



# Submission for the Review of Property Managers

**Prepared for the Ministry of Justice  
by the New Zealand Property Investors Federation**

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## NZPIF SUBMISSION ON PROPERTY MANAGERS

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## INTRODUCTION

The New Zealand Property Investors Federation (NZPIF) is the national body for 19 Property Investors' Associations and the Independent Property Managers Association. Associations have approximately 4,500 rental property owners as members, of which approximately 15% also own some form of commercial property.

The previous Government's Associate Justice Minister, Clayton Cosgrove, initiated a review of the regulation of property managers in response to the concerns raised by a number of submitters to the Real Estate Agents Bill. "Although no substantial or robust evidence has emerged to date that a significant problem exists with unlicensed property managers, the Government agrees with the Select Committee and support parties that the high levels of concern from submitters justify reviewing the regulation of property managers in more detail," Mr Cosgrove said.

Property Management services can be broken down into the two main areas of Residential and Commercial. While the background to the Review came primarily from Real Estate Institute concerns over Residential Property Managers, the review is also looking into commercial Property Managers.

Commercial Property Managers tend to be University Educated with the equivalent of a Bachelors degree in Property. Commercial property Managers of larger A & B grade properties tend to be employed by property owners rather than contracting their services to many owners. As such they do not tend to administer rental payments so there is less risk of fraudulent activities. Property Managers of C grade buildings and mixed Commercial/Residential properties may or may not have suitable qualifications.

Residential Property Managers provide their services on a contract basis to many owners, mostly handling all aspects of property management, including receiving rental payments on behalf of property owners. Residential Rental Property is regulated by the Residential Tenancy's Act (RTA), administered by the Department of Building and Housing. Residential tenants have more rights under the RTA than commercial tenants have under commercial law.

Residential Property Managers can either be independent or aligned to a Real Estate agency. Real Estate aligned Property Managers are currently regulated by the Real Estate Institute (REINZ), however this will end when the Real Estate Agents Act (REA Act) is established in November 2009.

Independent Property Managers are not currently regulated but may choose to be a member of the voluntary Independent Property Managers Association (IPMA).

The NZPIF have undertaken research of its members to identify if they have any industry related problems or concerns. This research identified that a high percentage of members using Property Management Services have experienced problems. These problems are generally related to competency issues rather than fraudulent activities or the risk of theft. However the lack of knowledge and professionalism by Property Managers has led to members losing considerable amounts of money.

There are currently limited courses available to educate Property Managers and the majority of existing Property Managers do not appear to have undertaken these courses. Additionally, we do not believe that the courses currently available provide a complete or adequate level of instruction that would give consumers confidence that a Property Manager would be competent to manage their properties.

REINZ Property Managers must currently complete a Real Estate Salesperson course to become registered, which has very little training related to Property Management activities.

The NZPIF believe that there are problems with the provision of Property Management services in New Zealand that are seriously affecting rental property owner consumers. The problems are primarily competency based and consumers would be best protected by limited regulation of Property Managers that was focused on them meeting a certain level of education and the governance of a related industry group.

## CURRENT MARKET SITUATION

Approximately 33% (500,000) of the 1.5 million homes in New Zealand are rented. According to the 2006 Census, there are approximately 300,000 people or entities that own rental property in New Zealand. An Auckland Property Investors Association survey of its members in 2005 showed that 25% used a Property manager. Using these figures, we estimate that there are approximately 1,550 to 2,100 Property Managers in New Zealand, based on 125,000 managed rental properties and 60 to 80 properties per manager.

There are currently no regulations for Property Managers who are not associated with the REINZ. Independent Property Managers may or may not be members of the voluntary Independent Property Managers Association (IPMA) which is affiliated to the NZPIF. The Numbers of Independent Property Managers choosing to belong to the IPMA is low.

Property Managers affiliated to the REINZ are currently included with Real Estate Agents under the Real Estate Agents Act 1976; however this will change in November 2009. The current Act requires people to hold a licence before they can act as a real estate agent. Salespeople must hold certificates of approval before they can work for a real estate agent.

The Act also:

- establishes the Real Estate Agents Licensing Board, which decides whether to grant licences and certificates
- sets requirements for real estate agents and salespeople to meet before they can get a licence or certificate
- controls how and where real estate agents can set up business
- sets rules about handling money
- sets rules for dealing with situations where a real estate agent's own interests may be different from the client's interests
- requires real estate agents to be members of the REINZ
- allows the REINZ to make rules for its members
- establishes the Real Estate Agents Fidelity Guarantee Fund
- establishes a complaints and disciplinary system.

## OVERSEAS SITUATION

The majority of countries and States within countries have a requirement for Residential Property Managers to be licensed.

In the USA you must be a Real Estate Agent, similar to a REINZ Property Manager in New Zealand.

Most countries have dedicated training for Property Managers. To qualify for licensing in Canada, Property Managers must take the Rental Property Management Licensing Course, a self-paced correspondence course comprised of 20 multiple choice assignments and a 3-hour multiple choice final exam. Most individuals complete it within six months based on completing one assignment a week, usually spending 10 – 12 hours per assignment. They then apply to the Real Estate Council of British Columbia for licensing. A Relicensing Education Program (REP) requires licensees to complete two courses every licensing cycle as a condition of continued licensing.

In the UK, the National Approved Letting Scheme operates, a voluntary scheme for Property Managers to participate in, supported and funded by the UK Government.

Every state of Australia has different licensing requirements. To be able to trade as property management company the company has to be licensed with a principal or licensee in charge. Each staff member of the company has to have a certificate of registration

## DEFINING A PROPERTY MANAGER

Property Managers can be broken into the two main groups of Commercial and Residential. A third and semi related group are Body Corporate managers.

Body Corporate Management is more involved with managing the owners of a multi-ownership building such as an apartment block. As such Body Corporate Managers manage the building owners and look after the building rather than looking after the tenants within a building. The building complex may be totally owner occupied and still have a Body Corporate manager for the owners. Having said that, there have been cases where developers of a multi-dwelling building have designated a high level of control to a Body Corporate Manager and this can affect rental property within the complex. These issues are already being reviewed through the Unit Titles Act. For the purposes of this Review, we do not believe that Body Corporate Managers should be considered by the Ministry of Justice.

We believe that the two main groups of Property Managers, Commercial and Residential are quite different and should be treated as such for the purposes of this review.

## DIFFERENCES BETWEEN PROPERTY SALES AND PROPERTY MANAGEMENT

Procedures for managing rental property are far removed from those of selling property, so we do not believe that it is appropriate for Property Managers to come under the same jurisdiction as Real Estate Sales people.

