



Issue No.01 Spring 2012

land valuers news

A newsletter from the
Consumer Protection Division of the Department of Commerce



Proactive visits for land valuers

There are around 775 land valuers currently licensed in WA with 140 receiving a proactive compliance visit from Department of Commerce officers since the start of 2012. Visits have been made to valuers in both metropolitan and regional areas, including the southwest and the Kimberley.

While valuers working by themselves receive an individual visit, many valuers work in partnership or within a firm or company. This has resulted in proactive compliance officers 'setting-up shop' in corporate offices for a day (or more). The Department officers appreciated the friendly welcome they received. Many land valuers have been particularly enthusiastic to receive personal contact with the Department in the post-Land-Valuers-Licensing-Board environment.

Several issues raised by valuers during the proactive visits have a number of common threads:

- Clients' instructions are often inadequate and, as such, they may fail to provide the valuer with sufficient information to complete an accurate report (see the Licensed Valuers Code of Conduct 1.4 (the Code)). As a consequence, valuers might present a potentially misleading estimate of a property's worth (see the Code 2.3).

Valuers are reminded of their obligations to Articles 1.4, 1.9, 1.10 and 2.3 of the Code and they should ensure they seek adequate instructions from their clients to minimise the risk of non-compliance.

- Valuers had difficulties obtaining sufficient information to effectively carry out valuation work including clients not providing, or otherwise being willing to pay for, copies of (current) Certificates of Title, strata plans and encumbrances on the title and/or strata plan (see the Code 1.4 and 1.14). Other documents which contribute to an accurate valuation, such as copies of Offer & Acceptance contracts, leases, or full copies of building contracts and clearly legible plans, may not have been provided. Failure to obtain information of this kind could put valuers at further risk of non-compliance with the Code, so special attention should be given to obtaining sufficient documentation to facilitate an effective valuation.

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Proactive visits for land valuers (continued from page 1)

- Valuers also complained of clients or circumstances limiting the valuer to a "restricted" or "kerbside" inspection which could compromise the integrity of the valuation. (see the Code 1.5).
- The cost of professional indemnity insurance (PI) has risen considerably. Many valuers had limited awareness, particularly where the insurance is paid for by their employer, of the extent

of the cover for individuals and any relevant exclusions (many valuers hold PI as part of the risk management program they maintain under the Code 1.2).

- When valuing commercial property, it is often difficult to clarify whether amounts stated in sales evidence are inclusive or exclusive of GST or if the margin scheme applies (see the Code 1.3 and 1.4).

The Department looks forward to continuing the land valuer proactive compliance program through the remainder of 2012 and into 2013. We welcome any contribution to the program which land valuers may wish to make.

We can be contacted directly by email at: proactivecompliance@commerce.wa.gov.au or by telephone on (08) 9282 0874.



Change of particulars

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.

Under Section 29 of the *Land Valuers Licensing Act 1978* (the Act), the Commissioner for Consumer Protection is required to keep a register of licensed valuers. The register records the prescribed particulars of each valuer and includes such details as their residential address, employer details and licensing dates.

Section 29A of the Act states:

- (1) A licensed valuer shall give written notice to the Commissioner of any change in the particulars specified in the register in respect of that valuer as soon as practicable after that change takes place.

Failing to notify the Commissioner of a change in details may result in a \$2000 fine.

A Change of Details Notification form can be downloaded from Consumer Protection's website at: http://www.commerce.wa.gov.au/ConsumerProtection/Land_Valuers

New online licence search system

Consumer Protection recently introduced a new online search system for licences.

The system enables consumers, businesses, licensees and other licensing jurisdictions to search for all licence types issued by Consumer Protection (including land valuers). The system has a 15 minute refresh rate so in essence, it shows relatively live data.

Please note, expired licences will not be shown in the list of results, even if a renewal application has been lodged.

More information can be found at: www.commerce.wa.gov.au/ConsumerProtection/LicenceSearch





Dispute resolution service

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.

The ADR service, which came into operation in March 2012, provides small businesses with a way to deal with disputes without the need for legal action. This means small businesses have an opportunity to resolve problems before they reach the State Administrative Tribunal or the courts.

Small Business Minister Simon O'Brien said the Government recognised that small business disputes could be time-consuming and expensive.

"One of the main functions of the Commissioner, under the amended *Small Business Development Corporation Act 1983*, will be to receive and investigate complaints about unfair market practices affecting small business, and to provide help to resolve those complaints.

"Currently when faced with a commercial dispute the first resort is the courts; the State Government is confident the small business community will embrace a low-cost alternative."

About half the calls to the Small Business Commissioner since the new service began have related to conflicts over commercial tenancies.

While Consumer Protection has its own conciliation service between traders and consumers, the ADR service focuses more on disputes between businesses, particularly landlords and small business tenants.

For more information on the ADR service please visit: www.smallbusiness.wa.gov.au/alternative-dispute-resolution

Changes to commercial tenancy legislation

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.

The amendments were passed by Parliament late last year but do not come into effect until the regulations are published.

The CTA Act regulates the relationship between landlords and tenants in retail shop premises in WA. Its primary objective is to facilitate equitable leasing arrangements and provide access to low cost dispute resolution mechanisms.

The *Commercial Tenancy (Retail Shops) Agreements Amendment Bill 2011* contains a number of proposed changes to the legislation, including:

- assisting in the preparation of more consistent and equitable rent reviews by requiring landlords and tenants to supply valuers with relevant leasing information; and
- facilitating prescribed standards of leasable area measurement for retail shops.

Reforms such as these will provide improved protections for commercial tenants while maintaining a regulatory environment which is fair to landlords.



New Licensing Fees for Land Valuers

The following licensing fee increases will apply for Land Valuers from 1 July 2012:

- An application for a new Land Valuer's licence: \$743
- An application for renewal of a Land Valuer's licence: \$743
- Additional late fee for an application made after, but within 28 days of, the day on which the Land Valuer's licence expired: \$185.75 (1/4 of the renewal of a Land Valuer's licence fee)



Maximum remuneration fees

The Department of 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.

Land valuers' maximum remuneration fees have not been increased since 28 September 2010. If an interim increase is found to be warranted, it is likely to be modelled on the Consumer Price Index (CPI) to compensate for inflation.

The land valuation industry is intended to be rolled in to the National Occupational Licensing System for licensing standardisation throughout Australia, possibly in 2014.

Irrespective of the roll-in, the issue of fee regulation or deregulation will remain a State responsibility.

The current proposal to increase the maximum scale of fees by the CPI is therefore being examined by the Department, prior to consultation on deregulating maximum fees in light of the National Occupational Licensing System.

New prescribed qualification for land valuers

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.

The Department will organise the amendment of the Land Valuers Licensing Regulations 1979 to add the new qualification to the list of prescribed courses for land valuers.



This newsletter contains general information that was current at the time of publication. If you have specific enquiries arising from any material in this publication, you should write to the Commissioner for Consumer Protection, or seek independent professional advice.

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THIS PUBLICATION WAS ISSUED BY THE CONSUMER PROTECTION DIVISION OF THE DEPARTMENT OF COMMERCE.

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