September 20, 2013



Australian College of Professionals, Level 2, St Andrew's House, Sydney, 2000 www.acop.edu.au enquiries@acop.edu.au 1300 88 48 10

CPD COURSES

Newcastle

Sales & Prop Mgmt
Mon 23th Sep

Baulkham Hills

Sales or Prop Mgmt
Thu 3rd Oct

Baulkham Hills

Comm & Retail Leasing
Fri 4th Oct

Sydney

Strata
Wed 16th Oct

Sydney

Sales or Prop Mgmt
Fri 18th Oct

Tamworth

Sales & Prop Mgmt Fri 18th Oct

Orange

Sales & Prop Mgmt
Mon 21st Oct

Blue Mountains

Sales & Prop Mgmt
Fri 1st Nov

Coffs Harbour

Sales & Prop Mgmt or Strata Mon 4th Nov

Swimming Pool Fences

Property managers take special note

The NSW government has tightened pool fencing regulations in response to a string of near-drowning incidents in Sydney, as well as inquests into eight backyard swimming pool deaths that occurred across the state between 2006 and 2009. Given that swimming pool accidents are still a leading cause of accidental deaths and brain injuries in young children aged 0-4, these added safety measures should be welcomed. However, the changes will have significant ramifications for the landlords and managing agents of properties with pools. In this newsletter we take a brief look at these changes, and identify the potential implications for property professionals.

In 2012, a comprehensive review of the Swimming Pools Act 1992 was finalised. The resulting Swimming Pools (Amendment) Act 2012 introduced a number of changes designed to enhance the safety of kids under 5 around backyard swimming pools. The main changes are as follows:

1. The introduction of the Swimming Pools Register:

- From 29 April 2013 the NSW Swimming Pool Register will be available for public use at www.swimmingpoolregister. nsw.gov.au. Pool owners must register their pools before 29 October 2013. There will be a penalty of \$220 for anyone who does not register their pool by this date.
- Swimming Pool owners will be required to self-assess, and state in the register that, to the best of their knowledge, their swimming pool complies with the applicable standard when registering their pool. Checklists have been provided at the register website to assist you.

2. Council Inspections of pool barriers:

- All Councils will now be required to carry out pool fence inspections. Each council will decide upon how their inspection program will operate in consultation with their community.
- Councils will issue compliance certificates after an inspection which finds a pool barrier compliant with the requirements of the legislation. Compliance certificates are valid for three years.
- Councils may charge pool owners up to \$150 for an inspection.

www.acop.edu.au

CPD 2 HOUR **BREAKFAST SEMINARS**

Full 12 points!!

Gosford

Sales/Prop Mgmt Wed 2nd Oct

Sydney

Sales/Prop Mgmt **Tue 8th Oct** (Night Course 5pm - 7pm)

Sydney

Sales/Prop Mamt Wed 9th Oct

Bankstown

Sales/Prop Mgmt Fri 11th Oct

Parramatta

Sales/Prop Mgmt Thu 17th Oct

Liverpool

Sales/Prop Mgmt Thu 24th Oct

Newcastle

Sales/Prop Mgmt Tue 29th Oct

Baulkham Hills

Strata Thu 31st Oct

Sydney Strata Fri 15th Nov

- 3. The requirement that pool owners obtain a compliance certificate before selling or leasing their property:
- The Conveyancing (Sale of Land) Regulation 2010 and the Residential Tenancies Regulation 2010 have been amended to require that a valid certificate of compliance be attached the contract for sale of land, and provided to residential tenants at the beginning of a lease. These provisions come into force on 23 April 2014.

So what do these changes mean for property managers? Well, to be honest, it's not 100 per cent clear. Like many laws, these have been enacted without fully considering the implications for all stake holders, in this case property managers. Nonetheless, here's how we suggest you approach the issue in order to best protect yourself, your agency and your tenants.

When a property manager enters a management agency agreement, the agreement sets out the obligations of both the agent and the principal (the landlord) in the 'terms of agreement' section. Importantly, clause 7.1 of the terms of agreement states:

At the start of the tenancy the Principal must ensure:

- The Property and inclusions are reasonably clean and comply with local and state authority building and environmental planning and assessment legislation.
- The property is safe and fit for the tenant/s to live in. 2.

Essentially, this means that it is the landlord's obligation to make sure that their pool complies with the Swimming Pools Act, arrange for an inspection and obtain a compliance certificate from the local council. Your job as property manager is to then make sure that a compliance certificate is in place for the property, and that the tenants receive a copy of that certificate at the start of the tenancy. Fairly straight forward right?

