

18 October 2019

[REDACTED]  
[REDACTED]

Dear [REDACTED]

### Official Information Act #19.048 – Property Tutors

1. We refer to your request received on 23 September 2019 for information about whether the Commerce Commission (the Commission) has taken any action against Property Tutors (WGTN) Limited (Property Tutors) for the same offending as Ronovations Limited,<sup>1</sup> and if not, the reasons behind this and whether any action will be taken in future.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

### Our response

3. We have decided to grant your request.
4. The Commission has previously received information that Property Tutors may be operating in a similar manner to Ronovations Limited.
5. The Commission understands that, following the death of founder Sean Woods, Property Tutors is no longer trading.
6. The Commission has decided not to investigate further but has issued compliance advice noting our concerns. **Attached** is a copy of the compliance advice letter issued to Property Tutors on 18 September 2019.
7. The Commission does not contemplate taking any further action against Property Tutors.

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<sup>1</sup> [https://comcom.govt.nz/news-and-media/media-releases/2019/ronovation-to-pay-\\$400k-for-price-fixing-in-auckland-real-estate-market](https://comcom.govt.nz/news-and-media/media-releases/2019/ronovation-to-pay-$400k-for-price-fixing-in-auckland-real-estate-market)

8. The Commission does not provide legal advice on private actions. You will need to consult a lawyer to confirm where you have any legal options relating to any fees you have paid to Property Tutors.
9. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
10. Please do not hesitate to contact us at [oa@comcom.govt.nz](mailto:oa@comcom.govt.nz) if you have any questions about this request.

Yours sincerely

*Mary Sheppard*  
OIA Coordinator

Released under Official Information Act 1982

18 September 2019

Steve Goodey  
[REDACTED]  
[REDACTED]

Dear Mr Goodey

**Property coaching – Commerce Act advice**

1. I refer to our telephone conversation of 16 September 2019.
2. The purpose of this letter is to provide you with advice relating to the provisions of the Commerce Act 1986 (the Act) to help you avoid engaging in any conduct that may place you at risk of breaching the Act.
3. As mentioned, the Commerce Commission (Commission) has recently concluded an investigation and associated legal proceedings against Ronovations Limited (Ronovations), an Auckland-based business involved in providing property investment advice (property coaching). Ronovations has admitted breaching the price fixing provisions of the Act and has paid a pecuniary penalty of \$400,000.
4. Ronovations created and enforced rules that prohibited its members from competing with each other for the purchase of investment properties. In essence, these rules provided that once a member had advised other members of his or her interest in a property, by posting on a closed Facebook page, other members were not permitted to negotiate for that property (in a private treaty situation) or bid on that property (at auction). These rules gave priority to the first interested member of other members, even if they were prepared to pay more for the property. Other members could not negotiate or bid for the property until the members with priority had advised that he or she was no longer seeking to acquire the property, or if their highest bid at auction had been exceeded.
5. The Court has found this conduct to have breached sections 27, 30 and 80 of the Act (conduct before 15 May 2018) and sections 30 and 80 of the Act (conduct on or after 15 May 2018).
6. During its investigation, the Commission received information alleging anti-competitive conduct by representatives of Property Tutors Limited (Property Tutors) that may have been in breach of the Act. The alleged conduct included:

- 6.1 operating a queuing system to prioritise Property Tutors members interested in acquiring a particular investment property (similar to that operated by Ronovations); and
  - 6.2 agreeing to submit non-competing offers at agreed values to condition vendors as to the value of their property.
7. The Commission has decided not to investigate the allegations above and has made no assessment of their merit. We understand that Property Tutors is no longer trading, following the death of its director Sean Wood.
  8. We understand you were previously associated with Property Tutors and were the owner and director of Property Tutors (Wgtn) Limited. You have advised that currently undertake some property coaching business, but that your involvement in this type of work is coming to a conclusion.

#### **Compliance with the Commerce Act**

9. We wish to advise you that as part of any property coaching enterprise, to not enter into, or facilitate between others, any agreement between any persons not to compete for particular properties or vendors.
10. It is lawful for an individual to recommend particular properties to others, and it is lawful to act on behalf of an individual to assist in purchasing a property. However, it may be unlawful to act on behalf of, or enter in an agreement with two or more competing persons to purchase a particular property, where the purpose, effect or likely effect of the agreement is to reduce competition for that property.
11. To avoid the risk of breaching the Act in future, we recommend that you undertake compliance training to increase your awareness of the Act. If you have any doubts as to your obligations, you should seek legal advice. We have published a series of fact sheets and other resources to help businesses comply with the Commerce Act and the other legislation we enforce. These are available on our website at [www.comcom.govt.nz](http://www.comcom.govt.nz).

#### **Further action by the Commission and other parties**

12. Only the courts can decide if there has been a breach of the Commerce Act. The court can impose penalties where it finds the law has been broken. An individual can be personally fined a maximum of \$500,000 and/or be prohibited from being a company director. A body corporate can be fined the greater of \$10 million, or three times the commercial gain from the breach (or if this cannot be easily established, 10% of turnover).

13. You should be aware the Act also provides for any other person to private action for damages under section 82 of the Act.

Yours sincerely



Grant Chamberlain  
Manager, Trade Practices

Released under Official Information Act 1982