Selling a property is a one off project, not an ongoing business relationship as it is with rental property management. The key tasks of a real Estate Salesperson are:

- To obtain the listing of property to be sold
- To appraise the value of properties
- To promote the property to potential buyers
- To negotiate the terms of the sale between the seller and buyer
- To complete the sale and purchase agreement

In contrast, a Property Manger has an ongoing relationship with the Rental property Owner. The key tasks of a Property Manager are:

- To find suitable tenants for the property and correctly end tenancies
- To monitor rental income and handle any rental arrears
- Paying accounts
- Overseeing maintenance and repairs
- Protecting the owners interests, especially regarding damage to the property
- Appearing for the owner in mediation or the Tenancy Tribunal if tenant problems occur

Sales agents are often involved in situations involving hundreds of thousands of dollars in a one off transaction, whereas Property Managers receive hundreds of dollars in regular timeframes. The potential for fraud is greatly reduced with Property Managers, with a higher potential of it being picked up due to the regularity of rental income.

Remuneration for both occupations is typically commission based, however the aspects of the activities makes remuneration very different. Salespersons' incomes are infrequent and sporadic but very high when they are obtained. Property Managers incomes are more regular and frequent but not as high as for sales people.

The Acts of Parliament governing the two occupations are also different. While all Real Estate Sales People are primarily governed by the Real Estate Agents Act, Property managers are primarily governed by the Residential Tenancies Act.

This is not to say that there isn't a benefit for individual Property Managers to have a business relationship with a Real Estate Agency; however we believe this is a benefit for the Property manager (by securing new clients from sales agents), not for the consumer.

In addition to there being no duplication of duties between the two occupations, there is a potential conflict of interest which is not in the consumers' best interest. This conflict can occur when Sales Agents recommend their associated Property Manager to rental property purchasers, when they may not be the best manager under the circumstances.

There is also potential for Property Managers to supply overly optimistic rental appraisals to potential rental property buyers in order to assist a sale for the sales agent. This is a serious concern as it can lead to purchase decisions being made on incorrect information.

For these reasons, the NZPIF does not believe that the interests of either Rental Property Owners or their Tenants are best served by Property Managers being treated in conjunction with real estate sales.

The Review of Property Management regulation's is an ideal opportunity to completely separate the two activities from each other. It is timely to investigate more appropriate requirements and governance structures for all Property Managers.

## DIFFERENCE BETWEEN COMMERCIAL AND RESIDENTIAL PROPERTY MANAGERS

When calling for a review of Property Managers, the REINZ's intention was likely that the focus should be on residential property managers, not commercial property managers.

Although there is some crossover with properties that have both residential and commercial tenants, essentially the management of residential and commercial properties are entirely different. The main differences are outlined in the following table:

	<b>Commercial Property Manager</b>	<b>Residential Property Manager</b>
<b>Operating legislation</b>	Contracts Law	RTA
<b>Employer</b>	Usually one employer	Many different employers
<b>Employment status</b>	Usually an employee	Employed on an agency basis
<b>Remuneration</b>	Salary	Commission
<b>Tenant</b>	Commercial with a strong inclination to look after the property for commercial reasons	Residential
<b>Property types</b>	Industrial, Office, Retail (Each classed as A, B or C quality)	Residential
<b>Existing qualifications</b>	Up to University level	REINZ Real Estate Sales persons course or no qualification
<b>Duties</b>	<ul style="list-style-type: none"> <li>• Find suitable tenants for the property and correctly end tenancies (Infrequent occurrence)</li> <li>• Rent review and lease renewal negotiation</li> <li>• Organising operating expenses</li> <li>• Budget preparation and administration</li> <li>• Financial analysis</li> </ul>	<ul style="list-style-type: none"> <li>• Find suitable tenants for the property and correctly end tenancies (Frequent occurrence)</li> <li>• To monitor rental income and handle any rental arrears</li> <li>• Paying accounts</li> <li>• Overseeing maintenance and repairs</li> <li>• Protecting the owners interests, especially regarding damage to the property</li> <li>• Appearing for the owner in mediation or the Tenancy Tribunal if tenant problems occur</li> </ul>

As commercial and residential Property Managers are quite different, we do not believe that any homogenous regulations would be appropriate for the different groups.

While it appears that the management of commercial properties does not seem to have any inherent problems or causes for concern, this is not the case for Residential Property Management.

## INDUSTRY PROBLEMS

While our prime concern is with residential property managers, we have investigated if there are any problems with commercial Property Management. It appears that there is no problem in the larger A and B classes of commercial property as there are established University and other courses for employers to be confident that a property Manager has the necessary knowledge to complete the property management requirements.

There may be a problem with the skills and knowledge of property managers looking after class C properties. Often these are past or current Real Estate Sales Agents or diversifying Residential Property Managers. There is currently no legal requirement for these commercial managers to have any qualifications or training.

In this section on industry problems we will just refer to residential property management as it does not appear that the same problems exist within commercial property management.

In order to identify and better understand the problems faced by residential rental property owners, the NZPIF developed a questionnaire for residential property owners in November 2008. Five hundred and eighty nine people participated in the survey. Nearly half of these respondents (288) used a Property Manager regularly. A full report on this research is located in Appendix A.

A summary of the survey findings were that:

- Widespread problems are occurring within the provision of Property Management services. Forty five percent of respondents have had a problem when using a Property Manager, with 75% of those respondents having had more than one problem and 25% having more than five problems.
- The problems are reasonably serious and result in a loss of money by consumers. (Seventy five percent of respondents have lost money through the actions of their Property Manger. Eighty five percent of these losses were over \$1,000.)
- The problems experienced result from the Property Managers lack of knowledge or experience rather than fraudulent activities.
- When a problem occurs, respondents mostly address the problem directly with the Property Manger or their supervisor and use the Disputes Tribunal or legal action if this does not resolve the problem. Only a few respondents' contacted the Real Estate Institute when a problem with Property Managers occurs.
- Concerns about the industry are mainly around losing money through the incompetency of Property Managers rather than rental property owners not receiving rental income through theft.

An analysis of the type of problems that consumers are experiencing shows that the vast majority are concerned with competence issues rather than dishonesty.

- |                              |     |
|------------------------------|-----|
| • Rent Arrears               | 24% |
| • Bad inspections            | 13% |
| • Poor communication         | 13% |
| • Poor management systems    | 13% |
| • Lack of knowledge          | 11% |
| • Poor Tenant screening      | 9%  |
| • Dishonesty                 | 8%  |
| • Too busy / Disorganised    | 5%  |
| • High vacancies             | 2%  |
| • Poor promoting of property | 1%  |

Of the problems that respondents identified, rent arrears, bad inspections and high vacancies are more a symptom of the other problems identified. For example, poor knowledge and tenant screening will lead to rent arrears and high vacancies.



An additional problem identified through the Rental Property Owners survey was a lack of consumer knowledge of where to go and what to do if they had a problem with their property manager.

