



The Property Owners' Association of NSW

Quarterly Journal | March 2011



THE PROPERTY OWNERS' ASSOCIATION OF NSW



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PRESIDENT'S MESSAGE

Dear Members,

New laws for rental property are now in play. There are some issues that are new that will affect you so contact us if you are not clear .

Boarding House / Private Hotel operators.

Last issue we mentioned the IDC a committee to once again look at boarding houses set up by the NSW Government we have meet with the department driving this report and strongly let our members views be known .We will be working with the consultancy that is coordinating the report but it is another attempt to control low cost housing private property providers . NOT AGAIN I HEAR YOU ALL CRY.

Our first seminar is happening soon you will find the flyer in this issue of the journal . Topic – Property insurance as unfortunately recent floods , cyclones etc WILL change the cost of buying cover for your property so come along and listen to March brokers fill you in .

Payed your annual subscription fee? If not we ask you support this association as your dollar gets you very close to what is actually going on in property in NSW. The committee is in direct contact with all NSW Government departments and is the Peak private group of property owners of rental premises in this state if you want great cutting edge information , want to invest more you have to be informed.

Residential rental property is showing strong demand and well presented property will find quality tenants so keep your property up to a high standard and good renting

Chris Young

President POANSW

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WELCOME NEW MEMBERS

Catharine Yuen

Justin Clarke

Renata Litton

Todd Blachford

Stephen McLaren

Annette Rogerson

Angello Masters

Goran Stamenkovic

Hugh Latimer

Vandana Godse

INSURANCE SEMINAR

For Property Investors and Boarding House Operators

Want to save money on Insurance?

Do you have the right cover?

Under Insurance, Flood Insurance, Landlord Insurance.

WHAT YOU NEED TO KNOW!

Guest Speakers:

MARK HOLMES

Marsh Broker contact for all enquiries on Boarding House insurances.

COSTA ZAKIS

National Manager within Marsh's Risk Consulting Practise and specialises in the delivery of business risk management services.

Wednesday 13 April 2011

7.30pm

The Hughenden Hotel

14 Queen St, Woollahra

An Optional dinner for Members, speakers, & guests is scheduled before hand at

The Hughenden Hotel Cafe at 6.00pm for 6.15pm sharp start.

Cost of optional dinner not inclusive of seminar.

Please RSVP directly on **02-9363-4863** or reservations@thehughenden.com.au

Non-members are welcome. \$15.00 entry fee or become a member of the POANSW and it's on us!

SEATS ARE LIMITED!

SORTING OUT TENANCY DISPUTES

The **Consumer, Trader and Tenancy Tribunal (CTTT)** is an independent body that can help you in sorting out a range of tenancy disputes. Last year the CTTT received close to 60,000 applications, of which almost 30,500 were lodged in the Tenancy Division – the majority by landlords.

The CTTT's dispute resolution process is inexpensive and accessible. The application fee is \$35, or \$5 for pensioners and students. Applications can be lodged online, in person at CTTT Registries and Fair Trading Centres around the State, or by post.

The Tenancy Division application forms have been improved to make them even easier to complete. The new forms, introduced from 31 January 2011, include a useful Guide to Completing the Application Form to step applicants through the process. Forms and other information can be downloaded by the CTTT website www.cttt.nsw.gov.au or collected from CTTT Registries and Fair Trading Centres.

CTTT Online enables Tenancy Division and other applications to be lodged over the internet at any time, and in most cases a hearing notice is automatically generated and sent to the applicant. Close to half of all applicants choose online lodgement. A recent survey of online applicants found 75% rated it as 'above average' to 'excellent', and 93% would recommend CTTT Online to someone else wanting to lodge an application. Fifty percent of survey respondents were first time users. The Tenancy Division online form has been improved with the addition of key words to help applicants select the orders they are seeking. CTTT Online can be accessed through the CTTT website www.cttt.nsw.gov.au

CTTT hearings are held in over 70 venues across NSW, and 75% percent of matters are finalised prior to or at the first hearing. Hearings are informal and generally parties to proceedings before the Tribunal are encouraged to attempt conciliation before the formal hearing, and to conduct their own cases without legal representation. Professional interpreters are available free-of-charge for parties who require language assistance during their hearing.

