

REBA

Real Estate & Business Agents Supervisory Board

Annual Report
2001 - 2002



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Statement of Compliance

JOHN KOBELKE MLA
MINISTER FOR CONSUMER AND EMPLOYMENT PROTECTION

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, we hereby submit for your information and presentation to Parliament the Annual Report of the Real Estate and Business Agents Supervisory Board for the year ending 30 June 2002.

The Report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.



Judy Eckert
Chairperson



Gordon Bragg
Member



William Goddard
Member



Fay Francis
Member

30 August 2002

Report from the Chair

I was appointed Chair of REBA in mid December 2002 after Mr David Dawes retired. I would like to pay tribute to Mr Dawes who served as Chair of REBA from 1 December 1997 until 30 November 2001. David oversaw the evolution of REBA as a self-funded and independent body with a charter of proactive and effective industry regulation. David dealt with many difficult issues during his time as Chair and he has given a great public service to the people of this State.

I would also like to acknowledge with gratitude the services of Mr Jerry Hughes who served as the REIWA nominee on the Board from 25 May 1993 until 30 November 2001, and his deputy Mr Neville Fox who served from 1 December 1997 until 30 November 2001. Both Jerry and Neville were active and enthusiastic contributors to the work of the Board and we also owe them a substantial debt for the legacy they have left.

My first six months as Chair have been stimulating, frustrating, time consuming and challenging. I have been fortunate to take on the responsibility as Chair at a time when the Board is focussed and has a clear comprehensive vision for consumer protection though regulation of the real estate and business broking industries in this State.

The Board is taking a more proactive approach and intends to continue to focus on the benefits of education of industry members and the public as a means of reducing complaints. In the short term this may result in an increase in complaints as the public becomes aware of its rights and of the responsibilities of industry participants. However, we are confident that in the long term our focus on education will result in higher industry standards and greater public protection and satisfaction. Part of this focus has been reflected over the last year in the development of Home Buyers Seminars (two were conducted in Perth and one each in Bunbury and Albany.). These seminars have proved to be very successful in assisting and educating the public. The Board has also overseen 198 proactive compliance visits to real estate agencies across Western Australia and has provided 30 education seminars to industry members. A further aspect of the focus on education has been the launch of the Real Estate and Settlement Hotline which provides telephone advice to the public during business hours as well as evenings and on week ends.

The workload of Board members and staff seems to grow and greater demands are made on members' time. I am extremely grateful to the legal member Gordon Bragg who also acts as my deputy and who willingly spends countless hours each month on Board matters. I am also very grateful to the industry elected member Mr Bill Goddard and to the commercial member of the Board Ms Fay Francis, both of whom serve on the Board as well as its education advisory committee. I am also very grateful to their deputies Mr Craig James, Mr Paul Druitt and Mr Ross Ledger, who unfailingly agree to sit on Board Inquiries whenever asked. Each of those Board members and deputies have provided me with substantial support and assistance, helping guide and teach me as I "learn the ropes" in my role as Chair.

However, two issues remain of pressing concern to the Board, first, the Board has not had its REIWA nominated member nor deputy since the retirement of Mr Jerry Hughes and Mr Neville Fox. This has resulted in a substantial increase in workload, for other Board members and deputies particularly with respect to sitting on Inquiries. It is also of concern that industry is not represented on the Board in the manner in which the Act envisages. The Board hopes that this situation is remedied as soon as possible.

The second matter of issue is that the remuneration of the Board members remains hopelessly inadequate despite representations to the Minister and the recommendations of the Gunning Committee of Inquiry in its report of 15 December 2000. Members have not at any time shirked from their duties or from devoting the time necessary to deal with evermore complex issues and Inquiries on the basis of what is effectively declining remuneration. Board members remain optimistic that eventually this issue of remuneration will be addressed.

This year has seen exponential growth in the real estate sector, particularly reflected by the issue of 1 500 new sales representative certificates. The Board is acutely aware that a busy market will increase its workload and we are seeking ways of addressing this. During the year the Board called for tenders for the provision of legal services. We have now ceased to use the services of the Legal Division of the Department of Consumer & Employment Protection and rely for our legal advice and assistance on private firms and the independent Bar. This has resulted in a substantial number of aged complaints being brought to conclusion and Inquiry before the Board. The Board believes that this has also resulted in a more effective and timely provision of legal assistance to it.

Over the last year the Board has also taken decisive action with respect to the audit of trust accounts. The Board announced its "independence of auditors" policy which resulted in 142 auditors declaring that they had a conflict of interest which would disqualify them from being an independent auditor. The Board has also finalised its trust account handbook which we hope will be of benefit to industry and auditors in carrying out their statutory functions. The Board completed 138 audit reports and 99 trust account investigations for the year ending 31 December 2001. I congratulate Board staff and officers on the speed with which this was undertaken.

The Board has been particularly occupied since April with matters arising from the closure of Want & Co. On 24 April 2002 the District Court ordered that the licences of Wanlee Holdings Pty Ltd and Ms Helen Ryan be suspended and it authorised the appointment of a supervisor to the agency. The Board subsequently appointed Mr Tony Bevan who continues to undertake his role as supervisor. On 31 May 2002, on the application of the Board, the Supreme Court reinstated the company which had been deregistered by the Australian Securities and Investments Commission and placed it into liquidation. Ms Ryan, the agent in bona fide control of the corporate licensee, subsequently pleaded guilty to breaches of the Act and Code and she was permanently disqualified from holding a real estate agent's licence. Similarly Mr Barry Want was permanently disqualified from holding a real estate sales representative's certificate of registration.

It appears that there is a deficit in excess of \$650 000 in the trust account of Want & Co, which has resulted in numerous claims against the Fidelity Guarantee Fund. Pursuant to Supreme and District Court decisions relating to fidelity fund claims by Mr Harry Cohen and members of his family arising from the conduct of representative Bridget Paterson, the Board is required to treat each of these applications as a proceeding before it. This has resulted in a substantial number of Fidelity Fund hearings. The Board and its officers and staff reacted very quickly to the crisis of Want & Co and proceeded to apply for the appointment of supervisor as soon as possible.

Unfortunately this decisive and quick action did not stop some unfairly negative and dispiriting press coverage of the Board's role. I can assure the public that the Board and its staff and officers reacted to information with respect to Want & Co promptly and effectively and that the Board has devoted substantial time and resources to dealing with the myriad issues which arise from the closure of Want & Co and the effect of its activities on consumers.

There have been times this year when I have felt that REIWA has acted as the self appointed watch dog of the Board and its officers. This can have a positive and a negative effect on the Board and its operations. It can also be time consuming in a way which deflects the Board's attention away from other pressing issues. Whilst constructive criticism in a cooperative atmosphere is extremely useful for everyone involved in the industry and for consumers, unnecessary or trivial criticism can be counter productive and have the effect of isolating and marginalizing the Board. REIWA has a vital role as the industry association and I believe that the Board is building a good working relationship with REIWA. I would like to thank Mr Graham Joyce, President of REIWA, for the active role he has played in putting aside past difficulties and listening to REBA in a cooperative and mutually helpful manner.

The Board faces a very interesting future. The announcement by the Government of its intention to establish the State Administrative Tribunal on 1 January 2004 will see the transfer of the Board's disciplinary functions. At this stage, we are unaware of what the Board's future will be. We made a submission in April 2002 to the Department of Consumer and Employment Protection and the Minister in response to the Premier's Machinery of Government Review and the subsequent issues paper distributed by the Department. We have not yet had a response to that submission. In its submission the Board actively and strongly recommended the retention of the Board to serve the role as investigator and prosecutor before the State Administrative Tribunal and to retain its role in the education and policy fields.

It is the Board's firm belief that it is necessary to maintain independence from the Department as stressed by the Gunning Inquiry and by the Temby Royal Commission into finance broking matters. The Board would also be concerned that if it were abolished and its role moved totally into the Department that it would be removed from industry and that the very important input which industry provides would disappear. The Board believes that it is able to drive, promote and effectively ensure that a correct and sensible approach to discipline is taken in a timely manner.

We remain concerned that if this is absorbed by the Department pre-Gunning Inquiry issues will again fester ultimately leading to substantially diminished protection for consumers. Whilst the Board is sitting in a position of great uncertainty, which of course causes difficulties for its staff and its officers, we continue to try to increase the profile of REBA as the industry regulator so that the public understands who regulates industry and who protects consumers with the force of statutory authority. Despite the uncertainty the Board will continue to take initiative and to be proactive in regulation and protection.

Finally, I wish to put on record how much I appreciate the way that Board members and staff are able to work together cooperatively and positively to achieve a common goal. I have been impressed by the calibre of the staff who assist the Board and by the dedication of the Board members and their deputies to a difficult and at times overwhelming task. I am very grateful to the staff of the Real Estate Branch of the Department of Consumer and Employment Protection who undertake the vast amount of work required to effectively investigate matters under the direction of the Board. In particular Ms Carolyn Marmion and subsequently Ms Kirsty Tippet as Manager of the Real Estate Branch, provide and ensure support for the Board across all of its functions.

I also wish to note the contribution of the Secretary to the Board, Mrs Melinda Paterson, and Board Support Officer Mrs Elizabeth Brown. I am also very grateful for the assistance given to me, in particular by both Ms Alison Campbell and subsequently Mrs Andrea Hallson as Deputy Registrar. Mr Les McPherson, as the Board's Solicitor, provides advice and assistance despite an ever growing mountain of work. I don't think that the Board would be able to function in the way it does without the extraordinary knowledge of its Registrar, Mr Bob Rossi, who has an unparalleled knowledge of industry members and activities that is of enormous value to the Board in its operations. I would also like to thank the Board's Director Mr Stuart Cowie who remains constantly enthusiastic and positive in his support for the Board and his coordination of staff and Board activities.

I look forward to another year of focussed and busy activity of the Board as it again faces potentially substantial change in the nature of its functions and its role.



Judy Eckert

Chair

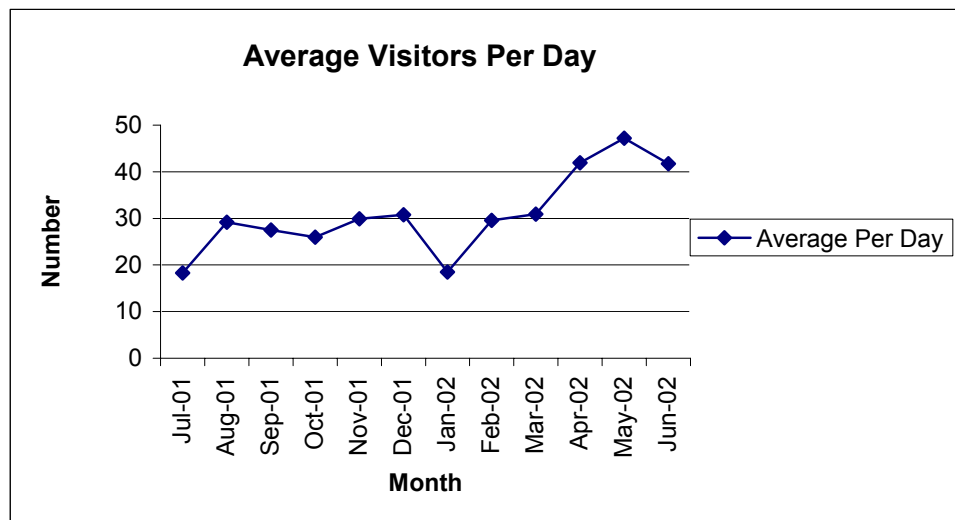
30 August 2002

Overview 2001-2002

- launch of Real Estate and Settlement Hotline pilot program
- “Independence of auditors” policy was introduced
- 4 Homebuyers Seminars conducted (2 in Perth and 1 each in Bunbury and Albany)
- appointment of Board Solicitor
- Trust Account Handbook developed
- 198 proactive compliance visits to real estate agencies across Western Australia
- 30 education seminars provided to the real estate industry to assist them to comply with their legal requirements
- increase in the property purchase price limit for the Home Buyers Assistance Fund grant.
- 75 Fidelity Guarantee Fund claims received
- 179 applications for licences processed
- 649 complaints received
- 394 general investigations commenced
- 296 conciliations completed
- completed 138 audit report and 99 trust account investigations
- 43 Inquiry matters were heard and 68 hearing sessions were held

- 179 new applications for an agent's licence were processed
- 679 triennial certificate renewals were processed
- 1 500 new sales representative certificates were issued
- 659 sales representative renewal certificates were processed
- 1 329 Home Buyers Assistance Fund grants approved
- \$2 403 206.83 in homebuyers grants was paid
- Average number of visitors per day to the website increased from 18.3 in July 2001 to 41.7 in June 2002 (see Graph 1)

Graph 1: Average visits per day to REBA website



SECTION 1

Our Organisation

The Real Estate and Business Agents Supervisory Board (REBA) is responsible for the regulation of people who conduct real estate transactions and certain business transactions.

Through regulating the real estate industry, REBA provides a comprehensive range of services to the public of Western Australia. REBA administers the *Real Estate and Business Agents Act 1978* (the Act), *Code of Conduct for Agents and Sales Representatives* and the *Real Estate and Business Agents (General) Regulations*.

In the last financial year, REBA reported to the Minister for Consumer and Employment Protection.

Past

REBA formally came into being in 1978 with the proclamation of the *Real Estate and Business Agents Act 1978*.

REBA was established to regulate those people in the real estate and business broking industry following the repeal of the *Land Agents Act 1921*.

Present

In the past 12 months REBA has undertaken many key initiatives including:

- Introduction of free Homebuyers Seminars for consumers
- Extension of its telephone information service (now known as the Real Estate and Settlement Hotline) to week nights and weekends (a three month pilot commenced on 29 June 2002)
- Continuing investigative training for REBA's real estate investigators
- Development of a trust account handbook to clarify agent's trust account obligations under the Act
- An increase in the maximum purchase price to which the Home Buyers Assistance Fund applies
- Introduced "independence of auditors" policy
- Improving links with other real estate regulators around the world through membership of the Association of Real Estate Licence Law Officials

Future

Each year REBA submits a Corporate Plan to the Minister for Consumer and Employment Protection. The Corporate Plan reflects REBA's commitment to ensuring the community of Western Australia has confidence in the real estate and business broking industry. The Corporate Plan outlines REBA's key priorities and targets to achieve its outcomes and provides an estimate of income and expenditure for the coming financial year.

REBA has made a commitment to continue to move from a reactive compliance based system of regulation, to a more proactive education approach. REBA is confident that by providing further education and advice to both consumers and the industry, there will be a reduction in the number of complaints made against the industry.

In the broader context a key theme of the corporate plan is to continue to build public awareness of the role of REBA as the statutory regulator of the real estate industry in Western Australia.

REBA is preparing a strategy for the devolution of its disciplinary functions as the State Administrative Tribunal is established, as well as to respond to the outcome of the Review of Boards and Committees being conducted by the Department of Consumer and Employment Protection.

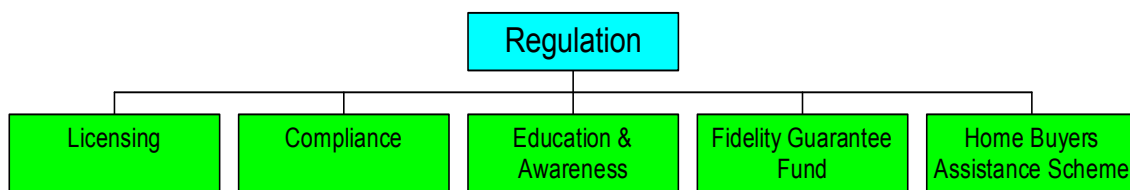
Outcome Statement

The outcome, or what REBA wishes to achieve, is that the people of Western Australia have confidence in the real estate and business broking industry.

