

'West' – 27 November 2010

## **WA NEEDS TO BE COOL**

People often ask me why there are so many more auctions conducted in the eastern states than here in WA? And a fair question too... Just several weekends ago in Victoria there was 1,000 property auctions on the one weekend... I believe the same weekend here in Perth there was something in the vicinity of 38!

It has to do with their contractual law over on the east coast... You see, they have "Cooling Off Periods" and depending which state you place under the microscope depends whether it is for 3 days or 5 days. The thing is with their 'Private Treaty' method of sale (our equivalent "for sale with a price" method-the standard 'Offer & Acceptance' sale & purchase contract) both the Buyer as well as the Seller (in the east) has time to re-think their sale or purchase...and can consequently, willingly and happily walk away, without regard or responsibility to the other party. Our statute law doesn't allow for Cooling off Periods for the purchase of real estate here in WA, which is surprising since it is such an enormously expensive acquisition!

Have you ever heard the term "Gazumping"? If you are from the east, you'll be very familiar with this term! It's when the Seller of an eastern states property accepts an offer to purchase from a buyer...and throughout the cooling off period of 3 or 5 days, the Seller is confronted or approached by another buyer wishing to purchase at a greater price! The Seller may walk away from the existing dealing in place with the primary Buyer in favour of running with the secondary Buyer... At this point the primary Buyer's nose is completely out of joint and consequently has a further opportunity to purchase the property during the cooling off period between the Seller and the secondary Buyer.... In a nutshell, the primary Buyer has been Gazumped!

In the eastern states, buyers prefer to purchase at Auction...not only because there are NO cooling off periods with auction and when they've bought it, they've really bought it! There's no going back! But, also to save the anxieties of the emotional roller coaster ride that can occur with their 'Private Treaty' method of sale and of course, the Gazumping...

When buyers purchase at Auction anywhere in Australia, there are NO cooling off periods and NO conditions! Buyers do their research well and there are no flippant decisions when buying at auction...

Most buyers are genuinely and actively seeking to purchase a property with the best intentions... However there is an element who like to have an 'each way bet' and will place a "conditional offer" on the table. If this offer is accepted and is conditional upon say a "due diligence" clause or an alternative flimsy condition where they can withdraw from, this will enable them to continue to keep looking for property in the interim.... And in the case they find a better proposition, they will allow the first offer in place to lapse...often leaving Sellers who have in good faith, effectively taken their property off the market...in many cases for up to 4 weeks so the buyer can satisfy the relative condition(s) and accordingly missed alternative opportunities.

"Consumerism!" We live in a society today, far more consumer orientated than ever before and I would think "Cooling Off Periods" are coming and it is just a matter of time...

The number of properties being auctioned in Perth is definitely on the rise! I put this down to genuine Sellers seeking a fair result in an economically sensible period of time! Buyers are also far more savvy these days with an abundance of information available and as it is a Buyer's Market, auction gives them a fair deal too!

**Tom Esze is the current REIWA State Auctioneering Champion**