



Market Report

Firstly, we apologise for not having our newsletter to you last month. A chain of events precluded us from doing so.

Again, the various market areas we work in have experienced slightly different conditions over the last couple of months or so. It's certainly evident that none are enjoying the 'boom' times of the Auckland market.

Maungaturoto

Keith has been busy building up the rental portfolio managed from our Maungaturoto branch. However, March and April have been very quiet and for the first time in a long time he has 4 vacant properties. Keith says that enquiry

has slowed considerably over the last month or so.

In **Orewa**, Robyn says March was her quietest month in 5 1/2 years. The month started with only a couple of listings but by mid-month she was back to the normal average of having 10-12 properties available. However, like Maungaturoto, the enquiry level was incredibly low—the few viewings that have been had weren't very successful. Tenants are being very fussy and the Auckland trend is not reflective of what is happening on the Hibiscus Coast. Robyn says that, after reading some newspaper reports, her investors are wanting to increase local rents when their

houses become vacant but the current market is showing that tenants on the Coast are not willing to pay more than what they believe a property is worth and would rather wait than take a too highly priced rental. Quite a lot more activity was experienced over April with more houses available and more tenants looking.

Warkworth

While Nicole has not experienced the drop in enquiry to the degree Keith and Robyn have, she does concur with the experience Robyn is having with prospective tenants, regarding fussiness and resistance to rents above market value. April has been quieter than March.

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Disclaimer

In preparing this document we have used our best endeavors to ensure the accuracy of all the information provided. We accept no liability or responsibility for any errors or inaccuracies and recommend that all recipients make their own enquiries to verify any information given.

Televisions—Digital ones only



As from August this year through to May 2013, the analogue TV aerials will be redundant and only digital ones will work.

For 90% of us who have Sky or HD TV sets that's not an issue, but owners with blocks of flats which do not have digital aerials and their tenants are using those aerials, MAY be forced to upgrade so the tenant can use a digital TV—moreover, if the property is a furnished one and includes a TV in the chattels then the owner might have to replace that too.

At some point there will be, we are sure, a tenancy tribunal case to spell out some

guidelines on the subject, so we look forward to that.

In our opinion it's not good enough to say to an EXISTING tenant that the aerial will not be changed, nor will it be good enough to say we are not changing the TV.

What we do suggest is that any property which falls vacant before the scheduled change, should have the analogue aerial removed, so it's up to any new tenant to get their own Sky dish or Freeview connection arranged.

A new tenant looking at renting a property with an aerial on the roof would reasonably expect that it is a working one and we don't want to see you caught in further costs.

The Act does not say you have to supply an aerial, but if it's there at the start of the tenancy you can't just remove it when it no longer works.

Chimney sweeping

Yes summer is over for another year and we advise owners who are NOT on our chimney sweep list that it is a very wise precaution to get that job done now before all those log fires get lit!



Start Smart

Prospective tenants should treat viewings like job interviews.

With many areas facing a shortage of availability of properties anyone looking to rent faces tough competition.

Many would-be tenants fall into the most obvious traps, counting themselves out of the race before the first hurdle.

Things that prospective tenants can do to make themselves more attractive include:

- Don't be difficult. Prospective tenants must appreciate that rental properties are often not yet vacant when the next tenancy is being arranged and, a property manager must respect availability of current tenants, for viewings.
- Attend open homes when available rather than asking for individual viewing times.
- Never be late.
- Ensure all members of the group attend together rather than expecting two or three subsequent appointments to be accommodated.

- Don't park in the driveway of the rental property you are visiting where street parking is available.
- Wear smart clothing. Dirty work boots or scruffy clothes don't look good. Treat a viewing appointment like you would a job interview.
- Be flexible about start dates. Even if this requires bridging for one to two weeks, it may prove the difference between success and missing out.
- Don't dilly-dally. If you have genuine interest in the rental property you are viewing, notify the property manager.
- Meet deadlines for returning forms. Applicants should provide all the requested documentation such as proof of identity, Drivers License Version numbers etc, without needing to be chased.
- Provide multiple copies of references with your application.
- Don't hound a landlord or property manager

- Phoning every three hours to check will not increase your chances of being the chosen applicant.

Scotney Williams of The Tenancy Practice always tells landlords to ensure that the tenancy applications are filled in completely and advises against landlords taking tenants who leave blanks. "Questions like, 'Have you ever had a tenancy terminated?' left blank are a real classic," Williams says. "I would also advise tenants to tell the truth. The fact, for example, that they have had a debt in the past, but are paying it off wouldn't count against them. Being caught out lying would."

Finally, it may be tempting when turned down for a property to grumble, or say something like "W-H-A-T-E-V-E-R." This isn't necessarily a good idea, however. Some landlords and property managers keep lists of prospects. They are potential tenants who they will contact if a property becomes vacant. Even if you don't get this property you could well be offered another good property in the near future.

What's fair in wear and tear?

Figuring out who's responsible for damage can be tricky and subjective, notes Diana Clement from Herald Homes

Tenancies are full of subjective hurdles for landlords and tenants to cross. The issue of fair wear and tear is one of those.