Outputs

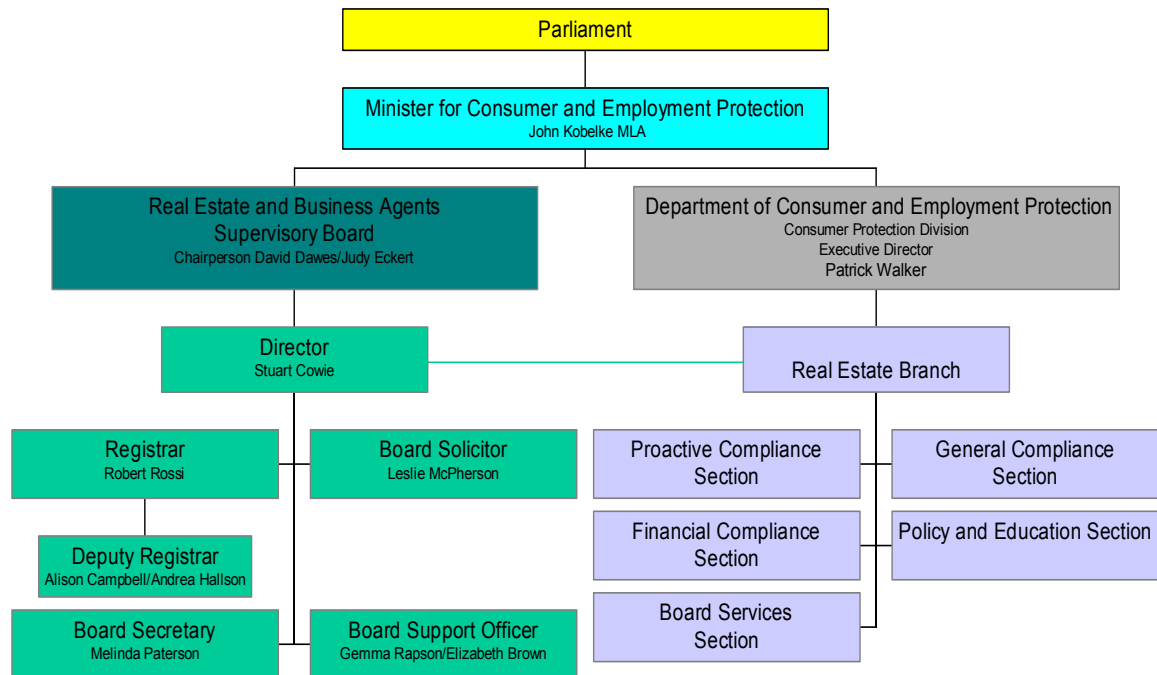
The output or service provided by REBA to achieve the above outcome is the regulation of the real estate and business broking industry through discharging REBA's statutory functions.

The output can be divided into five components, as illustrated below:



The activities undertaken by REBA during the year within each output component are reported on in the Report on Outputs.

Structure



Our People

REBA directly employs six staff. The Director, Board Solicitor and Board Support Officer are employed in a joint funding arrangement with the Settlement Agents Supervisory Board. The other three staff are employed solely by REBA.

REBA Staff

Title and name	Public Service Level
Director Stuart Cowie	8
Board Solicitor Leslie McPherson	7/8
Registrar Robert Rossi	7
Deputy Registrar Alison Campbell (until 31 May 2002) Andrea Hallson (from 3 June 2002)	5
Board Secretary Melinda Paterson	3
Board Support Officer Elizabeth Brown	1

Functions of the Director

The Director manages the Board's financial and human resources and assists REBA in long and short term planning and strategic issues.

Such planning aims to provide focus and maximise the effectiveness of REBA. The major strategic planning tool employed by REBA is its *Corporate Plan*.

The Director acts as REBA's representative in negotiating and monitoring the *Service Delivery Agreement* with the Department of Consumer and Employment Protection (DOCEP) for the delivery of services. The Director also liaises with REBA and the Minister for Consumer and Employment Protection regarding operational matters and in many respects is equivalent to a Chief Executive Officer.

Functions of the Solicitor

The Solicitor provides legal advice to REBA, manages legal services for REBA and is responsible for briefing external legal counsel when they are required to provide advice or legal representation at hearings.

Functions of the Registrar

The Registrar undertakes various statutory roles set out by the Act. One of the Registrar's primary functions is the management of the complaints process, which includes the issuing of directions for the investigation of complaints by REBA investigators and the making of decisions on outcomes of investigations. The registrar has a role in the administration of licensing under delegated powers. The Registrar also co-ordinates education programs, develops policy standards and liaises with industry, the Minister for Consumer and Employment Protection and REBA.

Key Achievements and Goals

Major Achievements 2001/2002

Real Estate and Settlement Hotline

On 29 June 2002 the Minister for Consumer and Employment Protection, John Kobelke MLA, launched the pilot program for the Real Estate and Settlement Hotline. The Hotline is a telephone information service jointly funded by REBA and the Settlement Agents Supervisory Board which provides instant, independent and cost free assistance to those involved in the purchase and sale of property.

The Hotline operates Monday to Friday from 8:30am to 8:00pm, Saturday 9:00am to 4:00pm and Sunday 12:00noon until 4:00pm. The Hotline also incorporates the previous telephone information service that was provided during normal business hours. The after hours aspect of the service is subject to a three month trial period. Following the three month pilot there will be an assessment to ascertain the viability of the service.

Homebuyers Seminars

In March 2002, the first of a series of free homebuyers seminars for consumers was held. Over 200 people attended each of the metropolitan seminars. These seminars provide consumers with valuable information on buying a home such as making an offer on a property, obtaining finance, getting a valuation and the settlement process. It is anticipated that these seminars will continue to be conducted every quarter in the metropolitan area. Four seminars were held in the 2001-2002 financial year (two in Perth and one each in Albany and Bunbury).

Trust Account Handbook

A Trust Account Handbook was developed during 2001-2002 to assist real estate agents to establish and maintain a trust account recording system that complies with the Act and the Regulations. The handbook will be distributed to all real estate agents and is also available on the REBA website www.reba.wa.gov.au

Appointment of Board Solicitor

In November 2001, REBA (in conjunction with the Settlement Agents Supervisory Board) appointed a Board Solicitor who is responsible for providing legal advice to REBA and managing REBA's legal services. The Department of Consumer and Employment Protection's legal officers previously provided this service. This initiative has improved and expedited the provision of legal advice to REBA thereby improving the turnaround time for inquiries and hearings.

Resolution of complaints

In recent years, REBA has made the expeditious resolution of complaint files a high priority. For example, 29% of the total number of investigations files closed in 2000-2001 were over 6 months old, while in 2001-2002, this figure had been reduced to 16%, indicating that complaints are now being dealt with in a more timely manner.

New Publications

You and Your Property Manager

In October 2001, REBA released a new publication entitled “You and Your Property Manager” to advise consumers and landlords about their rights and responsibilities when dealing with their property manager.

The publication outlines:

- the role of the property manager
- the difference between strata managers and property managers
- the requirements of the Code of Conduct
- negotiating agency fees and selecting a tenant

It is a REBA initiative designed to educate consumers and landlords about property management issues, whilst informing them of REBA advisory and complaint services. The publication is also available online and in alternative formats for people with disabilities.

Home Buyers Assistance Fund

In January 2002, REBA reviewed the Home Buyers Assistance Fund application criteria and increased the property purchase price limit at which first homebuyers are eligible to apply for the Home Buyers Assistance Fund grant. REBA released a new publication informing the public of the increase. The new maximum purchase price for homes in metropolitan and country areas is now \$95 000. The maximum purchase price for homes in remote areas is \$140 000 and the limit for the North West and Kimberley region is \$160 000.

Future Goals

Licensing

- Continue to implement enhancements to the Real Estate Management Information System (REMIS)
- Review the role of REBA with regard to strata managers, park home sellers, holiday accommodation providers
- Review the available training programs that are provided to meet REBA’s prescribed qualifications

Compliance

- Publish and launch a new guide to trust accounting for agents
- Continue with “no tolerance” policy for failure to comply with the requirements for lodging trust account audits
- Educate auditors with regard to REBA’s policy of auditor independence
- Develop a policy and associated procedures for the appointment and monitoring of supervisors by REBA
- Consider the issue of compulsory vendor disclosure statements when a property is being sold and develop a policy and seek legislative amendment if required

- Review the compliance manual
- Develop an internal policy on briefing out of legal matters
- Consider a proposal for compulsory professional indemnity insurance for real estate and business agents
- Establish a panel of auditors available for appointment by the Board to audit agent's trust accounts under the Act

Education and Awareness

- Continue to increase public awareness of the role of REBA as the statutory regulator of the real estate industry in Western Australia
- Introduce a tender process for the provision of education grants to training providers delivering training to agents and sales representatives
- Evaluate the pilot after hours aspect of the Real Estate and Settlement Hotline service and implement a continued service if required
- Produce information brochures for real estate and business agents and sales representatives regarding the licensing process and the disciplinary process
- Respond to the Review of Consumer Protection Boards and Committees and develop a submission and associated strategy to ensure an ongoing role for REBA in investigation, prosecution and education within the real estate industry

Fidelity Guarantee Fund

- Develop a policy on processing Fidelity Guarantee Fund Claims from receipt to decision
- Seek a legislative amendment to allow claims on the Fidelity Guarantee Fund to be considered administratively rather than by way of formal proceedings
- Educate consumers and agents with regard to the purpose and process for claiming on the Fidelity Guarantee Fund

Home Buyers Assistance Fund

- Increase awareness of the Fund
- Improve accessibility to the Fund
- Monitor effect of increase in maximum price criterion and review by 31 January 2003
- Review the appropriateness of REBA's ongoing role in administering the Home Buyers Assistance Fund

Regulatory Reviews

Ministerial Advice

REBA administers real estate regulatory legislation and government real estate policy in Western Australia. DOCEP is primarily responsible for the development of new legislation for the regulation of the real estate industry. However, due to its position as regulator and through the legal, real estate and financial expertise of its members, REBA provides key input into any recommendations for legislative change that are presented to the State Government.

One of REBA's functions is to advise the Minister for Consumer and Employment Protection on issues relating to the administration of the *Real Estate and Business Agents Act 1978*, and to make recommendations about amendments to the regulations made under the Act. The Minister reviews these recommendations and decides whether to proceed.

During the financial year, REBA made recommendations for amendment in relation to the application of interest from REBA Interest Account toward the Fidelity Guarantee Fund, the General Purpose Fund and the Home Buyers Assistance Fund.

REBA also requested and considered a broad range of legal opinions on the interpretation of the legislation. These legal opinions ranged from advice on the legal requirements placed on agents to matters necessary to REBA's administration of the Act.

Machinery of Government Taskforce

In March 2001, the State Government established a Machinery of Government Taskforce to review the number of departments, statutory authorities, boards and committees in the Western Australian public sector and to recommend a package of proposals that would enhance the operation of the machinery of government.

In its Report, titled *Government Structures for Better Results* and released in June 2001, the Taskforce considered the functions performed by many statutory authorities and made, *inter alia*, the following recommendation:

"The functions of each statutory authority in the Western Australian public sector should be reviewed by 1 July 2002 to assess the appropriateness and feasibility of incorporating those functions into departments of State..."

Review of Consumer Protection Boards and Committees

In November 2001, the Minister for Consumer and Employment Protection requested that a review be conducted of Consumer Protection boards and committees, including REBA, as recommended by the Machinery of Government Taskforce. In February 2002, DOCEP released an Issues Paper for this purpose, with submissions closing on 5 April 2002.

REBA submitted to the review that unlike most other statutory authorities in the Western Australian public sector, the majority of the boards and committees within Consumer Protection (including REBA) are regulatory boards. There are many valid reasons why the regulatory functions have been entrusted to these boards and not to departments of State.

The foremost reasons are that it frees the regulator from political interference, permits the development of long-term policies, and provides greater flexibility and efficiency than is possible under departmental rules.

The Courts have also frequently recognised the expertise of industry specific boards in regulating occupational licensing (District Court Appeal No. 36 of 1989):

“This Court is slow to interfere with the exercise of the discretion of a statutory watchdog lest the Court impose a standard it is less qualified to formulate than a body of persons such as those who constitute REBA”.

National and international experience has also clearly demonstrated that when the functions of statutory regulatory boards are transferred to departments of State, there is a significant diminution of regulation in industry. The historical experience in Western Australia has shown that since REBA became self funding and has taken greater control of administering the regulation of the real estate industry, the regulation of the real estate industry is the strongest and most effective it has ever been.

REBA considers that it represents informed community input into the administration of the real estate industry and that it is an efficient and effective agent of the public interest for the following reasons:

- REBA is not politically partisan
- The varied and practical experience of REBA members enables them to develop a knowledge of the real estate industry in a way that a department of State cannot hope to achieve given the breadth of their responsibilities
- REBA is independent
- REBA directs and drives the efforts of the public service in regulating the real estate industry in a commercial-like manner through its Service Delivery Agreement with DOCEP
- REBA advances the public interest unhindered by sectional interests

Finally, REBA submitted that the purchase of real estate is the most significant expense that most consumers will make in their lifetime and that Western Australians expect strong and effective regulation of this important industry. The current regulation of the real estate industry by REBA is both efficient and effective and that there is no clear evidence that any alternative model of regulation will better protect consumers in Western Australia.

State Administrative Tribunal

In May 2002, the Western Australian Civil and Administrative Review Tribunal Taskforce released its final Report. The Report recommended that a tribunal to be called the *State Administrative Tribunal* be established.

The *State Administrative Tribunal* would assume the civil or administrative review functions of a number of administrative tribunals and courts, including the disciplinary and supervisory functions of occupational boards such as REBA.

REBA supports the transfer of its disciplinary functions to the proposed *State Administrative Tribunal*, as this will separate its investigative and judicial roles and enable REBA to concentrate on its licensing, investigative and education functions.

Review of the Residential Tenancies Act 1987

Section 90 of the *Residential Tenancies Act 1987* requires that a statutory review of that statute be conducted as soon as practicable after 30 June 2001. The *Residential Tenancies Act 1987* is designed to ensure fair dealing between landlords and tenants and to provide a mechanism for resolving disputes.

In February 2002, a discussion paper relating to this review was released with submissions closing on 26 April 2002. Due to the interrelationship between the *Residential Tenancies Act 1987* and the *Real Estate and Business Agents Act 1978*, REBA has followed this review with interest and provided a submission on areas of relevance to its regulation of real estate agents and property managers. REBA eagerly awaits the outcome of this review.

Corporate Governance

Good corporate governance is essential for the success of any organisation, especially one like REBA, which has multiple stakeholders. Corporate governance details the way an organisation is controlled and directed. It describes the corresponding systems and practices in place to meet desired State Government outcomes. Through statutory and public sector compliance obligations, particular emphasis is placed on the role of REBA, how it operates and its accountability.

REBA strives to continually improve its high standards of corporate behaviour. It works to ensure the organisation acts in the best interest of its stakeholders.

Act Administered

- Real Estate and Business Agents Act 1978

Legislation and Statutory Reporting Compliance

In performing its functions REBA complies with the following relevant written laws and guidelines:

- *Anti-corruption Commission Act 1988*
- *Disabilities Services Act 1993*
- *Electoral Act 1907*
- *Equal Opportunity Act 1984*
- *Financial Administration and Audit Act 1985*
- *Freedom of Information Act 1992*
- *Government Employees Superannuation Act 1987*
- *Government Financial Responsibility Act 2000*
- *Industrial Relations Act 1979*
- *State Records Act 2000*
- *Minimum Conditions of Employment Act 1993*
- *Mutual Recognition (Western Australia) Act 2001*
- *Occupational Health and Safety Act 1984*
- *Public Sector Management Act 1994*
- *State Supply Commission Act 1991*
- *Superannuation and Family Benefits Act 1938*
- *Workers Compensation and Rehabilitation Act 1981*
- *Workplace Agreements Act 1993*
- *Workplace Relations Act 1996*
- *Criminal Code Act 1995*
- *Statutory Corporation (Liability of Directors) Act 1996*
- *Principles of Excellence in Board Governance*

REBA is explicit about its organisational performance expectations and assigns these expectations clearly and assesses their achievement. In particular, the following performance areas are monitored:

- Licensing
- Compliance
- Education and Awareness
- Fidelity Guarantee Fund
- Home Buyers Assistance Fund

Importantly, it is agreed that REBA should not control everything down to the micro level, but needs to control the definitions of success and the direction of real estate policy and regulation.

Effective governance enables extensive empowerment to REBA's staff while preserving the controls necessary for accountability.

Composition

REBA is funded from the interest on real estate agents' trust accounts, licence and certificate fees, and interest on investments. REBA is committed to ensuring that the people of Western Australia have confidence in the real estate industry. REBA purchases services from the DOCEP under a Service Delivery Agreement (SDA) to assist in achieving this goal.

The ability of a board to add value depends on the quality and diversity of the individual members and the skills they bring. REBA's success depends on the members' ability to work collectively as a team. Consistent with principles of good governance, the structure of REBA reflects the need for transparency and independence.

The Act states that REBA is to consist of five members, including the Chairperson. The board is constituted by:

- A Chairperson
- Four other board members¹
- Four deputies

REBA complies with the report of the Royal Commission into Commercial Activities of Government and Other Matters (1992), which states that public sector employees should not be appointed to REBA while retaining a position within the portfolio of the minister responsible for that body.

