

BEFORE THE REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

[2019] NZREADT 16

READT 002/19

IN THE MATTER OF

An Appeal under Section 111 of the Real Estate Agents Act 2008

BETWEEN

APPELLANT C
Appellant

AND

THE REAL ESTATE AGENTS
AUTHORITY (CAC 521)
First Respondent

AND

COMPLAINANT G
Second Respondent

Tribunal

Hon P J Andrews (Chairperson)
Ms N Dangen (Member)
Ms C Sandelin (Member)

Submissions received from:

Mr L N Baker, on behalf of the Appellant
Ms A-R Davies on behalf of the Authority

Date of Minute:

18 April 2019

RULING OF THE TRIBUNAL
(Application for order under s 108 of the Real Estate Agents Act 2008)

[1] The Tribunal issued a decision allowing the appellant's appeal on 29 March 2019.¹

[2] At paragraph [11] of the decision, the Tribunal ordered:

The Tribunal orders that publication of the appellant's name and any particulars that may identify the appellant (including the name and details of the second respondent) order is prohibited. As submissions have not been made on the matter, the order is in the interim, pending further order of the Tribunal, if sought.

[3] On behalf of the appellant, Mr Baker has sought an order for "full name suppression". Mr Baker submits that the appellant has no objection to a redacted copy of the decision being published. On behalf of the Authority, Ms Davies has submitted that the Authority accepts that in the particular circumstances of this case, there is very limited public interest in the names of the parties being published. However, she submitted that there is no basis for non-publication of the decision itself. She submitted that the decision sets out helpful points of principle and guidance relating to cases where a complaint against a licensee has been withdrawn, and that publication of the decision is consistent with the principles of open justice and transparency.

[4] The Tribunal accepts the submissions on behalf of the Authority. The order made in paragraph [11] of the decision is made permanent. The decision may, however, be published by the Tribunal in the form in which it was previously released to the parties.

[5] The Tribunal understands that as a result of the Tribunal's decision, the Committee's substantive and penalty decisions will not be published by the Authority, and there will be no record of a disciplinary finding against the appellant. However, for the avoidance of any doubt, the order prohibiting publication of the appellant's name and particular that may identify the appellant (including the name and details of the second respondent) extends to any publication by the Authority.

[6] Mr Baker also sought an order reversing the Committee's orders that the appellant pay a fine of \$2,000, and that the appellant undergo further training or

¹ *Appellant C v Real Estate Agents Authority (CAC 521)* [2019] NZREADT 10.

education. Such an order is not necessary, as allowing the appellant's appeal has the effect of reversing any order made by the Committee in relation to the proceeding.

[7] Mr Baker further sought an order that the appellant be refunded the fine, which has already been paid. Again, such an order is not (or should not be) necessary. With the appeal having been allowed, there is no basis on which any fine paid by the appellant could be retained. The appellant is entitled to a refund.

Hon P J Andrews
Chairperson

Ms N Dangen
Member

Ms C Sandelin
Member