

## Underquoting

...still

April 5, 2019

RTO 91513

It's now just over three years since the Underquoting reforms were introduced to the property industry in New South Wales, and it still amazes us at the College at how many agents are still confused about the concept. So, this edition of the Chronicle will focus on one of the points on which we receive constant questions, and that is when you as an agent have a different opinion of price from your vendor.

This question is "Can you advertise a property for less than your Opinion of Price, if the vendor instructs you to do so?"

No, you can't.

So the general scenario is - if I as an agent have appraised a property at a price of \$800,000, however my vendor has instructed me to market the property at \$750,000 or that they are in a rush to sell and will accept or want less than I have appraised it for, is my agency at risk of breaching the underquoting rules within the Property, Stock and Business Agents Act?

The short answer is yes and unfortunately the fines can extend well beyond the \$22,000 that NSW Fair Trading can impose should the matter be considered under the Federal Legislation.

The agent's role within the appraisal process is to provide the vendor with their estimate of the property's selling price, informed by comparable sales data for the geographic location.

While it will always be the vendor who decides what price they are willing to accept for their property, the agent is restricted in their advertising, which includes advertising materials presented online, in brochures and print media as well as the advertising being done when the agent discusses the property with any potential buyers, to only being able to discuss figures starting from the appraisal price and going up in a 10% range, not going below that appraisal number.

Specifically, the Act states the following:

### **73 Underquoting in Advertisements for residential property**

A real estate agent must not publish or cause to be published an advertisement in relation to the sale of a residential property that indicates or suggests a selling price for the property that is less than the estimated selling price for the property.

Maximum penalty: 200 penalty units.

### **73A Underquoting in representations by real estate agents**

A real estate agent or any person engaged by a real estate agent must not, in the course of marketing a residential property, make any statement to any person that indicates or suggests that the property may be sold for a price that is less than the estimated selling price for the property.

(1A) A real estate agent must ensure that any person engaged by the real estate agent does not, in the course of marketing a residential property, make any statement to any person that indicates or suggests that the property may be sold for a price that is less than the estimated selling price for the property.

...Continued ➤

## Continued...

Even when instructed by the vendor, the agent cannot suggest to a purchaser that the vendor will, or may, take an amount for the property underneath the bottom figure in the appraisal conducted by the agent and represented in the agency agreement with the vendor.

So, in relation to the example above, you have appraised the property at \$800,000, and as the vendor has informed you that they require a quick sale and are willing to accept less – it would be prudent to offer the property with no price in the advertising and when speaking price, use phrases such as “my opinion of this property in relation to comparable properties is \$800,000 – but I can inform you that we have a very motivated vendor”. This makes it clear to any prospective purchaser that if they were to make an offer less than the \$800,000 that it would most likely be considered in a favourable manner.

There is a valuable lesson agents should take from this section of the Property, Stock and Business Agents Act and that is to have clear and frank discussions about expectations and about the limits your agency has in place because of the legislation.

‘Til next time,

Wishing you every success in your business ventures,

**Rosy**

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## 4 HOUR CPD SEMINARS

THU 11 <sup>TH</sup> APR	SYDNEY CBD Real Estate Sales	THU 18 <sup>TH</sup> APR	COFFS HARBOUR Sales & Prop Mgmt
THU 11 <sup>TH</sup> APR	SYDNEY CBD Property Management	MON 6 <sup>TH</sup> MAY	CASTLE HILL Sales & Prop Mgmt
FRI 12 <sup>TH</sup> APR	SYDNEY CBD Comm & Retail Sales & Leasing	WED 8 <sup>TH</sup> MAY	BYRON BAY On-Site Residential Prop Mgmt
FRI 12 <sup>TH</sup> APR	GOSFORD Sales & Prop Mgmt	THU 16 <sup>TH</sup> MAY	SYDNEY CBD Real Estate Sales
WED 17 <sup>TH</sup> APR	DEE WHY Sales & Prop Mgmt	THU 16 <sup>TH</sup> MAY	SYDNEY CBD Property Management

## 2 HOUR CPD SEMINARS (8am - 10am unless specified otherwise). Pre-reading required

### Full 12 points!!

WED 10 <sup>TH</sup> APR	BANKSTOWN Sales & Prop Mgmt	WED 24 <sup>TH</sup> APR	SYDNEY CBD Strata
TUE 16 <sup>TH</sup> APR	SYDNEY CBD ( <i>Evening Course</i> ) Sales & Prop Mgmt	THU 9 <sup>TH</sup> MAY	GOSFORD Sales & Prop Mgmt
THUR 18 <sup>TH</sup> APR	PARRAMATTA Sales & Prop Mgmt	FRI 17 <sup>TH</sup> MAY	PENRITH Sales & Prop Mgmt



## From the office

What a splendid ending to what has been quite an eventful fortnight. The College started the last fortnight with our trainers off on a road trip to offer our CPD Seminars for those looking to renew both their Certificates and Licences. Our trainers ventured out from the walls of ACOP and headed north along our beautiful coastline of NSW to start their journey in Taree. They soon departed, on their way again this time heading inland passing rugged terrain and rich soils finally arriving at Orange and Dubbo. The journey did not end here as they made one last stop at Castle Hill before returning to ACOP to put a busy two weeks to rest for CPD. Alongside our CPD Courses we have also had our Licensing courses here at ACOP with vibrant students attending our Financial Management module followed with our Staff Management course.

