

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

Decision No: [2012] NZREADT 59

Reference No: READT 80 & 81/11

IN THE MATTER OF an appeal under s.111 of
the Real Estate Agents
Act 2008

BETWEEN **VICTORIA CARROLL**
and ALLAN CARROLL

Appellants

AND **REAL ESTATE AGENTS**
AUTHORITY (CAC
10034)

First respondent

AND **ANDREW SCOTT and**
KEITH ARCHER

Second respondents

MEMBERS OF TRIBUNAL

Judge P F Barber - Chairperson
Ms J Robson - Member
Mr J Gaukrodger - Member

HEARD ON THE PAPERS

DATE OF THIS ORDER 2nd October 2012

REPRESENTATION

The appellants on their own behalf
Ms N Wilde, counsel for first respondent
Mr A Scott, counsel for second respondents

DECISION OF THE TRIBUNAL

[1] The appellants are licensees employed at Ray White and have appealed against the decision of Complaints Assessment Committee 10034 to publish its two determinations dated 15 July 2011 relating to them.

[2] The Committee had determined to take no further action on either of the complaints on the basis that none of the conduct complained of amounted to

unsatisfactory conduct. In the appeal to us the appellants do not contest the Committee's decisions to take no further action, but they contest the Committee's identical directions to publish those decisions.

[3] On 28 February 2012 Ms Wilde filed very helpful submissions in support of the Authority's opposition to an order prohibiting publication as contrary to the principles of transparency and open justice.

[4] On 24 January 2012 we issued the following Minute:

"MINUTE

Following a directions teleconference held on 24th January 2012 the Tribunal makes the following orders:

- 1. To be dealt with on the papers by Judge Barber.*
- 2. The First Respondent to file and serve a bundle of the documents which were before the Committee by 13 February 2012.*
- 3. The Appellants to file and serve sworn affidavits regarding the likely impact publication of the Committee's determinations would have, and written submissions by 20 February 2012.*
- 4. The First Respondent is to file and serve submissions, by 27 February 2012.*
- 5. The Appellant is to file and serve submissions by 5 March 2012.*
- 6. Parties are to provide the Tribunal with four (4) hard copies, one (1) electronic copy and all party member copies of all documents and briefs.*

*Judge P F Barber
Chairperson
Real Estate Agents Disciplinary Tribunal*

Dated at Wellington this 24 day of January 2012"

[5] On 28 February 2012 the Authority filed and served the bundle of documents which was before the Committee. However, the appellants have taken no further step in the proceedings. As the order indicates they were to have filed and served affidavits "*regarding the likely impact publication of the Committee's determination would have*" and written submissions by 20 February 2012.

[6] Continuing failure to comply with the order of 24 January 2012 must lead to the appellants' appeals about publication being struck out for non

prosecution. A reminder email to that effect was sent to the parties on 4 September 2012 and specifically stated that, unless the appellants file and serve their briefs of evidence and submissions by 19 September 2012, the matter will be struck out for non-prosecution.

[7] Accordingly, in the circumstances outlined above, these two appeals about publication are hereby struck out for non-prosecution.

Judge P F Barber
Chairperson

Ms J Robson
Member

Mr J Gaukrodger
Member