

The RAAS Report

February
2005

I was lucky enough to stay briefly on both the Gold and Sunshine Coasts during the holiday period, and from the look of the No Vacancy signs all over the place, there should be smiles on the faces of most holiday complex operators.

One thing that did not bring smiles to many faces was the series of compliance checks on Restricted Letting Agents conducted by the Office of Fair Trading (OFT) during November and December!

YOU, YOUR RESPONSIBILITIES, AND THE OFT INSPECTORS.

Most RUMs will, by now, have heard about these unannounced compliance checks. The last edition of Resort News carried the comprehensive press release issued by the Minister, Margaret Keech, as have various newspapers. Both holiday and permanent management rights were targeted.

One of the first to receive the knock on the door was a **RAAS** member on Brisbane's northside, who fortunately passed every test with flying colours. Having received the tip-off, **RAAS** head office was then able to email all members to remind them of their obligations and have them double-check their level of compliance.

Now I know that no one needs a lecture (or reminder) about things that amount to major transgressions of the Property Agents and Motor Dealers Act!

If you don't know that you must bank trust monies promptly, issue trust account receipts and have your trust account reconciled and audited --- offences that drew monetary penalties during the recent crack-down --- then you probably shouldn't be in the business.

It was in the area of the more minor offences that most **RAAS** members sought our advice.

- What exact details of your licence do you have to display in a prominent position?
- How big does the sign have to be?
- Does your licence number have to appear on this sign?
- Do you have to display a full copy of the RUM's Code of Conduct or just a sign referring to its availability?
- Do you have to display your full Complaints Resolution procedure or just a sign saying you have one?
- Does the requirement for an employment register apply to me?

It was in these tricky little areas that many of the audited RUMs came unstuck --- more about the answers to these questions later in this article.

So what should you do if the inspector from OFT comes knocking on your door?

We have all had a laugh at the one about "I'm from the government and I'm here to help you!" but the truth is that the inspectors of today are a more reasonable and helpful breed than the ones we knew 20 years ago. I have met a few and in my experience they are willing to advise and help as much as condemn and penalize. (Please ignore the last sentence if you have been doing funny things with your trust account).

If you are confronted with a surprise audit, co-operate in every way possible. Answer all questions honestly to the best of your knowledge. Under no circumstances adopt an aggressive confrontational attitude, because the old adage of "You can't fight City Hall" is as true today as it ever was. If you have transgressed in a minor way, it is most likely because you were ignorant of the law. Any good lawyer will tell you that ignorance of the law is no defence, but the inspectors from OFT know that the PAMDA laws are detailed and complicated, and if you co-operate fully they might let you off with a warning, rather

than slap you in the hip pocket - or worse!

If you have been silly enough to do something blatantly illegal with your trust money, like putting a thousand bucks on number 7 at Flemington in the 5th, then no amount of advice in the **RAAS Report** is going to help, so disregard everything you have read so far and prepare for a very negative change to your lifestyle.

So how do you protect yourself from committing minor breaches of PAMDA?

We don't have the space here to answer all the questions so we asked **RAAS RIGHTS** director and former TAFE lecturer in Real Estate Practice, Geoff Glanville, to prepare a short summary of the PAMDA requirements. We have also prepared samples of suitable signs that you may display in your office to satisfy the requirements of both Act and Code. We know these signs are OK because they have been borrowed from **RAAS** members who survived the recent audits with top marks.

To receive a complimentary copy of this information package please send an email with your request to mike@raas.com.au and we will have it on its way to you. Under no circumstances will your email address ever be passed on to a third party.

RMEG SEMINAR

RMEG (Resident Managers Education Group) was formed to offer an un-biased and credible information service to people who are considering entering the management rights industry. The first **RMEG** Introductory Information Seminar will be held in Brisbane on Friday 18th March 2005. For further information on this seminar contact us at the addresses below or on 07 3219 0910.

If you would like to comment on anything you have read in the RAAS Report, please send an email to mike@raas.com.au or write to The RAAS Report, 13/17 Victor St., Runcorn Q 4113.



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