Of the 175 respondents who have had problems with property management services, 137 (78%) did not find a solution to at least one of the problems. Most consumers (85.7%) who did resolve the problem spoke to their Property Manager. Thirty two percent spoke to the Property Manager's Supervisor (if they had one) and 19% spoke to other investors' to find a solution to the problem.

Nine percent took their problem to the Disputes Tribunal, 5.2% used a lawyer and 3.2% took court action to resolve the problem. Only 2.6% of respondents contacted the Real Estate Institute regarding their problem. Although not covered in the survey, this may be because consumers associate the Real Estate Institute with Real Estate Sales rather than Property Management.

In addition to causing great harm to individual consumers, the lack of Property Management skills and knowledge is also causing problems for tenants and Government.

A Tenants rental property is their home and the standard of property management that they receive has a large impact on their quality of life. Although we have not researched the problem, we believe that if rental property owners are experiencing significant problems through their Property Managers lack of knowledge, then this is also likely to be negatively impacting on tenants as well.

The lack of Property Management knowledge, specifically around the RTA, will also be impacting on Tenancy Mediation and Tenancy Tribunal applications. Without an understanding of the RTA and how to effectively manage rental properties and tenants, the number of Tenancy mediation and Tribunal hearings is likely to be higher than it should be. Despite funding from interest collected on bond deposits and application fees, the excessive use of dispute resolution services will undoubtedly be having a negative impact on Government resources and expenditure. A reduction in applications will also improve the timeliness of getting hearings, which will benefit both landlords and tenants.

To conclude, we believe that there are problems with the supply of property management services and that these problems are causing significant harm to consumers, including lost revenue. We do not believe that the existing industry structure can remedy the problem itself. If there is to be industry regulation then it needs to correctly address the problem which we view as a complete lack of suitable education. Any regulation needs to be at an appropriate level as increasing levels of regulation involves more cost and can cause further problems such as restricting people from entering the industry. We believe that any regulation needs to focus primarily on improving the educational standards of property managers in New Zealand.

## SPECIALISED EDUCATION FOR NEW ZEALAND PROPERTY MANAGERS

The NZPIF Survey demonstrated that the problems consumers were experiencing were due to a lack of Property Managers competency, which is likely explained through an almost complete lack in the availability of specialised training.

There are currently no requirements for Property Managers in New Zealand to have any knowledge of the RTA or their required tasks and duties before taking over the responsibility of consumers high worth investment assets. The NZPIF believes that this situation is the largest contributor to problems within the industry.

The majority of Property Managers either establish themselves as an independent property manager or align themselves with a real estate agency. Those aligned to the REINZ must complete the REINZ salespersons certificate, however this certificate does not provide them with the information they need to even remotely equip them to operate as a property manager.

Under the current REINZ structure, Property Managers must complete a Real Estate Salespersons course to receive a certificate in Real estate. The core compulsory units involved are:

- Prepare condition and redevelopment potential reports for potential vendors and purchasers
- Demonstrate knowledge and use of listing form and of appraising property
- Develop marketing plans for real estate, qualify purchasers, and present properties for sale
- Demonstrate understanding of legal matters affecting real estate salespersons and property managers
- Demonstrate knowledge of basic real estate marketing
- Demonstrate knowledge of building styles, methods, and materials

None of these core compulsory units are directly related to property management and emphasise the disassociated way that property management is currently treated under a Real Estate Sales structure.

Some of the larger Real Estate agencies have in-house training, however it is not known how widespread this practice is or how thorough the in-house training is.

Property Managers (and indirectly their consumers) deserve dedicated education and qualifications.

Respondents to the NZPIF survey expressed a widespread view that a lack of knowledge and systems was more prevalent with Real Estate aligned property managers, suggesting that the level of property management in-house training was low. It appears that most Real Estate aligned property managers learn on the job as they go, which is not a satisfactory situation for consumers.

There is currently no requirement for independent property managers to obtain any training on the requirements of or how to operate as a property manager before establishing themselves in the marketplace. Some of the larger independent companies or franchises have in-house training, but similar to real estate aligned managers, there is no way of knowing how comprehensive or accurate this in-house training is.

From the results of the NZPIF survey, a lack of knowledge by property managers would appear to be the largest problem that consumers face. It makes it difficult for consumers to determine who is competent to be a property manager let alone who would be good at the job. This lack of knowledge and skills by property managers is leading to consumers receiving poor service provision and losing money through the inadequate actions of property managers.

The scale of the problems that consumers face indicates that a large proportion of Property Managers in New Zealand are not adequately trained to perform their duties to a required standard.

Only a limited number of courses exist for property managers to increase their performance knowledge. The current lack of courses indicates that there isn't sufficient demand for such courses because property managers do not believe they need extra training, do not believe the current training meets their needs or is too expensive.

The best single course of action to reduce problems faced by property management consumers is to improve the education system. A standard educational requirement for all Property Managers should be established, covering both Real Estate Agency aligned Property Managers and Independent Property Managers.

Establishing educational standards would also have the additional benefit of improving tenants' living standards and reducing government expenditure on Tenancy Mediation services and Tenancy Tribunal hearings.

## REQUIRED TRAINING IMPROVEMENTS

The NZPIF survey into the problems that property management consumers are experiencing clearly identified a lack of adequate training as the prime problem. There is currently no requirement for any property management training, with the current course centred on real estate sales rather than property management.

The NZPIF believe that the problems experienced by consumers indicate that a complete restructuring of property management training requirements is necessary, dedicated to property management and not a sideline of real estate sales.

This dedicated training needs to encompass all aspects of property management activities in order to significantly reduce the problems that consumers are facing.

The NZPIF has developed a draft syllabus (Appendix B) covering information under the following topics:

- Regulatory matters
- Business systems (including book-keeping and money handling)
- Market knowledge
- Promoting a Property To-let
- Selecting a tenant
- Starting the Tenancy
- Property Management
- Ending a tenancy
- When things go wrong with a tenancy
- Taking formal action to resolve problems
- Mediation
- Tenancy Tribunal
- Enforcement

In order to address the problems that consumers are facing, property management training should focus on best practice actions to prevent problems occurring and good systems to improve efficiencies. In addition, training should also provide an overview of the industry and how to handle problems when they do occur.

An organisation should be appointed to define what the minimum educational standards for Property Managers should be and certify providers of Property Management courses. This organisation should also maintain a register of Property Managers to ensure that Property Managers are.

Property Management courses could be broken down to Units, which could be aligned around sub-sections of Property Management duties, such as letting, office systems, Tenancy management and Tenancy Tribunal hearings. This could allow for a level of training aimed at staff of larger property management companies who do not fulfil the entire property management function.

