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Annual Report of the

# REAL ESTATE AGENTS DISCIPLINARY TRIBUNAL

For the 12 months ended 30 June 2015

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*Presented to the House of Representatives pursuant to regulation 17 (b) of the Real Estate Agents (Complaints and Discipline) Regulations 2009*

Hon Amy Adams  
Minister of Justice

Pursuant to regulation 17(b) of the Real Estate Agents (Complaints and Discipline) Regulations 2009, I have pleasure in presenting the Annual Report of the Real Estate Agents Disciplinary Tribunal for the 12 months ended 30 June 2015.

Yours sincerely

A handwritten signature in black ink, reading "P. F. Barber". The signature is written in a cursive style with a large initial "P" and a long horizontal stroke extending to the right.

Judge Paul F. Barber  
Chairperson  
Real Estate Agents Disciplinary Tribunal

## **INTRODUCTION**

The Real Estate Agents Disciplinary Tribunal was established in 2009 under the Real Estate Agents Act 2008. The Tribunal hears and determines charges against licensees laid by a complaints assessment committee of the Real Estate Agents Authority, appeals against decisions made by a complaints assessment committee, and reviews of determinations made by the Registrar of the Authority.

## **MEMBERSHIP**

The current membership of the Tribunal is:

Judge Paul F. Barber QSO      (Chairperson)  
Kate Davenport QC              (Deputy Chairperson)  
Nola Dangen  
Garry Denley  
John Gaukrodger  
Catherine Sandelin

## **MATTERS ARISING IN THE LAST 12 MONTHS**

### **Caseload**

The caseload of the Tribunal is directly attributable to the workload of the Real Estate Agents Authority and its complaints assessment committees.

In total, the Tribunal received 83 cases in the 2014/15 financial year. That is down from 109 cases received in 2013/14. With the Real Estate Agents Authority managing and deciding cases in a fair and efficient manner, the workload of the Tribunal in 2015/16 is unlikely to increase much, although some pending legislation refinements might cause a temporary increase.

### **Legislative matters**

In terms of my report last year, Minister, I am appreciative that my suggestions for legislative changes to the Act have been considered and, likely, will be implemented. They relate to giving this Disciplinary Tribunal more extensive powers to award costs; clarifying our powers to award compensation; cessation of appeals to us against the decision of a committee to lay misconduct charges, but the licensee may still defend those charges before us; the enforcement of breaches of non-publication or suppression orders made by us; and extending the expiring warrant of any of our members for the limited purpose of completing all extant proceedings.

## Jurisdiction – property management

We again respectfully suggest that the jurisdiction of the Real Estate Agents Act 2008 be widened to include licensing of those persons who manage rental properties (both commercial and residential). It seems to us that the consumer is entitled to expect a professional standard from such managers, and in particular, that rental be promptly paid to the property owner.

## Restorative justice

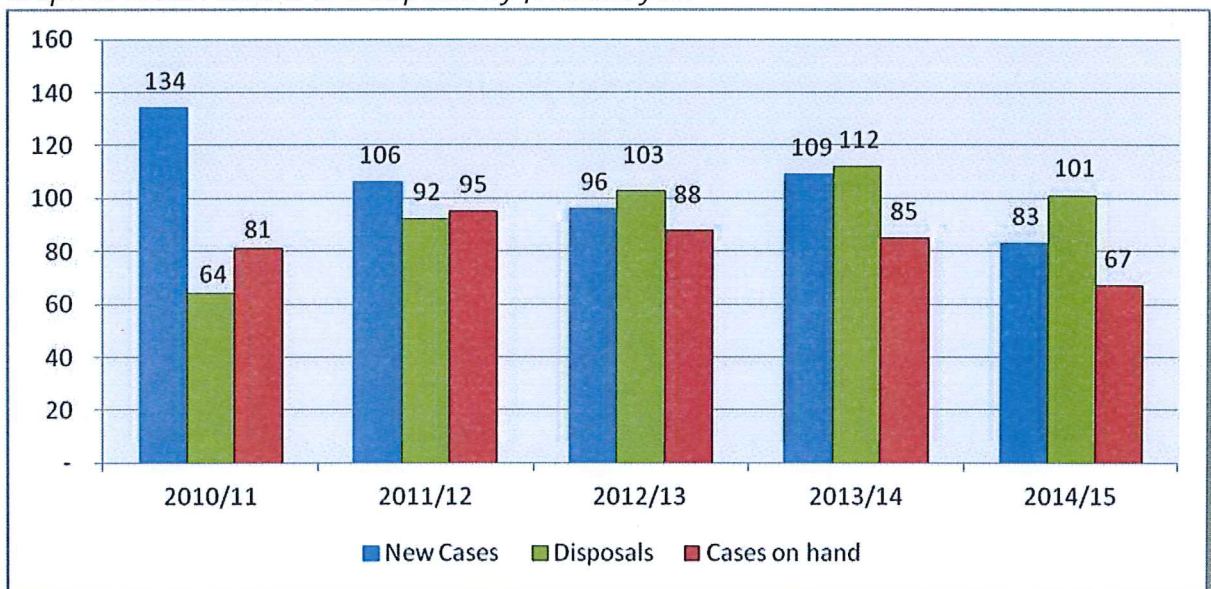
From August 2014 we have offered parties a mediation procedure conducted by the chairperson. Only about 5 percent of parties have agreed to participate in such a procedure but, to date, all such mediations have led to a settlement of all issues on an amicable basis. Also, it is not uncommon for the chairperson to suggest terms of settlement in the course of a hearing; such a proposal is usually accepted by all parties to the appeal.

