

# ERSKINE + OWEN

## Property Report

### Already the Reserve Bank has amended their LVR restriction ruling

#### Will this have an impact on your house price?

Only two months since the reserve bank brought in new LVR lending legislation, they have amended their stance. New home builds will now be exempt from the lending restriction, which according to the Registered Master Builders Federation, will ensure the development of up to 5000 homes in the next year.

This figure is only an estimate, and although the Minister of Housing Nick Smith announced today that there is additional land being released for new developments in Auckland and the Herald have reported that there is an increase in consents being issued (28% in the 12 months to October), it will take time for this to translate into actual dwellings ready for market.

Auckland needs a minimum of 10,000 new homes each year for the next 30 years to meet the expected demand. So even with this new LVR incentive for home building, and the increase in land availability, we are still playing catch-up. And each year that goes by we get further behind.

So while these changes may release some pressure on the property market in the short term we do not see this as having a huge impact on pricing in the long term.

### Thinking of engaging a Buyers' Agent?

#### Make sure you are getting the real deal—& not an unlicensed cowboy!

The New Zealand real estate landscape has changed considerably over the last five years. In 2008 a new real estate act was introduced, which in turn established a new governing body, the Real Estate Agents Authority. Buyers' agents like Erskine + Owen have emerged and fringe 'property finders' have either stopped business, or reinvented themselves. So who are these new buyers agents, and are they any different to a property finder?

This article is about understanding what a buyers' agent is in the New Zealand context, and how a buyer agent might differ from a property finder. For more about how buyers' agents work [click here](#).

#### Buyers' Agents

A buyers' agent first and foremost needs to be licensed by the Real Estate Agents Authority. See this link to check if someone you are looking to engage is licensed. [Click here](#).

A buyers' agent, as opposed to a sales agent, finds and acquires property for and on behalf of a specific buyer. The client will first sign an agency agreement, giving the buyer agent authority to effectively act as the buyer on their behalf – i.e. authority to legally act as their agent.

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Erskine + Owen are one of New Zealand's first dedicated buyers agents, licensed under the REAA 2008. We work with people who want to buy property in New Zealand but don't have the time, knowledge or experience to do it themselves. We don't represent vendors or developers and have no property to sell. We represent our clients and, working to their customized brief, go out and find the right property for them.

## Thinking of engaging a Buyers' Agent?

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The buyers' agent should document a buying brief to remove any doubt as to what the buyer wants to buy. The search then begins, and offers will often be in the client's name, where the agency agreement signed at the outset, authorises the buyers' agent to sign on the clients behalf.

In our opinion a true buyers' agent will never sell property as well. In some instances you might find 'buyer agents' operating within a sales agency. In our mind this poses difficulties – won't the owner of the agency want the buyers' agent to get the buyer to consider its own listings first, before taking them to the competitors? So, most 'buyer agents' within sales agencies can only take buyers to listings held by his/her agency.

At Erskine + Owen we also do the heavy lifting on the property due diligence front – co-ordinating LIM reports, building inspections and valuations.

Buyers' agents' charges can vary. They can charge a flat fee, with a portion upfront, and the balance on purchase of the property, or a percentage of the property value. This should be agreed upon at the outset and should be documented in the agency agreement.

### Property Finder

If you search the web for definitions of a buyers' agent and property finder, you'll find that they are generally interchangeable terms. In the United States, the UK and Australia the buyers' agent industries are well established.

However, for the purposes of understanding what is on offer in NZ, we at Erskine + Owen define a property finder as something different from a buyers' agent.

Before the Real Estate Agents Act 2008 came in, there were people finding property 'deals' and charging a fee for passing them on to a buyer. Once they got a property under conditional contract they would have a few days to promote the deal to their database. If someone wanted the property, the property finder and buyer would sign a document where the property finder legally assigns the contract from their name to that of the buyer. In this document the buyer would pay the property finder an assignment fee.

But when the new act came in to force these property finders were deemed to be doing real estate agency work, which required them to become licensed in order to continue. The new REAA began approaching these people, advising them to get licensed or stop operating.

Consequently many property finders have ceased operating. Some have re-invented themselves and started trading – buying the property and on-selling it. But there have been a handful that have become licensed. The process, as described above, on the whole hasn't changed, except once a buyer expresses an interest in a found property, and before the assignment contract is assigned, the buyer should sign an agency agreement.

## RECENT PROPERTY PURCHASES

Last month our lead commercial property buyer secured the following property for our client:

- Purchase price \$2.010m
- Rent \$159K per annum
- Yield 7.92%
- Lease: 6 year lease beginning in October 2013 with 2, 3 year right of renewals
- Strong tenant – well established company
- Property type – two level office space with no earthquake issues

Before we started searching we put together a comprehensive Search Brief – with limited search areas. Our client wanted a modern warehouse or office building, but not retail, with a yield requirement of 7-7.5%. Our search area included all commercial areas in Auckland excluding West Auckland.

This property quickly came to our attention and fit the brief perfectly. It is located in Auckland city fringe, close to rail and a subway station on the proposed underground city rail link. Once we had contracted on the property, we completed all the due diligence checks for our client, and the property went unconditional 5 days later.



For testimonials and more information about recent commercial and residential property purchases please visit our website:

[www.erskineowen.co.nz](http://www.erskineowen.co.nz)

## Thinking of engaging a Buyers' Agent?

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So are these property finders true buyers' agents? Arguably they are not, because they are not searching with a specific buyer in mind – they don't start with a buying brief and then go searching. They find a property 'deal' and then go searching for a buyer. They are essentially trying to 'sell' property deals they have found, but earning revenue by assigning the contract. Is this wrong? Probably not – but if they aren't sales agents, and they can't be truly defined as a buyers' agent, how should they be defined?

### A few points to keep in mind when buying through a property finder:

An equity deal is where the purchase price is less than the valuation. Make sure you get your own valuation from a valuer of your choosing. Valuing is not a science – you want someone who is an expert in the area and is not known to be an 'optimist' when it comes to valuations.

Equity deals tend to be in areas that aren't in hot demand, e.g. the provinces. So while you might get some equity on purchase, if it is long-term capital gain you're after, then you may be disappointed.

Inevitably a property finder won't find buyers for all the properties they get under contract. In some cases the finder may need to secure a property with a certain amount of equity built in to the purchase price. This could limit the types of properties a finder could bring to a buyer.

The Sales Agent acting as Buying Agent

Every now and then you might hear an agent from a sales agency say they act more as a buyer agent. What they probably mean by this is that they have none of their own listings. Therefore they have no choice but to work solely with buyer enquiry to sell other agent's listings. Be very clear – they are still legally acting for the vendor. Virtue of the obligations under the new act, fortunately, less sales agents are marketing themselves as a 'buyer agent'.

## RECENT PROPERTY PURCHASES

### Client sees exceptional capital growth on first investment property

This gave them the ability to purchase a second property only two years later.

In October 2013 our client had the property re-valued by an independent registered valuer for \$660K, based on other sales in the area.

That's a \$225K capital gain in 2 years – 24.8% capital growth per annum, compared with the Auckland average of 11%.

Our client came to us wanting to build wealth. In our plan session we designed a strategy that focussed on capital growth. We then translated that plan into a capital growth focussed buying profile. This targeted approach is already paying dividends and the capital in this property is allowing them to make a second purchase.

