

CASE STUDY

Use of the List



Overview	Inappropriate use of 'The LIST'
Issue:	Conduct of a Property Agent
Finding:	The property agent's conduct falls short of the standard of competence and diligence that a reasonable member of the public is entitled to expect from a reasonably competent Property Agent.
Consequences:	The Agent was formally cautioned.
Origin:	Complaint to the Property Agents Board
Relevant Legislation:	<i>Code of Conduct – Clause 19(1)(e)</i>

Background

In May 2025, two former clients (the Complainants) received a letter from a newly established real estate agency inviting them to use the agency's services. The correspondence was branded with the new agency's logo and signed by a property representative who, along with the property agent, had previously owned another real estate business that they had sold.

The Complainants had not had contact with either agents nor their former agency for over three years. Their previous interactions related only to the sale and management of property in 2020. The complainants were concerned that their current residential address had been used without their consent to send a marketing letter.

Nature of the Complaint

The Complainants alleged that the property agent had engaged in **unsatisfactory professional conduct** by accessing the Tasmanian Government's LIST database to obtain their current residential address for marketing purposes.

The LIST's Terms and Conditions prohibit the use of its information for **direct marketing**, and access to certain functions - such as the Owner Name Search - is highly restricted. The Complainants argued this represented a misuse of government-held personal information and an invasion of privacy.

Property Agent's Response

The property agent stated that they used the LIST to update address details of former clients to ensure their contact information was correct before sending letters about the establishment of the new agency. They believed this was permissible because they were not sourcing new clients but contacting previous ones.

Property Agent's Response Cont.

The agent advised that upon receiving the complaint, they immediately removed the Complainants' information from the database and did not make further contact. They maintained that their actions were taken in **good faith** and based on what they believed was a common and acceptable industry practice.

The agent acknowledged that after speaking with LIST administrators, they became aware that using the database for marketing was not permitted. They described the issue as a "grey area" and said they now understood the correct interpretation of the rules.

Investigation

The Property Agents Board commenced a formal investigation under Section 96 of the *Property Agents and Land Transactions Act 2016*.

The agent was asked to explain how they retained the Complainants' contact details from their previous employment and to provide any documents outlining their obligations regarding the handling of client information.

In their response, the agent stated that the details had been stored on their colleague's phone from their time at the former agency and that they no longer had a copy of their employment contract. The agent later submitted a statutory declaration confirming the deletion of the Complainants' details from all records.

The investigation also confirmed that **Land Tasmania** had contacted the agent to remind them that using the LIST for marketing purposes was not an acceptable use of the system.

Findings

The Board concluded that:

- The property agent **used the LIST** to obtain or confirm the Complainants' address, breaching the LIST's Terms and Conditions.
- The letter sent was **clearly marketing material**, inviting the recipients to engage the new agency's services.
- The agent's actions **contravened Clause 19(1)(e)** of the Property Agents Code of Conduct, which requires agents to respect confidentiality and privacy.
- The agent's reliance on "industry practice" did not excuse the breach.
- There was no evidence of malicious intent, but the conduct reflected a **misunderstanding and failure to exercise due diligence** in using government data appropriately.

Decision

The Board determined that the property agent's conduct amounted to **unsatisfactory professional conduct** of a minor nature.

The agent was **formally cautioned** under Section 101(6)(a) of the *Property Agents and Land Transactions Act 2016*.

Relevant Legislation Explained

Code of Conduct 2022

By accessing the Complaints details via the LIST for prospecting purposes, the Agent contravened Clause 19(1)(e) which states:

*19. Professionalism in the Property Agents Industry
(1) A property agent must at all times -*

*...
(e) keep up-to-date on relevant codes of conduct policies and guidelines issued by the Property Agents Board and abide by all relative business and legislative requirements, including but not limited to marketing/advertising and intellectual property;*

What Could the Property Agent Have Done in This Example?

- The property agent should have **reviewed and complied** with the LIST's Terms and Conditions before using any data obtained through it.
- They should have **avoided using government data for marketing** under any circumstances.
- The agent should have maintained proper records and ensured they did not retain or use **former client information** from a previous employer without consent or authority.
- Before sending marketing communications, they should have **sought explicit consent** from individuals or used publicly available marketing lists compliant with privacy laws.
- Finally, the agent should have **proactively educated themselves** on privacy obligations and data use restrictions relevant to her profession.