Before attending a Tribunal hearing, parties should gather their evidence, do some research, practice presenting their case and learn what happens during the hearing. Landlords and other parties will find a range of useful resources on the CTTT website www.cttt.nsw.gov.au. For example, the Getting Help fact sheet lists various services in NSW that can assist people with their legal questions; the Conciliation fact sheet and Preparing for a Hearing explain the process. There are also videos that can be viewed online.

RESIDENTIAL TENANCIES ACT 2010 AND THE CTTT

Tribunal orders are legally enforceable. The orders the Tribunal can make in respect of tenancy disputes have been expanded as a result of the commencement of the Residential Tenancies Act 2010 on 31 January.

Tenancy Division orders include:

- Pre-agreement matters and residential tenancy agreements – for example, orders to amend an ingoing or outgoing condition report, or to terminate a residential tenancy agreement for non payment of rent
- Access to residential premises
- Security and safety of residential premises
- Alterations and additions – for example, an order prohibiting the tenant from removing a fixture
- Rental bond (limit increased to \$30,000 from 31 January 2011)
- Compensation
- Abandonment of residential premises, and
- Goods left behind.

TERMINATION FOR NON-PAYMENT OF RENT

From 31 January 2011, landlords will no longer have to wait until the date for possession passes to be able to apply to the CTTT for an order for termination. The application can be lodged at any time from when the termination notice was issued or at any time up to 30 days after the expiry of the termination notice. Landlords will be required to provide the termination date as stated on the termination notice as part of the application form. This will then enable the CTTT to allocate a conciliation and hearing date within 14 days of the application being lodged providing that:

- the termination date has passed
- the application fee has been paid
- hearing dates are available.

PRE 31 JANUARY 2011 TENANCY DIVISION APPLICATIONS AND TERMINATION NOTICES

Transitional provisions in the Residential Tenancies Act 2010 indicate how applications lodge prior to the 31 January 2011 commencement date. Applications lodged and not finally determined before that date will be dealt with under the Residential Tenancies Act 1987. The 1987 Act also continues to apply in relation to any termination notice given before the repeal of that Act on 31 January 2011.



MARSH

Insurance for Private Hotel and Boarding House Owners

The Marsh Private Hotel and Boarding House Insurance Scheme has been developed specifically for the Private Hotel and Boarding House industry. Marsh has worked with property owners to ensure the program is tailored to the needs of this industry, packaged well and competitively priced.

Marsh believes that the convenience and the security of the scheme provides an evolutionary solution for property owners who are as concerned with the premiums they pay as with the cover they buy.

MMC is a global professional services firm providing advice and solutions in the areas of risk, strategy and human capital. It is the parent company of a number of the world's leading risk experts and specialty consultants, including Marsh, the insurance broker and risk advisor; Guy Carpenter, the risk and reinsurance specialist; Mercer, the provider of HR and related financial advice and services; and Oliver Wyman, the management consultancy. With approximately 50,000 employees worldwide and annual revenue of \$11 billion, MMC provides analysis, advice and transactional capabilities to clients in more than 100 countries. Its stock (ticker symbol: MMC) is listed on the New York, Chicago and London stock exchanges. MMC's website address is www.mmc.com.

Marsh in Australia is a wholly owned subsidiary of 'Marsh & McLennan Companies, Inc. Established in 1953, Marsh Pty Ltd has over 1,000 employees in offices in every Australian state and territory.

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Contact

For more information on the Marsh Private Hotel and Boarding House Scheme contact Mark Holmes:

Phone: 08 8385 3612

Fax: 08 8211 8785

Email: mark.holmes@marsh.com

DON'T LET THE BED BUGS BITE

Since 1999 there has been a dramatic resurgence of bed bugs in Australia. They initially infested backpacker accommodation, but bed bugs do not discriminate, and they are rapidly infesting all forms of housing.

WHAT ARE BED BUGS?

Bed bugs are small insects that feed on the blood of mammals and birds. Adult bed bugs are oval, about 5mm in length, wingless and rusty red coloured. They have flat bodies and are visible to the naked eye. In homes, bed bugs feed primarily on the blood of humans, usually at night when people are sleeping, and then hide in dark crevices on or near beds at other times.

WHAT DOES A BED BUG BITE FEEL AND LOOK LIKE?

