

# Buyer's agents hint at the real deal

More and more buyers are getting professionals to act on their behalf as advocates help level the playing field

The presence of a buyer's agent at an open for inspection or on auction day sends a strong message to the agent acting on behalf of the vendor – there's very likely a qualified purchaser in the mix. It's a welcome moment, but it wasn't always seen that way.

At times, the relationship between buying and selling agents may not have been as close and interactive, as it is today. With a significant rise in both the number of buyer's agents and the number of people using them during a property purchase, a stronger relationship has emerged leading to a system that is working effectively for both buyers and vendors.

Buyer's agents are a relatively new profession. Ian James, director of JPP

Buyer Advocates in Paterson Lakes, has been working as an advocate for the past 14 years.

"I worked as a selling agent before so I know both sides of the coin," he says.

"Personally, I think it's ridiculous that both parties aren't represented in a property purchase. The vast majority of people don't know much about real estate – they may buy anything from one to three properties in their lifetime.

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**'The selling agent is legally obligated to act in the best interests of the vendor – so buyer's agents can level the playing field'**

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to act in the best interests of the vendor – so buyer's agents can level the playing field."

James says it wasn't that long ago that buyer's agents were regarded as pariahs in the industry.

"When we started in 2001 we were the magicians letting out the secrets, which didn't go down well. Some selling agents wouldn't deal with us and others didn't take us seriously."

It took 'a buyer's market' to change the industry perception about the role of the buyer's agent. The vast majority of selling agents now recognise that when there's a buyer's agent on the other side, deals get done that perhaps wouldn't have been, because we have an informed buyer."

James cites a case of assisting a client who spent all of 2014 looking to buy in Glen Iris.

"Literally, he was always looking at properties he couldn't buy. Finally, a selling agent said, 'Go and see Ian'. Six weeks after he signed with me, he bought. We helped him think outside

the square; some buyers need to hear they have to change their budget or accept an unrenovated home. The selling agent would see him roll up at yet another open for inspection and know he didn't have the money to buy that house, but they couldn't help him."

James says his business has changed over the years, including downsizing in 2011. While there is very little information on the percentage of buyers using an advocate, James estimates it would account for between 2 and 10 per cent of the market.

"Anecdotally, we probably represent buyers in about 5-7 per cent of purchases over \$1 million."

The relationship between buying and selling agents has undergone a major shift, he says.

"Selling agents are very, very professional when I roll up to an auction, they realise they have an informed buyer at the property, unless I'm just there to observe, which I tell the auctioneer straight up," he says.

"In some deals, where there's an unsophisticated buyer, the selling agent will have no chance of moving them. We're able to negotiate for deals at a level where everyone is happy."

Kim Easterbrook, of Elite Property Advisory in Brighton, turned her self-confessed "total obsession with property" into a career in 2011. The former accountant bought her first property when she was 21, before going on to build a portfolio. Over the past four years, Easterbrook's business has grown dramatically to encompass a team of nine.

"We've seen about 15 per cent growth each year which is due to us getting our name out there but also growing demand for buyer's advocates," she says.

"I'm seeing a lot more advocates at auctions now."

**'There's definitely mutual respect; we both recognise we have the best interests of our clients in mind'**

– Kim Easterbrook



**Experts:** Clockwise from top, Cate Bakos believes any advocate entering the industry needs to "earn their stripes" with selling agents; Ian James says the relationship between buying and selling agents has undergone a major shift; and Kim Easterbrook says the relationship with selling agents is on a heightened level of appreciation.

Savvy and first-time buyers alike are using Easterbrook's services.

"People are time poor and there are a lot of uncertainties among buyers," she says. "They're trying to work out what type of property they buy, what they can spend. In this rising market, there are a lot of frazzled buyers out there. Adjusting client expectations can be quite difficult and there are lots of people who can't give themselves a reality check. We do it for them."

Easterbrook says the relationship with selling agents is on a heightened level of appreciation.

"They know we're not there to waste their time; all our buyers are highly qualified and we only take them through properties they can buy," she says. "That's led to very good relationships with selling agents. They're more transparent with us and happy to work with us. Having said that, they're tough to deal with in a negotiation. It's a bit of a sporting match; we both play a hard game and once it's over, we go out for a beer.