REBA

Government places significant trust in management of statutory authorities such as REBA. In return, board members are required to perform their duties honestly, openly and in good faith, with a high order of diligence and care.

¹ The current Board is comprised of four members, as the position allocated for an industry member nominated by REIWA has been vacant since 1 December 2001.

Function

REBA is established by section 6 of the *Real Estate and Business Agents Act 1978*. It states:

“For the purposes of this Act there shall be a board to be known as the Real Estate and Business Agents Supervisory Board.”

Accountable to the Minister for Consumer and Employment Protection, REBA has the following functions under the Act:

- administer the licensing system for real estate and business agents and the registration system for sales representatives
- conduct and promote education and advisory services
- act as a disciplinary tribunal and conduct enquiries into allegations about real estate agents and sales representatives
- provide conciliation services, through which consumers and agents in dispute can seek the advice of an independent ‘umpire’
- administer the Fidelity Guarantee Fund, which can compensate people for financial loss due to the criminal or fraudulent behaviour of an agent or sales representative
- administer the Home Buyers Assistance Fund, which provides first homebuyers with financial assistance
- recommend amendments to the Regulations to the Act
- advise the Minister for Consumer and Employment Protection on the administration of the Act

Appointments and Induction

The five members of REBA are appointed by the Governor. The Chairperson must be a person who is not a licensed agent. One member must be a person who is not a licensed agent but experienced in commercial practice. A member who is not a licensed agent but who is a legal practitioner must also be appointed. The third member is one who is a licensed real estate agent nominated by the Real Estate Institute of Western Australia and the fourth must be a licensed agent elected by licensed agents and is called the elective member.

Each elective member holds office for a period of four years and is eligible for re-election and reappointment. A member who is not an elective member can hold office for up to four years and is eligible for reappointment. The Minister appoints a returning officer for each election of an elective member. The Governor may appoint as deputy of a member, someone who has the prescribed qualifications of the member.

To assist new members with their understanding of the business of REBA an Induction Manual has been developed. This explains the basic functions of board members and describes board processes. This manual was completed in November 2001.

Ethical Standards

The REBA code of conduct for members stresses that the primary responsibility of REBA is to regulate, in the public interest, the activities of real estate agents and sales representatives through a scheme of licensing.

The code particularly notes the role of objectivity in board processes. Members are appointed on the basis of their individual expertise and experience as defined in the Act. The law is clear that they are not appointed to represent a particular organisation or professional body (including REIWA). Members are required to perform their duties in a manner that does not represent or protect the interests of any particular organisation they are associated with.

Accountability is also highlighted by noting that the *Financial Administration and Audit Act 1985* places a responsibility on board members to ensure efficient and effective operations, maintain confidentiality and ensure compliance with statutory and legal requirements.

Other legislation relevant to ethical standards includes section 85 of the *Criminal Code*, the *Freedom of Information Act 1992* and the *Public Sector Management Act 1994*. The code of conduct for members notes that REBA will prepare and retain minutes of meetings and ensure proper procedures are observed for documenting decisions.

Members and officers are subject to legislative requirements in regard to secrecy and confidentiality. They are required to maintain confidentiality and must not divulge information which is confidential or sensitive, or make public statements about board matters unless authorised to do so.

2001/2002 Board Members

Ms Judy Eckert (Chair)

Ms Eckert was a Senior Assistant Crown Solicitor and is a former president of the Law Society of Western Australia. She is currently a barrister practising from Francis Burt Chambers. She has previously served as a deputy board member to REBA, as well as the Settlement Agents Supervisory Board. Ms Eckert undertook the Chair position after it was vacated by Mr David Dawes. REBA would like to thank Mr Dawes for his valuable contribution during his time as Chairperson.

Mr David Dawes (Chair until November 2001)

Mr Dawes is a legal practitioner and former member of the WA Fisheries Board.

Mr Gordon Bragg (Member)

Mr Bragg is a legal practitioner and partner in Godfrey Virtue and Co. Barristers and Solicitors, and a member of the Law Society of WA.

Deputy: Mr Craig James

Mr James was first appointed as a deputy member in July 1993 and was re-appointed in December 1997. His current term is due to expire on 30 November 2003. Mr James is a partner in Gibson and Gibson Barristers and Solicitors.

Mr William Goddard (Elective Member)

Mr Goddard is a licensed real estate agent elected for appointment by all licensed agents. He first gained his real estate and business agent's licence in 1969. He is the longest serving member of the Board having been first elected a deputy member in 1985. He was elected a full member in 1989 and has been re-elected three times. He

operates the real estate business Goddard and Goddard in Nedlands and is a practising business broker, auctioneer and property manager.

Deputy: Mr Paul Druitt

Mr Druitt is the Deputy member for this position and was appointed in April 1997. Mr Druitt was formerly a principal of Druitt First National and is a past President of REIWA.

REIWA (Member)

A position is allocated for a nomination to the Minister by the Real Estate Institute of WA. This position is currently vacant however, it was previously held by Mr Jeremy Hughes, who vacated the position in December 2001 following the expiration of his term. REBA would like to thank Mr Hughes for his commitment to the Board during his term.

Mr Jeremy Hughes (until December 2001)

Mr Hughes was first appointed to the Board in May 1993 and reappointed in December 1997. His term expired on 30 November 2001. Mr Hughes first gained his agent's licence in 1975 and has operated J R Hughes First National since 1976.

Deputy Mr Neville Fox (until December 2001)

Mr Fox is a principal of Ferguson Hartree Fox White Real Estate and is a past President of REIWA.

Ms Fay Francis (Member)

Ms Francis is a qualified accountant and a Fellow of CPA Australia. Ms Francis is the principal of accounting practice F.V. Ireland & Co.

Deputy: Mr Ross Ledger

Mr Ledger is a chartered accountant and is the principal of R.E Ledger Pty Ltd.

Real Estate and Business Agents Supervisory Board



Standing William Goddard and Fay Francis
Seated Gordon Bragg and Judy Eckert

REBA Sub-Committees

Home Buyers Assistance Advisory Committee

The Home Buyers Assistance Advisory Committee (the Committee), as described in the Act, consists of three members.

- One with experience in commercial finance appointed by the Minister.
- One Chairperson.
- One officer from the Department of Housing and Works appointed by the Minister on the nomination of the Department of Housing and Works.

The Minister may appoint a person to be a deputy of each position. The members elect one of their number to be the Chairperson and another to be Deputy Chairperson.

The Committee has four main functions:

- To issue guidelines to the Registrar about assessing the merits of applications.
- To consider applications referred to the Committee.
- To make recommendations to REBA on the formulation of criteria.
- To consider any proposals, matters or questions that may be referred to the Committee by REBA and to advise REBA thereon

The Committee is funded from interest paid on real estate agents' trust accounts.

REBA Education Advisory Committee

REBA is advised on education issues by its Education Advisory Committee (EAC). The EAC provides advice to REBA on education initiatives and priorities. This year the EAC addressed a broad range of issues including trust account policies, funding strategies and community real estate education needs.

Each financial year, REBA provides education funding to registered training providers to encourage people operating in the industry to improve their skills and knowledge by attending courses throughout their career. The EAC plays an important part in this process in reviewing the applications for funding and providing recommendations to REBA.

Remuneration

The current rates of remuneration for board members are as follows:

Chairman	\$53 900 per annum
Board member (who can act as deputy chair)	\$26 550 per annum
Board members	\$18 400 per annum
Deputy member (when acting as chair)	\$399/day and \$263/half day
Deputy members	\$266/day and \$176/half day

The remuneration for the Chairperson and the member who acts as deputy to the Chairperson of REBA was last reviewed in August 1998. The remuneration for board

members and their deputies was last reviewed in July 1996. The workload of REBA has increased significantly since those reviews.

REBA has experienced a significantly increased workload pressure during 2001-2002. Since 1 December 2001 the board has been operating without a member and deputy member who are nominated for appointment by REIWA. This reduction in the size of membership has augmented the workload of existing members.

Due to an increase in volume of matters before the board and the reduction in board membership, it is apparent that the board may have to consider increasing the number of sitting days per week in 2002-2003. This may also imply a need to review the remuneration arrangements as board members are meeting more frequently and examining increasingly substantial matters.

Policy Development

In 2001-2002 REBA achieved its policy development and implementation goals. Specifically it:

- Implemented a pilot program of an extended the telephone information service (now known as the Real Estate and Settlement Hotline) so that it will operate on weekdays from 8:30am until 8.00pm, Saturdays from 9.00am until 4.00pm and Sunday 12.00 noon until 4.00pm. REBA and the Settlement Agents Supervisory Board are jointly funding the extension of the service beyond normal business hours as part of a three month pilot program that commenced on 29 June 2002
- Survey of sales representatives to determine reasons for a high turnover in the industry
- Input into Residential Tenancy Act review
- Comment on review of boards and committees
- Continued investigative training for REBA's real estate investigations officers
- Developed and published a trust account handbook for agents, clarifying trust account obligations
- Published and distributed a Home Buyers Assistance Fund pamphlet

Service Delivery Agreement

REBA contracts DOCEP to perform many of REBA's functions under a Service Delivery Agreement. The organisational structure and reporting responsibilities between REBA and Consumer Protection are as follows:

The services REBA purchases from the DOCEP include:

- education
- policy
- investigations
- conciliation
- licensing

- Home Buyers Assistance Fund services
- Fidelity Guarantee Fund services
- corporate services
- legal advice services

The Service Delivery Agreement describes the required services in output terms, consistent with Treasury and Auditor General standards, and defined performance measures to be reported by the DOCEP to REBA in terms of cost, timeliness, quality and quantity.

REBA takes its responsibility to ensure high-level service extremely seriously.

REBA's monthly review of performance measures of services provided by the Department of Consumer and Employment Protection has found that, on the whole, services have met the performance measures.

Performance Reporting Frameworks

To achieve its goal of encouraging consumer confidence in the real estate and business broking industry, REBA has a single output. This is to achieve the efficient and effective regulation of the real estate and business broking industry through the discharge of REBA's statutory functions.

This "output" aim can be divided into five components. Each component signifies particular activities conducted by REBA. The outputs are as follows:

- Licensing
- Compliance
- Education and Awareness
- Fidelity Guarantee Fund
- Home Buyers Assistance Fund

Section Two of this report will discuss the outputs in detail and assess them through the performance reporting frameworks of quantity, quality, timeliness and cost.

Internal Audit

REBA internal auditing practice conforms to contemporary internal audit ideals and best practice models which determine audit responsibilities, structures and relationships for the internal audit function. REBA contracted DOCEP to provide central audit services for REBA in 2001-2002.

Information Statement

The *Freedom of Information Act 1992* (FOI Act) gives members of the public the general right of access to REBA documents in most circumstances.

REBA endeavours to make its operations as transparent and accessible as possible. To this end, a significant amount of information is included on REBA's website (<http://www.reba.wa.gov.au/>). Information available includes:

- Background of REBA members

- Links to the Act, Code of Conduct and Regulations that regulate the real estate industry
- Licensing and registration information
- Copies of decisions on Inquiry
- Information about the Home Buyers Assistance Fund and the Fidelity Guarantee Fund
- A list of REBA publications
- Calendar of REBA meetings and Inquiries
- Information about how to lodge a complaint

Publications available on REBA's website include:

- Buying vacant land
- Buying a home through an agent
- Real estate auctions
- Sale by Offer and Acceptance
- Timber Pest Inspections: a guide for homebuyers
- Negotiating Fees and Services with a Real Estate and Business Agent
- Fidelity Guarantee Fund
- You and your property manager

The publications can also be requested free of charge from the Real Estate and Settlement Hotline on 1300 30 40 64 in a variety of formats, including those designed for people with disabilities.

Other publications available on the website include:

- REBA News
- Audit Guidelines
- Corporate Plan
- Annual Report
- Disability Services Plan

Freedom of Information Requests

During 2001-2002 there were a total of 4 Freedom of Information requests, as compared to 2 in 2000-2001. In the last year, 1 was partially granted, 2 were fully granted and 1 was refused.

These freedom of information matters relate only to requests on those matters where REBA has had direct involvement. Requests in relation to investigations carried out by DOCEP on behalf of REBA but not referred to REBA are reported in the DOCEP's annual report.

All Freedom of Information requests are to be made in writing and addressed to:

Freedom of Information Coordinator
Locked Bag 14
Cloisters Square
WA 6850

A Freedom of Information application form is required to be filled in when making a request. The Freedom of Information Coordinator may be contacted on 9282 0777 to provide further information.

Expenditure incurred within Section 175ZE of the *Electoral Act 1907*

The *Electoral Act 1907* requires government agencies to report on expenditure incurred by the agency in relation to payment of:

- advertising agencies
- market research organisations
- polling organisations
- direct mail organisations
- media advertising organisations

Northside Distributors were paid \$7 755.90 to direct mail four quarterly newsletters to licensed agents and sales representatives, and direct mail a survey to 880 sales representatives.

Human Services Compliance Report

Public Sector Standards in Human Resource Management

In the management of its staff, REBA has complied with the Public Sector Standards in Human Resource Management and the Western Australian Public Sector Code of Ethics.

During 2001-2002, REBA received no applications for breaches of standards. In addition, REBA:

- Received no workers' compensation claims
- Did not re-deploy any of its staff
- Has not terminated any positions

- Is not aware of any industrial disputes

Since REBA began employing its staff directly, it is committed to reviewing and developing human resources policies. REBA adopted the policies outlined below, which will be monitored and reviewed on an annual basis to ensure that the plans achieve their objectives.

Equal Opportunity Management Plan

As an employing authority that also provides education and services to the public, REBA has a statutory duty to ensure that no forms of unlawful discrimination occur. An Equal Opportunity Management Plan was developed that commits to reviewing standard practices and ensuring that REBA staff are aware of equal opportunity issues.

Occupational Health and Safety

The Occupational Health and Safety Management Plan outlines strategies that will ensure that:

- Workplaces are safe and do not damage employees' health
- Appropriate information, instruction, training and supervision is provided so that employees can perform their work
- The work place will be regularly checked for safety, and a record kept of what is found during these checks

Public Sector Code of Ethics

REBA values underpin the achievement of ethical conduct throughout the organisation. These values are detailed in a booklet entitled "The Real Estate and Business Agents Supervisory Board and the Settlement Agents Supervisory Board Code of Conduct for Members and Officers."

All new members or officers are provided with a copy of the booklet. The Code of Conduct values are the foundation for REBA's strategic management, future operations and modes of behaviour. They are compatible with ethical principles, values and behaviour embodied in the Western Australian Public Sector Code of Ethics. By adhering to the values, members and officers of REBA will be complying with the Code of Ethics.

Self Assessment

The self-assessment model established by REBA in relation to the Public Sector Standards and Code of Ethics revealed overall compliance with the requirements of the model during 2001-2002.

Disability Services

The purpose of REBA's Disability Services Plan is to ensure that people with disabilities, their families and carers can readily access the services provided by REBA.

REBA is committed to the regular development of its Disability Services Plan to ensure that any existing barriers to people with disabilities are remedied. The Plan was developed to ensure that the following five outcomes, which are required by the *Disabilities Act 1993*, are achieved:

- Existing services are adapted to ensure they meet the needs of people with disabilities
- Access to buildings and facilities are improved
- Information about services is provided in formats that meet the communication requirements of people with disabilities
- Advice and services are delivered by staff who are aware of and understand the needs of people with disabilities
- Opportunities are provided for people with disabilities to participate in public consultations, grievance mechanisms and decision making processes

The Disability Services Plan applies to members and employees of REBA.

This Disability Services Plan was distributed to REBA staff and the general public through the use of a wide range of media. The plan was distributed to the public using the REBA website, *REBA News* and an article in FairBytes, DOCEP's monthly email magazine. The plan was provided to staff through training sessions, email and the internal newsletter entitled *Inside Consumer Protection*.

In addition, a general policy statement was circulated. Feedback was called from all parties. The Director of REBA will assess feedback on the Disability Services Plan, and if changes are necessary, will ensure that the plan be amended.