Typically, the bite is painless and rarely awakens a sleeping person. However, it can produce itchy welts on the skin, which are somewhat similar to mosquito bites.

ARE BED BUGS DANGEROUS?

Although bed bugs may be a nuisance to people, they are not known to spread disease. They are known to cause allergic reactions from their saliva in sensitive people.

HOW DOES A HOME BECOME INFESTED WITH BED BUGS?

In most cases, bed bugs are transported from infested areas by crawling into luggage, furniture or bedding that is then brought into homes. Bed bugs are also able to crawl to nearby adjoining premises, especially in apartments and other multi residential buildings.

HOW DO I KNOW IF MY HOME IS INFESTED WITH BED BUGS?

If you have bed bugs, you may notice itchy welts on your skin. You may also see the bed bugs themselves, small bloodstains from crushed bed bugs, or dark spots from bed bug droppings, generally on or near your bed.

HOW CAN I GET RID OF BED BUGS?

If you suspect you have bed bugs you may need to get professional pest controllers to investigate. Bed bugs often hide in dark places near beds, particularly in the tufts, seams, and folds of mattresses. In more severe infestations, bed bugs may spread to cracks and crevices in bed frames and in nearby furniture. Bed bugs may also hide in piles of books, papers, boxes, and other clutter near sleeping areas. Generally, low toxicity products will be applied in conjunction with nonchemical means of control.

As bed bugs are cryptic in their habits, complete control is often difficult to achieve with the first treatment. It is essential to deal with them quickly and properly so as to prevent their dispersion and spread.

HOW CAN I PREVENT BED BUGS FROM ENTERING MY HOME?

Bed bugs are often carried in your luggage, or on old second hand timber or cane furniture. Infestations can be prevented by thoroughly checking anything you bring into your home or quarantining anything suspicious (say in tight garbage bags) and then inspecting and treating them in a safe place outside your home.

Never bring infested luggage, bedding, bed frames, mattresses, box springs, or upholstered furniture into your home.

Good housekeeping practices will discourage repeat infestations:

- Regularly and thoroughly clean all your bedding, linens, rugs, and clothes. Washing items in hot water and drying them on the highest dryer setting will kill bed bug and their eggs.
- Maintain a clean and tidy environment, and vacuum clean thoroughly and regularly especially around and under bed.
- Remove all unnecessary clutter from bedrooms, especially cane, timber and paper items.

WHERE CAN I GET MORE INFORMATION?

There are a number of good websites, and in particular Stephen L. Doggett of The Department of Medical Entomology at Westmead Hospital has principally edited a detailed Code of Practice to help deal, treat, and understand Bed Bugs which is available at www.bedbug.org.au.

NSW HOME BUILDERS BONUS

The NSW Home Builders Bonus (HBB) has been introduced to stimulate the construction of new homes in NSW. HBB provides exemptions and concessions for certain purchases of new homes, homes off the plan and vacant land on which a new home will be built (New Housing Concession).

HBB also provides a specific exemption for eligible seniors purchasing a new home as their principal place of residence (Seniors Principal Place of Residence Duty Exemption).

The New Housing Concession provides a full exemption on transactions relating to vacant land and off the plan purchases where building has not commenced. A partial concession of 25 per cent of duty payable applies to completed new homes or off the plan purchases where construction has commenced. There is no limit to the number of new homes a person may purchase under this concession.

The Seniors Principal Place of Residence Duty Exemption provides a full exemption for eligible seniors purchasing a new home that is to be occupied as their principal place of residence. Applicants must be 65 or over and selling their current residence.

To be eligible for HBB the value of vacant land must not exceed \$400 000 and new homes must not exceed \$600 000.

The agreement for sale or transfer must be either a new home purchase, or off the plan purchase, or a vacant land purchase

A new home purchase is an agreement for the sale or transfer, or a transfer, of land that is the site of a new home that is complete and ready for occupation.

An off the plan purchase is an agreement for the sale or transfer of land intended to be used as the site of a new home, which is to be built before completion of the agreement.

A vacant land purchase is an agreement for the sale or transfer, or a transfer, of vacant land that is intended to be used as the site of a new home and which is not an off the plan purchase.

