

**BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL**

[2015] NZREADT 34

READT 095/14

**IN THE MATTER OF**

an appeal under s.111 of the Real Estate Agents Act 2008

**BETWEEN**

**KAREN AND ANDREW  
MOWBRAY**

Appellants

**AND**

**REAL ESTATE AGENTS  
AUTHORITY (per CAC 307)**

First respondent

**AND**

**ANTHONY KERAPA AND  
DONNA NICHOLS**

Second respondent

**MEMBERS OF TRIBUNAL**

Judge P F Barber - Chairperson  
Mr J Gaukrodger - Member  
Ms N Dangen - Member

**HEARD** at HAMILTON on 1 May 2015

**DATE OF THIS CONFIRMATORY DECISION**

7 May 2015

**APPEARANCES**

The appellants on their own behalf  
Ms N Copeland, counsel for the Authority  
Mr P Napier, counsel for the second respondent licensees

**DECISION OF THE TRIBUNAL**

[1] Karen and Andrew Mowbray appeal against the 2 October 2014 decision of Complaints Assessment Committee 307 to take no further action against Anthony Kerapa and Donna Nichols, licensees at Monach Real Estate Ltd trading as a Harcourts agency in Hamilton.

[2] The Committee had carefully dealt with various complaints of Mr and Mrs Mowbray. These were to the effect that the property was left unsecured following an inspection organised by the licensees; the spa pool at the property was included in a list of chattels as being in working order, when the instructions of the vendors were that it was to be available to a purchaser "as is – where is"; the deposit was not obtained promptly from the purchasers; and, on the basis that the property was under contract, it was not advertised fully for three weeks during the arranged

marketing programme. However, the Committee determined to take no further action with regard to the complaints or any related issues.

[3] The hearing before us proceeded in the usual way but, at the stage when Mr Mowbray had given detailed evidence and been thoroughly cross-examined, we proposed some settlement concepts. The parties are to be commended for immediately considering our suggestions, proceeding to negotiate, and fairly soon reaching a settlement. Even at that stage, the issues of concern to the parties had been ventilated before us.

[4] All that led to the execution before us of a handwritten agreement recording that the parties had reached a full and final settlement of the issues between them on various terms. One such term was that the basis of the settlement be confidential in the usual way. However, we can record that another term is that the appellants withdraw this appeal, and that was confirmed to us at the end of the hearing.

[5] The parties are to be congratulated for achieving a sensible solution to the issues between them and looking to the future rather than to the past.

[6] Accordingly, the parties agree and accept that this appeal is withdrawn and we so order. This appeal is now at an end. It follows that the 2 October 2014 decision of the Committee to take no further action on the complaints remains extant. Any issues between the parties in respect of the appellants' sale of 9B Boundary Road, Broadlands, Hamilton are at an end.

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Judge P F Barber  
Chairperson

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Mr J Gaukrodger  
Member

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Ms N Dangen  
Member