



11th August, 2004

VENDOR STATEMENT LEGISLATION

Vendor statements

In principle the vendor statement is an excellent idea and one that is well worth pursuing for all parties. However, concerns exist over the requirement of 337 certificates and 132 rates notification to be provided BEFORE any marketing can proceed on any given property for sale.

In reality, some Councils are equipped and prepared to provide this service in a fast efficient manner - others are not. In the case of the latter many agents and vendors will be penalised by the time delay in these services being provided. Some sectors of the market will experience financial hardship as a result of this sort of delay (e.g the elderly and low income families).

Likewise, if some Councils determine that site inspections and other checks need to take place this will result in further delays and further costs - and who will pick up these costs? If faults are found in properties that date back to the previous owner or even before that, where does the cost and responsibility fall? What penalties will apply to those who do not follow the required vendor statement? Will there be a statute of limitations that applies on vendor statements whereby the purchaser must report any deficiencies or irregularities?

In a broad sense, the concern with the vendor statement is how far will the document go? If it goes into too much detail there is a real danger that a purchaser will use any minor discrepancy as a reason to withdraw from a contract - and this could lead to more legal battles than was every envisaged or intended.

Cooling off periods

The two-day cooling off period can be accepted by industry members, but only if it applies to private sales (same legislation start-up date) and not have a virtual penalty period. Many people are also of the belief that for true equity and fairness, the cooling off period should apply to both parties.

Will there be any penalty for costs incurred if a purchaser chooses to withdraw from a contract during the cooling off period?

Note:

It is understood that the new Auctioneers and Real Estate Agents Act will feature both a waiver option from cooling off periods, cooling off periods will not apply two days before and two days after an auction, not apply to tender bids and that the two day cooling off period will conclude at 5.00pm on the second working day. Until such time as the REIT sees the revised draft legislation we cannot confirm whether this has been implemented.

Martin Harris
Executive Officer