## STATISTICS

This section outlines the number of matters considered and disposed by the Tribunal.

The Tribunal received 83 new cases in 2014/15, and disposed of 101. As shown in *Graph 1* below, the workload in 2014/15 remained busy and steady.

*Graph 1: Cases received and disposed by financial year*



### **Cases on hand**

At the end of the 2014/15 financial year the Tribunal had 67 cases on hand. These cases were either awaiting information from parties (27 cases), waiting to be scheduled for hearing (2 cases), scheduled for hearing (32 cases) or reserved decisions (6 cases).

### **Cases received 2014/15**

The Tribunal receives three types of cases; Notices of Appeal, Charges, and Applications to Review:

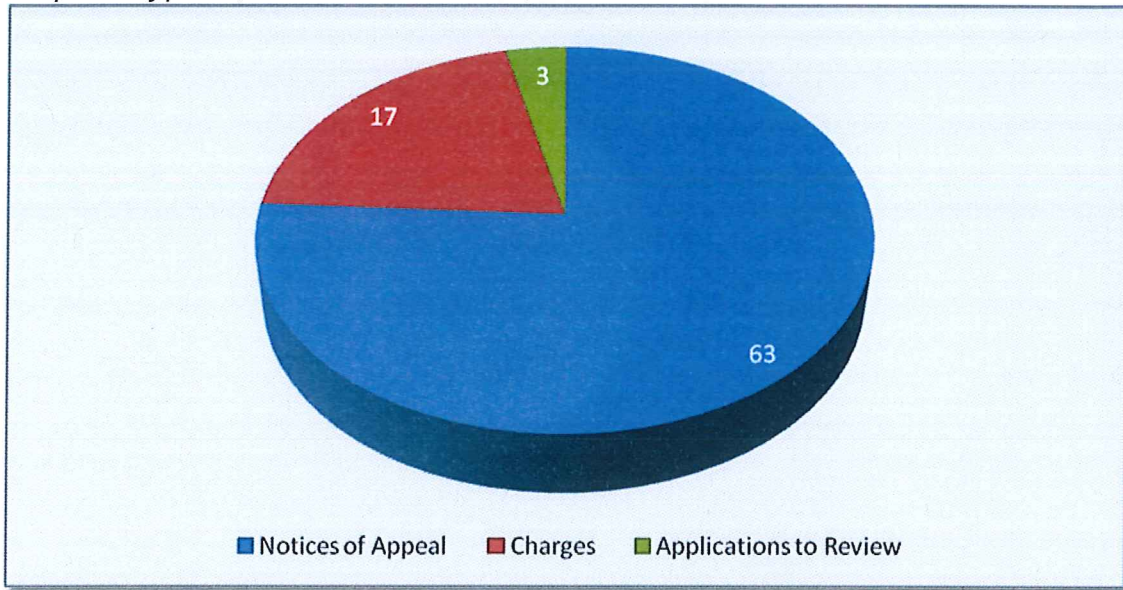
- A **Notice of Appeal** is an appeal to the Tribunal against a determination made by a complaints assessment committee of the Real Estate Agents Authority.
- A **Charge** is a complaint of misconduct against a licensee referred to the Tribunal by a complaints assessment committee.
- An **Application to Review** is an application to the Tribunal to review a licensing application determination made by the Registrar of the Real Estate Agents Authority.

Table 1 and Graph 2 below show the number of cases received by the Tribunal for the 2014/15 financial year, broken down by the three case types.

Table 1: Types of cases received 2014/15

<b>Notices of Appeal</b> against decisions of a complaints assessment committee	63
<b>Charges</b> of misconduct	17
<b>Applications to Review</b> determination of Registrar declining a licensing application	3
<b>TOTAL</b>	83

Graph 2: Types of cases received 2014/15



### **Cases disposed 2014/15**

Table 2 below shows a breakdown of the cases disposed by the Tribunal in the 2014/15 financial year.

Table 2: Cases disposed 2014/15

Cases withdrawn or settled	20
Cases with final decisions	81
<b>TOTAL DISPOSALS</b>	<b>101</b>

In its final decisions, the Tribunal imposed penalties ranging from fines to suspensions to cancellation of licences. It has power to award compensation up to \$100,000.

### **Additional decisions**

Interim decisions	16
Separate penalty decisions	16
<b>TOTAL</b>	<b>32</b>