"There's definitely mutual respect;

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**Shifting landscape:** There has been a significant rise in both the number of buyer's agents and the number of people using them during a property purchase.



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we both recognise we have the best interests of our clients in mind."

The biggest issue for buyers and their agents in the current market is lack of stock. "With the lack of quality stock on the market, I think it's essential for buyers to get representation."

Former mortgage broker Cate Bakos, who runs her eponymous consultancy out of Yarraville with business partner Amy Mylius, has been in business for just over four years.

A trained chemist, Bakos left behind her lab coat in 2003 to go into property sales.

"My interest was as an investor," she says. "My first property purchase was at 21. It was an enormous leap of faith to leave what I was trained for to go into a sales role paid by commission."

Bakos says she takes an analytical approach to property. "I like to look

**'If we were to have an "us and them" culture, we definitely wouldn't get the best from the relationship'**

— Cate Bakos

with an investor's eye and that's not really suited to being a selling agent," she says.

While buyer's agents are becoming more commonplace, Bakos believes any advocate entering the industry needs to "earn their stripes" with selling agents.

"That's in terms of respect; most of them now recognise that we're not there to ruin their campaign or drive a hard bargain for their vendors," she says.

"We're there to help our clients get the right property for the right price

and we're respectful of the fact that they have a vendor to look after.

"Once you gain their trust, it's a fantastic relationship. They help us out; they give us the heads-up on off-market opportunities. They recognise that when they do a deal with us the chances of the buyer rescinding or finance not working out is minimal. It may not be 100 per cent, but it's as close to a sure thing as you can get."

Bakos says a key development in her relationship with selling agents is giving opinions on hard to appraise properties.

"It's a two-way street, they can bounce ideas off us and we can help them with listings, given we don't have to buy everything they offer.

"It's a collegial atmosphere. If we were to have an 'us and them' culture, we definitely wouldn't get the best from the relationship." **EA**

## Spotless records come into play

Property management paperwork vital in personal injury cases.

By Nancy Rainbird, Realcover's Claims Manager

### FACTS

The plaintiff was an invitee of the tenant and issued District Court proceedings. She alleges that a wooden stairway which led from the back of the house to the pool area was defective, dangerous and unstable. She alleges she was walking down the stairs when she slipped, fell and suffered injury. Owners were co-defendants together with the agent, who was listed as the third defendant.

The key issue against the agent was the allegation that the tenants had reported the condition of the stairway to the agent and the agent had failed to carry out repairs despite the tenant allegedly reporting the condition of the stairwell "on numerous occasions".

### DEFENCE

The agent denied ever having received any complaints about the condition of the stairs and could prove the key issues to the defence, being:

- Regular inspections. Thoroughly documented and copies of all routine inspection reports were sent to the owners.
- Very detailed file notes as to every phone call with the tenant. During the course of the case, the tenant was asked to particularise all dates when such complaints were allegedly made. Those dates coincided with contemporaneous and detailed notes of the conversation the agent took of all calls.

The notes revealed that the only issues that were discussed had to do with the tenancy – and never about the stairwell.

The claim was successfully resisted due to the excellent record keeping by the agent.

### END RESULT

Verdict in favour of the agent. Owners insurance settled on Terms Not to be Disclosed basis. **EA**



### TIPS FOR PROPERTY MANAGERS

- Follow up on all requests for maintenance. Pass this on to the owner and recommend the use of experts for suspect structural areas.
- Complete paperwork and documentation is the key for a successful defence in any court proceedings so make sure it is in writing or detailed file notes are kept.
- Place liability back to owners when they refuse to invest in repairs
- and/or maintenance by recording your recommendations in writing.
- Ensure owners, contractors and handymen all have their own public liability insurance so it does not come back on your own professional indemnity policy. Make sure all certificates of insurance are updated annually.
- Stick to your scope under your Management Agreement – you are not accountants and/or tax advisers – all owners should make their own enquiries and ascertain their liability for land tax and statutory charges.
- Make use of the modern technology that now exists to protect you against a claim and manage your risks by investing in the updated software.

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