

Property Management Focus.

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Rules when you are looking to sell your rental property



When you decide the time is right to sell your rental property, there are certain rules you need to be aware of.

Notice

- If an owner puts the property on the market, they must tell the tenant in writing. As a courtesy, and to promote good relations between the sales team and the tenant, they would be advised to let the tenant know beforehand through their property manager.

Photography

- Your property manager must seek permission before you organise for a photographer to enter the property to take marketing photographs.
- Be aware your tenant can refuse to allow their personal possessions to be in any photograph. Even if permission is granted, at any stage, if the tenant feels their privacy has been violated they can cause problems, so you would be best to advise the sales team not to photograph tenants' possessions.

Access to the property

- Owners, and their real estate sales

consultants, have the right to show possible buyers through the house. They can also show through a registered valuer or a building expert they've employed to prepare a report. But the tenant must give permission first.

- A tenant can't unreasonably refuse access, but they can set reasonable conditions. For example, they can: Limit access to certain times of the day and days of the week; refuse open homes and auctions on site; ask to be present during open homes.
- Tenants can insist that the property be shown by appointment only.
- Before including open homes or an on-site auction in the sales plan, the owner should discuss all this information with the tenant. Consent needs to be given for specific dates and times, and should be put in writing.
- It is a good idea to offer the tenant an incentive to stay in the property and to work with the sales team. An idea would be to offer the tenant a week's free rent once there is an unconditional sale on the property. If you are wanting more cooperation from the tenant than the usual viewings, say to hold open homes or have an auction on site, then you may wish to consider offering two weeks rent.
- It is important to note that should you wish to keep any part of the bond that the tenant has lodged against their name, then these arrangements must

be made prior to a sales agreement being reached. Once you have put on the agreement a bond amount then that is the figure that **MUST** be transferred to the new owner.

Once sold

- When sold, if the new owner intends to keep on the same tenants, the tenants should be told who the new owner is and when they'll take over. Ask your property manager to provide the new owner with a copy of the tenancy documents and arrange for the bond to be transferred. If you have received good service from your property manager, it may be an ideal time to recommend that the property be kept under the same management structure to minimise any disruption to the tenant.
- When the property is sold, the original landlord's interest in the bond will pass to the new landlord
- If the property is sold to someone who doesn't want to keep on the tenants, one of the conditions of sale will be "vacant possession". The owner must give the tenant at least 42 days' written notice to end the tenancy, so the house will be empty for the buyer. Please remember to add on the appropriate 'service days' to any notice to vacate. If the notice is posted to the property, then four working days must

Rules when you are looking to sell your rental property **cont'd**

Once sold **cont'd**

- be added. This can be reduced to two days if the notice is hand delivered to the property and can be immediate if the notice is emailed, faxed or handed in person to the tenant – always remembering that the actual notice period starts the following day from the end of any notice period.

Fixed term tenancy

- A landlord or tenant cannot give notice to end a fix-term tenancy early. So, if the property being sold is rented for a fixed-term, the property must be sold with the tenancy and tenants in place. The buyer will become the new landlord for the rest of the fixed term.

- The landlord may be able to sell the property empty if the tenant agrees, in writing, to end the fixed-term early. This will usually involve some sort of compensation for the tenant.

Source: Tenancy Services, Ministry of Business, Innovation and Employment

What do real estate agents have to disclose **about a property?**

As a seller, when you choose a real estate sales consultant to market your property, you expect them to act in your best interests at all times.

And this is something that sales consultants are trained to do.

However, it does not mean they are able to misrepresent or hold back any information from potential buyers.

As real estate professionals we must follow the Real Estate Agents Act 2008, our own industry Code of Conduct and the Fair Trading Act.

The real estate Code of Conduct states a sales consultant must not “mislead a customer or client, nor provide false information, nor withhold information that should by law or in fairness be provided to a customer or client.”

To this end Harcourts sales consultants will alert buyers to any potential problems that they are aware of.

These may include issues such things as weather tightness problems; boundary issues, alterations that have been carried out without local body permission, the potential impact that proposed developments may have on the property, and if there is a risk of methamphetamine contamination.

Any misleading statements about a property are also prohibited under the Fair Trading Act.

This means any claims must be able to be backed up with evidence. So while a sales consultant will want to present a property in a positive light, they have to be realistic and honest in the language they use.

But however fair and transparent a salesperson tries to be, inevitably there are disagreements around disclosure.

If you believe a property has been

misrepresented to you, you should take your complaint to the Real Estate Agent's Authority (REAA), which is an independent government agency. The REAA's Complaints Assessment Committee will review the complaint and decide if misconduct charges should be laid.

If charges are laid, the Ministry of Justice's Real Estate Agents Disciplinary Tribunal will hear the case and make a ruling.

The tribunal has the power to impose heavy penalties, including fines of up to \$15,000 for individuals and \$30,000 for companies, payment of compensation for actual loss (up to \$100,000), and the cancellation of real estate licences.

These penalties are tough, and so it's in the best interest of sales consultants, and real estate companies, to make sure full disclosure is adhered to at all times.