SECTION 2

Report on Outputs

Output 1 Licensing

Strategic Objectives

- Assist persons to apply for, and renew, licences and triennial certificates and certificates of registration and process these certificates in accordance with the Act
- Assess the fitness of persons entering the industry and the fitness of persons applying to renew their triennial certificates and certificates of registration
- Ensure that real estate and business agents and sales representatives are aware of their duties and obligations
- Undertake system audit checks on the computer databases to ensure the accuracy of the information which is recorded
- Approve real estate industry training programs

Licensing Highlights

- 179 new real estate agent licences processed
- 100% of applicants advised of the outcome of their real estate application within 8 days of application being approved
- 1500 new applications for sales representative registrations processed
- 659 renewal applications for sales representative registrations were processed
- 6 licensing formal hearings were held

Licensing- an overview

REBA reviews licence and registration applications to ensure that suitably qualified and experienced people enter the real estate industry as real estate agents and sales representatives. Uniform minimum standards of competency are set that aim for standards of practice and behaviour that reflect community standards.

REBA meets monthly to review all licence applications and contested registration applications from prospective sales representatives. When reviewing a licence application, REBA considers matters such as training, experience, fitness to hold a licence, character and reputation. Similar matters are considered for a real estate sales representative certificate. During the year REBA conducted a total of 65 licensing interviews to determine whether the applicants were fit and proper to hold a real estate and business agents licence.

In situations where the Registrar, member of the public, or an industry member raises an objection to the granting or renewal of a triennial certificate or certificate of registration, then a Formal Hearing may be convened. In the last financial year, REBA held 8 Formal Hearings to consider real estate agent or sales representative applications.

Unless REBA imposes a condition to the contrary, a licence and triennial certificate enables agents to act in relation to both real estate and business transactions. The triennial certificate is valid for 3 years.

The fees for a new licence application include a once only contribution to the Fidelity Guarantee Fund and a fee for the cost of advertising the agent's application. The fees charged are outlined below:

- individual licence \$538
- partnership \$705
- body corporate \$705

There were 659 real estate renewal applications processed during the financial year. Licensing staff were successful in finalising 97% of renewal applications within 10 days of the required processing information being lodged. The fees for renewal of a triennial certificate are \$333 for individuals, partnerships and bodies corporate.

The fee for a new registration application is \$177, which includes a once off contribution of \$45 to the Fidelity Guarantee Fund. The large number of applications received for new sales representative registrations may be attributable to a boom in the real estate industry during the 2001-2002 financial year.

In 2001-2002, a total of 800 sales representatives who were due to renew their registration did not do so. A total of 86 eligible real estate agents failed to renew their triennial certificate in 2001-2002.

Holding Fee

Agents who wish to continue to hold a licence, but do not wish to carry on business as an agent, may choose to continue to hold a licence by paying a holding fee. As at 30 June 2002, 374 agents had their licence put on hold.

The holding fee is \$150 for 3 years. If an agent decides to renew their triennial certificate and re-enter the industry before the 3 year holding period has expired, they can receive a partial refund for each year of the holding fee period that has not expired. If the triennial certificate is renewed within 12 months from the original renewal date \$150 is refunded; for a period over 12 months but less than 18 months \$100 is refunded. Any renewals made after 18 months receive no refund.

Sales Representative Registrations

REBA processed 1 500 new applications for registration of sales representatives during the year but only 659 renewals were processed during the same period. The processing of a total of 2 159 new and renewed sales registrations represents a significant increase in staff workload over the last year. Despite this, licensing staff finalised 96% of these applications within 8 days of receipt.

Mutual Recognition

Under the *Mutual Recognition (WA) Act 2001*, REBA issues licences to agents and certificates of registration to sales representatives who are already licensed or registered in other Australian States and Territories.

During the year, 9 mutual recognition applications for a real estate and business agents licence were received and ratified by REBA.

REBA has some concern about mutual recognition, as it may be necessary to approve applicants who may not be aware of the key differences in Western Australian contracts and legislation. Therefore, it is a high priority to inform Mutual Recognition applicants from other states and territories of the key differences in Western Australian contracts and legislation and provide contact details of training organisations.

Conditions are placed on a mutual recognition applicant's licence if their existing licence authorises them to act only as either a real estate agent or business agent. In these cases, REBA issues a Western Australian licence subject to the same restriction. REBA imposes conditions which reflect the conditions on the licence granted in the home state.

REMIS System

The Real Estate Management Information System (REMIS) has been operational since January 2001.

Work is continuing on the further development of REMIS. Some enhancements are being added and some functional issues are being addressed so that they can be resolved. To this end, a business systems analyst dedicated to work solely on REMIS, was employed by REBA.

In addition, to ensure that the data in REMIS is accurate and up to date, a data-cleansing project was commenced this year. This involved an administration assistant being employed to contact each listed agent in order to obtain licensing details from them, via an "entity information return". The project is nearly two thirds complete and is expected to be finalised later this calendar year.

Output 2 Compliance

Strategic Objectives

- That the real estate and business broking industries deliver ethical and professional services
- Real estate and business agents and sales representatives comply with the requirements of the Act and Code of Conduct
- Action is taken against agents and sales representatives who fail to comply with the requirements of the Act and Code of Conduct
- Alleged breaches are investigated
- Inquiries into complaints are held
- Advice is given to consumers promptly
- Audit reports are received on time and all qualified audit reports are investigated

Compliance Highlights

- 649 new complaints were received in this financial year, 394 (60%) were investigated and 254 (40%) were conciliated
- Two Assistant Compliance Officers were appointed to improve the timeliness of investigations
- The first intake of investigators completed the Certificate IV investigation training course and the second round of the Certificate IV course has commenced
- The number of conciliations completed this year (291) increased from the previous year (228)
- The complaint form was reviewed and amended to ensure that main issues raised by complainants are more easily identified
- The quality of final responses to complainants and agents was reviewed and improved to ensure that the reasons for REBA's decision on their complaint is clear
- 138 investigations into qualified audit reports were completed
- 99% of investigations into qualified audit reports were commenced within 14 days of lodgement
- 73% of matters conciliated in 2001-2002 were finalised within 12 weeks of the complaint being lodged

Compliance - an overview

The Act provides a protective scheme that both prohibits and prescribes certain behaviour by agents and their sales representatives.

Compliance by agents and sales representatives with those behavioural standards ensures the delivery of ethical and professional services.

REBA contracts staff through the SDA with DOCEP to review and investigate complaints about agents and sales representatives. Complaints are usually referred to the board for Inquiry where there is sufficient evidence of a breach. The Registrar of REBA is responsible for signing off on all recommendations with respect to investigations, either to refer them to the Board or to suggest another action.

In an Inquiry, REBA may impose fines of up to \$10 000 on agents, and \$3 000 on sales representatives, order legal costs to be paid, and suspend or cancel the licence of an agent or cancel the certificate of registration of a sales representative. Where fees charged are deemed to be unjust, REBA may order the agent to repay the fees charged.

As illustrated in Table 1, the number of complaints received from consumers, and those directed by the Registrar, increased to 649, compared with 604 received in 2000-2001.

Table 1: Total Real Estate Compliance and Conciliation Statistics

	1997 - 1998	1998 - 1999	1999 - 2000	2000 - 2001	2001-2002
Complaints from the public and the Registrar which were investigated as possible breaches of the Act.	325	351	485	352	394
Conciliation	-	53	116	252	255
TOTAL	325	404	601	604	649

General Compliance

Improvements to General Compliance

A comprehensive review of correspondence to outside parties by REBA during the investigation process was undertaken and as a result a new format for closure letters to complainants and agents was designed. The new letter identifies a complainant's key concerns, details the steps taken to investigate those concerns and provides reasons for reaching decisions. It also ensures parties to an investigation are fully informed of the process and that the reasons for a particular outcome are transparent. Positive feedback has been received on the new format.

There has been a significant increase in the number of matters brought before REBA for inquiry on general compliance investigation, in line with REBA's increased focus on consumer protection issues.

In March 2002, the conciliation function was incorporated into the General Compliance area from the Proactive Compliance area. This enabled the Proactive Compliance team to allocate more resources to proactive and educational activities, such as conducting seminars for consumers and industry. It ensured appropriate matters were identified by conciliation and were referred for investigation.

General Compliance Case Study- Water Authority Easement

It was alleged by a purchaser that there had been a failure to ascertain the existence of an easement in favour of the Water Corporation. The property was marketed as a development block. After settlement, a sewerage line was found inside the boundary, affecting the number of units the purchaser could build.

In making its decision, REBA said:

A prudent agent advertising a property with development potential should have made enquiry with the Water Corporation to determine the extent of the sewerage located on the property. It is not appropriate that the agent should rely on the settlement agent to carry out this enquiry.

Article 8(3) of the Code of Conduct for Agents and Sales Representatives requires agents to do a title search. Prudent agents will therefore also search Water Corporation records for easements not registered against the title. This is particularly so when a block has, or is advertised as having, development potential.

REBA ordered the agent pay a fine of \$750 with \$500 costs.

General Compliance Case Study – Local Authority Zoning

It was alleged a sales representative failed to make appropriate enquiries with the local authority to ascertain the zoning of a property. The property had been used as a delicatessen for more than 30 years, however, it had a residential zoning with a non-conforming use, which meant that the building could not be demolished and replaced with a commercial building.

During negotiations the sales representative was aware of the purchaser's intentions to replace the building with an office block. The offer contained a condition concerning a demolition licence to be issued by the local authority.

REBA found the sales representative failed to make enquiries with the local authority to ascertain the current zoning. The representative should not have assumed a commercial zoning simply because a shop was on the site.

The sales representative was fined \$1 000 and the agency \$2 000 for failing to properly supervise the representative.

Conciliation Services

Complaints that involve minor breaches of the legislation, or where the complainant is seeking restitution, are referred to conciliation officers who bring the consumer and agent together to resolve their dispute. For minor matters, conciliation can provide a quicker and more cost-effective resolution than investigations and allows investigations resources to be directed to more serious matters.

The conciliation process enables the complainant to seek reimbursement or compensation from the agent or sales representative in matters where the dispute does not involve a serious breach of the Act or the Code of Conduct. The conciliation process is separate from the investigation process.

The most common disputes referred for conciliation are matters involving property management. Property management disputes generally involve the landlord seeking small amounts of restitution or reimbursement for poor service from the agent.

The conciliation process has been successful in dealing rapidly and effectively with certain complaints. During 2001-2002, 296 conciliations were completed compared to 228 in the previous year. 73% of conciliations were finalised within 3 months of commencement.

Conciliation often offers a quicker resolution to complaints than investigation and is therefore often preferred by both parties as a method of resolving a dispute. However, if during the course of conciliation more serious breaches are identified, then the matter is referred for investigation.

Conciliation Case Study- Property Management

An agent was engaged to manage a property on behalf of an owner, who was residing overseas. The owner had instructed the property manager to take out landlord's insurance on her behalf. Just prior to vacating, the tenants caused damage to the property which cost more to fix than the value of the bond. When the owner found that no insurance had been taken out, she felt that the agent should be responsible for reimbursing her \$955, the cost of the damage. A complaint was lodged with REBA and the matter was referred to conciliation.

The agent was initially reluctant to conciliate, as there was no written evidence of the instruction to take out landlord's insurance. However, after consideration, the agent agreed to pay 50% of the bill to settle the matter.

The owner decided to accept this offer, conceding that there was no written proof of her instructions. The matter was resolved to the satisfaction of both parties.

Financial Compliance

A central protection for consumers is the requirement that agents establish trust accounts for clients' funds. The Act and Regulations require the strict maintenance of a formal set of trust account records which show at any time the state of an agent's trust account.

REBA monitors agent's trust accounts by investigating complaints about trust account breaches. Inspections by compliance staff arising from general complaints can also lead to the identification of trust account problems. REBA also receives referrals from financial institutions when trust accounts become overdrawn.

In addition, REBA conducts an annual review of audit reports on real estate trust accounts. The audit program involves the review and investigation of audit reports from agents' statutorily appointed auditors to identify trust account problems. Audit reports are due on the 31st of March each year.

In the 2001-2002 year, qualified audit report investigations were commenced earlier resulting in a faster response to trust account problems. In the 2002 March quarter, 71 investigations commenced compared with 20 in the 2001 March quarter.

When an auditor 'qualifies' a report on an agent's trust account, it means that the auditor is concerned that the maintenance of the trust account is not up to standard set by the Act and Regulations. A qualified audit report may range from identifying a minor error to an overdrawn trust account and misuse of funds.

The qualified audit reports generally relate to:

- failure to correctly deposit money to the trust account
- unauthorised withdrawal of trust funds
- unauthorised use of trust funds
- failing to correctly balance accounts at the end of each month

Financial Compliance Statistics

Table 2: Financial Compliance Data

	1997 - 1998	1998 - 1999	1999 - 2000	2000 - 2001	2001-2002
Number of New Audit Report and Trust Account investigations	83	166	171	271	194

Want & Co.

REBA closed the real estate agent Want & Co. in Floreat following an alleged misappropriation and obtained a District Court order to suspend the real estate licences of the company (Wanlee Holdings Pty Ltd) and Helen Elizabeth Ryan.

Since closing the business of Want & Co, further investigation by REBA staff has revealed that the alleged misappropriation now appears to exceed \$650 000.

The District Court also approved the appointment by REBA of a supervisor over Want & Co. REBA appointed Tony Bevan of Haines Norton Chartered Accountants as supervisor. The supervisor will identify the extent to which the trust account is in deficit and will temporarily carry on the business for the purpose of concluding and disposing of matters.

REBA also obtained interim injunctions from the District Court over properties owned by the directors of Wanlee Holdings Pty. Ltd trading as Want & Co. This step was taken to prevent the directors selling their properties while the matter is investigated. REBA alerted the Police to the alleged misappropriation and will assist them with their investigations to ensure that any criminal activity is quickly identified.

REBA is holding Fidelity Guarantee Fund Hearings for those making a claim against the Fund as compensation for losses suffered. The matter is also being investigated through REBA Formal Inquiry Hearings. These particular hearings and inquiries will continue into 2002-2003.

Independence of Auditors

In 2001-2002 REBA introduced an "independence of auditors" policy designed to address the relationship between an agent, their business and their auditor. The policy was first announced in the spring 2001 edition of the REBA News and a further article clarifying the policy was included in the summer 2001 edition.

The policy is intended to preclude an auditor who has a relationship with the agent (eg general accountant) from being appointed as the auditor of the agency's trust accounts.

Financial Compliance Case Studies

Case Study One

A person in bona fide control of an agency was brought before REBA on Inquiry for breach of section 68(1) of the Act. The complaint against the agent was that he allowed staff to cash their salary cheques, drawn on the agency's general bank account, from trust account banking moneys.

Outcome

REBA found the agent guilty for failing to pay (as soon as was practicable) to the credit of the trust account, all moneys received in respect of the transaction. It is a basic tenet of trust accounting that trust account money not only be banked as soon as is practicable but also that it be banked in the form that the money was received (i.e. cash or cheque).

Case Study Two

An agent was brought before REBA for a large number of breaches of Section 61(4) (pre-drawn commissions) and Section 68(4) (unauthorised use of trust moneys) of the Act. The agent was of the habit of drawing down commissions without first confirming that the sales had in fact been effected. To comply with the Act, it is imperative that agents ensure that transactions they have negotiated have been settled before drawing down their own remuneration.

Outcome

While the acts of the agent caused no loss, REBA determined that the agent had breached sections 61 and 68 and handed down a penalty of \$3 000.

Output 3 Education and Awareness

Strategic Objectives

- Conduct visits to real estate agencies and education seminars to assist agents to comply with the Act
- Provide a counter and telephone information service to consumers and industry
- Conduct Homebuyers Seminars to empower consumers
- Support and fund education programs for the professional development of agents and sales representatives, and education programs for consumers
- Develop and maintain educational material, including brochures and guides, for distribution to the public and industry

Highlights

- Completion of 198 proactive compliance audits of real estate agencies across Western Australia
- Completion of 30 education seminars for agents and sales representatives on various topics covering different requirements of the Act and the Code of Conduct
- Launch of the extended hours Real Estate and Settlement Hotline to increase advice provision to consumers both during and after normal business hours
- Continued funding to education institutions to ensure ongoing skills development of agents and sales representatives
- Completion of 4 Homebuyers Seminars for the general public in collaboration with the Settlement Agents Supervisory Board: 2 in Perth (6 March and 6 April 2002, City West Function Centre) with an attendance of approximately 220-250 people at each, 1 in Albany (8 May 2002, Esplanade Hotel) and 1 in Bunbury (11 June 2002, Lord Forrest Hotel)
- Development of a trust account handbook for agents
- New information sheet to accompany the complaint form to assist clients
- Inclusion of mutual recognition information in the licensing kit to assist new agents

Education and Awareness- an overview

REBA provides consumer and industry education and information on matters covered by the legislation. This information is provided through a range of means including:

- proactive compliance visits to real estate agencies
- free Homebuyer Seminars for potential homebuyers

- education seminars conducted for real estate agents and sales representatives
- a telephone information service during and after normal business hours
- a counter information service
- quarterly publication of the REBA News
- consumer fact sheets and other publications
- the REBA website
- the subsidisation of training providers providing professional development courses for agents and sales representatives

The goal of these education activities is to ensure that real estate information is accessible to consumers and industry members and that, when required, they can clarify information or seek advice on dealing with problems. These education approaches are complemented by a continuing emphasis on general conduct, trust account and audit requirements at the investigations level.

