have more flexible tools for dealing with contraventions. In conjunction with its existing powers, the ATO is expected to be able to direct trustees to undertake education and rectify problems.

More flexibility and cooperation between SMSF trustees and the regulator is welcome. To date the ATO has been reluctant to wield the non-compliance hammer against all but the most serious contraventions.

The new tools suggest that regulatory intervention may become more frequent and wide spread. The SMSF levy was increased at the end of 2012 to address a gap between the cost of regulation and levy revenue. The costs of regulation may continue to increase as the ATO's powers increase.

EFFECTIVE ADMINISTRATION IS VITAL

Given the complexity and frequently changing superannuation rules, it's getting easier for trustees to make honest mistakes. It's increasingly important for trustees to professionally administer their SMSF but monitoring and record keeping costs can slice a chunk off investment returns – which are hard enough to achieve in the current economic landscape.

» *article continues*

In such an environment more SMSF's might be expected to wind up. So far that has not proven to be the case. But winding up a fund is not always as straight forward as rolling over balances to another super vehicle. For example, insurance held within the SMSF will need to be cancelled and re-established. This could involve new medical tests or a reassessment of requirements if policies are different and members have aged significantly or developed medical conditions since the initial policy. Further, records need to be maintained for five years. As with all SMSF activities, trustees need to understand their obligations and a plan before taking action.

Considering the challenges faced by both advisers and their customers in setting up and administering SMSF's, tools such as Bendigo Wealth's SuperAstute are proving essential. SuperAstute brings together a wide range of online services for seamless, end-to-end administration and up-to-date information that makes managing a SMSF simpler.

The administration fee for SuperAstute could halve a fund's operating expenses. The monitoring and reporting tools in SuperAstute may help reduce the likelihood of administrative mistakes, but by far the biggest benefit of SuperAstute could be trustees' peace of mind.

Customers, not banks, are driving the strong interest in SMSF. It's easy to attribute demand to a fleeting perception of poor investment performance during the global financial crisis, a belief that fees are too high or simply a 'me too' response. These reasons aren't sufficient to explain their willingness to take on the significant time and effort required to manage an SMSF. There are stronger forces, deeply connected to customers' sense of what is in their financial best interests, driving demand.

This year expect to hear endless speculation about more legislative changes to superannuation generally and SMSFs specifically. Notwithstanding this uncertainty, customer interest in SMSFs isn't waning and existing trustees shouldn't be distracted from changes that are already affecting their obligations.

Julie McKay

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INDUSTRY UPDATE

Industry news from around Australia

Fewer homes selling at a loss

There's now little doubt that predictions of a 2013 market recovery are bearing evidence in the marketplace.

Auction clearance rates have improved and buyer activity has lifted significantly, according to First National Real Estate.

At the same time, RP Data reports just 12.5% of homes sold in the December quarter 2012 achieved less than their initial purchase price. Many vendors are enjoying significant profit with 45.1% of all homes sold realising more that 50% profit on their initial purchase price. Even at the top end, which has languished in recent years, a renaissance of local and international buyer interest is producing stronger results. As always, the key to success is competitive pricing.

First National

In demand suburbs

There's now little doubt that most capital city property markets have bottomed and are on their way to recovery, and now the 150 most sought-after areas have been revealed.

This month's issue of *Australian Property Investor* magazine features the areas across the country that have the most people searching per listing and spend the least amount of time on the market.

The list features 30 in-demand areas from each of the major states. In Sydney, it's the city's south that is a hotspot for buyers with suburbs like Jannali, Gymea, Miranda and Kirrawee among the hot favourites. Closer to the city, areas like Enmore, Erskineville, Lane Cove and Alexandria have the least number of days on the market.

Melbourne's most sought-after suburbs are a mixed bag that comprises both cheap, outer suburbs and inner-city blue-chip old favourites.

