

Terms of Reference

In 1972 the Committee was asked to review the *Land Agents Act 1921 (WA)* and report on amendments required to effectively exercise control over land transactions and whether provisions of the Act should be extended to cover other sales by agents or developers. In particular, the Committee was asked to consider:

- (a) the system of licensing;
- (b) the need for provision for renewal of licenses which have lapsed through unforeseen circumstances;
- (c) the need for further control over agents, as in New South Wales;
- (d) the need to restrain agents from arranging sales which may be impossible to complete, as where such a sale is induced by the agent's misrepresentation as to the availability of finance;
- (e) the need for improved auditing requirements;
- (f) the need for control over salespeople employed by developers; and
- (g) the need for control over the activities of land settlement agencies.

Background of Reference

The reference arose from a desire, expressed by peak bodies involved in the real estate profession as well as legal practitioners, that the activities of people working within the real estate industry be regulated by statute.¹ The project was given priority by the Attorney-General and was transferred to the Commission upon its inception in 1973.²

Nature and Extent of Consultation

The Commission issued a working paper in June 1973 which separately discussed the regulation of land agents, developers and settlement agents. The paper was widely distributed throughout the real estate and legal professions and public submissions were sought through newspaper advertisements. The paper attracted a large number of responses from a variety of sources including legal practitioners, real estate professionals, commercial and public interest groups and private individuals. The Commission submitted its final report in January 1974.³

Recommendations

The principal recommendations of the Commission included:

- That the Land Agents Supervisory Committee of Western Australia be replaced by a more broadly based body with wider powers of licensing and discipline.
- That the conditions under which a company or firm can obtain a land agent's license be tightened.
- That the supervising authority be empowered to prescribe rates of commission.
- That the grounds for claims against the Fidelity Guarantee Fund be extended.
- That a land agent's auditor be required to report directly to the supervising authority and any change of auditor to require approval of that authority.
- That the supervising authority be empowered to cancel or suspend the right of an auditor to conduct land agent audits;

¹ The Committee had already discussed some proposals regarding the regulation of licensed land agents in an earlier report; see Law Reform Committee of Western Australia, Working Paper, *Protection for Purchasers of Home Units and Sales of Land Through Land Agents*, Project No 1(Parts II & III) (1972).

² The intte indrectlyTnder lbe -0. thitThe plyTacipal recommo32 -0.2476 Tw 3e approv4ll & III) (1972).

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- That land auctions be held only under the control of licensed land agents.
 - That only licensed land agents be permitted to operate as business agents.
 - That developers be controlled by statute in a similar manner to that applying in New South Wales.