



30 March 2020

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Dear Premier

RE: Real estate services as an essential service

We write to seek confirmation that real estate services will be regarded as an essential service in the event of further restrictions or potential lockdown periods in response to the Coronavirus 2019 (2019-nCoV) crisis.

Whilst the provision of shelter itself is clearly an essential need, it is critical that the role of the real estate professional is protected to enable the ongoing sale and purchase and management of shelter.

The real estate profession has acted quickly and responsibly in response to the Stage 2 restrictions which commenced 26 March 2020. Provided that necessary restrictions and safeguards are implemented, real estate services must be deemed essential to ensure the ongoing provision of shelter and to protect the property market and broader economy from the catastrophic consequences that would otherwise arise.

Introduction

The property market is the cornerstone of the Victorian economy. Any risk to its trading would have a disastrous impact on all Victorians from both a personal and economic perspective. The real estate industry is one of the largest contributors to the state's GDP and is one of its largest employers.

One third of all residential properties in Victoria are managed by real estate professionals through property management services. In the commercial sphere, real estate agents manage billions of dollars of property assets. Property management services are critical to navigate the various legal and statutory requirements associated with residential tenancies and commercial leases. Real estate agents manage day-to-day issues between tenants and owners. They are responsible for the care and maintenance of the property and ensuring the health and safety of tenants, their visitors, customers, clients and staff.

Notwithstanding the current crisis, the need to buy and sell property remains. Although property sales will inevitably slow on account of 2019-nCoV, there will be owners who will have no other choice but to sell their properties. History and experience have shown that regardless of prevailing market conditions, people need to buy and sell property. The professionally managed completion of sales and purchases throughout the coming months will be key to confidence and will help minimise the impact on our economy.

In many cases, property sales will be necessary to avoid financial ruin. An inability to buy and sell property would exacerbate financial difficulties, crush confidence and potentially, negatively impact property values.

Victorian real estate transactions and property ownership contribute billions of dollars to the State and Local Governments through stamp duty revenue and other property related taxes and expenses. It is imperative to our economy that the property market remains open albeit under tougher restrictions and health and safety requirements.

A cessation of Victorian real estate services would have a serious impact on tens of thousands of Victorians employed or engaged in the real estate sector. As one of the State's largest employer groups, the livelihoods of every real estate employee and contractor would be at risk if real estate services were not declared 'essential services.' Real estate principals are already experiencing the impact of the coronavirus (COVID-19) due to withdrawn sales listings and very low numbers of new sales listings. Real estate businesses with a rent roll (meaning businesses that offer property management services) will be better placed to survive this crisis as they are, generally, paid on a percentage of rent collected. That said, many are concerned by the potential impact of future non-payment of rent issues which will have a detrimental impact on their income. For this reason, any 'non-eviction' law must only apply to those who cannot pay rent either in part or in full.

Real estate principals want to stay open. They understand and respect the need for restrictions. They are prepared to comply. We have seen this very recently with the relatively smooth transition to on-line auctions. Importantly however, business owners want to retain workers but to do so, they must be permitted to continue trading to earn an income, albeit a reduced one.

Additional matters and considerations

Further issues and considerations are outlined below. The commentary below applies across residential and commercial real estate unless otherwise expressly stated. For ease, I have used the terms 'tenant' and 'landlord' for both residential and commercial property management:

1. If property management services were unable to continue, even for a short-term period, the health and safety of hundreds of thousands of Victorians will be at risk, the value of property assets will be impacted, and the economy will lose vast amounts of property related revenue.