In Brisbane, infrastructure seems to be driving demand from buyers with Holland Park, Stafford Heights and Windsor among the suburbs most searched for. Those areas with the least days on market include the Queensland mining towns of Blackwater, Dysart and Moranbah as well as the metropolitan pockets of Paddington, Fortitude Valley and Wooloowin.

In Adelaide, the southern pockets like Goodwood and Clarence Park that are most searched for, while Perth buyers are chasing bargain suburbs like Lockridge or mining hotspots like South Hedland.

API

Commercial property licensing

A state-based regulator said a fine levied on a sales representative for forging his registration papers shows why commercial property agents should be licensed.

The commercial sales agent, David Gammal, was fined $1,000 and ordered to pay costs of $748 by the Perth Magistrates Court for selling at least nine properties between March and November 2011.

Acting commissioner for Consumer Protection in Western Australia, Gary Newcombe, said the court case highlighted the need for all salespersons working in the real estate industry to be registered.

"The licensing and registration system is essential in protecting the interests of consumers involved in home and land sales in WA," Mr Newcombe said.

"Particularly when salespeople are re-entering the industry after a period of absence, they need to ensure they have the proper certificates in place before they start selling property."

Stephen Meagher, director of property industries at Consumer Protection, agreed that principals should remain diligent and audit their staff.

"To become licensed in WA, agents go through fit and proper checks," he told *Real Estate Business*.

"Clearly, it's important that these checks are done before agents come into the industry. It's important that in real estate transactions those agents are licensed so that people are covered by fidelity fund coverage.

"We would suggest that licensees routinely check their staff, to ensure that their registrations are up to date.

"Principals can go **online** and check their staff's details, and we fully encourage principals to ensure new employees are registered, and also to get into the habit of making sure their staff are up-to-date with their registrations.

"While it's up to the representative to renew the registration, it's the responsibility of the licence holder to make sure it's done," Mr Meagher said.

David Airey, president of the Real Estate Institute of WA (REIWA), said, "The proposal by the federal government through NOLS to lower licensing and educational standards is a nonsense and this prosecution case is a classic example of what we could be in for if commercial agents and sales reps are allowed to operate without licensing or professional standards."

MAKING NEWS

General national news

High alert for property industry after more fraud attempts

The property industry in WA has been warned to be on high alert after recent attempts by overseas criminals to fraudulently sell two WA homes.

In separate incidents, real estate agents were approached by fraudsters who successfully changed the contact details of the real owners of the properties, who both lived in South Africa. Copies of documents related to the management of the properties were sent to the fake owners by the agents in both cases. Requests to sell the two properties, valued at $700,000 and $800,000, soon followed.

While the frauds were detected fairly quickly, Commissioner for Consumer Protection Anne Driscoll expressed concern and disappointment that these attempts were not detected much earlier by property management staff.

“It’s vital, where possible, that these fraud attempts are picked up by real estate agents before the scammers even get to first base and certainly well before any documents and personal details of the real owner are sent to these criminals,” Ms Driscoll said.

More information on the Codes of Conduct can be found on the Consumer Protection website or agents can call 1300 30 40 54 or email: consumer@commerce.wa.gov.au.

Australian Consumer Law self-assessment checklist

To coincide with World Consumer Rights Day on March 15, the Australian Consumer Law regulators launched the Small business self assessment checklist to help businesses become more aware of their rights and obligations when dealing with consumers.

The checklist enables small businesses to self assess their business and identify which of their activities are regulated under the Australian Consumer Law.

You can download the checklist online via the Queensland Office of Fair Trading website or through your local state and territory consumer protection agency’s website.

If you were watching “Hot Seat” recently, you may have seen a contestant asked the following question for $20,000!

“Which of the following organisations does not have the word royal in its title”?

He was then given four sets of acronyms and he correctly guessed REIA – being the Real Estate Institute of Australia.

Licensing for property managers

Real estate professionals have again called for property managers to be licensed in South Australia to ensure that landlords and tenants receive professional and fair treatment when involved in a rental transaction.

The Real Estate Institute of SA (REISA) said that it was the right climate to encourage the State Government to consider the issue of licensing.