Proactive Compliance Visits

In order to reduce the likelihood of complaints and improve the effectiveness of the regulating of the industry, REBA continued its successful proactive compliance program in 2001-2002. More real estate agencies were visited, their practises audited and practical information provided on legislative requirements and REBA policies.

The aim of the proactive compliance program is to encourage high levels of compliance and to achieve consistently high ethical standards in the industry. The program is consistent with REBA's statutory function to conduct and promote advisory services for persons who are licensed or registered under the Act.

A checklist was developed in 2000-2001 to ensure proactive visits were conducted in a standardised manner. This checklist was reviewed, updated and extended in 2001-2002. In each review, proactive officers examine a sample of current sales files, and settled sales files and property management files, for matters such as whether:

- employees are licensed and registered with REBA
- trust account receipts conform to the Act
- money received has been or is banked by the next business day
- trust accounts are reconciled on a monthly basis
- the agency has up-to-date copies of legislative requirements
- the agent in bona fide control is proficient in performing bank reconciliations
- agents have an affiliation with a settlement agency or any other significant relationship requiring disclosure (Code of Conduct: Article 16 Disclosure)
- agents have complied with marketing charges requirements (Code of Conduct: Article 15)

In 2001-2002, the proactive compliance staff conducted 198 proactive compliance visits to real estate agencies across Western Australia. Proactive visits assist REBA to identify trends and issues and to conduct education activities.

165 visits were to metropolitan real estate agencies and 33 were to country real estate agencies in places such as Bunbury, Margaret River, Albany, Busselton and Dunsborough. REBA's strong presence in country areas reflects its commitment to ensuring that agents in regional areas are provided with as much support and information as possible.

Proactive Compliance Industry Research

A major benefit of having proactive staff visit real estate agencies is that it allows officers to assess problem areas first hand and identify unacceptable practises that need to be addressed. Proactive visits also give industry an opportunity to voice concerns and seek advice. As a result of this research, a program of seminars was tailored for the 2001-2002 year that addressed industry needs and requirements.

This year the visits indicated a range of common problems, including:

- agent in bona fide control not proficient in performing bank reconciliations
- invalid authority to act
- incorrect determination of fees
- no Article 16 Disclosure where required
- advertising and marketing charges requirements of Article 15 not met

Proactive Compliance Seminars

30 Proactive compliance seminars were conducted on real estate agency practice and procedures in 2001-2002. The response from agents has been positive, and requests for more seminars received.

Some of the seminar topics included:

- Joint Form of General Conditions for the Sale of Land
- Receipting of monies
- Conflict of interest
- Conjunctional dealings
- Property management compliance training
- Most common breaches of the legislation
- Vendors disclosure form
- Vendor paid advertising
- Code of conduct
- Current compliance issues
- Completing the Offer and Acceptance contract
- Appointments to act

Proactive Compliance Case Study

Proactive officers attended a suburban real estate office to conduct a proactive compliance visit. The officers ran through a standard checklist to identify whether the real estate agency complied with legal requirements.

There were a number of issues identified, including an apparent breach of Article 15 of the Code of Conduct for Agents and Sales Representatives. The agent responded positively to suggestions on how to implement changes to his systems in order to comply with legislative requirements. However, he challenged the suggestions made regarding how he could recover marketing and advertising costs. The agent acknowledged the spirit of Article 15 but felt that it was dated and not in step with technological advances made since the Article was formulated.

A meeting was arranged between proactive staff, the REBA Registrar and the agent.

The agent explained in detail the state of the art equipment his office had purchased, and showed samples of brochures and photographs produced in-house by his agency. The agent also supplied costings of quality in-house marketing and the equivalent products of a similar quality being out sourced. Items produced in-house were up to one half of the cost. This showed a considerable saving to any vendor contributing to the marketing costs of their property.

The Registrar was sympathetic to the argument made by the agent that Article 15 was written before the time when equipment was available that enabled agencies to produce high quality marketing material at a cost lower than that produced by specialist publishers.

As a result of this meeting, the Registrar requested a policy directive from REBA. Issue No 30 (Winter 2002) of the *REBA News* published REBA's policy regarding Article 15, allowing agents to seek reimbursement for items produced in-house. In addition to the existing requirements of the Article, the following disclosures are necessary if the agent intends to seek reimbursement of marketing items produced by the agent in-house:

- The (principal) vendor must disclose that they are aware the agent will produce the materials in-house and give their consent to that arrangement
- The (principal) vendor specifies the actual amount they agree to pay the agent for the material produced in-house
- The agent is to provide the (principal) vendor with an itemised list of advertising materials to be produced in-house (e.g. 3 colour photos @ \$x each, 150 pamphlets at \$x each)

The Registrar concluded by saying that the informed consent of the principal should be the guiding factor in any agreement to recover in-house expenses. REBA has resolved to review the advertising provisions of the Act and Code of Conduct in view of technological advances and internet advertising.

Proactive staff incorporated REBA's new policy into their ongoing training program and have received requests to conduct workshops with agents on compliance with Article 15.

Consumer Publications

REBA funds the production of free information leaflets, known as fact sheets, to provide important information to both consumers and industry members on issues relevant to real estate transactions.

A set of seven fact sheets are available, including:

- Buying a Home through an Agent
- Real Estate Auctions
- Sale by Offer and Acceptance
- Negotiating Fees and Services with a real estate and business agent
- Buying Vacant Land
- Timber Pest Inspections and Reports: a guide for homebuyers
- Fidelity Guarantee Fund

Copies of each fact sheet are available on REBA's website or the Real Estate and Settlement Hotline on 1300 30 40 64.

REBA News

The *REBA News* is a quarterly newsletter produced by REBA to provide information to real estate industry members and stakeholders. Approximately 13 500 are mailed out for each issue.

The *REBA News* includes information on REBA decisions on Inquiry, issues to address in industry practice, and relevant legislative amendments.

The Registrar of REBA coordinates and manages the production of the newsletter. In the last year, 4 issues of the *REBA News* were produced.

Telephone and Counter Service

An extended hours telephone information service known as the Real Estate and Settlement Hotline commenced on 29 June 2002. This service is undertaken in partnership with the Settlement Agents Supervisory Board and provides information on real estate and settlement matters both during business hours and after hours. The Hotline is open from 8.30am up to 8pm Monday to Friday, 9am to 5pm on Saturday, and 12 noon to 4 pm on Sundays. The extended hours initiative was introduced so that buyers and sellers could get advice at times when property is most likely to be sold.

A counter service is also provided on real estate issues during business hours. Consumers and industry members may visit the office and speak to officers about real estate matters.

In 2001-2002, there were 21 216 telephone enquiries on real estate matters, a 5.4% increase on 2000-2001. There were also 234 counter inquiries, a 12.5% increase on 2000-2001. More than 96% of telephone inquiries were attended to within two and a half minutes.

Staff Training - Customer Service

During the 2001-2002 year, staff from the Real Estate Branch of DOCEP took part in *Customer Service and Process Improvement* training, which commenced in April 2001 and was completed in September 2001.

Theoretical and practical training covered issues such as customer relationship management, principles of effective communication and dealing with difficult customers. The essential role of processes to manage and improve service delivery was also considered.

Education Advisory Committee

REBA is advised on education issues by its Education Advisory Committee (EAC). The EAC provides advice to REBA on education initiatives and priorities. This year the EAC addressed a broad range of issues including the high turnover of sales representatives, qualification levels for agents and sales representatives, trust account policies, funding strategies and community real estate education needs.

In 2001-2002, the EAC comprised Chairman William Goddard (REBA elective Member), Fay Francis (REBA commercial practice member), Ross Ledger (REBA commercial practice Deputy Member) and Robert Rossi (Registrar).

Each financial year, REBA provides education funding to registered training providers to encourage people operating in the industry to improve their skills and knowledge by attending courses throughout their career. The EAC plays an important part in this process in reviewing applications for funding and providing recommendations to REBA.

Funding applications were provided to all registered real estate training providers in Western Australia. In 2001-2002 funding applications were received from the Central Metropolitan College of TAFE and the Real Estate Institute of Western Australia. The EAC reviewed the funding applications and interviewed representatives from the organisations. The EAC made a recommendation based on REBA's education funding principles and priorities, and REBA made a final funding determination. As part of the funding process, payment is provided once courses and projects have been completed and the funding conditions have been met. As a condition of funding, an audit of funds must also be provided to REBA.

In total, REBA provided \$94 355 in professional development funding during the financial year.

This amount was paid to the Real Estate Institute of Western Australia to provide subsidised professional development programs to licensed real estate agents and registered sales representatives. Some examples of the courses subsidised by REBA include:

- Auctioneers' legal duties and obligations
- Commercial property management
- Dispute resolution for property managers
- Risk management: principals and sales consultants
- Strata agent management
- Selling strata titled property
- Essential GST and the margin scheme in real estate transactions

REBA supports the provision of courses in country areas and provided subsidies and additional funding to hold professional development courses in country areas such as Kalgoorlie, Broome, Albany, Bunbury, Busselton and Port Hedland.

Community Education Strategy

As part of the Community Education Strategy 2001-2002, a range of education and information projects were completed. These projects are outlined in Table 3.

Table 3: Education Achievements 2001-2002

Project	Education Function
REBA website updated	<ul style="list-style-type: none"> ▪ Provides access to information about REBA, consumer publications, a schedule of REBA hearings and decisions.
New information sheet to accompany complaint form	<ul style="list-style-type: none"> ▪ Explains to clients the process of making a complaint and how it will be dealt with by REBA
Release of a trust account handbook	<ul style="list-style-type: none"> ▪ Provides an overview of REBA's trust account management requirements and fraud prevention measures.
Provision of information concerning mutual recognition in the Licensing kit for new agents	<ul style="list-style-type: none"> ▪ Provides applicants for a licence from other States with information concerning the recognition of their qualifications under the <i>Mutual Recognition (WA) Act 1992</i>
8 sessions of in-house training on real estate issues	<ul style="list-style-type: none"> ▪ Consolidates the real estate expertise of Real Estate Branch staff to improve advice provision
Completion of accredited, tailored investigations training, for REBA investigators.	<ul style="list-style-type: none"> ▪ Assists in ensuring quality investigations standards and procedures benefit clients

Future Community Education Directions

REBA's consumer education role was expanded in 2001-2002 with initiatives to introduce seminars for first homebuyers and expand the hours of the real estate telephone information service. These projects, which were implemented during the year provided consumers with greater access to real estate advice and information.

The proactive compliance program was also expanded to include new areas of focus. The primary aim of REBA's education programs is to empower consumers by educating them about their rights and responsibilities, so they are able to protect their own interests. By empowering consumers in this way, REBA believes that this will assist in the prevention of problems, reduce the need for taking investigative and disciplinary action against agents, and reduce costs associated with regulating the industry.

Output 4 Fidelity Guarantee Fund

The Fidelity Guarantee Fund

The Fidelity Guarantee Fund provides compensation for people who have lost funds through the criminal or fraudulent actions of real estate agents or their employees in the course of a real estate transaction. The criteria for application to the Fund are:

- A person has suffered financial loss or loss of property
- The loss was due to the defalcation (which includes criminal or fraudulent conduct) of a licensed real estate and business agent, or their employee
- The licensed agent held a current licence granted under the *Real Estate and Business Agents Act 1978*
- The loss occurred in relation to a real estate transaction

Highlights

- 83% of all claim applications had a preliminary report prepared within 5 weeks
- Rapid processing of claims associated with Want & Co.
- 14 Fidelity Guarantee Fund matters were heard at formal hearings

Overview

The Fidelity Guarantee Fund was established to provide financial compensation for consumers who lose money or property through the criminal or fraudulent behaviour of a registered real estate and business agent, or any of their employees, in carrying out a real estate transaction.

The money for the Fidelity Guarantee Fund is derived from interest earned on trust accounts and a once-only payment by real estate and business agents, and sales representatives, when they are first licensed and registered respectively. The Fidelity Guarantee Fund contribution is over and above their other licensing and registration fees. For agents, the Fidelity Guarantee Fund contribution is \$150, while for sales representatives the contribution is \$45. The fund is kept at the Department of Treasury and Finance.

Criteria for the Fund

The full criteria for making a claim against the Fidelity Guarantee Fund is outlined in the Act and summarised above (see top of this page).

Details of Claims

The misappropriation of trust account funds by two real estate agents in particular, namely Derby Real Estate and Want & Co., has resulted in 79 Fidelity Guarantee Fund claims being lodged in 2001-2002. This is a significant increase in the number of claims lodged compared to previous years, as is shown in Table 4.

Table 4: Fidelity Guarantee Fund Claims Lodged

Financial year	1999/2000	2000/2001	2001/2002
Number of claims	36	14	79

Some of the claims finalised in the 2001-2002 financial year were actually lodged in the previous accounting period. As at 30 June 2002, a total of 16 claims were finalised, including five that were withdrawn and seven that were disallowed. A total of seven payments were made from the fund in the financial year totalling \$83 899.80.

A total of 87 claims remained unresolved at the end of the 2001-2002 financial year totalling \$3 617 540. 01. The current reserve as at 30 June 2002 was \$25 231 026.

Significant District Court Ruling

On 8 March 2002, the District Court of Western Australia delivered an important decision that has impacted on the way in which Fidelity Guarantee Fund claims are investigated. The decision by Judge Blaxell in the case of *Re; Ex Parte Cohen & Ors [2002] WADC 42* has resulted in REBA being required to make all relevant evidence which it intends to consider when deciding the claim available to the claimant or their solicitor. The District Court's decision has also resulted in a continuing review of the claims process.

Fidelity Guarantee Fund Case Study

On 1 May 2002 two people lodged their Fidelity Guarantee Fund claim with REBA in order to seek compensation for their loss suffered through the defalcation of Floreat real estate agency Want & Co. They had paid a deposit to Want & Co. for the purchase of a Floreat property in January 2002. The sale did not proceed and they requested a refund of their deposit. The agency issued a trust cheque for \$30 000 on 18 April 2002 that was dishonoured the following day by the bank due to lack of funds in the trust account.

On 7 June 2002 REBA found that there was a defalcation by the licensee Wanlee Holdings Pty Ltd, trading as Want & Co. on the 30 January 2002 when it caused the cheque for \$30 000 to be paid into the company's general account instead of the trust account.

The couple received a cheque for \$30 000 on 7 June 2002 as compensation for their loss. At the time the Chair of REBA, Ms Judy Eckert said that this case was an example of the system working efficiently and effectively in the best interests of the public. She said that REBA is concerned to ensure that former customers of Want & Co are inconvenienced as little as possible.

Output 5 Home Buyers Assistance Fund

Strategic Objectives

- Assist clients and customers to process grant applications
- Promote awareness of the scheme

Home Buyers Assistance Fund Highlights

- 1 427 homebuyers assistance fund applications were processed
- 1 329 homebuyers grants were approved
- \$2 403 206 in homebuyers grants was paid
- Maximum purchase price for homes increased to extend eligibility
- 100% of cheques were issued within 8 days of approval
- 120 letters were sent to financial institutions, community groups and financial advisors to promote awareness of the scheme

Home Buyers Assistance Fund Advisory Committee

The Home Buyers Assistance Fund Advisory Committee met on 14 November 2001 to review the purchase price criteria. The Committee recommended to REBA that the purchase price criteria be raised from \$85 000 to \$95 000 in metropolitan and country areas, from \$120 000 to \$140 000 in remote areas and from \$140 000 to \$160 000 in the North West and Kimberley region. The increase in purchase price criteria was approved by REBA on 18 January 2002.

Funding Criteria

The Home Buyers Assistance Fund is established under the *Real Estate and Business Agents Act 1978* to provide first home buyers with financial support. The scheme provides a grant of up to \$2 000 for the incidental expenses of first homebuyers when they purchase an established or partially built home through a licensed real estate agent.

The scheme is funded from interest paid on real estate agents trust accounts. The grant can be used for stamp duty, registration fees, solicitor and/or conveyancing fees, valuation fees, inspection fees, establishment fees, mortgage insurance premiums and lending institution fees associated with lodging the application or loan.

