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## **NSW Real Estate Reform - housing and safety of tenants and workers**

### Overview

Many complaints are arising in the real estate sector, due to a lack of compliance, awareness, poor communication and poor customer service towards tenants. This has led to a culture of real estate agents appraising the value of homes based on 'market trends and consumer interest'...often leaving it to the tenant to pay for building inspections and property valuations - at their own expense to ensure they will live in a safe home.

Furthermore, property and strata managers are neglecting to carry out their duty of care responsibilities by not conducting physical safety inspections and allowing rental bidding between tenants to increase the rental prices. The sale or lease of these 'lemon homes' are inflating the price of properties - distorting the true value when the subject property can have structural or unknown defects - putting both employees and tenants in danger.

Burnout, violence and mental health issues are also plaguing the industry with approx., 43% of property and strata managers working over 41 to 50+ hours a week - mostly unpaid and managing over 200 to 1000+ properties each. Also, sexual assault cases in real estate offices have doubled in the last two years with 81% of employees not making a formal report... fearing a loss of work. We need to stop licensees putting money first and focus on improving employee and tenant relationships in the real estate sector.

### Problems

#### ***Safe affordable housing***

Non-disclosure of material facts has become a regular practice in real estate due to the lack of enforcement in the industry, making it a 'buyers beware market'. Because of this we have seen houses being overvalued due to unlawful tactics such as; underquoting and two-tier marketing - and agents taking advantage of ***The Residential Tenancies Act 2010 Section - 33 Payment of rent by tenant*** to allow tenants to enter into bidding wars with each other to raise rental prices.

#### ***Non-disclosure, repairs and maintenance and improvements of housing***

Due to many agents ignoring their duty of disclosure of material facts, consumers are paying higher prices for a property than what it's actually worth. This unacceptable behaviour results in the poor completion of condition reports as the inspections are not being conducted properly for homes for sale or lease. Furthermore, any reported complaints about managed properties are not being recorded or addressed - leading to injury and sometimes death to both tenants and staff.

## ***The health and safety of workers and cases of sexual harassment***

Due to the large number of properties being managed by agents which results in agents working overtime without pay. More importantly, they are unable to exercise a reasonable degree of care and due diligence towards tenants, landlords and contractors.

Also, a vast majority of agents are never given basic orientation training on safety practices for their workplace with 60% of Australian property managers finding it difficult to deal with aggressive and abusive people - including sexual assault cases doubling - with 65% of agents struggling with poor mental health. Furthermore, there are no support services offered by their employer - leading to 13 per 100,000 real estate agents committing suicide per annum.

## **Objective**

The primary goal is to better protect consumers and workers from unlawful real estate practices, due to licensees not following the Property and Stock Agents Act 2002 including any other laws applicable to the business of a licensee.

## **Key Performance Indicators**

We will use the following metrics to measure success:

- Monitor property websites like Domain and Real Estate.com and ensure they are not allowing advertisements of properties without a sale or lease price
- Create a new system in Service NSW for consumers to 'order a property history details online'
- Create a new system in Service NSW for consumers to 'check a property history report'
- A property history report includes:
  - if the property has had a building and pest report in the last 5 years
  - the properties history of material facts and maintenance in the last 5 years
  - whether the property meets the conditions to be fit to live in
  - any restrictions to live in or lease the property
  - the home insurance provider and policy expiry date
- Monitor real estate leases through the Service NSW - this will;
  - protect the consumer during the sale or lease of a property
  - make the auditing process easier for government regulators to check if a landlord or property managers are conducting regular condition reports and maintaining the property ensuring the property is fit to live in.

## **Process**

To execute this project, the government needs to address the following;

- Establish a national harmonisation project of the real estate sector – with consideration of a referendum vote to refer the power of land and real estate to the commonwealth. This would mean altering the constitution in order to establish a national regulator to reduce administrative burdens via a securities register

**Please note:** *housing is too important to be regulated on its severely fragmented basis. Therefore, a referendum to be held on property law regulation and housing markets is the*

*next logical step, as it's an important issue that plays a big role in most economies and was central to the global financial crisis*

- properties must undergo an independent building and pest report before the sale or lease of a property - to determine the property's true value – with a list of the material facts given to the consumer

**Please note:** this will stamp out underquoting by refraining people listing homes under the true estimate of the selling price and criminal organisations paying well above the reserve price to launder or conceal illicit funds

- fix the loophole in ***The Residential Tenancies Act 2010 Section - 33 Payment of rent by tenant*** to stop rental bidding, by not allowing tenants to offer more for the property as advertised or paying more bond to obtain a property over others
- update the condition report and hold agents more to account, when acting on behalf of a landlord as a PCBU
- introduce a 'Scores on doors' program for real estate sales/strata and lease businesses, and
- establish a minimum threshold for the minimum number of properties per property manager.

## Deliverables

This campaign can be delivered via the NSW Fair Trading website, RTOs, Property Matters newsletter and industry bodies like REEF and REINSW.

## Timeline

This can be achieved within 10 years – which will give the government time to restructure and implement new systems.

Yours sincerely

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