## COMPULSORY VERSUS VOLUNTARY EDUCATION

Property management education should be compulsory as the current voluntary system is not working in the consumers' best interest. A compulsory system would raise the professionalism of all property managers, have the largest affect on reducing consumers problems and give consumers more confidence when selecting a property manager.

Compulsory education would provide a basic level standard, with no differentiation between Independent and Real Estate aligned property managers. This would greatly aid consumers when selecting a property manager.

In addition, compulsory education would enable the establishment of more courses through providing economies of scale that would reduce the risk of establishing courses while also reducing the cost of training for individual property managers. Lack of consumer demand and the associated financial risk is potentially a significant reason for the current lack of Property Management training courses.

An organisation should be appointed to define what the minimum educational standards for Property Managers should be and certify providers of Property Management courses.

## POTENTIAL SOLUTIONS TO INDUSTRY PROBLEMS

The NZPIF have identified six goals that, if achieved, would provide the best solutions to the identified problems that consumers are currently facing when employing property management services.

- Raise the standard of property management education to protect consumers from experiencing problems and losing money
- Provide equality of regulations across all property management types
- Provide individuals with independent accreditation as to their professional skills
- Minimise regulatory controls to essential areas for improvement
- Assist consumers in assessing Property Managers capabilities
- Improve consumer knowledge of their rights and access to problem resolution

The most significant factor in achieving these goals and protecting consumers is a complete overhaul of the property management education system. The most significant problems faced by consumers and the primary reason for them losing money are through the incompetence and ignorance of their property managers. As covered previously in this submission, we believe that the industry requires specific and dedicated training that is not associated in any way with real estate sales. (See appendix B for a draft syllabus of educational requirements)

While Property Managers deal with large sums of their clients' rental money income, fraudulent activities are very rare. We believe that a simple register of all Property Managers would be sufficient to discourage theft. We do not see the need for a compulsory Trust Account system and frequent audits, as this would be a complicated and expensive method that may not achieve the desired result. It is also likely that expensive regulations will force Property Managers with a small client base out of business, which would not be in consumers' best interest.

The Property managers' register should be linked to training requirements and an annual practising certificate. This would also provide a simple method of contact to advise property managers of any regulatory or market changes, plus communication with Government departments. This would be beneficial to all industry stakeholders.

As we have not identified significant industry problems, we do not see a need for a stand alone complaints and disciplinary system for property managers. We believe that existing methods of problem resolution, including informed direct communication between parties plus the Disputes Tribunal if agreement cannot be achieved, are sufficient for the vast majority of cases. They are an existing and cost effective method of problem resolution.

The NZPIF does believe that awareness by consumers of their rights and access to problem resolution options needs to be improved. We believe that a national consumer information centre should be developed to provide consumers with advice via a website, with individual cases being handled through email and telephone contact. The aim would be to improve consumers' awareness of their rights and expectations to allow them to engage in an informed manner with their property manager. Information would also be made available to consumers of dispute resolution options available to them and steps they must take if direct communication with their property manager fails to address the problems they are experiencing.

Other measures such as Trust Accounts, regular Trust Account Audits, compulsory Professional Indemnity and Client Money Protection Insurance cover and Code of Ethics can be introduced on a voluntary basis through membership of an industry group, such as the IPMA or REINZ.

## BENEFITS OF A PROPERTY MANAGERS REGISTER

The NZPIF believes that a register of Property Managers will have a positive effect for consumers, property managers, Government and tenants.

Tenants will benefit from a register as it will discourage uninformed and incompetent managers from looking after their homes, leading to more professional management and a better lifestyle.

With all their records held on a register, it will be easier for consumers to locate a property manager should they abscond with their rental income.

Property Managers will benefit from the register as they will receive information from the NZPIF to help keep them up-to-date with regulatory changes and best practice techniques in how to be a better Property Manager. The NZPIF will also be able to keep managers current with proposed industry changes, giving managers an opportunity for input before any changes become law.

Government will benefit as they will have a system for communicating with property managers which can help them receive important feedback on proposed regulations on problems affecting the industry. They will also be able to easily inform property managers of regulatory changes in an efficient and timely manner.

## CONSEQUENCES OF NOT REGISTERING AS A PROPERTY MANAGER

In order for the register to operate successfully, there needs to be a consequence for any Property Manager who does not obtain the correct educational and certification requirements.

There should be an appropriate fine applied to any person operating as a property manager who has not undertaken the designated education or registered themselves as a property manager.

## COST BENEFIT ANALYSIS FOR INDUSTRY SOLUTIONS

The benefit to consumers of increasing Property Management educational standards would be higher than the cost of obtaining and maintaining these standards. Property Managers would be better off financially through better training and there would be lower government spending on DBH mediation services and the Tenancy Tribunal from problems caused by badly informed property Managers.

An appropriate educational course can be provided for between \$600 and \$1,000. This would be a considerable saving on the current cost of studying to become a Real Estate Sales Person, which costs over \$2,000 and has only minimal Property Management content.

Through standardised and targeted education, Property Managers would receive a high quality education that would be less than the annual management fee from just one average New Zealand rental property. This would be a one off fee ensuring they have minimal knowledge to undertake Property Management activities for clients.

With an increased knowledge of the RTA and better business practises, we estimate that existing Property Managers would save an average two hours per week through better efficiencies. At \$50 per hour, Managers would effectively save nearly \$5,000 in lost productivity that they would otherwise lose without the higher level of training.

In order to operate a registration system, continuing education program and Consumer Information Centre, Property Managers would be charged an annual registration fee of approximately \$200 per year.

Assuming an average of 80 properties per Property Manager, registration fees could potentially add \$3.12 a year to the cost of each rental property. This cost is likely to be passed on to the Rental Property Owner. At \$3.12 a year, this will represent a low cost to the rental Property Owner for a significant improvement in the service they will receive from their Property Manager and a system for hearing their complaints should they experience a problem.

In addition, REINZ Property Managers would see a reduction in their regulatory compliance costs, meaning there should be no extra cost burden for owners who currently use a REINZ Property Manager.

The Tenancy Tribunal holds approximately 40,000 hearings per year, with 90% of applications (36,000) being made by Landlord's and 80% of these (28,800) being for rent arrears and damage to rental property. With this in mind, a

significant proportion of Property Management training will be concerned with tenant selection, reference checking, rental payments and property inspections in order to reduce the number of Tribunal applications.

Assuming that Property Managers make up 30% of Tenancy Tribunal applications and targeted training reduces the number of applications they make by 20%, this would result in 1,730 fewer Tribunal hearings per year. Court time would be more available, hearings could be seen faster and there would be less Government spending on the Tenancy Tribunal and Mediation services.

To summarise, a registration scheme for Residential Property Managers that targets education and an information centre will be relatively inexpensive to operate but provide a high level of consumer and industry benefits.