The current criteria for funding are:

- applicant must be buying their first home, which is established or partially built (not vacant land, a plan, or a "house and land" package)
- the applicant, spouse or partner of the applicant must not own or have owned any property in the State of Western Australia previously
- the applicant must live in the home for at least the first 12 months
- the applicant must purchase the home through a licensed real estate agent

- the application must be lodged with the Registrar of REBA no more than 90 days after the date that the offer to buy the home is accepted
- the home loan must be financed through an authorised lending institution (such as a bank, building society, or credit union)
- the purchase price must be within the limit for the homes location:
 - a) Metro and country areas: \$95 000
 - b) Remote areas: \$140 000
 - c) North West and Kimberley: \$160 000

Number of Applicants

A comparison of the number of grant applications and approvals processed between the current and previous financial years is provided in the table below:

Table 5: Number of HBAF Applications and Grants

	1998 - 1999		1999 - 2000		2000 - 2001		2001 - 2002	
		Average per Month		Average per Month		Average per Month		Average per Month
No of Applications	1590	132	1524	127	1342	112	1427	119
No of Approvals	1457	121	1347	112	1204	100	1329	111
Total Amount Paid	\$2 586 179		\$2 400 506		\$2 113 411		\$2 403 206	

SECTION 3

Performance Indicators

Auditor General's Opinion on Performance Indicators



AUDITOR GENERAL

To the Parliament of Western Australia

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD PERFORMANCE INDICATORS FOR THE YEAR ENDED JUNE 30, 2002

Matters Relating to the Electronic Presentation of the Audited Performance Indicators

This audit opinion relates to the performance indicators of the Real Estate and Business Agents Supervisory Board for the year ended June 30, 2002 included on the Board's web site. The Board is responsible for the integrity of the Board's web site. I have not been engaged to report on the integrity of the Board's web site. The audit opinion refers only to the performance indicators named below. It does not provide an opinion on any other information which may have been hyperlinked to or from these performance indicators. If users of this opinion are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited performance indicators to confirm the information included in the audited performance indicators presented on this web site.

Scope

I have audited the key effectiveness and efficiency performance indicators of the Real Estate and Business Agents Supervisory Board for the year ended June 30, 2002 under the provisions of the Financial Administration and Audit Act 1985.

The Board is responsible for developing and maintaining proper records and systems for preparing and presenting performance indicators. I have conducted an audit of the key performance indicators in order to express an opinion on them to the Parliament as required by the Act. No opinion is expressed on the output measures of quantity, quality, timeliness and cost.

My audit was performed in accordance with section 79 of the Act to form an opinion based on a reasonable level of assurance. The audit procedures included examining, on a test basis, evidence supporting the amounts and other disclosures in the performance indicators, and assessing the relevance and appropriateness of the performance indicators in assisting users to assess the Board's performance. These procedures have been undertaken to form an opinion as to whether, in all material respects, the performance indicators are relevant and appropriate having regard to their purpose and fairly represent the indicated performance.

The audit opinion expressed below has been formed on the above basis.

Audit Opinion

In my opinion, the key effectiveness and efficiency performance indicators of the Real Estate and Business Agents Supervisory Board are relevant and appropriate for assisting users to assess the Board's performance and fairly represent the indicated performance for the year ended June 30, 2002.

A handwritten signature in black ink, appearing to read 'D D R Pearson'.

D D R PEARSON
AUDITOR GENERAL
November 29, 2002

4th Floor Dumas House 2 Havelock Street West Perth 6005 Western Australia Tel: 08 9222 7500 Fax: 08 9322 5664

Certification of Performance Indicators

PERFORMANCE INDICATORS 2001/02

CERTIFICATION

I hereby certify that the performance indicators are based on proper records, fairly represent the performance of the Real Estate and Business Agents Supervisory Board for the year ending 30 June 2002 and are relevant and appropriate for assisting users to assess the performance of the Board.



Judy Eckert
Chair



Gordon Bragg
Member

21 November 2002.

Performance Indicators 2001/02

STATUTORY ROLE OF THE BOARD

The Board acts in the public interest as the supervisory authority for real estate and business agents and real estate and business sales representatives in Western Australia. The statutory function required of the Board is to regulate the behaviour of agents and sales representatives in terms of the manner in which they conduct themselves when entering into or assisting in real estate transactions.

OUTCOME

At the highest level, the outcome of the Board is:

The people of Western Australia have confidence in the real estate industry.

EFFECTIVENESS INDICATOR

The extent to which real estate agents comply with the requirements of the Real Estate and Business Agents Act 1978 in relation to the management of their trust accounts.

This effectiveness indicator has been chosen because the management of trust accounts by agents is a key indicator of their performance in general and is accepted as providing a reliable indication of the extent to which real estate agents comply with the requirements of the *Real Estate and Business Agents Act 1978*. The effectiveness indicator was also chosen because there is an independent audit of agents' performance in this area.

Measure

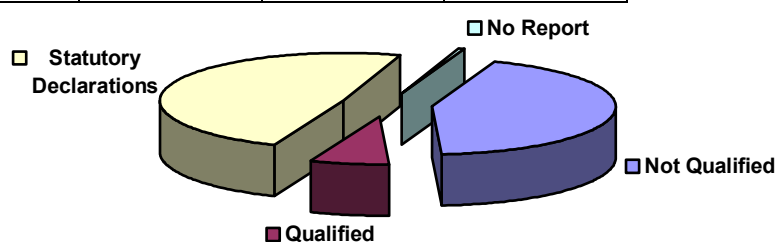
The proportion of real estate agents that submit an unqualified audit or a statutory declaration.

876 agents submitted an audit report (not qualified) + 980 agents submitted a statutory declaration
Total no. of agents : 2006

Data

	1998/99	1999/00	2000/01	2001/02
Not Qualified	934	922	864	876
Qualified	107	104	154	140
Statutory Declarations	886	926	987	980
No report	66	20	3	10
Total agents	1993	1972	2008	2006

2001/02	92.5%
2000/01	92.2%
1999/00	93.7%
1998/99	91.3%



2001/2002

Notes to the indicator

Agents are required by the Act to conduct financial transactions on behalf of their principals (clients) through a trust account. Those trusts accounts must be audited annually for the year ending 31 December.

If a licensed agent (individual) conducts no transactions (a licensed agent may work for a company and it is the company's trust accounts which are then audited), then the agent must submit a statutory declaration confirming this.

The effectiveness of compliance activities of the Board, in positively influencing the behaviour of industry participants, is measured by the level of agents' compliance with the requirements of the Board and the Act, demonstrated by the submission of an audit report that is not qualified or submission of a statutory declaration.

It is important, in order to influence the behaviour of the industry, that the Board attempts to ensure that industry practices, about which industry customers complain, are properly examined to identify illegal or unprofessional practices.

The Board is concerned about the number of agents who either receive a qualified audit or who fail to submit an audit report. As a result the Board has implemented a 'no tolerance' policy with regard to agents who fail to comply with trust account auditing provisions, which has resulted in many agents receiving fines, suspensions or cancellations of their licences.

The Board is pleased to note that the proportion of real estate agents that submit an unqualified audit or a statutory declaration has increased marginally this year from 92.2% to 92.5%. The Board however, continues to be concerned with the number of audits which are qualified, although the Board is pleased to note that there has been a 9% reduction in the number of qualified audit reports received this financial year. The Board is also concerned that 10 agents failed to submit an audit report, although this is still far less than in 1998/99 (66) and 1999/00 (20).

The Board places significant reliance on the audit report to ensure that the agent has maintained their trust account/s in accordance with statutory requirements. The credibility of the audit report is impacted by both the actual and perceived independence of the auditor. During the financial year the Board expressed concern over the apparent conflict of interest of auditors in disciplinary cases heard before the Board. In these cases the Board was of the view that the audit may have been

prejudiced because the auditor was also providing non-audit services. The Board is concerned that the fees earned by auditors through non-audit services or the existence of a close relationship by blood or marriage, fosters the potential for conflicts of interest. As a result the Board introduced a policy to disqualify an auditor who has non-audit business dealings or a close relationship with the agent from auditing an agents trust account.

The Board accepted that the introduction of the auditor independence policy would require some agents to change their nominated auditor. The Board therefore resolved that any disqualification would apply to the audit period 1 January to 31 December 2002. The Board anticipates that the introduction of this policy will enhance the actual and perceived independence of a statutory audit and, as a consequence, the Board may experience an increase in qualified audits for the forthcoming financial year.

KEY OUTPUT

The 'output' or service provided by the Board is **Regulation** of the real estate and business broking industry through the discharge of the Board's statutory functions.

The Board undertakes a range of activities to ensure both agents and the public are aware of their rights and responsibilities, licences estate agents and sales representatives, takes action to ensure compliance with the Act, hears complaints and administers the Fidelity Guarantee Fund and the First Homebuyers Assistance Fund.

Efficiency Indicator 1

The average cost per licensed agent, of regulating the real estate and business broking industry.

The Board provides a range of services/outputs aimed to ensure that real estate agents comply with the requirements of the Act. This indicator measures the efficiency with which the Board achieves this.

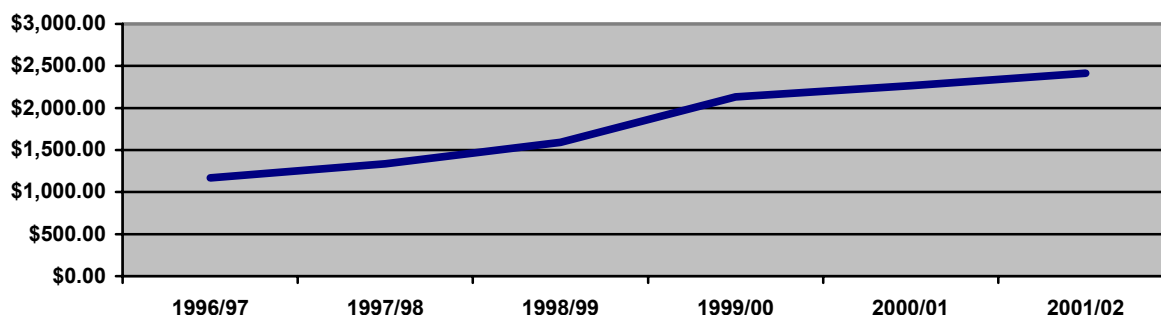
Indicator

The total cost of regulating the industry divided by the number of active licensed agents in Western Australia.

Data

	1996/97	1997/98	1998/99	1999/00	2000/01	2001/02
Annual Cost*	\$2 175 874	\$2 608 200	\$3 172 683	\$4 202 299	\$4 550 212	\$4 844 535
Active Licensed Agents	1859	1950	1993	1971	2008	2006
	\$1170.45	\$1337.54	\$1591.91	\$2132.06	\$2266.04	\$2415.02

The average cost per licensed agent, of regulating the real estate and business broking industry



* Note: The annual cost of regulating the real estate and business broking industry has been calculated using the total annual expenditure of the Board less Fidelity Guarantee Fund payments and First Home Buyers Grants made in that financial year. Fidelity Guarantee Fund payments have been excluded as these payments relate to the reimbursement of losses that were incurred by the defalcation of a licensed real estate agent in previous financial years and therefore do not reflect on the true annual cost of regulating the real estate and business broking industry. First Home Buyers Grants have been excluded as they do not impact on the cost of regulating the real estate and business broking industry.

Notes to the indicator

The efficiency indicator is based on the cost of delivering the output per each active licensed real estate agent. In the 2001/02 financial year a total of \$4 844 535 was expended on regulating an industry with 2006 active licensed agents. (This figure excludes licensed agents who are in bona fide control of a licensed real estate business.)

The average cost per licensed agent of regulating the real estate and business broking industry continues to steadily grow to meet the increasing demands for the Board's services. The rate of growth, however, has reduced as efficiency increases. The Board remains committed to ensuring the community of Western Australia has confidence in the real estate and business broking industry and will allocate sufficient resources to meet the expectations and demands of the community.

SECTION 4

Financial Statements



AUDITOR GENERAL

To the Parliament of Western Australia

**REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD
FINANCIAL STATEMENTS FOR THE YEAR ENDED JUNE 30, 2002**

Matters Relating to the Electronic Presentation of the Audited Financial Statements

This audit opinion relates to the financial statements of the Real Estate and Business Agents Supervisory Board for the year ended June 30, 2002 included on the Board's web site. The Board is responsible for the integrity of the web site. I have not been engaged to report on the integrity of the Board's web site. The audit opinion refers only to the statements named below. It does not provide an opinion on any other information which may have been hyperlinked to or from these statements. If users of this opinion are concerned with the inherent risks arising from electronic data communications, they are advised to refer to the hard copy of the audited financial statements to confirm the information included in the audited financial statements presented on this web site.

Scope

I have audited the accounts and financial statements of the Real Estate and Business Agents Supervisory Board for the year ended June 30, 2002 under the provisions of the Financial Administration and Audit Act 1985.

The Board is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing and presenting the financial statements, and complying with the Act and other relevant written law. The primary responsibility for the detection, investigation and prevention of irregularities rests with the Board.

My audit was performed in accordance with section 79 of the Act to form an opinion based on a reasonable level of assurance. The audit procedures included examining, on a test basis, the controls exercised by the Board to ensure financial regularity in accordance with legislative provisions, evidence to provide reasonable assurance that the amounts and other disclosures in the financial statements are free of material misstatement and the evaluation of accounting policies and significant accounting estimates. These procedures have been undertaken to form an opinion as to whether, in all material respects, the financial statements are presented fairly in accordance with Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions so as to present a view which is consistent with my understanding of the Board's financial position, its financial performance and its cash flows.

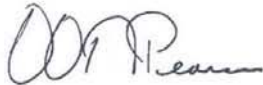
The audit opinion expressed below has been formed on the above basis.

**Real Estate and Business Agents Supervisory Board
Financial statements for the year ended June 30, 2002**

Audit Opinion

In my opinion,

- (i) the controls exercised by the Real Estate and Business Agents Supervisory Board provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of property and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the Statement of Financial Performance, Statement of Financial Position and Statement of Cash Flows and the Notes to and forming part of the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Board at June 30, 2002 and its financial performance and its cash flows for the year then ended.



D D R PEARSON
AUDITOR GENERAL
November 29, 2002

Certification of Financial Statements

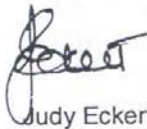
The accompanying financial statements of the Real Estate and Business Agents Supervisory Board have been prepared in compliance with the provisions of the Financial Administration and Audit Act 1985 from proper accounts and records and to present fairly the financial transactions for the year ending 30 June 2002 and the financial position as at 30 June 2002

At the date of signing, we are not aware of any circumstances which would render any particulars included in the financial statements misleading or inaccurate.



Stuart Cowie

Principal Accounting Officer



Judy Eckert

Chairperson



Gordon Bragg

Member

21 November 2002



REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Statement of Financial Performance for the year ended 30 June 2002

REVENUE	Note	2001/02 \$	2000/01 \$
Revenue from Ordinary Activities			
<i>Revenue from operating activities</i>			
Agents trust account interest income		5,745,661	7,141,602
Licence income	3	776,200	747,489
Contributions to the Fidelity Guarantee Fund		94,350	74,438
Fines and costs		75,967	48,207
Profit on disposal of assets	10	0	5,135
Other revenues	4	90,083	20,537
<i>Revenue from non operating activities</i>			
Bank and investment interest	2	1,991,308	2,447,526
Other revenues from ordinary activities	4	3,127	16,276
Total Revenues From Ordinary Activities		8,776,696	10,501,210
EXPENSES			
Expenses from Ordinary Activities			
Employee expenses	5	461,387	342,848
Communications costs		2,981	3,124
Legal fees		514,447	190,289
Board fees and expenses		139,361	158,383
Services and contracts	6	346,362	99,005
Consumables and maintenance	7	19,850	24,279
Service Delivery Agreement	8	3,142,571	3,548,069
Depreciation	9	123,120	43,494
Loss on Sale of Assets	10	70	0
Total Expenses from Ordinary Activities Before Grants		4,750,149	4,409,491
Grants			
Educational grants	11	94,386	140,721
First home buyers grants	12	2,403,207	2,113,411
Fidelity Guarantee Payments	13	83,900	915,301
Total Expenses from Ordinary Activities		7,331,642	7,578,924
NET PROFIT		1,445,054	2,922,286

The Statement of Financial Performance should be read in conjunction with the accompanying notes.