ELIGIBILITY REQUIREMENTS FOR TRANSACTIONS

1. Agreements for sale or transfers of vacant land or a new home will be eligible for consideration under HBB where they are entered into on or after 1 July 2010 and before 1 July 2012.
2. A new home is a home that has not previously been occupied or sold as a place of residence, and includes a substantially renovated home.
3. An agreement for sale or transfer is eligible if it is an agreement for sale or transfer for the

acquisition of a new home that is complete and ready for occupation.

4. For vacant land, construction must commence with the laying of foundations within 26 weeks after the agreement for sale or transfer is completed, or within any longer period allowed by the Chief Commissioner.
5. Applications for exemptions or concessions under HBB must be made within three months of the date of the agreement for sale (or transfer when there is no preceding agreement).
6. The agreement for sale or transfer must be for the whole of the land. If the land is a parcel of land on which two or more homes are built or being built, the agreement for sale or transfer must be for that part of the land that is an exclusive occupancy.

INELIGIBLE TRANSACTIONS

1. A transfer made on or after 1 July 2010 that is in conformity with an agreement for sale or transfer entered into prior to 1 July 2010 will not be eligible.
2. An agreement for sale or transfer of a new home is not eligible if it replaces an agreement for sale or transfer made before 1 July 2010 that was for substantially the same property.
3. An agreement for sale or transfer will not be eligible if the new home or the land on which the new home is located, or is to be built, is intended to be used, or made available for use, for any purpose that is not ancillary to the use and occupation of the land for residential purposes (eg for a commercial, industrial or professional purpose)

REPLACEMENT AGREEMENTS

An application may be made under the scheme in relation to an off the plan purchase where:

1. the off the plan purchase replaces an off the plan purchase approved under this scheme, and
2. the property is substantially the same property, and
3. the purchaser(s) are the same.

THE SENIORS PRINCIPAL PLACE OF RESIDENCE DUTY EXEMPTION ELIGIBILITY REQUIREMENTS

For an off the plan purchase where construction has not commenced or a vacant land purchase, seniors will be entitled to and should apply for exemption under the New Housing Concession.

The Seniors Principal Place of Residence Duty Exemption will apply where the agreement for sale or transfer is either a completed new home purchase or an off the plan purchase where construction has commenced.

To be eligible for this exemption:

1. all of the purchasers must be aged 65 or over, or where a married couple or de facto partners are the purchasers, as long as one of them is aged 65 or older.
2. the eligible senior (and spouse, if any) must move into the home within 12 months of completion of the agreement or transfer and occupy the property as their principal place of residence for a continuous period of at least 12 months
3. the eligible senior must have owned and occupied a home in NSW within the last 12 months before the date of the current agreement for sale
4. the eligible senior (and spouse if owner) must dispose of such former home in the period either prior to, or within six months after the completion of the current agreement for sale.
5. A person is defined as an eligible senior if: 1. the person is aged 65 years or older 2. the person is an Australian citizen or permanent resident
6. neither the person, nor the person's spouse (if any) has previously had the benefit of the Seniors Principal Place of Residence Duty Exemption.

PAYMENT OF DUTY

Where the 25 per cent duty reduction applies for the purchase of a completed new home, duty is payable within three months of the date that the agreement for sale or transfer is first executed.

For an off the plan purchase, duty must be paid within three months of:

- the completion of the agreement for sale, OR
- the assignment of the whole or any part of the purchasers' interest under the agreement for sale, OR
- the expiration of 12 months after the date of the agreement for sale, whichever occurs first.

HOW TO APPLY

Submit your HBB application together with your agreement for sale or transfer for stamping. Applications must be received within three months of the date of the first execution of the agreement for sale or of the transfer (where there is no agreement).

One application is required for each transaction but separate declarations are required for each eligible senior.

Where an application is for an off the plan purchase, a Declaration for 'Off the Plan' Purchases form (ODA014) must also be completed and lodged. This form is not required where the 100 per cent exemption applies.

These forms are available from www.osr.nsw.gov.au

Applications for exemption can be lodged at any OSR office or processed electronically through our Electronic Duties Return system, EDR. However, applications for a reduction in duty on off the plan transactions where construction has commenced must be lodged at OSR.

OSR may require documentary evidence to substantiate your claim for exemption/concession.