## OPTIONS FOR AN ORGANISATION TO OVERSEE PROPERTY MANAGEMENT REGULATIONS

The NZPIF have identified four potential options for an organisation to oversee Property Management education course requirements, registrations and the Consumer Advice Centre. They are:

- The Real Estate Institute of NZ
- The Real Estate Agents Authority
- A new Property Managers Authority
- The NZ Property Investors Federation

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### THE REAL ESTATE INSTITUTE OF NZ

We do not believe that the Institute would be an appropriate governing body for Property Managers. The prime concern of the Institute is with Real Estate sales, which has no connection with the management of rental property.

The only reason for the Institute to become the governing body would be the historical link they have through some property managers seeing benefit in being associated with a real Estate Agency.

We do not see this as a benefit for consumers as the REINZ has not shown a high level of commitment to the rental property industry in the past and are likely to continue having a greater interest in real estate sales.

While the NZPIF has a great respect for the REINZ and works with this organisation on many housing related issues, we do not believe that the REINZ would have the independence to adequately represent consumers' interests if they were to govern the Property Management industry.

Respondents to the NZPIF survey gave a clear impression that they did not want the REINZ to continue to have involvement with property managers.

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### THE REAL ESTATE AGENTS AUTHORITY

The Real Estate Agents Authority has been established for the purpose of regulating the real estate sales industry and not the Rental property industry. While it is feasible that the Authority could establish a separate arm to oversee property management activities, we do not believe this is a good fit with the original intent of the Authority.

The Ministry of Justice does not have the relevant expertise of the rental property industry to efficiently develop and maintain educational requirements for the Property Management industry.

We believe that this is an excellent opportunity for all property managers (Independent and Real Estate aligned) to be included under the same regulations and separated from Real Estate Sales once and for all. Having the REAA govern property managers would not allow this.

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## A NEW PROPERTY MANAGERS AUTHORITY

The establishment of a new Authority specifically for Property Managers would enable a clear separation between the property management and real estate sales industries, which would be a real benefit to property management consumers.

A Government appointed Authority or existing Government department would have the independence to introduce initiatives that would benefit consumers. However a new Authority may not have the relevant expertise of the rental property industry to efficiently develop and maintain educational requirements for the Property Management industry.

In addition, Government Authorities tend to have more administrative requirements than industry bodies, making them less responsive and more expensive to operate. In the current economic environment, many Government agencies are looking to reduce their costs rather than taking on additional costs.

There is also a risk that lobby groups from various industry stakeholders may gain changes that are potentially not in the best interest of the industry overall.

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## THE NZ PROPERTY INVESTORS FEDERATION

We believe that the NZPIF is in the best position to provide a governance structure to any regulation deemed beneficial to consumers following the Ministry of Justice review of property management regulations.

We believe that it is usually best for an industry to govern itself and the NZPIF offers a unique and beneficial aspect to self governance. The Federation already represents both the consumer and some of the suppliers within the property management industry. As such we have an established interest in seeing that any regulations are balanced and will be in the best interest of both main parties and the industry overall.

The Federation has a well established interest in the rental market industry and has built up a reputation of professionalism and bipartisanism in working with different industry stakeholders. These include rental property owners, tenants, Property Managers, Government departments, Government and all political parties.

While we acknowledge that there are problems in the provision of property management services, our research has identified the prime cause of the problems and how solutions can be efficiently and cost effectively introduced in a targeted manner for the benefit of all parties. It is in our members' best interest for any required regulations to be appropriately introduced so that their costs are kept to a minimum. We appreciate that excessive regulation is expensive, with the cost likely to be passed onto rental property owners and potentially limiting the supply of property managers which would also place upward pressure on property management fees.

We view education as the prime solution to existing problems that property management consumers are currently facing. The NZPIF has a wealth of knowledge in this area as educating self managing rental property owners is an existing prime function of the NZPIF and affiliated associations around the country.

The NZPIF and affiliated Associations have a wealth of rental market knowledge among its participants. This includes rental property managers, property market commentators and authors, owner-managers, property legal experts, RTA specialists and business owners. This combined pool of talent is in the best position to identify appropriate educational requirements for property managers and develop ongoing improvements to the syllabus that will greatly enhance consumer benefits as well as helping property managers to more effectively and efficiently perform their duties to a higher standard.

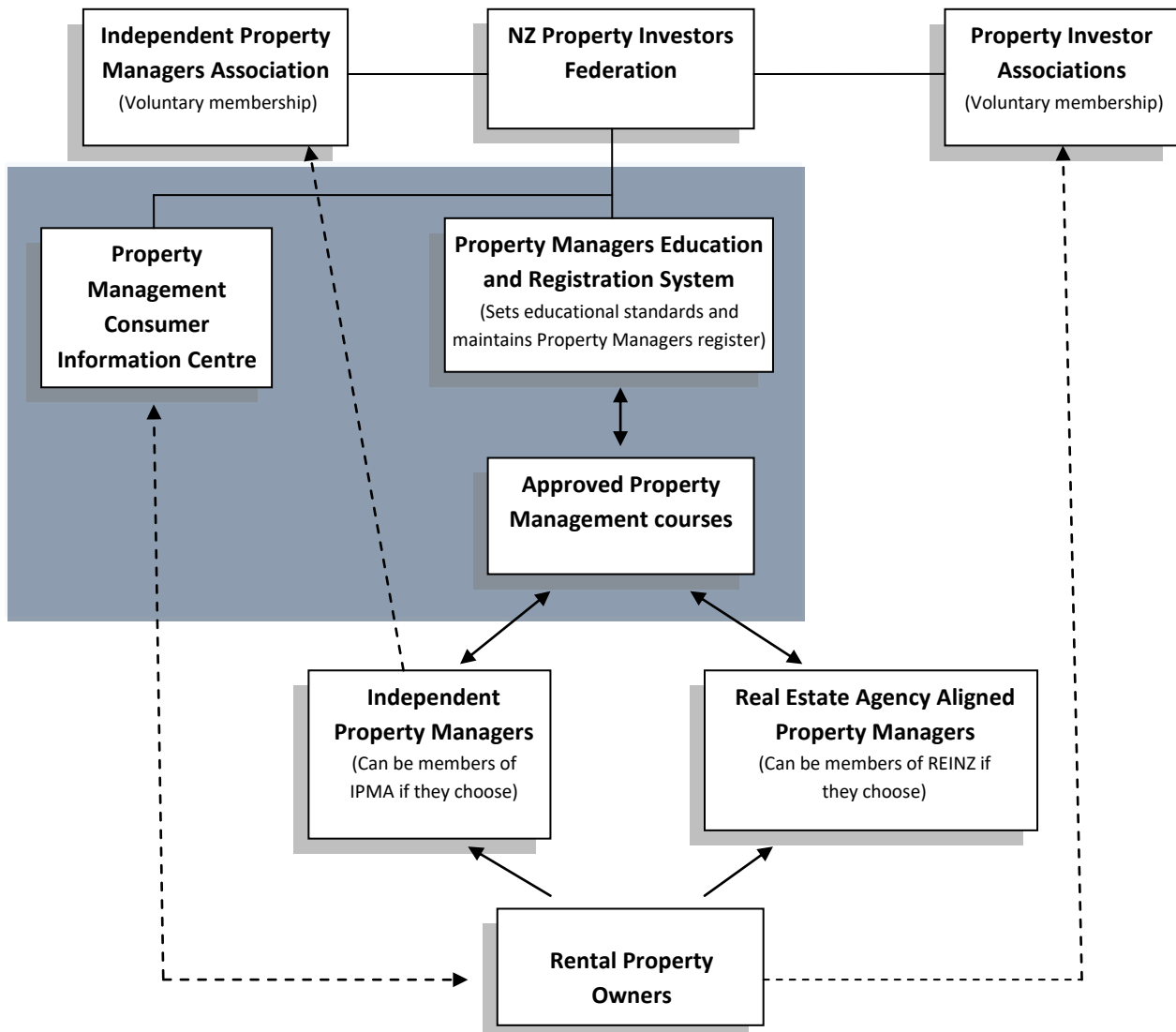
Through the NZPIF providing governance to all property managers rather than just independents, the industry will have one organisation overseeing all managers of rental property in New Zealand. This will include owner managers, real estate aligned property managers and independent managers. This will lead to better communication and consistency in the provision of rental property accommodation.