For details of the Statement of Financial Performance split between the various funds operated by the Real Estate and Business Agents Supervisory Board see Note 29.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Statement of Financial Position as at 30 June 2002

CURRENT ASSETS	Note	2001/02	2000/01
		\$	\$
Cash assets	15	12,629,788	11,783,686
Restricted cash assets	15	31,198,741	29,654,575
Accrued agents trust account interest income		552,567	1,063,101
Accrued investment interest		162,483	187,195
Receivables	16	31,075	23,218
Prepayments	17	978	0
Total Current Assets		44,575,632	42,711,775
NON-CURRENT ASSETS			
Computers	21	88,389	117,775
REMIS Software	21	258,394	325,284
Office Equipment	21	23,985	29,675
Furniture and Fittings	21	2,174	2,539
Total Non-Current Assets		372,942	475,273
TOTAL ASSETS		44,948,574	43,187,048
CURRENT LIABILITIES			
Payables	18	781,819	341,366
Provision for employee entitlements	22	69,198	54,014
Revenue received in advance	3	603,352	669,379
Monies held in trust		7,448	7,448
Unclaimed money		409	0
Total Current Liabilities		1,462,226	1,072,207
NON CURRENT LIABILITIES			
Revenue received in advance	3	413,448	500,943
Provision for employee entitlements	22	37,228	23,279
Total Non Current Liabilities		450,676	524,222
TOTAL LIABILITIES		1,912,902	1,596,429
NET ASSETS		43,035,672	41,590,618
EQUITY			
Retained profits	26	43,035,672	41,590,618
TOTAL EQUITY		43,035,672	41,590,618

The Statement of Financial Position should be read in conjunction with the accompanying notes. For details of the Statement of Financial Position split between the various funds operated by the Real Estate and Business Agents Supervisory Board see Note 29.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Statement of Cash Flows for the year ended 30 June 2002

CASH FLOWS FROM OPERATING ACTIVITIES	Note	2001/02	2000/01
		\$	\$
Receipts			
Interest received		8,272,215	9,047,797
Receipt from clients		708,429	766,237
Contributions paid into the Fidelity Guarantee Fund		94,350	74,438
GST receipts on sales		277	180
GST receipts from ATO		75,702	60,212
Payments			
Payments to suppliers of goods and services		(4,082,375)	(4,273,631)
GST payments on purchases		(75,978)	(78,750)
GST payments to ATO		0	0
Grants			
For education programs		(94,386)	(140,721)
For First Home Buyers		(2,403,207)	(2,113,411)
From Fidelity Guarantee Fund		(83,900)	(915,301)
Net Cash Provided by Operating Activities	19	2,411,127	2,427,050
CASH FLOWS FROM INVESTING ACTIVITIES			
Proceeds from sale of non current assets		0	5,136
Payment for non current assets		(20,859)	(401,282)
Net Cash Used in Investing Activities		(20,859)	(396,146)
Net Increase (Decrease) in Cash Held		2,390,268	2,030,904
Cash assets at the beginning of the financial year		41,438,261	39,407,357
Cash assets at the end of the financial year	15	43,828,529	41,438,261

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

1. Significant Accounting Policies

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated, these policies are consistent with those adopted in the preceding year.

(a) General Statement

The financial statements constitute a general purpose financial report which has been prepared in accordance with Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group (UIG) Consensus Views as applied by the Treasurer's Instructions. Several of these are modified by the Treasurer's Instructions to vary the application, disclosure, format and wording. The Financial Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Australian Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect is disclosed in individual notes to these financial statements.

The statements have been prepared on the accrual basis of accounting using the historical cost convention.

(b) Revenue Recognition

Revenue from the sale of goods and disposal of other assets and the rendering of services, is recognised when control of the goods or other assets or delivery of the services has passed to the customer.

(c) Acquisition of assets

The cost method of accounting is used for all acquisitions of assets. Cost is measured as the fair value of the assets given up or liabilities undertaken at the date of acquisition plus incidental costs directly attributable to the acquisition.

(d) Depreciation of non-current assets

All non-current assets having a limited useful life are systematically depreciated over their useful lives in a manner, which reflects the consumption of their future economic benefits.

Depreciation is calculated on the straight line basis, using rates, which are reviewed annually. Useful lives for each class of depreciable asset are:

Computers	3 years
REMIS software	5 years
Office equipment	5 to 10 years
Furniture and fittings	10 years

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

(e) **Cash**

For the purpose of the Statement of Cash Flows, cash included cash assets and restricted cash assets. These include short term deposits that are readily convertible to cash on hand and are subject to insignificant risk of changes in value.

(f) **Receivables**

Receivables are recognised at the amounts receivable as they are due for settlement no more than 30 days from the date of recognition.

(g) **Software**

Significant costs associated with the acquisition or development of computer software are capitalised and amortised on a straight line basis over the periods of the expected benefit. At present, this only applies to REMIS which is being depreciated over five years.

(h) **Employee entitlements**

Annual leave

This entitlement is recognised at current remuneration rates and is measured at the amount unpaid at the reporting date in respect to employees services up to that date.

Long service leave

Leave entitlements are calculated at current remuneration rates. A Liability for long service leave is recognised after an officer has completed four years of service. Leave entitlements for staff services procured from the Dept of Consumer & Employment Protection by the Board under a service delivery agreement are carried in the Department's accounts.

This method of measurement of the liability is consistent with the requirements of Australian Accounting Standard AAS30, "Accounting for Employee Entitlements".

Superannuation

Staff may contribute to the Pension Scheme, a defined benefits pension scheme now closed to new members, or to the Gold State Superannuation Scheme, a defined benefit lump sum scheme now also closed to new members. All staff who do not contribute to either of these schemes become non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. All of these schemes are administered by the Government Employees Superannuation Board(GESB).

The liabilities for superannuation charges under the Gold State Superannuation Scheme and West State Superannuation Scheme are extinguished by payment of employer contributions to the GESB.

The note disclosure required by paragraph 51(e) of AAS 30 (being the employer's share of the difference between employees' accrued superannuation benefits and the attributable net market value of plan assets) has not been provided. State scheme deficiencies are recognised by the State in its whole of government reporting. The GESB's records are not structured to provide the information for the Board. Accordingly, deriving the information for the Board is impractical under current arrangements, and thus any benefits thereof would be exceeded by the cost of obtaining the information.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

Accrued Salaries

Accrued salaries represent the amount due to staff but unpaid at the end of the financial year, as the end of the last pay period for that financial year does not coincide with the end of the financial year. The Board considers the carrying amount approximates net fair value.

(i) Revenue

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. The portion of licensing fees which are related to the current year are recognised as income. The remainder of the proceeds is recognised as Revenue received in advance.

Proceeds from other sources are recognised as revenue when received. Other revenue is fully described in the Statement of Financial Performance.

Interest revenues are recognised as they are accrued.

(j) Payables

Payables including accruals not yet billed, are recognised when the Board becomes obliged to make future payments as the result of a purchase of assets or services. Payables are generally settled within 30 days.

(k) Net fair value of financial assets and liabilities

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in these notes.

(l) Comparative figures

Comparative figures are, where appropriate, reclassified so as to be comparable with the figures in the current financial year.

2. Bank and investment income

The interest income of the Board is comprised of:

	2001/02	2000/01
	\$	\$
Interest from Treasury	1,973,873	2,423,397
Interest on call account	17,435	24,129
	1,991,308	2,447,526

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

3. Licence income

Proceeds from triennial licensing fees are allocated over 36 months from the month of receipt. Proceeds relating to the current financial year are recognised as revenue. The balance of the proceeds is credited into the Revenue Received in Advance account. The analysis of the proceeds is as follows:

	2001/02	2000/01
	\$	\$
Revenue received in advance account (current) opening balance	669,379	616,152
Revenue received in advance account (non current) opening balance	500,943	592,196
Cash received during the year	622,678	709,463
Total revenue received in advance	1,793,000	1,917,811
Income recognised during the year	776,200	747,489
Balance in revenue received in advance	1,016,800	1,170,322
Held in		
Revenue received in advance account (current)	603,352	669,379
Revenue received in advance account (non current)	413,448	500,943
	1,016,800	1,170,322

4. Other revenues

Other income consists of:

	2001/02	2000/01
	\$	\$
Advertisement fees	9,350	6,930
Recovery of funds	71,573	0
Lecture Fees	1,479	1,959
Late Fees	7,681	11,648
Miscellaneous Income	3,127	16,276
Total	93,210	36,813

5. Employee expenses

The Board procures services from the Dept of Consumer & Employment Protection under a service delivery agreement. The current arrangements which started in the 1999/2000 financial year is for an all inclusive fixed fee. The salary figure below represents only the salary of employees directly employed by the Board.

	2001/02	2000/01
	\$	\$
Salary	287,707	239,178
Change in annual leave	7,218	5,844
Change in long service leave	21,915	25,327
Superannuation	36,403	31,311
Total staff salary costs	353,243	301,660
Staff related expenses	108,144	41,188
Total Staff costs	461,387	342,848

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

6. Services and contracts

Services contracts consists of:

	2001/02	2000/01
	\$	\$
Audit fees	9,500	7,450
Bank charges	2,250	5,324
Consultants and contractors fees	18,810	4,423
Hire charges	2,244	2,299
Insurance	8,940	3,995
Professional services	111,776	13,821
Advertising	20,662	5,833
Printing	48,569	52,143
Miscellaneous	5,029	0
Website subscription	946	0
REMIS Maintenance	117,636	3,717
Total	346,362	99,005

7. Consumables and maintenance

	2001/02	2000/01
	\$	\$
Library acquisition	1,865	1,458
Stationery	4,174	5,864
Consumables	12,043	6,918
Sundry assets costing under \$1000	616	9,976
Repair and maintenance	1,152	63
Total	19,850	24,279

8. Service Delivery Agreement

The Board procures services from the Dept of Consumer & Employment Protection under a service delivery agreement.

The current agreement is for a fixed fee which is reviewed annually.

9. Depreciation

Depreciation charges for the year consist of:

	2001/02	2000/01
	\$	\$
Computers	50,174	29,223
REMIS Software	66,890	9,163
Office Equipment	5,691	4,743
Furniture and Fittings	365	365
Depreciation Total	123,120	43,494

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

10. Net profit/(loss) on disposal of non current asset

	2001/02	2000/01
	\$	\$
Computers	(70)	5,135
Proceeds on disposal	0	5,135

11. Educational Grants

	2001/02	2000/01
	\$	\$
Payments charged to the Statement of Financial Performance:		
Grants made to REIWA	92,410	140,721
Grants made to TAFE	1,976	0
Total charged to the Statement of Financial Performance	94,386	140,721

12. First Home Buyers Grants

A total of 1,381 grants totalling \$2,403,207 at an average of \$1,740 were made during the year. In 2000/01 1,203 grants totalling \$2,113,411 at an average of \$1,757 were made.

13. Fidelity guarantee payments.

A total of **\$83,900** was approved by the Board to be paid out from the fidelity guarantee payments during the year (\$915,301 in 2000/2001).

Outstanding claims against the fidelity guarantee fund are disclosed as contingent liabilities. (See note 14).

14. Contingent liabilities - Fidelity Guarantee Fund

The Board has a total of 88 claims amounting to approximately \$3.6 million as at 30 June 2002 made against the Fidelity Guarantee Fund for which no liability has been admitted.

The Board had 22 claims amounting to approximately \$3.6 million as at 30 June 2001. No other forms of contingent liability exists at the date of this report.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

15. Cash

Cash resources are held exclusively for use by the Real Estate and Business Agents Board under the provisions of the Real Estate and Business Agents Act 1978.

As at balance date the cash resources balances in the various bank accounts administered by the Board are as follows:

	2001/02	2000/01
	\$	\$
Education and General Purpose Fund	74,081	127,978
Fidelity Guarantee Fund (Restricted cash)	74,624	164,037
Home Buyers Assistance Fund (Restricted cash)	183,542	49,963
Board Interest Account	500	500
Petty Cash	200	200
Total cash at bank and on hand	332,947	342,678

Cash held with Treasury

Education and General Purpose Fund	12,555,007	11,655,008
Fidelity Guarantee Fund (Restricted cash)	25,055,575	23,655,575
Home Buyers Assistance Fund (Restricted cash)	5,885,000	5,785,000
Total cash held in deposit	43,495,582	41,095,583
Total Cash	43,828,529	41,438,261

For the purpose of the Statement of Cash Flows, cash includes cash on hand, in banks and investments held with the State Government Treasury.

Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related item in the Statement of Financial Position as follows:

	2001/02	2000/01
	\$	\$
Cash assets	12,629,788	11,783,686
Restricted cash assets	31,198,741	29,654,575
Total Cash	43,828,529	41,438,261

Cash resources held under the Fidelity Guarantee Fund and Home Buyers Assistance Fund are deemed restricted cash resources as the application of these are governed by the provisions of the Real Estate and Business Agents Act 1978.

16. Receivables

	2001/02	2000/01
	\$	\$
Staff leave entitlements receivable from the Ministry of Fair Trading under Treasury Instruction 520	0	4,583
Fines	4,800	0
GST Recoverables	26,275	18,635
Total	31,075	23,218

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

17. Prepayments

	2001/02	2000/01
	\$	\$
Membership fees	978	0

18. Payables

	2001/02	2000/01
	\$	\$
Service delivery agreement with the Dept of Consumer & Employment Protection	261,881	295,672
Audit fees	9,500	8,250
Board fees	9,186	9,053
Legal fees	229,161	0
Reimbursement to Dept of Consumer & Employment Protection	28,300	6,868
Salaries	38,288	21,523
Professional services	35,845	0
Other goods and services	36,371	0
Overpaid trust account interest	133,287	0
Total	781,819	341,366

19. Reconciliation of net cash provided from operating activities to surplus reported in the Statement of Financial Performance.

	2001/02	2000/01
	\$	\$
Net Profit as per Statement of Financial Performance	1,445,054	2,922,286

Movement in:

Non-cash items

Depreciation	123,120	43,494
Profit/Loss on sale of assets	70	(5,135)
(Increase)/decrease in assets		
Receivables	(7,857)	24,698
Accrued interest/income	535,246	(541,331)
Prepayments	(978)	0
Increase/(decrease) in liabilities		
Payables	440,452	(17,555)
Revenue received in advance, current liabilities	(66,027)	53,227
Revenue received in advance, non current liabilities	(87,495)	(91,253)
Employee entitlements	29,133	31,171
Monies held in trust	0	7,448
Unclaimed monies	409	0
Net cash from operating activities	2,411,127	2,427,050

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

20. Remuneration and Retirement Benefits of Board Members and Senior Officers

Remuneration of Board Members

The number of Board members whose total of fees, salaries, superannuation and other benefits received or due and receivable for the financial year, falls within the following bands:

	2001/02	2000/01
\$0 - \$10,000	5	4
\$10,001 - \$20,000	1	3
\$20,001 - \$30,000	3	1
\$30,001 - \$40,000	1	0
\$40,001 - \$50,000	0	0
\$50,001 - \$60,000	0	1
Total remuneration (\$)	147,298	149,563

Remuneration of Senior Officers

The number of senior officers whose total of fees, salaries, superannuation and other benefits received or due and receivable for the financial year, falls within the following bands:

	2001/02	2000/01
\$60,001 - \$70,000	0	1
\$70,001 - \$80,000	1	0
Total remuneration (\$)	70,182	62,037

The Board procures services from the Dept of Consumer & Employment Protection. The number of senior officers providing these services are included in the annual report of the Department.

21. Property Plant & Equipment

	2001/02	2000/01
	\$	\$
Computers	198,224	188,612
Accumulated Depreciation	(109,835)	(70,837)
	88,389	117,775
REMIS Software	334,447	334,447
Accumulated Depreciation	(76,053)	(9,163)
	258,394	325,284
Office Equipment	43,801	43,801
Accumulated Depreciation	(19,816)	(14,126)
	23,985	29,675
Furniture and Fittings	3,650	3,650
Accumulated Depreciation	(1,476)	(1,111)
	2,174	2,539
Total Non-Current Assets	372,942	475,273

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

21. Cont.

Reconciliations

Reconciliations of the carrying amount of property, plant and equipment at the beginning and end of the current and previous financial year are set out below.

