



Important reminders

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Ascertain pertinent facts through a Certificate of Title

Licensed land valuers (valuers) are reminded of their obligation to determine and verify pertinent facts through a Certificate of Title (Title).

When a valuation is conducted, the valuer must gather the information which is likely to influence the use of the property, its market and its value. This includes details relating to the dimensions, area and location of the land, tenure, restrictions on the Title, easements and covenants. This information is generally sought and verified through a Title obtained from Landgate.

A Title has several components. These include:

- A Title reference which consists of a Volume and Folio number.
- Ownership details which state the owners' name, address, mode of holding and the interest held in the land.
- Legal land description.
- Easements and right of ways impacting the land.
- Encumbrances affecting the land (eg mortgage, lease and encumbrance).
- Dimensions of the plot (where applicable).

The Title can be an important factor in deciding whether or not a property is comparable. Some forms of title (eg old system title) may not be able to be subdivided under certain medium-density strata title systems. Sales involving these Titles may therefore be of questionable use in the valuation of land suitable for strata developments.

A Title search may also verify whether or not the property being valued has a registered easement. As valuers are aware, an easement is an acquired legal right enjoyed by the owner of land over another person's land. Land valuations do not generally take easements into account as the valuations are required to be made on a hypothetical basis that the land is free of impediments to title. However, it is important to remember the physical effects of an easement will be reflected in the value of the land. Physical effects include transmission lines, access roads and pipes laid for drainage etc.

The Department of Commerce (the Department) is aware valuers do not usually obtain copies of the Title for residential valuations completed on behalf of financial institutions such as banks. While banks may not require valuers to obtain and check Titles when completing such valuations, valuers are still required to meet their obligations and minimise risk by obtaining Titles for each valuation and conducting further searches as appropriate.

...continued on page 2



...continued from page one

Valuers are also reminded of their obligations under s.29 of the *Australian Consumer Law (WA)*. That is, they must ensure they do not make false or misleading representations concerning the standard and quality of services provided.

Rules 1.3 and 1.4 of the *Licensed Valuers Code of Conduct 2012* (the Code) also require valuations to be carried out with diligence and competence in accordance with the accepted principles and practices of valuation. Valuers are required to ascertain and verify such relevant facts and information as a prudent licensed valuer would have ascertained or verified in order to provide a professional valuation of a property.

The Department recommends valuers conduct relevant searches, including a Title for each valuation completed. This will ensure all material facts and their relation to the value of the land are considered. Title searches can also reduce potential misrepresentation by valuers, the risk of litigation and/or possible disciplinary action by the Department.

If the Department receives a complaint about a valuer failing to undertake relevant searches, it will investigate the matter and this may result in disciplinary action at the State Administrative Tribunal.

Valuers may pass the cost of such searches on to their client/s as a separate cost to the valuation fee if it is set out in the contract.

Undue pressure by clients

The Department is aware some land valuers (valuers) complete valuations which are swayed by undue influence from their clients. This raises serious concerns regarding a valuers responsibility to meet their obligations under Rule 2.3 of the *Licensed Valuers Code of Conduct 2012* (the Code) and s.29 of the *Australian Consumer Law (WA)*.

Rule 2.3 of the Code states:

A licensed valuer shall not accept instructions to undertake valuation work which is contingent upon obtaining a predetermined result or finding.

In order to minimise the risk of civil proceedings and/or disciplinary action by the Department, valuers should ensure their valuations are completed in accordance with the relevant legislation and accepted principles and practises of valuation.