As an industry body, the NZPIF will be efficient in operating a governance function for property managers, with a simple structure and having the benefit of a knowledge base and established industry relationships. These efficiencies

will make the NZPIF cost effective and highly responsive to the requirements of both consumers and suppliers of property management functions. This will be in the best interest of both consumers and property managers.

The NZPIF would be able to operate the governance structure without the need for ongoing government funds to support its operation.

The following is an organisation structure for how improved educational standards and an advice centre would fit into the NZPIF's existing structure.



## RECOMENDATION

The NZPIF recommends that:

- No change is made to the regulation of commercial property managers.
- A dedicated educational curriculum for Residential property managers is established.
- Educational requirements are made compulsory along with a register of property managers.
- An Information Centre for residential property management consumers is established.
- The NZPIF is appointed as the governing body for establishing property management educational requirements, a consumer advice centre and a register of residential property managers.



## SUMMARY

We do not believe that Property Managers, their clients or the Rental Property Industry has been well served through REINZ Property Managers being included under the Real Estate Agents Act. The Review provides an excellent opportunity to separate these two divergent activities completely.

Residential and Commercial Property Management Activities are completely unrelated. Commercial property managers have an established educational curriculum and perform duties quite removed from residential property managers. Consumers of commercial property management services do not appear to be experiencing any significant problems that would require a change in regulations.

From surveying rental property owners, it is evident that residential rental property owners who use property management services are facing significant problems which are causing a loss of funds in the majority of cases. The problems are primarily due to a lack of property managers' knowledge of the rental market, the RTA and property management systems.

Improving the educational requirements of property managers is seen as the most effective method of reducing consumers risk in terms of both efficacy and cost effectiveness.

A complete overhaul of the property management educational requirements is required, which needs to be applied to all property managers, independent and real estate agency aligned.

As voluntary acquisition of property management education has not worked to-date, it is felt that educational requirements should be mandatory. This will also lead to efficiencies and economies of scale in the development of dedicated property management education.

A governance structure should be established to oversee requirements of property management education and operate a register to ensure property managers comply with the requirements.

As the main problems that consumers face of property management services face are competency based, we do not see the need for higher levels of regulation such as compulsory trust accounts, certification boards, disciplinary hearings and expulsions. Existing remedies of effective communication between consumers and their property manager plus the disputes tribunal should be sufficient.

However it is apparent from the NZPIF survey of rental property owners that consumers need to be better informed of their rights, expectations and options for problem resolution. A centralised and nationwide advice centre should be established to help consumers with problems they are experiencing and offer guidance on problem resolution options available to them.

It is consistent to have one body that represents both private rental property owners and Property Managers, the two main groups who provide rental property services in New Zealand, as the governance organisation for property managers.

Through representing Private Rental Property Providers, who are Property Managers customers, the NZPIF have an interest in seeing that Property Managers act professionally and ethically. We also view the NZPIF as a better "fit" for Property Managers as we are already involved in the rental property industry. The RTA covers the Property Manager/Tenant relationship and the NZPIF would be in an excellent position to manage the Property Manager/Rental Property Owner relationship.



## NZPIF Survey of Rental Property Owners views on Property Managers

Prepared by: Andrew King, Allan Storey and Thomas Chin,

5 December 2008

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### Introduction

At a meeting between the NZ Property Investors Federation (NZPIF) and the Ministry of Justice Property Management Regulations review Team on 13 November 2008, it was decided that a web based survey of rental property owners would be the fastest and most detailed method to gain their opinions.

The survey was designed to answer the Review Teams primary requirement, which was to identify if consumers of property management services had any problems with the industry and the extent of those problems. It was also to identify a group of consumers who would be willing to be contacted by the Review Team to share their thoughts in more detail.

The NZPIF would also use the survey responses as a basis for their analysis of any problems within the industry and the development of proposals for how to best overcome these problems.

A questionnaire was developed and placed on the NZ Property Investors Federation website on Friday November 14. Property Investor Associations around the country were asked to email their members and advise them of the survey as soon as possible, inviting them to participate by Wednesday 19 November.

The following Associations contacted their members to advise them of the survey.

<b>Association</b>	<b>No of Members</b>
• Northland	119
• Auckland	805
• Waikato	236
• Hawkes Bay	227
• Manawatu	169
• Nelson	119
• West Coast	11
• Canterbury	883
• <u>Otago</u>	<u>814</u>
Total	3,383

A post was also placed on the Property Talk and Landlords web forums to seek the opinion of Rental Property owners who were not PIA members.

Five hundred and eighty nine people participated in the survey. Nearly half of these respondents (288) used a Property Manager regularly.

Eighty eight percent of respondents were members of a Property Investors Association. Of the 447 PIA members who answered, 237 regularly used a Property Manager, 80 used a Property Manager occasionally and 130 did not use a Property Manager.

From previous membership research we estimate that approximately 25% of PIA members (1,088) regularly use a Property Manager. This means that 21.9% of PIA members who use a property Manager regularly answered the questionnaire. This is a very high percentage, which gives a high degree of confidence that the responses to the survey are an accurate reflection of PIA members' opinions.

