**DEPARTMENT OF COMMERCE - Property Industries Directorate, Consumer Protection**

**PAST PUBLICATIONS – ARCHIVE LIST:- “LAND VALUERS NEWS”**

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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **Spring / September 2013****No. 3** | 1. **Ascertain pertinent facts through a Certificate of Title**
2. **Undue pressure by clients**
3. **Commercial Tenancy**
4. **Real estate salesman and land valuer disqualified over forged application**
5. **The small business ACL checklist**
6. **Change of particulars**

1. **Supreme Court decision relating to memorials on titles**
 | 1. Licensed land valuers are reminded of their obligation to determine and verify pertinent facts through a Certificate of Title.
2. Dept. of Commerce has received information to suggest that some land valuers complete valuations that are swayed by undue influence from their clients. This raises serious concern regarding a valuers responsibility to meet their obligations under Rule 2.3 of the Licensed Valuers Code of Conduct 2012 and s.29 of the Australian Consumer Law (WA).
3. Amendments to the *Commercial Tenancy (Retail Shops) Agreements Act 1985* (the Act) and the *Commercial Tenancy (Retail Shops) Agreements Regulations 1985* (the Regulations) came into effect on 1 January 2013.
4. Real estate salesman and land valuer, Warren David McFarlane of Wembley has been disqualified and fined $1,000 by the State Administrative Tribunal (SAT), after submitting an application with Consumer Protection that contained forged signatures. He applied for renewal of his real estate sales representative’s certificate of registration prior to expiry in March 2012. The application process requires a declaration from a current employer and an authorised witness.
5. ACL came into effect on 1 January 2011 and most businesses should be aware of the legislation by now. The small business ACL checklist has been designed to help small businesses self-assess their operations and identify which of their activities are regulated under the ACL.
6. Proactive compliance visits have revealed that many land valuers fail to notify the Dept of Commerce of changes to their residential address and employer details as listed in the Register of Licensed valuers.
7. An important ruling has recently been handed down in the Supreme Court in relation to retirement village memorials recorded against land. The application by the retirement village owner to vary a retirement village scheme in order to partially remove a memorial and excise one lot was disallowed.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **Summer / December 2012****No. 2** | 1. **Code of Conduct Reviews**
2. **Risk management programs for land valuers**
3. **Maximum remuneration fees**
4. **Conflict of interest**
5. **Australian Small Business Commissioner**
6. **Alert for residential valuers**
 | 1. Department has commenced a review of the property industry Codes of Conduct and will shortly release a Discussion Paper for comment.
2. Department 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.
3. Minister for Commerce, Hon Simon O’Brien MLC, has approved an increase in the maximum remuneration fees for land valuers as an interim step before consultation on fee deregulation commences in 2013.
4. Department reminds valuers to be aware of the requirements under the Code of Conduct regarding conflicts of interest.
5. Mr Mark Brennan has been appointed as the inaugural Australian Small Business Commissioner on 17/10/2012 and will officially begin this role on 2/1/2013.
6. Land valuers should be aware of the implications raised by advertisements for residential property packages which include incentives such as having your rent paid for 12 months while you build or receiving a free car.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **Spring /** **September 2012****No. 1** | 1. **Proactive visits for land valuers**
2. **Change of particulars**
3. **New online licence search system**
4. **Dispute resolution service**
5. **Changes to commercial tenancy legislation**
6. **New Licensing Fees for Land Valuers**
7. **Maximum remuneration fees**
8. **New prescribed qualification for land valuers**
 | 1. Of 775 land valuers currently licensed in WA, 140 have received a proactive compliance visit from the Department since the start of 2012. Visits have been made to valuers in both metropolitan and regional areas, including the southwest and the Kimberley.
2. Recent proactive compliance visits have revealed that many land valuers fail to update their residential address and employer details in the Register of Licensed Valuers.
3. Consumer Protection recently introduced a new online search system for licences.
4. WA small businesses can now access a low-cost way to resolve disputes, through the introduction of a Small Business Commissioner and the Alternative Dispute Resolution (ADR) service.
5. Amendments to *Commercial Tenancy (Retail Shops) Agreements Act 1985* (the CTA Act) are expected to be implemented in October 2012. The new changes aim to improve the tenancy rights of small business and enhance the clarity and effectiveness of the legislation.
6. Increases in licensing fees will apply for Land Valuers from 1 July 2012.
7. Commerce has written to the Australian Property Institute to raise the issue of an increase in the maximum remuneration fees for land valuers as an interim step before consultation on fee deregulation commences in 2013.
8. Curtin Business School has informed the Department of Commerce about its Bachelor of Commerce (Property Valuation) degree which is a new qualification awarded by Curtin University.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **June 2011** | 1. **Recurring themes in complaints**
2. **Valuers in family disputes**
3. **Risk management programs**
4. **Supervision of student valuers**
5. **Valuation reports – assumptions, conditions and limitations**
6. **Increase to triennial licence fees**
7. **Conflict of interest**
 | ***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.***1. Complaints against valuers have been 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. Complainants further consider differences in sales evidence provided by the valuers.
2. Marriage breakdowns often result in work for valuers 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.
3. 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](http://www.commerce.wa.gov.au/landvaluers).
4. Valuers are reminded 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 WA in contravention of the *Land Valuers Licensing Act 1978*.
5. 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.’
6. LVLB 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.
7. LVLB is reminding valuers to be aware of the requirements under the Code of Conduct regarding conflicts of interest (Rules 2.8(b) and 2.9). 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.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **December 2010** | 1. **Maximum Remuneration Notice**
2. **2009/2010 Compliance Statistics**
3. **Licensing statistics**
4. **Licensed Valuer Maxwell John**