That's the best case scenario. But what happens when the principal fails to meet their obligations? Or, what about those tenanted properties you already manage that have non-compliant pools? Once these laws are in force, proceeding to manage and lease a property with an uncertified and non-compliant pool will put you and your agency at significant risk. It is very likely that you could be held partially liable for any injuries to tenants as a result of an unsafe pool.

Here is a stark warning. A property managed by Century 21 Brough & Sons's was not fitted with safety glass. The agent and owner became aware of this fact after an attempted burglary on the property, but neither took steps to replace the glass to comply with current building codes. One month later, the tenant tripped and put his arm through the glass causing serious lacerations. In a shock decision, the judge held the agent 75% responsible and ordered him to pay 75% of \$843,136 damages.

Would you like to win \$10,000 cash?



CERTIFICATE OF REGISTRATION COURSES

Gosford

(Dist Ed + 1 day workshop)

Tue 24th Sep

Baulkham Hills

Mon 30th Sep – Wed 2nd Oct

Newcastle

(Dist Ed + 1 day workshop)
Thu 3rd Oct

Liverpool

(Dist Ed + weekend)
Sat 12th - Sun 13th Oct

Sydney

Mon 14th - Wed 16th Oct

Tamworth

(Dist Ed + 1 day workshop)
Thu 17th Oct

Orange

(Dist Ed + 1 day workshop)

Tue 22nd Oct

FINANCE AND MORTGAGE BROKING COURSES

Cert IV in Finance & Mortgage Broking Sydney

Mon 21st - Wed 23rd Oct

Dip of Finance & Mort Broking Mgmt

Upgrade for existing Cert IV holders

Sydney

Thu 24th - Fri 25th Oct

"But isn't it the landlords obligation to make sure the property is safe and compliant with building laws" I hear you say? Yes, but the agent will always owe a duty of care to the tenant as well. As property managers, we have a duty to make sure our landlords know their obligations and fulfil them. If they do not, then either cease managing the property, or initiate the necessary repairs to the property in accordance with your authorities in the management agency agreement and send them the bill later. But don't think you can shift the blame entirely to the landlord in the case of an accident.

The new pool fencing laws are not yet in force, but don't wait! Send a letter to all the pool owners whose properties you manage. Get them to register their pools at www.swimmingpoolregister. nsw. gov.au. Let them know that if they intend to continue leasing their properties come April 29 next year, then they need to arrange for a pool inspection by their local council and get a certificate. If their pool is not compliant, then the options are simple: get it fixed, or don't lease it. Put in the effort now and prepare yourself for these changes, and avoid a possible disaster down the track.

Til next time, Wishing you every success in your business ventures, Rosy Sullivan

Is it Time You Upgraded to Your Licence?

ACoP runs a Fast Track program which, in conjunction with Recognition of Prior Learning (RPL) assessment, will enable you to complete your Real Estate Licence qualification in 5 days with take home assessments.

We will also assist you with completion and submission of your licence application to NSW Fair Trading free of charge.

Free Assessment

Send us your resume & copies of any qualification transcripts you may have for a free and confidential preliminary RPL assessment.









Staff Profile

John Roberts Business Development



John has been with the College for over a year and works in the area of business development, which means that you will either encounter John on the telephone as he calls to give you information about up-coming courses, or when he walks into your business to have a chat about training options that are available to you.

Prior to working for the College, John was a supervisor of a fabrication engineering team within a mining foundry. He had completed his fabrication engineering trade and moved through the team leader and supervisor positions in a short period of time. After six years in the industry, he felt that he was ready for a career change and made the decision to go to university and undertake his undergraduate studies in psychology, which he commenced in July 2012 and is now tackling on a part-time basis.

John is the resident larrikin of the College and keeps everyone entertained with either stories or jokes around the office. Over the years he has been involved in many sporting teams, including cricket, rugby league, rugby union and basically anything involving kicking a ball and having a beer afterwards. As the middle child of five children, John has managed to survive having 3 brothers and a sister that ensure that his self esteem is challenged on a daily basis. John also firmly believes that he is a far better asset to the College than his older brother was when he worked for the College a few years ago.

John is commonly referred to around the office as "Red John". This name has no connection to the television series 'The Mentalist', but only marks him clearly as the redhead in the office and also distinguishes him from the other Johns at the College (hyper John and grumpy John). John is always ready to have a chat and will talk to anyone about anything – just test him out by giving him a call.