Not only have we had our trainers on their feet providing incredible and up to date knowledge within the Industry, our College Principal has been just as busy. For those new to this column you're in for treat. Rosy, our College Principal, is one of the guest speakers on the 2019 EAC Insights Tour. On this tour she provides in-depth knowledge and shares self-experience not only about the Real Estate Industry and the upcoming changes but the importance of emotional intelligence within an agency and how that will further assist not only yourself but your team. The EAC Insights Tour has been an adventure of its own with Rosy travelling from Wollongong to Batemans Bay, ending this fortnight with Shoalhaven with her next stop being Campbelltown on the 30th of April.

Now down to the serious news, and by serious I mean the ecstatic, fun and vibrant everyday work life we all have an opportunity of being a part of. The last fortnight has been the home of many birthdays with the shifting all of the bright and over-sized decorations from Rosy's office to Anthony's desk as we celebrate his special day. As Anthony's day came to a close we had all gathered to sing him happy birthday slicing into a mango, passionfruit and orange cake topped with lemon buttercream which I must say was most enjoyable. To end this fortnight we would like to welcome Courtney who is our new training consultant to the ACOP Family. Courtney had only started her role here with ACOP on Monday and what better way to welcome a new member than to celebrate her second day with us with a cake for her birthday. She was inducted early into the cake culture of ACOP as we celebrated her special day with a delectable marble mud cake with our vocals completely on point singing happy birthday. We are excited about what the future holds with Courtney on our team.

## CERTIFICATE OF REGISTRATION COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

MON 8 <sup>TH</sup> WED 10 <sup>TH</sup> APR	SYDNEY CBD
MON 29 <sup>TH</sup> APR WED 1 <sup>ST</sup> MAY	CASTLE HILL
MON 13 <sup>TH</sup> WED 15 <sup>TH</sup> MAY	SYDNEY CBD
MON 3 <sup>RD</sup> WED 5 <sup>TH</sup> JUN	PARRAMATTA
WED 12 <sup>TH</sup> FRI 14 <sup>TH</sup> JUN	SYDNEY CBD

## FINANCE & MORTGAGE BROKING COURSES

Units taken from nationally accredited training qualifications from the FNS Financial Services Training Package.

WED 1 <sup>ST</sup> - FRI 3 <sup>RD</sup> MAY	SYDNEY CBD Cert IV in Finance & Mortgage Broking
WED 1 <sup>ST</sup> - TUE 7 <sup>TH</sup> MAY	SYDNEY CBD Dip of Finance & Mortgage Broking Management

# PROPERTY LICENCE COURSES

Units taken from nationally accredited training qualifications from the CPP07 Property Services Training Package.

23 <sup>RD</sup> - 24 <sup>TH</sup> APR	<b>Financial Management</b> PORT MACQUARIE	FRI 24 <sup>TH</sup> MAY	<b>Trust Accounting + Insurance</b> SYDNEY CBD
29 <sup>TH</sup> - 30 <sup>TH</sup> APR	<b>Staff Management</b> SYDNEY CBD	8 <sup>TH</sup> - 10 <sup>TH</sup> APR 6 <sup>TH</sup> - 8 <sup>TH</sup> MAY	<b>Trust Accounting</b> PARRAMATTA SYDNEY CBD
15 <sup>TH</sup> - 18 <sup>TH</sup> APR	<b>Sales for Real Estate</b> SYDNEY CBD	11 <sup>TH</sup> - 12 <sup>TH</sup> APR 9 <sup>TH</sup> - 10 <sup>TH</sup> MAY	<b>Property Management</b> PARRAMATTA SYDNEY CBD
29 <sup>TH</sup> JUL - 2 <sup>ND</sup> AUG	<b>Stock &amp; Station Agency Practices</b> SYDNEY CBD	9 <sup>TH</sup> - 10 <sup>TH</sup> MAY	<b>Business Broking Agency Practices</b> SYDNEY CBD
20 <sup>TH</sup> - 23 <sup>RD</sup> MAY	<b>Strata Management Agency Practices</b> SYDNEY CBD		
FRI 23 <sup>RD</sup> MAY	<b>Real Estate Auctioneer Accreditation</b> SYDNEY CBD		

View our course calendar for all course details.

## Start 2019 with Success

With proposed reforms coming for the real estate and property industry, make 2019 the year that you get the qualification and obtain a full property licence.

ACOP provides licensing training programs, and will recognise your prior learning and experience, for the following licence categories:

- **real estate agent's licence**
- **strata manager's licence**
- **business agent's licence**
- **stock and station agent's licence**
- **buyer's agent's licence**
- **on-site residential property manager's licence**

If you are seeking Recognition of Prior Learning (RPL) or Recognition of Current Competence (RCC), talk to us about the types of evidence that you will need to provide to seek these exemptions from training.



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