A factsheet on supplementary information for developers/vendors and a comparison of benefits for first homebuyers is available from www.osr.nsw.gov.au

NEW STANDARD RESIDENTIAL TENANCY FORMS NOW AVAILABLE

The new residential tenancy laws commenced on 31 January 2011. New standard residential tenancy agreement and a new condition report will replace existing versions.

In addition, the current publication The Renting guide will be replaced by the new tenant checklist. The new tenant checklist is the mandatory information statement that, under the new laws, must be given out to all tenants before they enter into a new lease agreement.

The new standard forms are available to download free of charge from The Office of Fair Trading website. These include:

- the The Residential Tenancy Agreement
- the condition report
- New tenant checklist

The link to the website is: http://www.fairtrading.nsw.gov.au/About_us/News_and_events/Tenancy_reforms.html

Remember, these versions should only be used for tenancies that begin on or after 31 January 2011.

For more information please contact The Office of Fair Trading on **13 32 20**

DEAR VALUED CLIENTS,

The Residential Tenancy Act 2010 has now commenced (31/1/2011). While many of the previous provisions have been carried over, there have been significant changes and modifications made to the new Act. Here is a snapshot of what you need to know as a landlord:

1. Notice Periods by landlord/agent to terminate tenancy (no grounds) increases from 60 to 90 days + 4 days postage. Tenant can vacate anytime after receipt of notice without the need to provide any notice back to agent/landlord.
2. Notice period to end fixed term tenancy, previously 14 day notice increases to 30 days.
3. Rental Bonds & rent payable in advance changes. An agent/landlord cannot request from a tenant more than 4 weeks bond. This applies to all premises furnished or not. Maximum rent payable in advance by tenant is 2 weeks rent. Tenant can pay more if they wish to do so.
4. Water Usage Collection Premises must have separate water meter. Premises must be made "water efficient" in order to comply with new regulation, this includes tap ware & showerheads that have 9L per minute flow rate. Tenant has 21 days to pay water usage from invoice. Landlord/agent cannot demand payment if rate notice is more than 3 months old.
5. Duty of Disclosure & Material Fact: Landlord/agent must disclose whether a property is intended to be sold, has a sales contract entered into or the financial institution has served mortgagee/foreclosure papers on the landlord/agent, to a prospective tenant. Landlord must disclose material fact about the property if knowingly aware that the property has serious mould/damp issue, is subject to flood or bushfire, general health or safety risks e.g. asbestos, and if was the place of a violent crime, in the last 5 years.
6. Tenant breaking a lease without Penalty. The new Act allows a tenant to serve 14 day notice to landlord/agent and vacate the property during the fixed term of the tenancy under certain circumstances. This includes if tenant has been offered public housing or an aged care facility, if landlord puts property up for sale without telling the tenant before entering into a tenancy agreement or where a co-tenant is the subject of a final A.V.O. barring them from the premises.
7. Sale of Rented Premises. 14 day notice must be given to the tenant before the first open for inspection. Inspections are strictly limited to 2 days per week e.g. mid week & one Saturday. Any further inspections must be negotiated by way of agreement with tenant.
8. Lease preparation costs: A landlord or their agent will not be able to charge a tenant \$15.00 for preparation of the tenancy agreement.
9. Application to Tenancy Tribunal fast track: A new system to fast track hearing dates will now be available for landlords/agents. Applications can now be lodged at the same time as serving a termination notice when a tenant breaches any clauses of their agreement E.g. non-payment of rent. 14 day breach notices still apply under the new Act. Notices can now be served to the tenant's letterbox.
10. Extended Grounds For Landlords to Terminate Tenancy. Landlord or their agent have right to apply to tribunal without serving a termination notice for early termination of tenancy if tenant continuously threatens, arranges or intimidates the landlord, agents, employee's or contactors, if tenant causes serious damage to the property or neighbour's property or if tenant uses premises for illegal purposes e.g. manufacture of illegal drugs or other criminal activity.

NEW RESIDENTIAL TENANCY LAWS COMMENCED

The Residential Tenancies Act 2010 was passed by Parliament in June 2010. The Act and its associated Regulation will commence on 31 January 2011. Until then, the existing laws continue to apply.

The new Act follows a comprehensive review of the existing tenancy laws and includes more than 100 reforms. The changes include arrangements for rent payments, early termination by tenants, 'no-grounds' evictions, alterations by tenants, rent arrears, sub-letting, shared housing, security and tenancy databases.

