

Mr Samuel Porter,
Deputy Secretary, Regulation, Legal and Integrity
Department of Justice and Community Safety, Level 17, 121 Exhibition Street,
MELBOURNE VIC 3001

7th September 2020

Dear Mr Porter,

Please find attached my response to proposed changes to the Estate Agents Educational Regulations

My name is *Ann Phyllis Brownell* of [REDACTED]

I feel well qualified to comment upon these proposed changes because of my academic qualifications, teaching and working experience in real estate which are noted below.

1. Academic Qualifications:
 - a) Certificate in Advanced Estate Agency Practice 31 March 1993
 - b) Master of Business (Property) December 2001
 - c) Graduate Diploma of Law, 2010
 - d) Bachelor of Law 2005
 - e) Admitted to Legal Practice Law in 2010

2. Working Experience:
 - a) As a teacher of the Agents Representative and Estate Agents courses for 17 years at RMIT and Victoria University
 - b) As an employee as a sales representative and property manager for different estate agents for decades
 - c) As an Officer in Effective Control of an agency employing sales and property management staff. This included responsibility for several Trust Accounts
 - d) Lecturer in legal subjects such as contract, tort, employment law for years and property law at RMIT and Victoria University.

I advise you that I have read your submissions and proposals. I believe these documents attest to the solid research and work put in by your staff to achieve an improved educational outcome for estate agents and agents representatives.

It has long been my belief that the education and training of Estate Agents and Agents Representatives should be improved and the standards raised.

Thank you for the opportunity of making a comment and should you have any questions kindly contact me on [REDACTED]

Yours faithfully
Ann Brownell

Ann Brownell.

Mast of Bus. Grad Dip Law. Bach of Law. Licensed Estate Agent.

COMMENTS ON PROPOSALS

It is accepted that educational standards of estate agents need to be raised. It is hoped that an improved standard of education and training will improve the professionalism of agents and that disputes between stakeholders will decrease.

I have read the Regulatory Impact Statement and other material and note that:

- a) option 3 is the preferred choice¹ for both prescribed courses
- b) the units for the two different courses are listed and look impressive however it is the material within these units that will raise the educational standards for agents

To raise the standards in the estate agency industry the following needs to be considered:

1.Course Content

The course material needs to carefully align with the mandatory legal requirements and regulations as stipulated in the different acts that affect the practice of estate agency.

In a real estate office, an agents representative will usually be employed in a property management area or the sales area. It is very unusual for an agents representative to carry out both functions. Therefore, some students will need a better knowledge for sales and others a better knowledge for property management. The Officer in Effective Control will need to be proficient in both areas.

As streaming² was considered not to be a viable option, surely some time allocation or a unit could be found in Option 3 to cater for improved education for property managers and sales staff. This is an urgent industry need. Core units should be studied by all but a choice could be offered as an elective to cater for the needs of property managers or sales staff. Any material to be taught outside of basic property management and sales staff requirements should be carefully considered as time is limited.

Training for Sales staff is different from property management because generally the Officer in Effective Control /Sales Manager will never fail to supervise and train their sales staff. This is because there is so much at stake by the way of commission to be earned and the agents reputation, which is so critical when obtaining further listings and sales. Sales income is of paramount importance for the success of most agencies, so sales staff are constantly monitored and trained on the job.

However, for property managers things are different and on the job training is often not sufficient. Today property managers have had to deal with so many changes in a short time that many are not equipped to understand and apply the law correctly. This is a key issue today and will not go away until property managers are educated and trained properly. For new property managers this training should be offered within the Agents Representatives course and therefore more teaching time needs to be devoted to property management. To achieve this, I believe that Option 3 should be moderated to meet this industry need.

¹ Agents Representative Course and the Estate Agents Course (Licensed)

² As detailed on pages 32 and 33 of the Regulatory Impact Statement

Course Content continued:

Referring now to Option 3³ in the Agents Representative course and the proposed elective units I note the following:

Core units are listed, PLUS three Electives and it is this allocation of precious time to the electives within a 90-hour course I think should be further considered.

I make the following comments:

CPPREP4161-Pre auction Process.

- Auctions are a method of sale and must be covered in the Core Sales unit.
- Auctioneering is a specialised area and to succeed in this area considerable training is required. Not all agents representatives will desire or be suitable to undertake this complex role. The time devoted to this unit could be better utilised offering further training in the property management and/or sales units. An aspiring property manager does not need to know the intricacy of auctions.

CPPREP4503- *Present at hearings in real estate*

- Appearances at VCAT or the Magistrates Court would rarely if ever be undertaken by a newly qualified agents representative. An inadequately trained property manager is a loose cannon at VCAT and a waste of stakeholder's time.

