



Agent and sales representative fined for not disclosing information (Harcourts Mandurah / Craig Timmens)

A Mandurah real estate agency and one of its sales representatives have been fined for failing to disclose important information about a property prior to its sale.

LBC Holdings Pty Ltd, trading as Harcourts Mandurah, was fined \$3,000 and sales representative Craig John Timmens was fined \$1,500 by the State Administrative Tribunal in a settlement of disciplinary action taken by Consumer Protection. The agency and sales representative were ordered to pay costs of \$1,000.

The action related to the sale of a property in Breakwater Parade, Mandurah in June 2013. An inspection prior to the sale identified moisture and dampness in the walls of the property. The buyer asked the agent whether this could be rectified under the strata company's insurance policy and the agent indicated that he would obtain some information about the insurance situation.

After some time and prior to settlement, the agent was advised by the strata manager of the unit complex that some rectification work had already been carried out on the unit by the insurance company and the claim had been closed.

This information was not disclosed to the buyer until after settlement, in breach of the Real Estate and Business Agents Act and the Code of Conduct for Agents and Sales Representatives.

Acting Commissioner for Consumer Protection Gary Newcombe said real estate agents and sales representatives have a clear obligation to firstly ascertain, then disclose, any material facts about a property during the sales process.

"In this case, from the buyer's point of view, the ability to claim future repair works against the insurance for the strata company was important and so anything affecting that ability was a material fact that ought to have been disclosed," Mr Newcombe said.

"It is not acceptable for agents or sales representatives to hold back in disclosing information that would be considered to be material about a property just because they do not think that it is a material fact or have assumed that the person may already know about the information.

"It is every property buyer's right to have all the known material facts about a property disclosed to them so they can make informed decisions about whether to go ahead with what is a very significant investment for most people.

"Failing to reveal the full material facts about a property offered for sale is clearly in breach of the industry Code of Conduct and will result in disciplinary action being taken by Consumer Protection."

Agents and sales representatives should refer to Consumer Protection's [e-Bulletin issue 83 Disclosure of material facts to buyers and tenants](#) issued on 24 March 2015 for information on their obligations. More information on the responsibilities of real estate agents and sales representatives is available on the Consumer Protection [website](#) or enquiries can be made by email: consumer@commerce.wa.gov.au or by calling 1300 30 40 54.