“With national licensing for real estate professionals on the agenda, there has been broad agreement that property managers will be licensed, to align with other States and Territories, but REISA wants licensing introduced sooner rather than later, for the benefit of all South Australians,” REISA Chief Executive Officer, Mr Greg Troughton said.

“Other States and Territories have long realised that licensing is essential in this area, and we’re encouraging the Government to move the decision forward and bring South Australia into line with our interstate counterparts.”

“It has to be remembered that property managers have the responsibility of assisting people in securing shelter and conflict needs to be handled with respect, whilst still abiding by the law.”

“Professional property managers who value quality training and enjoy the challenges of this job strongly support the move to licensing as it’s a key to raising professionalism and valuing the role that property managers play in the community in managing hundreds of thousands of tenancies around the State.”

It’s so dry—farms flooding the real estate market

If you thought South Australia was dry, spare a thought for farmers in Western Australia.

Part of Western Australia’s south west is so dry for the past 3 years, that 50 per cent of the farms in that part of the country are on the market.

Sue Carn who is from Quorn in the upper north has just returned from the drought affected region as part of the Climate Champion program.

A national program educating people about climate change, a program that’s due to wind up if funding isn’t renewed.

ABC

POLITICAL WATCH

Information and news from government

GOOGLE training opens up the world to small business

Australia's small businesses will be more internet-savvy thanks to a new Google training program launched by the Minister for Small Business, Chris Bowen MP.

The 2013 Google Engage program provides free online and face-to-face training to businesses specialising in search engine optimisation, website development and online advertising.

"The Government runs a range of support and training programs to open the door for local businesses to a whole new online world of national and international customers," Mr Bowen said.

"Through such programs, local businesses will be able to harness the services of one of the world's biggest search engine companies to attract the right customers to their business.

"I'd encourage all small businesses to find out how the internet can be harnessed to drive their future."

Further information on government support for business can be found at www.business.gov.au/onlinebusiness

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Urban Development Institute of Australia

One of Australia's leading property policy experts has called for a new approach by the Federal Government to deal with the national housing affordability crisis to stop Australia becoming a nation of renters and to boost the economy by offering new home buyers free blocks of land for ten years.

"The National Land Partnership Program is estimated to reduce first home buyer entry prices by at least 50% and cut the total cost of the dwelling over an average 25 year mortgage period by around 20%."

Brian Haratsis, Chairman of economics and strategic planning company MacroPlan Dimas,i who will gave a key note address at the Urban Development Institute of Australia National Congress in Melbourne said, "Affordable housing should be the Australian Government's number one policy target to create jobs."

UDIA

NSW to simplify disputes over company title units

Disputes relating to home units on Company Title will be heard in the Local Court of NSW to enable faster, simpler and more cost effective resolutions, the Attorney General, Greg Smith SC, announced. Until now, Company Title disputes have been typically heard in the Supreme Court with the cost of the proceedings preventing some residents from resolving conflict over issues such as noise, the use of common property and the raising of financial levies. The NSW Government will enable the Small Claims Division of the Local Court to deal with Company Title disputes so that the issues can be resolved quickly and with as little formality as possible.

And in Victoria…

The Victorian Coalition Government has introduced legislation to enable neighbourhood disputes in company title buildings to be determined at the Victorian Civil and Administrative Tribunal (VCAT), rather than the Supreme Court. Consumer Affairs Minister Michael O'Brien introduced the Company Titles (Home Units) Bill 2013 into Parliament this week. The Bill is designed to simplify the dispute resolution process between residents in company title buildings.

NT First Home Owner Grant

Changes to the First Home Owner Grant have brought positive results for Territory families and workers hoping to enter the housing market.

Figures released by Northern Territory Treasury show an increase in the allocation of First Home Owner Grants since the scheme began on December 4 last year.

The changes saw the First Home Owner Grant increased from $7000 under the previous Labor Government to $25,000 for first home buyers to purchase newly constructed homes or land to build a home, $12,000 for first home buyers to purchase existing homes in Darwin, Palmerston and the Rural Area and $25,000 for first home buyers to buy a dwelling elsewhere in the Territory.