A large proportion of respondents (45%) have had a problem when using a Property Manager. Seventy five percent of respondents have had more than one problem and 25% have had more than five problems. This would indicate that there is a high occurrence of problems within the Property Management industry.

Forty four percent of respondents rated the problems they encountered as serious to extremely serious.

Seventy five percent of respondents have lost money through the actions of their Property Manger. Eighty five percent of these losses were over \$1,000.

These results indicate that there is a problem for consumers of property management services, with the problem being widespread and costing consumers a considerable amount of money.

An analysis of the type of problems that consumers are experiencing shows that the vast majority are concerned with competence issues rather than dishonesty.

Rent Arrears	24%
Bad inspections	13%
Poor communication	13%
Poor management systems	13%
Lack of knowledge	11%
Poor Tenant screening	9%
Dishonesty	8%
Too busy / Disorganised	5%
High vacancies	2%
Poor promoting of property	1%

Of the problems that respondents identified, rent arrears and high vacancies are more a symptom of the other problems identified. For example, poor knowledge and tenant screening will lead to high vacancies.

There was a trend towards respondents preferring independent Property Managers, as REINZ affiliated Managers were seen to have a conflict of interest and were less focussed on the property management industry. This trend was evident in the open ended questions number 8 and 19, asking to describe what problems respondents had experienced and what concerns they had about property management services plus improvements they would like to see.

When asked about their concerns about Property management, or aspects that could be improved on, most respondents referred to the actions Property Mangers should take rather than changes to the system itself.

Of those that did comment about industry matters and regulation, the most comments concerned qualifications and registration or certification. Thirty two (32) respondents were concerned with either qualifications, registration or both issues

The next highest number of responders (25) mentioned concerns with having any regulation under the REINZ. Only one respondent actually said that it would be better for the REINZ to regulate Property Managers.

Six respondents mentioned concerns with handling rent of which four said that Property Managers should be required to have a Trust account to handle rent money.

When problems occurred, around a third of the time the problem was resolved. Most consumers who resolved the problem (85.7%) spoke to their Property Manager. Thirty two percent spoke to the Property Manager's Supervisor (if they had one) and 19% spoke to other investors' to find a solution to the problem. Nine percent had to take the problem to the Disputes Tribunal, 5.2% used a lawyer and 3.2% took court action to resolve the problem. Only 2.6% of respondents contacted the Real Estate Institute regarding their problem. Although not covered in the survey, this may be because consumers associate the Real Estate Institute with Real Estate Sales Agents rather than Property Managers.

Of the 175 respondents who have had problems with property management services, 137 (78%) did not find a solution to at least one of the problems. Of these 137 respondents, the majority of the time (71%) they stopped using the Property Manager and around 28% of the time they simply accepted the problem and continued to use the Manager.

## Summary of findings

Our analysis of the survey findings were that:

- Widespread problems are occurring within the provision of Property Management services.
- The problems are reasonably serious and result in a loss of money by consumers.
- The problems are a result of lack of knowledge or experience rather than fraudulent activities.
- When a problem occurs, respondents mostly address the problem directly with the Property Manager or their supervisor and use the Disputes Tribunal or legal action if this does not resolve the problem. Only a few respondents' contacted the Real Estate Institute when a problem with Property Managers occurs.
- Concerns about the industry are mainly around losing money through the incompetency of Property Managers rather than the Property Manager not paying over the consumer's rental income. However the risk of not receiving rental income was mentioned by a small number of respondents.
- There appears to be a preference among respondents for some form of certification or registration of Property Managers.
- There is a preference for Property Management services to be separated from the Real Estate Institute of NZ.
- There appears to be a desire from respondents for Property Managers to have better industry knowledge and training.

## Breakdown of questions and responses

Q1

Do you use a Property Manager to manage your rental property?		
Answer Options	Response Percent	Response Count
Yes - Regularly	48.9%	288
Yes - Occassionally	17.7%	104
No	33.4%	197
<i>answered question</i>		<b>589</b>
<i>skipped question</i>		<b>5</b>

Q2

For how many years have you regularly used a Property Manager to manage your rental property?		
Answer Options	Response Percent	Response Count
Less than a year	6.6%	19
1 - 2 years	18.9%	54
3 - 5 years	35.0%	100
More than 5 years	39.5%	113
<i>answered question</i>		<b>286</b>
<i>skipped question</i>		<b>308</b>

Q3 for occasional users of Property Managers

What Property Management services do you use?		
Answer Options	Response Percent	Response Count
Finding a Tenant	91.4%	96
Property Inspections	43.8%	46
Estimate of market rental price	63.8%	67
Other (please specify)	18.1%	19
<i>answered question</i>		<b>105</b>
<i>skipped question</i>		<b>489</b>

Q4 for occasional users of Property Managers

How often do you use a Property Manager		
Answer Options	Response Percent	Response Count
once every six months	44.0%	44
once a year	24.0%	24
less frequently	32.0%	32
<i>answered question</i>		<b>100</b>
<i>skipped question</i>		<b>494</b>

Q5 For regular and occasional uses of Property Management services

Have you had any problems when using Property Management Services?		
Answer Options	Response Percent	Response Count
Yes	45.5%	175
No	54.5%	210
<i>answered question</i>		<b>385</b>
<i>skipped question</i>		<b>209</b>

Q6

How often have you had problems?		
Answer Options	Response Percent	Response Count
once	20.0%	33
up to five occasions	55.2%	91
more than five occasions	24.8%	41
<i>answered question</i>		<b>165</b>
<i>skipped question</i>		<b>429</b>

Q7

Overall rate how serious you believe these problems were:		
Answer Options	Response Percent	Response Count
Not serious	20.6%	34
Quite serious	35.2%	58
Serious	24.2%	40
Very serious	12.7%	21
Extremely serious	7.3%	12
<i>answered question</i>		<b>165</b>
<i>skipped question</i>		<b>429</b>

Q8 describe the problems you have had

See spreadsheet for a list of answers

Q9

Did you find solution(s) to the problem(s)?		
Answer Options	Response Percent	Response Count
Yes	33.9%	56
Most of the time	24.8%	41
Some of the time	23.0%	38
No	18.2%	30
<i>answered question</i>		<b>165</b>
<i>skipped question</i>		<b>429</b>

Q10

For those problems that were resolved did you:		
Indicate as many options as required:		
Answer Options	Response Percent	Response Count
Talk to the Property Manager(s)	85.7%	132
Talk to the Property Managers' supervisor(s)	32.5%	50
Contact Citizens Advice Bureau	0.6%	1
Contact REINZ	2.6%	4
Attend the Disputes Tribunal	9.1%	14
Use a Lawyer	5.2%	8
Take Court action	3.2%	5
Talk to other investors.	19.5%	30
Other (please specify)	28.6%	44
<i>answered question</i>		<b>154</b>
<i>skipped question</i>		<b>440</b>