One landlord complained in the TradeMe forums that his tenants' children had written on the walls, and claimed it was fair wear and tear.

Yet the Residential Tenancies Act doesn't stipulate what is fair wear and tear. It's up to landlords and tenants to use their judgement.

Fair wear and tear is always a contentious issue, says Peter Klein, chairman of the Tenants Protection Association (Auckland). For advice, he points to a Department of Building & Housing write-up at <http://tinyurl.com/wearandtear>. The document Best practice guide, Determining refurbishment and fair wear and tear is aimed at retirement villages but gives a good guideline to residential tenants and landlords.

Fair wear and tear is described in that paper as being "damage or deterioration that occurs through normal use or is the

normal change that takes place with the ageing of the property."

Where to draw the line is the issue. Some examples given of fair wear and tear include damage caused by normal everyday use:

- paint scratched or chipped
- paint fading and discolouring over time
- wall linings punctured by fixing devices for pictures, shelving, curtains and door stops, etc
- worn carpets from day-to-day use
- kitchen counters marked or scratched by kitchen implements

Fair wear and tear excludes intentional or careless damage caused by tenants. Examples of such damage include:

- door or window glass or frame cracked from being carelessly slammed
- paint discolouring through regular

candle smoke

- minor damage that worsened over time because it was not reported for repair

Fair wear and tear depends to a certain extent on the number of occupants, the length of the tenancy, the age of the property and fixtures and fittings, and how the property was presented to the tenants.

What might be fair wear and tear for a property let to a family with three children might be different to a property let to a single person. Ultimately the Tenancy Tribunal needs to make that decision.

"Fair wear and tear is the gradual deterioration of aspects of a property which has resulted naturally from age," says Simon Allen, of Allen Realty.

"There is no 'across the board' policy," says Allen. For example, stains on carpet or curtains are not generally considered wear and tear, whereas carpet discolouration may be because of the age of the carpet.

Decisions and Summaries



Mackie v Waikato Real Estate Limited and Others—TT 1829/04, Hamilton, 9 December 2004.

Residential property on market for sale—Property manager who arranged tenancy failed to advise tenants property on market—Tenants would not have entered into tenancy if had known this—No fault on part of owner/landlord—Compensation awarded against agent.

During marketing of property, sales agents/[people] failed to comply with owners' instructions and requests to notify tenants prior to showing property to prospective purchasers—Tribunal noted sales agents could not be named as parties in tribunal proceedings—While owners had requested proper notice be given before entry, tribunal found that, as principals, they must take some responsibility for their agents'

inappropriate action—Compensation awarded against owners.

Property sold subject to any tenancies existing at date of possession—Prior to settlement purchasers decided they wanted to terminate tenancy by giving 42 days notice—Original landlord and agent declined to do this so purchasers instructed Waikato Real Estate Limited to give notice—Tribunal found 42 days notice inappropriate as property sold subject to tenancies and, also, purchaser not yet owner of property—Tribunal concluded Waikato Real Estate had no authority to give tenant notice and, even if they had, required notice would have been 90 days—As Waikato Real Estate had chosen to assume the mantle of the landlord, compensation was awarded against them.

This case provides a noteworthy example of circumstances where compensation has been awarded against a number of parties in relation to various breaches of a residential tenancy agreement where the owner of the property was in the process of selling it. In particular, the original property manager, the original owner/

landlord and the agent which the purchaser purported to appoint as the new property manager before taking ownership of the property, were respectively found liable for:

- [Due to an internal miscommunication] Failing to notify the [prospective] tenants the property was on the market—refer section 47 of the Residential Tenancies Act 1986 (the 'RTA') - 'Landlord to give notice to tenant of intention to sell';
- Failing to provide appropriate notice to the tenants prior entry of the property—refer sections 38 and 48 of the RTA—'Quiet enjoyment' and 'Landlord's right of entry' respectively;
- Providing an unlawful notice to the tenants by giving notice purporting to terminate the tenancy after 42 days and at a time when the purchaser was not yet owner of the property and therefore precluded from acting as their landlord under the RTA—refer section 51 of the RTA—'Termination by notice'.

Garage not included?

s 2(1), s 38(2), s 40(1)(d) - Garage is included in facilities—garage formed a part of the premises so if landlord intended garage to be excluded, agreement would so record—tenants' obligation to notify landlord of damage/defect need not be in writing—use of premises includes use by tenant's lawful visitors

A 1994 dispute arose as to whether or not the garage had been a part of the tenancy agreement.

The written agreement was silent on this point and the parties couldn't agree on what was discussed. The Tribunal after

considering the layout of the property, concluded that the garage was "essentially part of the premises ... The parties could legitimately assume it was part of the tenancy unless it was specifically excluded from the tenancy agreement".

The tenants also successfully claimed exemplary damages for the landlords' breach of their quiet enjoyment. This included persistent and insulting telephone calls, personal insults, calling the Police to the premises unnecessarily, and harassment of visiting friends and family of the tenants. In analysing the

claim, the Tribunal noted that "use of the premises" includes those persons lawfully there with the tenant's authority (such as friends or relatives).