**Nevermann suspended**1. **Failing to attach instructions to**

**valuation reports** | 1. The *Land Valuers Licensing Act 1978* provides that the LVLB may fix the maximum amounts of remuneration for the services rendered by licensed valuers. In June 2009, the Board proposed amendments to the schedule of remuneration to better reflect changes in the marketplace since the last review in 2007. In February 2010, the *Land Valuers Licensing (Remuneration) Notice 2010* was approved by the Minister and published in the Govt. Gazette on **Tuesday 28 September 2010**.
2. Issues related to valuation practices, fees and charges and licensing. Of investigations concluded between 1 July 2009 and 30 June 2010, six resulted in no action being taken and two prosecutions were commenced.
3. As at 30 October 2010, 757land valuers were licensed in WA. During 2009/2010 financial year, 71 applications for new licenses were granted, of which 13 were granted pursuant to *Mutual Recognition (Western Australia) Act 2001*.
4. On 8 June 2010, SAT ordered that the licence of land valuer Maxwell John Nevermann of National Property Valuations Pty Ltd be suspended for six months from 1 July 2010. He was also ordered to pay the Board’s costs of $5,000 for bringing the action against him.
5. One of the Board’s functions is to investigate complaints received from members of the public in relation to valuation work carried out by Licensed Valuers. In carrying its investigations, it is not unusual for the Board to discover breaches of the Code of Conduct, the most common being failure of the Valuer to attach all instructions received from clients to the valuation report.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **December 2009** | 1. **Update on national licensing**
2. **Notifying the Board of changes to particulars**
3. **State Administrative Tribunal inquiries initiated by the Board 2008-2009**
4. **2008/2009 Compliance statistics**
 | 1. In July 2008, COAG agreed to establish a national trade licensing system for a range of economically important trades including land valuers. In November 2009, COAG released draft legislation forming the basis of the new system. The national licensing body will be established in January 2011, with the roll-in of regulation and licensing of land valuers currently proposed for mid-2013.
2. LVLB reminds all licensed land valuers of their obligation under S. 29A of the *Land Valuers Licensing Act 1978* to notify the Registrar when there has been a change to their particulars, such as changes to address or employment details.
3. **Number: 1/2009 -** Respondent: John Van Nguyen

Outcome: On 30 September 2009, SAT fined Mr Van Nguyen $1000 and ordered him to attend a risk management module held by the Australian Property Institute, in relation to Ss. 28(2)(b) and (c) of the *Land Valuers Licensing Act 1978* (the Act).**Number 2/2009 -** Respondent: Michael McKennaOutcome: On 7 October 2009, the SAT ordered the cancellation of Mr McKenna’s land valuer’s licence, in relation to S. 28(2)(d) of the Act. He will also be disqualified from holding a land valuer’s licence for two years from 24 September 20091. Issues related to valuation practices, fees and charges and licensing. Of the investigations concluded between 1 July 2008 and 30 June 2009, six resulted in no action being taken, two resulted in an administrative warning and for one a prosecution was commenced.
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| **DATE / NO.** | **ISSUE / TITLE**  | **CONTENT SUMMARY** |
| **July 2009** | 1. **Update on national trade licensing**
2. **Subcontractors and valuations**
3. **Unsupervised property inspections**
4. **Increase to triennial licence fees**
5. **Risk management programs**
 | 1. In July 2008, COAG agreed to establish a national trade licensing system for a range of economically important trades including land valuers allowing the licence holder to work anywhere in Australia once a licence is issued without the need for additional paperwork or cost. The federal Dept of Education, Employment and Workplace Relations is funding a website and monthly e-newsletter for interested parties to keep up-to-date with progress of these reforms.
2. A known industry practice exists whereby a firm or corporation enters into a contract with a client to provide a valuation and then subcontracts the job to a licensed valuer. S.23(2) of *Land Valuers Licensing Act 1978* provides that, where a firm or corporation is receiving remuneration for land valuation services, ‘every valuation of land supplied by that firm or corporation [must be] made by an officer of the firm or corporation who is licensed under this Act’.
3. In accordance with S.23(3) of the *Land Valuers Licensing Act 1978*, there are two categories of person who may lawfully perform and discharge, under the supervision of a licensed valuer, functions and duties connected with the valuation of land. Those two categories are a student who is undertaking a prescribed course of study in the valuation of land; or a person who is employed as an assistant to a licensed valuer.
4. Triennial licence fees for land valuers will increase from $660 to $688 from 1 July 2009.
5. Rule 1.2 of the *Licensed Valuers Code of Conduct* provides that a land valuer shall maintain a risk management program based on the specific nature, size and complexity of the valuation business. Expected minimum requirements include documented compliance procedures (e.g. an internal dispute resolution process); employee training systems; maintenance of appropriate PI Insurance; and/or participation in CPD.
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