Q11

For any problems that were not resolved, what did you do?		
Indicate as many options as required:		
Answer Options	Response Percent	Response Count
Stopped using the Property Manager(s)	70.8%	97
Accepted the problem(s)	27.7%	38
Other (please specify)	19.0%	26
<i>answered question</i>		<b>137</b>
<i>skipped question</i>		<b>457</b>



Q12

Have you ever lost money through the actions of Property managers?		
Answer Options	Response Percent	Response Count
Yes	75.8%	125
No	24.2%	40
<i>answered question</i>		<b>165</b>
<i>skipped question</i>		<b>429</b>

Q13

How much money did you lose?		
Answer Options	Response Percent	Response Count
Less than \$500	15.0%	18
\$500 - \$999	15.8%	19
\$1,000 - \$1,999	21.7%	26
\$2,000 - \$4,499	30.0%	36
\$4,500 - \$6,999	2.5%	3
\$7,000 or more	15.0%	18
<i>answered question</i>		<b>120</b>
<i>skipped question</i>		<b>474</b>

Q14

What action(s) did you take?		
Answer Options	Response Percent	Response Count
Talked to the Property Manager(s)	74.2%	92
Talked to the Property Managers' supervisor(s)	29.0%	36
Citizens Advice Bureau	0.8%	1
REINZ	4.0%	5
Disputes Tribunal	10.5%	13
Lawyer	4.0%	5
Court action	5.6%	7
Other (please specify)	29.8%	37
<i>answered question</i>		<b>124</b>
<i>skipped question</i>		<b>470</b>

**Q15: What was the outcome in each case?**

See spreadsheet for written answers

**Q16**

<b>If you have ever had a problem with a Property Manager, would you be willing to discuss this with the Review Team?</b>		
<b>Answer Options</b>	<b>Response Percent</b>	<b>Response Count</b>
Yes	36.6%	107
No	63.4%	185
<i>answered question</i>		<b>292</b>
<i>skipped question</i>		<b>302</b>

**Q17** is a list of 111 investors who are willing to be contacted by the Review Team. (Can split this up into those who use Property Managers and those that don't if required)

**Q18** Is a list of people that want the NZPIF to contact them with a copy of the Public Discussion document once it is available.

**Q19:** Are there any aspects of Property Management Services that have concerned you or in your experience you believe could be improved on?

See spreadsheet for written answers. (Can split this up into those who use Property Managers and those that don't if required)

**Q20:** Are you a member of a Property Investors Association? 88% said yes



## NZPIF Property Managers Education Syllabus

### REGULATORY MATTERS

- Overview of the Rental Property system in NZ (Major players, regulations)
- Overview of the RTA
- Property Managers responsibilities and consequences
- Tenants responsibilities and consequences
- Other Acts that govern rental property (Health and Safety, Local Authority Act, Building code)
- Body Corporates'

### BUSINESS SYSTEMS

- Using technology (Property Management computer systems, computer functions, helpful websites)
- Effective Communication (what types of reports to provide to owners)
- The owner / Manager relationship
- Efficient Time management techniques
- Basic accounting
- The Property Management Contract
- Useful websites
- Useful Contacts / Information

### MARKET KNOWLEDGE

- Introduction to Property Investment
- What is a market rent? Accurately pricing a rental property
- Keeping up-to-date with the rental market

### PROMOTING A PROPERTY TO-LET

- Fast response but be ready
- Promotional options
- Who is your Target Market
- Identifying the properties features and converting them to benefits
- Writing effective promotional text
- Importance of good photographs and how to take them

### SELECTING A TENANT

- Your target tenant market (What are the key tenant types and their requirements, plus advantageous/disadvantageous of different tenants)
- Preparing a property for letting (legal requirements, customer focus)

- Promoting your property (Taking good photos, How to edit photos, resolution of photos, options for promoting, techniques, writing a good sales pitch, using Trade-me)
- Handling enquiries (Who do you want? Setting parameters like number of occupants, pets etc)
- Showing the property to tenants (drive by's, open homes, appointments, selling a properties features)
- Application forms and checking ID
- Choosing the right tenants (Discrimination, reference checks, credit checks, TT orders on-line)
- Negotiating terms (moving in date, improvements)

### **STARTING THE TENANCY**

- Offering the tenancy
- Establishing an appropriate Landlord/Tenant relationship
- Completing the necessary Paperwork , bonds, tenancy agreement, fixed and periodic tenancies)
- How to complete a Tenancy Agreement
- Rent in advance
- Informing the tenant of their requirements and your expectations
- Moving in (Keys, inspecting the property, helpful information to the tenant, photos)
- Initial follow-up

### **PROPERTY MANAGEMENT**

- Preventing future problems (Best practice systems and tips)
- Inspections (P Labs)
- Maintenance (Preventative maintenance, renovations, repairs, urgent repairs)
- Keeping accounts (bank accounts, separate info, rent days, book-keeping systems)
- Inspections (tenants rights, your rights, what to look for, how to record and reporting)
- Monitoring the rental market (options and methods)
- Increasing the rent (Why, when, how)
- Handling changes to the occupiers (Group situations)
- Monitoring rental payments
- Procedures for when rental payments are missed
- Handling repairs and maintenance (Develop a team of trades people, managing trades people, systems)

### **ENDING A TENANCY**

- Notice periods (for tenant, PM and owner, plus conditions)
- Confirm the situation and procedure with tenant (final rent payment day and amount, moving date, expectations for condition of the property)
- Final inspection (When, what to cover)
- Refunding the bond (ensure owner covered for damage, cleaning, unpaid rent)
- Abandoned goods
- Evicting a tenant

### **WHEN THINGS GO WRONG WITH A TENANCY**

- Rent not paid
- Poor kept property
- Damage to property
- Abandonment
- Upsetting neighbours
- Criminal activities
- First steps to remedy problems (get in touch quickly. 10 day letter)

## **TAKING FORMAL ACTION TO RESOLVE PROBLEMS**

- Overview of Mediation (How it works, phone mediation, face to face, potential outcomes, when is it appropriate)
- Overview of the Tenancy Tribunal (How it works, phone mediation, face to face, potential outcomes, when is it appropriate)
- Making an application (procedure, know exactly what you are applying for, examples)
- Appeals and rehearings

## **MEDIATION**

- Preparing for the mediation (Phone mediation)
- How to handle yourself
- Getting a consequential clause

## **TENANCY TRIBUNAL**

- Preparing for the mediation (Phone mediation)
- How to handle yourself
- Getting a consequential clause

## **ENFORCEMENT**

- Finding a departed tenant
- Possession orders
- Money orders
- Distress warrant
- Order of examination