The landlords claimed that the tenants should have notified them of the defective stove, in writing. The Tribunal disagreed, noting that s 40(1)(d) simply required tenants "to tell or to let someone know" of the defect, but not necessarily in writing. The Tribunal noted that the wording of the provision contrasted with others in the Act which specifically require types of notice to be 'in writing'.

A trickle turns to a flood

From horror stories to petty disputes, the Tenancy Tribunal helps landlords and tenants to solve their differences.

Section 45(1)(b): Landlord's responsibility to maintain regular inspections.

In 2009, the landlord sought compensation from the tenants for damage to the laundry floor. The landlords maintained that the tenants had carelessly allowed the washing machine to flood the laundry floor, causing the floor to rot.

The tenant acknowledged that there had

been one occasion when the washing machine had flooded. On that occasion the property manager was advised, and attended at the property to assist with clean-up work. At the time of that visit neither the property manager nor the tenant checked inside the enclosed cabinet space under the tub at the juncture where the tub met the floor, to establish if there was residual water trapped in that area.

During the course of the tenancy the landlords, who were residing overseas,

inspected the premises on one occasion.

The Tribunal held that: "The landlord's failure to arrange regular inspections or have the property more formally managed has increased the extent of the loss to the landlord, in that a problem which was originally relatively minor became a significant problem".

The problem could have been remedied earlier if the landlord had been conscientious in attending to property inspections, so the landlord was not compensated.

Did You Know...???

'Allegedly' the earliest identified use of the exact phrase "the whole 9 yards" dates from 1942, in the Investigation of the National Defense Program: Hearings Before a Special Committee Investigating the National Defense Program, by Admiral Emory Scott Land, who said "You have to increase from 7.72 to 12 for the average at the bottom of that fifth column, for the whole nine yards". This use refers to the total output statistics for the nine new shipyards that produced "Liberty Ships" with unprecedented speed, crucial to the course of World War II. I don't know what gave rise to the phrase.



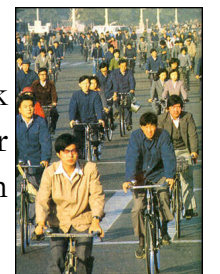
The most frequently quoted explanation of the term "the whole 9 yards" came from WWII fighter pilots in the South Pacific. When arming their airplanes on the ground the .50 caliber machine gun ammo belts measured exactly 27 feet, before being loaded into the fuselage. If the pilots fired all their ammo at a target, it got "the whole 9 yards." There are several claims for this phrase. The yard is quite an old measurement.



The whole 9 yards... In early Scotland, a gentleman wore a kilt. There were two types of kilts, one for casual wear, and one for formal affairs. The formal one took 9 yards of tartan. The tailor would inquire to which kilt was needed, and the reply... if it was for a formal one was "I'll take the whole 9 yards". This one could be fairly old.



When looking at statues of a person on a horse, if the horse has both front hooves in the air, the person died in battle. If the horse has one front hoof in the air the person died as a result of wounds received in battle. If the horse has all four hooves on the ground, the person died of natural causes. This is a myth... shame really, I like the idea.



Some 30% of local residents in Shanghai say cycling is their main means of transport and 60% of locals pedal to work every day. With the possible exception of China, the Netherlands boasts more bicycles per capita than any other country—at least 16-million bikes for the 16-million Dutch. Roughly 30% of all urban trips in the Netherlands are on bicycles, compared with 2% in the UK.



WARKWORTH \$299,000 WAR21600

For this price and this location we expect strong interest. 2-bedroom property which comprises open living and a pleasantly private feel to it. Single carport. Minimal ongoing up keep required here and given that the interior has had a recent refurbish there isn't an awful lot to do except move your furniture in. Flat walk to town and a quality address.

Expected rental return \$320.00 p.w.



MAUNGATUROTO \$219,000 WAR20811

RESIDENTIAL WITH RURAL OUTLOOK
Priced to sell. 3 Bedroom home on 827m2 section. It has a little native bush so take a look and listen... there are bird songs to be heard and rural vista to be seen... Walkable distance to well appointed township, good schools, shopping and cafes and other necessary amenities.

Expected rental return \$250.00 p.w.

Recent Rentals

	Warkworth 1 bedroom, central township, no garage, good off-street parking	Matakana (Rural) 3 bedrooms, nice grounds, great rural views	Warkworth 3 bedrooms, no garaging, close to shops	Snells Beach 3 bedrooms, furnished, beach front property
Our Figure (per Week)	\$260	\$450	\$335	\$550
DBH Statistics Median Price	\$250	\$380+	\$350	N/A
	Sandspit 1 bedroom, furnished, views	Orewa 3 bedrooms, 1 bathroom, 2 WC's, single garage	Paparoa 3 bedrooms, 1 bathroom, 2+ acres, water views	Warkworth Rural 4 bedrooms, quiet rural setting, 5 minutes from town
Our Figure (per Week)	\$260	\$460	\$320	\$420
DBH Statistics Median Price	\$250	\$470	\$280	\$400