The REIV offers excellent further training including courses for auctioneers and property managers who may need to appear before the tribunal. These courses cater for agents who want to improve their knowledge and training in their chosen area of interest. Also, these courses provide a valuable introduction to other agents who share a similar interest and they may consult and help each other in times to come.

Elective units need to be reviewed as to their value in today's dynamic environment. Legislation and regulations pertaining to estate agency practice are constantly being amended and agents representatives are struggling to understand their obligations. Covid19 regulations have also added further burdens and complications in particular to property management issues and maybe this could provide impetus to review these units

2.Educational Standards

In addition to comprehensive course materials, the assignments, tests and examinations need to educate and train the student in a way that they are able to demonstrate that they understand and can apply the laws and regulations governing estate agency practice.

³ Group D CPPREP4161 - *Undertake pre-auction processes*
BSBDIV301 - *Work effectively with diversity*
CPPREP4503 - *Present at hearings in real estate*

Teaching staff will need to have industry experience and knowledge of the law and regulations. Units such as Accounting, Auctioneering and Present at Hearings will require teachers with the relevant training. It has been my experience that it is difficult to find such teachers and who are willing to take part in the education of agents. I taught all units of the Agents Representative course and most of the Estate Agents course and I was constantly asked to fill in for teachers who cancelled classes at the last minute. Therefore, when making changes to these courses the question to be asked is who will the teachers be?

The real estate industry provides wide employment opportunities and the Agents Representative Certificate IV Course is considered to be a baseline course. Therefore, it should be available to all who wish to enrol whether they will work in the industry or not. Students who do not reach the required standard should not pass this course.

These two courses ⁴ also require a minimum standard of written and spoken English so these skills need to be part of the testing situation. It is not possible to be a competent property manager or sales person if one can't read and write good English. Much of the required documentation are legal contracts and have significant consequences if not completed satisfactorily. Incorrect advice by agents may also result in very serious consequences for stakeholders within the industry and complaints will continue to increase.

3. Educational Standards for Estate Agents need to improve with regard to:

3.1 Property Law, legal compliance and how they apply to real estate agency practice

3.2 Accounting and Trust accounts – the standard here needs to be raised

3.3 Ethics and Professional Conduct Regulations – their importance and application

3.4 Business matters – How to run and manage a business and meet compliance issues

4. Mutual Recognition and Estate Agency Practice in Victoria

From your Impact Statement I note that if these proposed changes become the prescribed requirements for estate agency practice in Victoria then Victoria will have the highest educational standards for estate agency practice in Australia. It is then logical to apply the following:

4.1 No individual or company from another Australian state or foreign country should be permitted to obtain an Estate Agents License in Victoria ⁵ unless they have passed the prescribed Victorian courses (as detailed in Options 3) and met all other mandated requirements. Strict penalties should apply to any person/s who do not comply. There should be NO exceptions at this point in time.

If other states such as Tasmania adopt the same prescribed courses as Victoria then mutual recognition of the estate agents qualifications could be reconsidered. Estate Agents will either be properly and uniformly trained in Victoria or not. This is an ideal opportunity to improve and standardise the level of education within the industry if the authorities have the will to do so.

⁴ Agents Representative Course and the Estate Agents Course (Licensed)

⁵ There is no mutual recognition for Agents Reps between the states and this should remain so.

- 4.2 In addition, only accredited institutions should be allowed to conduct the two prescribed real estate courses. No private training organisations should be permitted to deliver these courses and this includes the REIV.
- 4.3 The REIV should not be accredited to conduct the two prescribed real estate courses. The legal or accounting professions and other professional organisations do not run courses for members to join their industries, so why is estate agency practice any different. The responsibilities of the Officer in Effective Control are very similar to principals of legal and accounting firms therefore improved standards are now required for estate agents.
- 4.4 The REIV role within the industry is important and their excellent training courses should be limited to further training for all agents. Units such as Auctioneering and Appearing at Tribunals have very specialised needs and are ideally suited to REIV courses. These units should not be included in the Agent Representative course.
- 4.5 Assignments, Tests and examinations should be standardised so that all students sit the same tests and carry out the required written work. The Accredited Education Providers and Consumer Affairs Victoria should strictly supervise that courses are taught uniformly and that the examination procedures are fair and meet necessary standards.
- 4.6 The standards of the Assignments, Tests and Examinations will determine what standard the authorities desire for estate agents. Students who cannot meet the standards set by the authorities should not be awarded a pass for these courses.

I look forward to seeing the full details of the changes to be made to the regulations.

Ann Brownell

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