



Land Valuers Licensing Board newsletter

As the Land Valuers Licensing Board will be abolished on 30 June 2011, this is the Board's final Newsletter. The regulation of Land Valuers will be transferred to the Department of Commerce from 1 July 2011.

Recurring themes in complaints

One of the recurring themes in complaints against valuers has been that when a complainant has been unhappy with a valuation, they have obtained a second valuation and the conclusions as to value in the two reports have been a long way apart. The complainant's not unnatural conclusion is that at least one of the valuers has got it wrong!

Complainants further consider differences in sales evidence provided by the valuers in these circumstances.

The Land Valuers Licensing Board makes the following recommendations to valuers:

1. When there is difficulty obtaining suitable sales evidence for a valuation, **say so in the report.**
2. When the sales evidence that is available is either older than normally considered appropriate, or less than ideally comparable in any way, **say so in the report.**
3. When the evidence is less than perfect in this way, explain the difficulty of precision brought on by the lack of good evidence.
4. When the above mentioned, less-than-perfect evidence is used, explain in the report why and how it has been adjusted to allow for difference compared to the subject property.
5. When evidence has been omitted for good reason which may not be apparent to the client, include a mention of the evidence and why it is not considered relevant.

Following these recommendations may not prevent separate valuers from arriving at different values for the same property, at the same time, but it will enable a client to consider two different valuations and understand why the two professionals consulted have arrived at different conclusions.

Valuers in family disputes

Marriage breakdowns often result in work for valuers.

This may be as a result of a private arrangement between the parties, or as a result of a court order. In either case, a valuer is asked for 'market value' of property in order for one party to buy out the other party. Where property is to be sold and the proceeds split 'the market' decides, and the valuer is not required.

There may be one valuer involved, advising the court, or two valuers who must agree a value – one engaged by each party. In either case, the role of the valuer is that of independent expert, not advocate.

A disproportionate number of complaints involved family disputes and valuers are therefore advised to take particular care with their record keeping in relation to valuations of this nature, as the property itself – often a straightforward single residence – may belie the nature of the complaints that follow.

If a complaint is raised against a valuer because he or she has stated the value to be 'too high' or 'too low' by the complainant – good records as to the sales evidence chosen and the analysis of that evidence will enable an appropriate response to respond to those complaints in a timely and appropriate manner.

Risk management programs

All licensed valuers are required to establish and maintain a risk management program, and the Board has implemented policy guidelines for risk management which include details on a number of training courses that may assist licensed valuers to comply with Rule 1.2 of the Land Valuer's Code of Conduct. The guidelines are available from the Department of Commerce website at www.commerce.wa.gov.au/landvaluers

Supervision of student valuers

Valuers are reminded to be aware of their obligations in relation to the supervision of student valuers and trainees regarding property inspections as there are concerns that unqualified valuers may be undertaking unsupervised property inspections in Western Australia in contravention of the *Land Valuers Licensing Act 1978*.

Section 23 of the Act provides that (unlicensed) 'Graduate/student valuers' may perform or discharge, under the supervision of a licensed valuer, functions and duties connected with the valuation of land.

Rule 1.13 of the Licensed Valuers Code of Conduct also provides that a valuer shall properly supervise and control the work of unlicensed persons engaged in assisting in the valuation work and be responsible for any work performed by unlicensed persons on behalf of the valuer.

In relation to property inspections, Rule 1.5 of the Code provides that except with the written agreement of the client, the licensed valuer must personally inspect the property to be valued in accordance with accepted valuation practice. Where property is not inspected or is only partially inspected the licensed valuer must disclose this in the valuation report and state the effect that the failure to conduct an inspection or complete inspection has on the valuation provided.

The Board is of the view that the above provisions do not preclude unlicensed student or trainee valuers and trainees from undertaking property inspections, provided inspections are only done with the written agreement of the client and are properly disclosed in the valuation report. The valuation reports would also need to be signed off by the licensed valuer responsible for the work undertaken by the student. Valuers may also elect to discuss this with their professional indemnity insurer and check their Quality Assurance procedures (if relevant).

Increase to triennial licence fees

The Board has been advised by the Department of Commerce that triennial licence fees for land valuers is proposed to be increased from \$702 to \$723 from 1 July 2011.

Conflict of interest

The Board is reminding valuers to be aware of the requirements under the Code of Conduct regarding conflicts of interest.

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.

Rule 2.9 precludes a licensee from accepting an engagement, or continuing to be engaged, to exercise independent and impartiality in a matter where another member of the same firm has adopted the role of advocate in the same matter.

These Rules exist because such arrangements may call into question a valuer's independence and impartiality and also give rise to potential conflicts of interest.

Valuation reports - assumptions, conditions and limitations

The Board and the Commissioner for Consumer Protection reminds valuers of rule 1.6(c) of the Licensed Valuers Code of Conduct, which requires all licensed valuers to include in their valuation reports 'a statement, under the heading of "Assumptions, Conditions and Limitations", of all assumptions made in arriving at an opinion of value and all conditions, requirements or limitations arising from the client's instructions or arising due to any other circumstances.'

This statement is to be in addition to the range of general disclaimers, limitations and qualifications, occurring both in specifically headed sections of reports and in various sectors of reports, such as Environmental, Native Title, Heritage and Contamination.

Rule 1.6(c) requires licensed valuers to set out in their report, under the specific heading 'Assumptions, Conditions and Limitations', any particular assumptions, limitations or qualifications applicable to the specific property which is the subject of the valuation.

For example, if the valuation is:

- made on the assumption of 'future rezoning' of the land, or subject to development or subdivision approval, that assumption is required to be specifically set out for clarity under this heading; and
- of a proposed development, to be valued 'As If Complete', that assumption that the proposed development has been valued as though it were complete at the date of valuation must be specified under this heading.

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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Feedback on the content of the newsletter is encouraged and can be forwarded to lvlb@commerce.wa.gov.au

Email notification

Electronic notices as matters of interest arise, including general licensing matters, case studies and legislative/policy changes. Licensees and other parties interested in receiving these notices are invited to send their email address to lvlb@commerce.wa.gov.au