While a proportion of approvals are a legacy from the previous scheme, Treasurer Robyn Lambley said there has been an increase in payments to first home buyers in the first two months of the scheme.

"The Grant is more flexible than Stamp Duty assistance as it can be used at the discretion of the home buyer."

THE WORLD

Property news from around the world

Paris prices keep rising

Paris home prices, which have risen 37 per cent since 2009, are set to end their upward streak as French President Francois Hollande cuts property subsidies and raises taxes.

Government support for the housing industry ranges from lodging subsidies for students to tax breaks for renovation works and public construction, which totalled 45 billion euros ($59 billion) in 2011, or 2.25 per cent of gross domestic product.

Paris Housing Prices Sputter as Hollande's Taxes Threaten Boom

A French national flag flies near apartments in Paris. The average price of previously owned apartments in the French capital fell 2 percent in the fourth quarter of 2012 from the previous three months, when values peaked at a record 8,440 euros per square meter, according to Paris notaries and government statistics office Insee.

"It's probably the trigger for a price decline which could reach 30 per cent to 40 per cent in five to 10 years," Pierre Sabatier, chairman of PrimeView, a Paris-based company offering research in areas such as real estate, financial markets and demographic development, said in an interview. On top of government's budget cuts, the market will suffer because of an aging population and stricter mortgage rules, he said.

Bloomberg

US on rebound

Strategists at the Bank of America assessed the US real estate market and have bravely announced that the "positive feedback loop has begun."

Canada's housing market is apparently on the ropes, particularly in major cities such as Vancouver and Toronto where prices appear overvalued. The softening market might lead investors to consider trying to cash in on the rebounding US market.

US home prices would likely increase 8% this year, up from a previous estimate of a 4.7% increase, they predicted. JPMorgan Chase & Co. more than doubled its forecast for US home price gains in 2013 to 7% this week, and sees a more than 14% increase through 2015.

After almost six years of crashing, burning, and stagnating, the US housing market is finally shooting higher. Coincidentally, this steady warming trend is occurring as the Canadian housing prices are cooling and, according to a recent TD Bank report, are set to be all-but-frozen for the next decade.

www.busines.financialpost.com

SOLD! For $120m

As Britain's Parliament rejects a proposed mansion tax on multimillion dollar homes in the U.K., one lavish abode that would have contributed heartily to government coffers has changed hands for a princely sum. London's One Cornwall Terrace has been recently sold for an astounding £80 million, or just under $120 million, in one of the world's most expensive home sales since the economic downturn.

Listed for £100 million (about $160 million) in November, One Cornwall Terrace sits opposite Regent's Park in Central London. Tucked behind two gates equipped with an automatic license plate recognition system, the four-story terraced home was constructed in the 1820s by architect Decimus Burton and overseen by John Nash, who designed nearby Regents Park. Encompassing 21,500 square feet, the neo-classical mansion boasts seven bedrooms, 11 bathrooms, 11 reception rooms, a marble catering kitchen, limestone hallways and full smart home automation. There's also a "leisure complex" consisting of a gym and indoor swimming pool.

Occupying just under half an acre, the accompanying grounds tout a 130-foot-long garden and a sweeping double staircase that connects the terrace to that landscaped stretch.

NZ sales

The residential property market in New Zealand has experienced a last summer surge with house sales and prices increasing.

The data from the Real Estate Institute of New Zealand (REINZ) reveals that sales increased 34% last month compared with January and that sales are up 7.5% compared with February last year.

The national median house price was up 7.6% compared to February 2012 to $382,000 with Auckland seeing prices surge by 14.3%. It means that the national median house price is just $7,000 below the record set in December 2012.

Helen O'Sullivan, chief executive of REINZ, said that while the residential real estate remains active, the rate of growth in the number of transactions is slowing despite prices being near record levels.

Property Wire

REIANEWS

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