

15 December 2014

Coroners Registrar
Coroners Court of Victoria
65 Kavanagh Street
SOUTHBANK VIC 3006

By email: cpuresponses@coronerscourt.vic.gov.au

Dear Registrar

**INVESTIGATION INTO THE DEATHS OF SUNIL PATEL, JIGNESH KUMAR & DEEPAK PRAJAPATI
YOUR REF: COR 2008 000041 / 42 / 43**

I refer to your letter of 10 September, 2014 received at the Institute on 15 September.

I provide the following responses to the Recommendations of Coroner White, insofar as they relate to the REIV –

Recommendation 1:

The REIV supports this recommendation on the basis an appropriate amendment is made to the *Building Act* or *Building Regulations*. It is of the view legislative requirements relating to fire safety equipment or materials to be installed in dwellings should not be fragmented. An appropriate notation could be made to the *Residential Tenancies Act* (Act)

Recommendation 2:

Apart from the suggested obligation on the part of a tenant to advise a landlord or agent if a smoke alarm is not working and the suggested amendments of sections 3(1) and 86 of the Act, and REIV does not otherwise support this recommendation.

The tenant advice obligation might be achieved by amendment of section 62 of the Act. Consideration might also be given to whether the obligation might include electrical and gas fixtures and fittings installed by a landlord.

As pointed out in its submissions to the Coroner, section 68(1) of the Act clearly places a statutory obligation on a landlord to keep rented premise, including fixtures and fittings provided, in good repair and to emphasize the obligation, makes no allowance for fair wear and tear.

In the REIV's view, the obligation and what it entails could usefully be included in the section 66 information booklet provided to tenants

So far as the smoke alarm certification is concerned, the suggested obligations must be placed solely on the landlord as the owner of the premises so they align with owner requirements of the *Building Act* or *Building Regulations*.

For similar reasons, smoke alarm replacement requirements are properly those of the landlord, not an estate agent.

Recommendation 3:

Whilst giving in-principle approval to this recommendation the REIV reiterates the responsibility for the installation, maintenance, repair, and replacement of smoke alarms is that of the landlord as owner of the premises, not of estate agents.

Recommendation 4:

The REIV supports this recommendation.

Recommendation 5:

The REIV supports this recommendation and is willing to work with CAV in its implementation.

Recommendation 6:

The REIV is prepared to be involved in the development of best practice guidelines and offer to provide education to real estate agents and landlords about their obligations under the *Residential Tenancies Act*. However, its ability to effectively do so is subject to the limitation of its membership being voluntary and that not all estate agents or agent's representatives are its members, let alone landlords.

This dictates – in the REIV's view – the development of guidelines and education should primarily rest with Consumer Affairs Victoria. It administers the *Estate Agents Act* and the *Residential Tenancies Act* and oversees the conduct of all agents, agent's representatives, and landlords.

Recommendation 7:

The REIV is unable to implement the coroner's recommendation.

This is because it is a voluntary membership body. As such, it has no contractual or statutory rights in relation to landlords which will enable it to ensure the coroner's recommendation can be implemented.

Nonetheless, the REIV considers the recommendation might be implemented and the desired result achieved via regulations made pursuant to section 511, Division 3, Part 13 of the *Residential Tenancies Act*.

Yours sincerely



Enzo Raimondo
Chief Executive Officer