	2001/02	
	\$	
Computers		
Carrying amount at start of year	117,775	
Additions	20,859	
Disposals at cost	(11,247)	
Accumulated depreciation on disposals	11,177	
Depreciation expense	(50,175)	
Carrying amount at end of year	88,389	
REMIS Software		
Carrying amount at start of year	325,284	
Additions	0	
Disposals at cost	0	
Accumulated depreciation on disposals	0	
Depreciation expense	(66,890)	
Carrying amount at end of year	258,394	
Office Equipment		
Carrying amount at start of year	29,675	
Additions	0	
Disposals at cost	0	
Accumulated depreciation on disposals	0	
Depreciation expense	(5,690)	
Carrying amount at end of year	23,985	
Furniture and Fittings		
Carrying amount at start of year	2,539	
Additions	0	
Disposals at cost	0	
Accumulated depreciation on disposals	0	
Depreciation expense	(365)	
Carrying amount at end of year	2,174	
Total Non-Current Assets	372,942	
22. Provision for Employee Entitlements		
	2001/02	2000/01
	\$	\$
Current		
Annual Leave	23,586	16,368
Long Service Leave	45,612	37,646
	69,198	54,014
Non Current		
Long Service Leave	37,228	23,279
Total	106,426	77,293

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

23. Remuneration of Auditor General

The total of fees paid or due and payable to the auditors of the Board for the financial year is as follows:

	2001/02	2000/01
Fees to the Auditor General:	\$	\$
-for external audit	9,500	8,250

Apart from the audit the Board did not procure other services from the Office of the Auditor General of Western Australia.

24. Write - Offs

No write-offs were approved in the current financial year.

25. Activity/Output Information

The 'output' or service provided by the Board is '**Regulation' or 'regulatory services'**.

As there is only one output for the Board there is no separate reporting under outputs as required by Treasury Instruction 904 or reporting under industry segments for the purpose of AAS16.

26. Retained Profits

	2001/02	2000/01
	\$	\$
Opening balance	41,590,618	38,668,332
Unappropriated surplus	1,445,054	2,922,286
Total Equity	43,035,672	41,590,618

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

27. Financial Instruments

(a) Interest Rate Risk Exposure

The Board exposure to interest rate risk and effective interest rates on financial instruments are:

	Weighted average effective rate		Floating interest		Fixed interest 1 year or less		Non interest bearing		Total as per the Statement of Financial Position	
	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01	2001/02	2000/01
			\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Financial Assets										
Cash assets	4.54%	5.53%	333	343	43,496	41,095			43,829	41,438
Accrued income	0%	0%					553	1,063	553	1,063
Accrued interest	0%	0%					162	187	162	187
Receivables	0%	0%					5	4	5	4
GST Recoverable	0%	0%					26	19	26	19
Total financial assets			333	343	43,496	41,095	746	1,273	44,575	42,711
Financial Liabilities										
Payables	0%	0%					782	341	782	341
Accrued leave	0%	0%					106	77	106	77
Revenue received in advance	0%	0%					1,017	1,170	1,017	1,170
Total financial liabilities							1,905	1,588	1,905	1,588
Net financial assets			333	343	43,496	41,095	(1,159)	(315)	42,670	41,123

(b) Credit Risk Exposure

All financial assets are unsecured. Financial assets comprise of money held in Commonwealth Bank cheque accounts and investments are placed with State Treasury.

(c) Net Fair Values

The carrying amount of financial assets and financial liabilities recorded in the financial statements are not materially different from their net fair values, determined in accordance with the accounting policies disclosed in note 1 to the financial statements.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

28. Explanatory Statement

	2000/01 Actual \$	2001/02 Budget \$	2001/02 Actual \$	Variation 01/02 to 00/01 \$	Variation 01/02 to budget \$
Revenue from Ordinary Activities					
Revenue from operating activities					
Agents trust account interest income	7,141,602	5,767,000	5,745,661	(1,395,942)	(21,340)
Other revenues	20,537	18,700	90,083	69,546	71,383
Revenue from non operating activities					
Bank and investment interest	2,447,526	2,124,000	1,991,308	(456,218)	(132,692)
Expenses from ordinary activities					
Employee expenses	342,848	432,000	461,387	118,539	29,387
Legal fees	190,289	520,000	514,447	324,157	(5,554)
Board fees and expenses	158,383	238,000	139,361	(19,021)	(98,639)
Services and contracts	99,005	137,700	346,362	247,357	208,662
Service delivery agreement	3,548,069	3,445,200	3,142,571	(405,498)	(302,629)
Depreciation	43,494	132,400	123,120	79,626	(9,280)
Grants					
Education grants	140,721	315,600	94,386	(46,335)	(221,214)
First home buyers grants	2,113,411	2,500,000	2,403,207	289,795	(96,793)
Fidelity guarantee payments	915,301	1,000,000	83,900	(831,401)	(916,100)

a) Comparison of actual results with those of the preceding year

Reasons for significant variations between results for the current year and the corresponding item of the preceding year are detailed below.

Significant variations are considered to be those greater than 10% and \$50,000.

Revenue from Ordinary Activities

Agents trust account interest income

Trust account interest for 2001/02 was lower than 2000/01 due primarily to income from last year being inflated significant back interest from miss classified agents trust accounts and considerable lower interest rates.

Other revenues

Other revenue is higher than the preceding year due to the recovery of monies previously paid out from the Fidelity Guarantee Fund.

Bank and investment interest

Revenue from this source is lower than last year due to interest rates being lower than the preceding year.

Expenses from ordinary activities

Employee expenses

These expenses are higher than the preceding year due to an increase in Board employees.

Legal fees

Legal expenses are higher than the preceding year due to legal services provided by the Dept of Consumer & Employment Protection being excluded from the service delivery agreement with that organisation. These expenses are now invoiced on actual services provided by the Department and the use of external legal service providers.

Continued.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

28. Explanatory Statement (continued)

Services and contracts

Considerable expenses not incurred in the previous year have resulted in higher expenses under this item than the previous year. These include Oracle license fees to run REMIS and supervision fees incurred under section 93 of the Real Estate and Business Agents Act 1978.

Service delivery agreement

The service delivery agreement expenses are lower than the preceding year due to legal services provided by the Dept of Consumer & Employment Protection being excluded from the agreement with that organisation.

Depreciation

This expense is higher than preceding year due to the full year effect of the amortisation of the REMIS software.

Grants

First home buyers grants

More home buyers grants were approved during 2001/02 than the preceding year which resulted in a higher total payout. This was due to the increase in the ceiling limit of purchases available for first home buyers.

Fidelity guarantee payments

Fidelity guarantee payments were lower than the preceding year due to few claims being finalised in 2001/02 and an abnormal one off high payout in 2000/01.

b) Comparison of estimates to actual results

Section 42 of the Financial Administration and Audit Act requires statutory authorities to prepare annual budget estimates.

Significant variations are considered to be those greater than 10% and \$50,000.

Revenue from Ordinary Activities

Other revenues

Other revenue is higher than the budget due to the recovery of monies previously paid out from the Fidelity Guarantee Fund which could and were not included in the budget.

Bank and investment interest

Revenue from this income source is lower than budgeted due to interest rates going lower than anticipated.

Expenses from ordinary activities

Board fees and expenses

An increase in Board fees were allowed for in the budget however, although these have been applied for they have not yet been granted.

Services and contracts

Considerable unforeseen expenses not include in the budget have resulted in higher expenses than anticipated under this item. These include Oracle license fees to run REMIS and supervision fees incurred under section 93 of the Real Estate and Business Agents Act 1978.

Continued.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

28. Explanatory Statement (continued)

Grants

Education grants

Training grants were below budget as course providers failed to run courses as predicted and undertake projects which funding was set aside for.

Fidelity guarantee payments

It is difficult to predict the quantum of fidelity claims. Although an estimate is made and included in the budget the Board does not admit liability until determinations are finalised. For 2001/2002 claims against the Fidelity Fund were below the level predicted.

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

29. Statement of Financial Performance for the year ended 30 June 2002 separated under Funds operated by the Board

	Education and General Purpose	Fidelity Guarantee Fund	Home Buyers Assist Fund	Board Interest Account	Total
	\$	\$	\$	\$	\$
REVENUE					
Revenue from Ordinary Activities					
Revenue from operating activities					
Agents trust account interest income	3,420,775	185,681	2,139,205		5,745,661
License income	776,200				776,200
Contributions to the Fidelity Guarantee Fund		94,350			94,350
Fines and costs	75,967				75,967
Profit on disposal of assets					0
Other revenues	18,510	71,573			90,083
Revenue from non operating activities					
Bank and investment interest	577,610	1,130,100	283,598		1,991,308
Other revenue from ordinary activities	3,072	55			3,127
Total Revenue From Ordinary Activities	4,872,134	1,481,759	2,422,803	0	8,776,696
EXPENSES					
Expenses from Ordinary Activities					
Employee expenses	461,387				461,387
Communications costs	2,981				2,981
Legal fees	438,645	75,802			514,447
Board fees and expenses	139,361				139,361
Services and contracts	321,589	23,726	1,047		346,362
Consumables and maintenance	19,837	13			19,850
Service Delivery Agreement	3,142,571				3,142,571
Depreciation	123,120				123,120
Loss on sale of assets	70				70
Total Expenses from Ordinary Activities Before Grants	4,649,561	99,541	1,047	0	4,750,149
Grants					
Educational grants	94,386				94,386
First home buyers grants			2,403,207		2,403,207

Fidelity guarantee payments		83,900			83,900
Total Expenses from Ordinary Activities	4,743,947	183,441	2,404,254	0	7,331,642
NET PROFIT	128,187	1,298,318	18,549	0	1,445,054

REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD

Notes to the Financial Statements for the year ended 30 June 2002

29. Statement of Financial Position as at 30 June 2002 separated under the Funds operated by the Board

	Education and General Purpose	Fidelity Guarantee Fund	Home Buyers Assist Fund	Board Interest Account	Total
	\$	\$	\$	\$	\$
CURRENT ASSETS					
Cash assets	12,629,288			500	12,629,788
Restricted cash assets		25,130,199	6,068,542		31,198,741
Accrued Board Interest Account income	314,963	24,865	212,738		552,567
Accrued Treasury investment interest	46,901	93,598	21,984		162,483
Receivables	30,469	606			31,075
Prepayments	978				978
Total Current Assets	13,022,599	25,249,268	6,303,264	500	44,575,632
NON-CURRENT ASSETS					
Computers	88,389				88,389
REMIS Software	258,394				258,394
Office Equipment	23,985				23,985
Furniture and Fittings	2,174				2,174
Total Non-Current Assets	372,942	0	0	0	372,942
TOTAL ASSETS	13,395,541	25,249,268	6,303,264	500	44,948,574
CURRENT LIABILITIES					
Payables	719,753	10,750	51,315		781,819
Provision for Employee Entitlements	69,198				69,198
Revenue received in advance	603,352				603,352
Monies held in trust & unclaimed monies	364	7,493			7,857
Total Current Liabilities	1,392,667	18,243	51,315	0	1,462,226
NON CURRENT LIABILITIES					
Revenue received in advance	413,448				413,448
Provision for Employee Entitlements	37,228				37,228
Total Non-Current Liabilities	450,676	0	0	0	450,676

TOTAL LIABILITIES	1,843,343	18,243	51,315	0	1,912,902
NET ASSETS	11,552,198	25,231,025	6,251,949	500	43,035,672
EQUITY					
Retained profits	11,552,198	25,231,025	6,251,949	500	43,035,672
TOTAL EQUITY	11,552,198	25,231,025	6,251,949	500	43,035,672

Appendix

Prosecutions, Inquiries and Appeals

Listed below is a record of Prosecutions, Disciplinary Inquiries and Appeal decisions for the period 1 July 2001 to 30 June 2002.

Prosecutions

Prosecutions are heard in the Court of Petty Sessions and action may be taken by the inspectors of REBA. One prosecution occurred in 2001-2002 in the Court of Petty Sessions. Security Trusts Pty Ltd, Peter Michael Graham, Betty Christie and Patricia Kay Hautop were each convicted of 10 charges of contravening section 26 of the *Real Estate and Business Agents Act 1978*. This section relates to licensing requirements and the need to hold a current triennial certificate in order to carry out business as a real estate or business agent.

Disciplinary Inquiries

Disciplinary Inquiries are heard by REBA.

A list of the Inquiries that resulted in a penalty being issued by REBA is listed below.

Defendant	Charges	Outcome	Fine	Costs
Mario Joseph Piscoeneri	Section 26		\$500	
1. Damen Pty Ltd	Sections 68(1),68(b)(c),68(4),68(6)(d),68C,68C(3) and 70(1)(3 counts)		\$3 000	\$500
2. Glyn Barry Withers	Article6(2)	Suspension of licence for minimum of 6 months		
Peter Mervyn Screaigh	Article 8(2)		\$500	\$250
1. WA Landbank Pty Ltd	Article 7 Article 2 Article 5(1)	Cancellation of licence		\$10 000
2.Allan Marshall	Article 6(2) Article 6(5) Article 7 Article 2	Cancellation of licence		This decision has been appealed
David Austin	Article 8(2) Article 8(1) Article 7		\$1 500	\$500
Theodore Marchese	Section 39(3)	Cancellation of licence		

Defendant	Charges	Outcome	Fine	Costs
Bruce Cook	Article 5(2) Article 2	Cancellation of registration		
1. Cansdale Holdings Pty Ltd	Articles 5(1),7,2,8(2) Section 64(4)		\$3 000	
2. Ryan Kennedy	Articles 5(1),7,2,10(3), 8(2)		\$1 000	\$1 000
Judith Pepprell-Fletcher	Sections 68(6)(a),68(6)(b) 68(6)(d),68(4),77(1)		\$1 500	\$500
1. Challenge Realty	Article 8(2),5(1),10(1) Section 64(1)		\$2 000	
2. Georgina Taylor	Article 8(2),5(1)6(2) Section 64(2)		\$3 000	\$500 (1,2,4 JOINTLY)
3. Ian Peter Wellstead	Article 8(2),5(1)		\$1 000	\$250
4. Desmond John Taylor	Article 8(2),5(1) Section 64(2)		\$2 000	
1. Brian Backhouse	Articles 7,8(1),5(1)		\$500	\$250
2. Amaral Pereira	Articles 7,8(1)		\$900	\$1 000
3. Denice Backhouse	Article 6(3)		\$250	\$250
1. Graham Gishubl Pty Ltd	Section 68(1) 3 counts Section 68(4) 3 counts		\$3 000	\$500
2. Graham Gishubl	Article 6(2) 3 counts		\$2 000	
1. Marlow-Saraceni Pty Ltd	Section 60(1)(b) Articles 7,8(1)	Not guilty	\$750	\$500
2. Carmel Saraceni	Articles 7,8(1) Article 6(2) 2 counts			
1. Mark Hay RE Pty Ltd	Section 69(1)(a) Section 68(5) 9 counts		\$5 000	\$750
2. Mark William Hay	Article 6(2) 10 counts		\$5 000	

Defendant	Charges	Outcome	Fine	Costs
1. Poliwka Group Pty Ltd	Article 8(1),7	No case		\$7 000 (awarded)
2. Wasil Poliwka	Article 6(2),7	No case		\$7 000 (awarded)
3. Allen Ashworth	Article 8(1)		\$2 500	\$500
4. Arthur Johnston Snowball Pty Ltd	Article 8(1),7	No case		\$7 000 (awarded)
5. Ronald Snowball	Article 6(2),7	No case		\$7 000 (awarded)
6. Christine Watts	Article 7 Article 7		\$1 250	\$250
1. Gregory Charles Johnson	Section 68(5) Article 2, Article4 (2)	Guilty Not guilty Guilty		Penalty yet to be handed down
2. Corina Johnson	Sections 68(4),68(5) Articles 2,5(1),6(2),7	Guilty Guilty		
3. Property Headquarters Pty Ltd formerly Pavlinovich real Estate Pty Ltd	Sections 68(4),68(5)	Guilty		
1. John Cleaver Cahill	Article 8(1)		\$1 000	
2. GH Teede & Son Pty Ltd	Article 8(1)		\$1 250	\$2 400
3. Colin Wayne Teede	Article 6(2)		\$2 000	(jointly)
Oscar Lindsay Jude D'Souza	Section 102(1)	Licence and Triennial Certificate suspended for 12 months		\$1 800

Licensing Formal Hearings

Formal Hearings are held by REBA in relation to new licence and registration applications and renewals of triennial certificates and certificates of registration.

Name of Applicant	Section of Act	Outcome
Kim De Lange	Section 19(1)	Application for Registration as a sales representative granted.
Paul Ivan Anthony Tonich	Section 48(5)	Application for renewal of Registration as a sales representative granted.
Geoffrey Wayne	Section 19(1)	Application for Registration as a sales representative granted. (property management only)
Shireen Linda Harvey	Section 19(1)	Application for Registration as a sales representative refused.
Kristian Lee Dixon	Section 47	Application for Registration as a sales representative granted.
Gary Leslie Stacy	Section 47	Application for Registration as a sales representative granted.