We urge our members to commence getting acquainted with the new Act so as to be compliant with the many new laws that will effect them. We also recommend that you inform your managing agents, if your property is being handled by an estate agent as well as them or you informing your tenants.

Please visit the following website to view the 2010 Act &

Regulations, as well as listening to a video on the major changes that will effect you and your tenant:

http://www.fairtrading.nsw.gov.au/About_us/News_and_events/Tenancy_reforms.html

To the best of our knowledge at this stage the Office of Fair Trading has not yet released new Residential agreements and conditions reports for sale to the general public. We are awaiting the announcement of their availability and will inform you as soon as we hear more.

The new tenancy agreement & condition report can be viewed online at:

<http://www.legislation.nsw.gov.au/maintop/view/inforce/subordleg+664+2010+cd+0+N>

Go to Part 6 Schedule 1 & 2

DISHWASHING Vs. HANDWASHING SURVEY SHOWS WATER WASTAGE DUE TO IGNORANCE

Australians living in rental properties without a dishwasher are wasting water and energy – being forced to hand wash dishes.

A new survey by Green Magazine found that Australian householders mistakenly believe hand washing dishes uses less water than running the dishwasher.

The survey of more than 100 magazine subscribers found despite evidence* that using a three star dishwasher to clean a 12 place dinner setting will save approx 60 litres of water compared with hand washing, over one third of respondents still believe hand washing dishes is more water efficient.

21% of the participants surveyed live in rental properties. Of this group, almost half do not have a dishwasher in their household.

Green Magazine Editor Tamsin O'Neill said through installing a dishwasher, the landlord can increase the efficiency of the household, saving money both for themselves and for the tenant.

"As the survey results indicate, not all rental properties have a dishwasher, even though it is proven dishwashers can decrease the household's energy consumption through improved technology," she said.

Green Magazine conducted the survey in an effort to establish householders' habits and views on washing dishes with 82% of participants owning a dishwasher.

O'Neill said she was surprised the myths which still abound in relation to dishwashers being power and water guzzlers.

The message seems not to have penetrated Australian households that contemporary dishwashers are amongst the most energy efficient appliances in the home, using about 1.4KWh less energy per wash than hand washing," she said.

Following a kitchen feature in Issue 16 of Green magazine, the online survey was initiated to gain a greater understanding of the market's habits and views on dishwasher use and hand washing dishes. The results will tie in well with issue 17 of Green magazine, due for release on 22 December 2010, where the focus will be on the efficiency of home appliances.

Green Magazine focuses on sustainable architecture and the importance of the daily performance of a household. Overall half of the participants rated dishwashers as the most efficient appliance in the household.

You can subscribe to Green magazine at www.greenmagazine.com.au

*Based on a 2009 Colmar Brunton study conducted in Australia which found that dishwashers are much more efficient than handwashing when fully loaded.

RENT TO OWN: MAJOR BANK SAYS 'YES'

Imagine being able to use your rental history as evidence of genuine savings when trying to get a home loan...

Well now you can. Mortgage broker Loan Market has been lobbying the banks to allow people applying for a home loan to use rental payments as evidence of savings and it has been answered by one of the nation's major lenders.

Loan Market chief operating officer Dean Rushton says St George has become the first Australian bank to change its requirements in regards to rental payments, in a move which will provide much-needed help to first-home buyers.

Rushton says St George will accept rent as a form of savings for a home deposit if there is evidence of a minimum of 12 months continuous, satisfactory rental history and the property is leased through a licensed property manager.

This is a significant breakthrough for first-home buyers and a move which could be a major boost to the home finance industry, he says.

Higher interest rates, tougher lending conditions and the end of the boosted federal government grants at the end of last year have driven first-time buyers out of the market.

Another major restriction has been the difficulty in saving a deposit for a home loan, particularly in this economic climate with people having to cope with massive cost of living increases including rental payments.

Australian lenders require a percentage of the purchase price normally 5 per cent minimum to be saved for all loans but it is extremely difficult for people paying the high rents customary these days to save money.

If rental payments are taken into consideration as a factor in assessing genuine savings, that would enable many people to pursue the dream of home ownership.



THE PROPERTY OWNER'S
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