



Land Valuers Licensing Board Newsletter

July 2007

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Risk management programs for land valuers

The Board reminds valuers that Rule 1.2 of the Land Valuer's Code of Conduct stipulates that a land valuer shall maintain a risk management program.

The Board is keen to ensure industry compliance with this article of the Code.

It is acknowledged that risk management programs will vary based on the specific nature, size and complexity of the valuation business. However, it is expected that, at minimum, risk management programs would include some of the following:

- the maintenance of appropriate professional indemnity insurance;
- the existence of documented compliance procedures including an internal disputes resolution process;
- training systems for employees; and/or
- participation in continuing professional development (CPD).

Courses in risk management and CPD programs include those offered by the Australian Property Institute and seminars held by professional indemnity insurers and insurance brokers.

Proper practise in professional valuations - marketing data including offers to purchase

The Board reminds valuers of the importance of confirming whether a property being valued has recently been offered for sale on the open market and if so, confirming any details of the marketing of the subject property, including any offers made. The Board considers that failure to make such enquiries would not be consistent with proper valuation principles.

Valuers should also be aware that when relying on offers to purchase a property (as opposed to sales evidence) to value a property, this should be disclosed in the valuation report, together with an explanation as to why the inclusion of offers, as opposed to or in addition to sales evidence, is considered appropriate.

In respect of the above, Sub-Rule 1.4(a) of the Code of Conduct provides that a licensed valuer shall take all reasonable steps to gather sufficient relevant data in forming an opinion of value or, in the absence or deficiency of such data, explain in the valuation report the basis on which the opinion of value was formed.

Sub-Rule 1.6(c) further provides that valuers shall include in their valuation report a statement under the heading "Assumptions, Conditions, and Limitations" of all assumptions made in arriving at a value and all conditions, requirements or limitations arising.

Increase to triennial license fees

The Board has been advised that triennial licence fees for land valuers have increased from \$460 to \$600 from 1 July 2007.

Increased penalties under the Act

Legislative amendments are anticipated to be proclaimed shortly which will significantly increase penalties for breaches of the Act.

The increased maximum penalties will include:

- \$50,000 for unlicensed trading or falsely claiming to be licensed;
- \$10,000 fine for disciplinary action (including breaches of the Code of Conduct) at the State Administrative Tribunal (SAT); and
- \$5,000 for a breach of the Maximum Remuneration Notice.

Amendments to Maximum Remuneration Notice

The Maximum Remuneration Notice has been amended following approval from the Minister for Consumer Protection. The changes include the following:

- Hourly rates in the Notice have been increased by approximately 18 per cent in recognition of increases to average wages since the Notice was last amended.
- Where a valuer reasonably does not consider that the circumstances of a valuation or assessment are adequately dealt with elsewhere in the notice, the valuer will now need their client's written approval before charging an hourly rate (a maximum of \$295) instead of the amounts specified elsewhere in the Notice.
- A valuer acting pursuant to an agreement or appointment under Section 11(3) of the *Commercial Tenancy (Retail Shops) Agreements Act 1985* or as a determinator may, subject to their client's prior written approval, charge an hourly rate (a maximum of \$335). This is instead of the amount specified elsewhere in the notice where the licensed valuer reasonably does not consider that the circumstances of a valuation or assessment are adequately or appropriately dealt with elsewhere in the Notice.

Valuers are reminded that failure to comply with the Notice is an offence and may result in prosecution. Remuneration received in contravention of the Notice may be recovered as a civil debt. Copies of the current Notice can be obtained from the Board's website, or by contacting the State Law Publisher on **(08) 9321 7688**.

Draft valuation reports

Following recent complaints, the Board is advising valuers not to issue clients with draft valuation reports with a conclusive valuation amount.

The Board acknowledges that it may be appropriate to provide clients with a draft valuation to ensure that the assumptions underlying the valuation are correct. However, providing an actual valuation amount in the draft may suggest that the value, not only the assumptions, are subject to comment and/or approval by the client. As valuers are aware, such conduct would be inappropriate and would likely be a breach of Rule 2.3 of the Code of Conduct.

The Temby Royal Commission also noted the potential dangers of circulating draft valuation reports and the potential for persons who receive such reports to be misled as to the actual valuation amount. As valuers would appreciate, a person who relies on a draft valuation which differs from the final report may be aggrieved were they to suffer financial loss as a result and may take legal action against the valuer.

In order to avoid these pitfalls, valuers should ensure draft reports do not include valuation amounts and are clearly marked as draft reports.

Amended Code of Conduct

Valuers would be aware that on 23 May 2007, amendments to the Code of Conduct gazetted on 23 February 2007 took effect.

The amendments to the Code are as follows:

- New Sub-rule 2.8(b) provides that a licensee shall not adopt the role of advocate in a matter where it is the duty of another member of the same firm to exercise independence and impartiality in the same matter.
- New Rule 2.9, precludes the converse: namely, a licensee shall not accept an engagement, or continue to be engaged, to exercise independence and impartiality in a matter where another member of the same firm has adopted the role of advocate in the same matter.

The Board sought and obtained these amendments to address concerns that such arrangements may call into question a valuer's independence and impartiality and also gave rise to potential conflicts of interest.

Email notification

The Board reminds valuers that it is circulating electronic notices as matters of interest arise, including general licensing matters, relevant case studies and legislative/policy changes.

Licensees and other parties interested in receiving these notices are invited to send their email address to fvi@docep.wa.gov.au

Address details in Register of Licensed Valuers

Valuers are reminded that their address details are recorded in a licence register which is published annually in the Government Gazette and on the Board's website. The Register can also be viewed by members of the public upon payment of the prescribed fee. In recent times some licensees have noted concern upon finding that their residential address may be publicly available in this manner. Licensees are advised that they may nominate an alternative address (eg PO Box, c/o address) for the purposes of the Register by providing written notification to the Board by post, fax or email.

Contact details

This newsletter is provided by the Land Valuers Licensing Board and is intended as a guide only. For more detailed information please refer to the relevant legislation or seek legal advice.

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