2. With rent from tenants being collected both electronically and also manually, it is essential that property managers are able to continue to collect rent in order to disburse it to landlords and attend to the payment of any invoices to tradespersons and other service providers to avoid a domino effect on other industries.
3. Property managers will also be crucial in assisting landlords and tenants negotiate and implement any changes to rental payments in the event of any financial hardship.
4. In addition to this, property managers will be able to play an essential role in assisting tenants and landlords access any government rental assistance schemes.
5. In a moratorium on evictions, property managers are well placed to work through any government directives with tenants and landlords to assist in negotiations and ensure understanding by all parties involved. The reality is that tenants don't negotiate directly with landlords; they predominantly utilise the services of a property manager.
6. Where an urgent change in living arrangements is required due to COVID19 pandemic (such as the provision of short-term and emergency accommodation for individuals required to isolate), residential property managers will be able to process tenancy applications to assist with any urgent changes.
7. In the event of further restrictions, the numbers of hours that tenants spend in their rental property will increase dramatically, potentially placing strain on a number of services to residential properties, which will require repairs and maintenance to ensure the properties remains habitable. In this regard, residential property managers will play a vital role in being able to assist with determining whether repairs and maintenance are necessary and engaging appropriately qualified and licensed contractors to attend to repairs and maintenance in a timely manner.
8. VCAT are still hearing critical residential tenancy cases. It will therefore be necessary for residential property managers to have access to property management files for hearings conducted by teleconference or videoconference. In terms of non-critical residential tenancy cases residential property managers will need to be in a position to liaise with VCAT, tenants and landlords regarding the ongoing changes to hearings that have been listed.
9. Where non-urgent VCAT matters are still to be filed in the conventional manner, residential property managers will need to be in a position to continue working to ensure that any legislated timeframes are complied with.
10. With the potential for an increase in the number of break lease situations arising as a result of COVID-19 pandemic, property managers are essential in being able to respond promptly to tenants and lessors whose circumstances may have changed.

11. If sales agents are unable to work and sales transactions cease, the property sector's contribution to State revenue by way of stamp duty and other direct and indirect taxes will be substantially curtailed.
12. It is imperative that members of the public comply with their contractual obligations under contracts of sale for residential and commercial property. If transactions are unable to be completed because pre-settlement inspections and the compliance with special conditions (such as the completion of remedial works at a property) cannot be vetted by sales agents, it is likely that many sales contracts will fall over or be subject to dispute. It is inevitable that property values will decrease the longer the pandemic continues, which will likely give rise to a further plethora of litigation between parties to sales contracts affected by 2019-nCoV.

Non-Essential Business Declaration

I note that the process adopted by the Victorian Government thus far has been to declare in the Victorian Government Gazette under the provisions of the Public Health and Wellbeing Act 2008 to direct the prohibition of non-essential businesses and undertakings in order to limit the spread of 2019-nCoV.

Any services required to facilitate and/or support property transactions should not be declared a non-essential business or undertaking. This includes legal services and trade services connected to real estate (for example, plumbers, electricians, builders, pest and building inspectors, relocation and utility connection services).

The REIV supports the clear articulation of any restrictions associated with the provision of real estate services. For example, the ongoing prohibition of public auctions and open home inspections, the restriction on the number of persons who may enter a property for inspection purposes or due to other entry requirements (for example, contractors entering to undertake urgent repairs or maintenance or a pest and building inspector in connection with a sales contract etc).

Conclusion

It is vital the Victorian real estate industry is permitted continuity of operation throughout the current crisis. Every Victorian needs shelter. Whether that shelter is rented or owned, in almost all cases, a real estate professional's services are required.

Victoria's rental properties require continuous management to ensure tenants have safe shelter for their families and are able to maintain a high standard of health and safety. Furthermore, commercial tenants require well managed properties to operate their businesses safely and effectively.

Regardless of the current crisis, people need to buy and sell property and this process requires the expertise and knowledge of real estate professionals. Preventing property sales and settlements will not only be a serious issue for the parties directly involved, but will adversely impact consumer confidence and ultimately, further destabilise the property market.

In response to 2019-nCoV outbreak and related restrictions, the real estate industry has changed its processes to create a safe environment for clients, tenants and the community. Agents have adapted very quickly to the physical distancing requirements and hygiene protocols.

Real estate businesses are now relying on technology to inspect rental properties and/or to show and sell properties without the need for 'open home' inspections. Inspections to sell or lease are being conducted on a 'by appointment' only basis. Meanwhile, auctions are taking place via online bidding methods and/or phone bidding.

Given the above, we are confident that the Victorian real estate profession is well placed to respond and adapt very quickly to any future changes.

As the real estate peak body, the REIV is committed to the ongoing delivery of education, resources and advice to the real estate community to ensure that real estate services can continue to be provided in a responsible, safe and professional manner.

Please do not hesitate to contact me should you require further clarification or information.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Gil King', with a long horizontal stroke extending to the right.

Gil King
Chief Executive Officer