



Land valuers

In Western Australia, land valuers must be licensed.

Land valuers in Western Australia are currently required to be licensed under the *Land Valuers Licensing Act 1978*. Licensing is one way of ensuring that land valuers have the necessary skills, qualifications and experience to carry out land valuations.

A land valuer provides an opinion of the market value of land. This opinion is recognised as an expert opinion by financial institutions, government departments, such as state and federal taxation offices, and courts of law.

Land valuers provide an opinion on the value of an 'interest in land'. For example, freehold ownership provides the highest interest in land. Many lesser interests may be held such as that of a lessee or a tenant-for-life. All interests in land can be valued. "Land" includes improvements made to or upon the land itself.

Real estate agents and sales representatives provide estimates of sale prices, usually referred to in Australia as an appraisal. This is the price that it is considered the property would sell for on the current market. Although these appraisals may be an indication of what a property may be sold for, they are not valuations.

In previous years the terms sworn valuator and sworn valuation were used. These terms are now defunct as a result of licensing.

Why use a licensed land valuer?

You may need to use the services of a licensed land valuer in a variety of circumstances, for example to:

- determine what a property may sell for on the open market if offered for sale;
- establish the fair market value for payment of transfer duty on a transaction where the terms of the sale may not have been at "arm's length", such as between family members or between inter-related companies;
- determine market value for income tax liability;
- determine a rental amount in accordance with a condition in a lease agreement;
- settle a marital or business dispute during the course of court proceedings; or
- assess the suitability of a property for mortgage security in the course of borrowing money.

In addition, it may be in your best interests to engage a land valuer if you are considering investing in land or real property.

Land valuers work only for the person who asked them to value a particular property. This means that land valuation reports are prepared for a particular purpose, based on the instructions of their clients. In virtually every case, a valuer can only be held liable to the person who requested the valuation.

It is unwise to rely on a valuation made for another party.

Even if you are shown a copy of a report commissioned by someone else, if you did not commission it, you should not rely on the information it contains as a basis for making decisions about property investment or purchase.

Where there is any uncertainty as to the market value of the property, it is in your own interest to obtain an independent valuation, prepared by a licensed valuer in accordance with your instructions, before committing yourself to a contract on a land dealing and proceeding with any investment or purchase.

What does land valuation involve?

The process involves inspecting the property, ascertaining legal ownership and the interest held and gathering relevant information.

Land valuers provide valuations of many different types of real property such as residential, commercial, retail, industrial, rural, pastoral and special use properties such as horticultural, viticultural and plantations.

What information will a land valuer provide?

The following information should be included in the advice to the client in the valuation report:

- details of the client's instructions;
- legal description of the property, site details and encumbrances;
- town planning and zoning details;
- description of the general locality;
- services available;
- reference to, and description of, any improvements to the land or property;
- occupancy and tenancy details;
- market description;
- comparable sales evidence;
- valuation methodology;
- an explanation of how the value was calculated;
- value of the interest in the property;
- reference to assumptions made;
- the licensed valuer's name, licence number and signature;
- date of valuation; and
- date of inspection.

Where confidential information is provided to a land valuer during the course of the investigations and a request is made not to release such information, the land valuer has a duty to observe that request.

What services does a land valuer provide?

Licensed land valuers in Western Australia are able to provide valuations of 'real property', that is, valuations of land, buildings and any attached licences, as well as the goodwill, plant, equipment and stock of the licensed business (such as hotels).

Individual land valuers may offer a range of additional services according to their skills, qualifications and experience. Depending upon the client's request, in addition to establishing open market value, land valuers are able to provide a wide range of additional services for different purposes. These services may include:

- assessments of suitability as security for loans;
- regular asset revaluations for company and trust purposes;

- capital gains assessments;
 - assessments required for Goods and Services Taxation purposes;
 - rental assessments and determinations;
 - plant and equipment valuations;
 - project feasibility studies;
 - subdivision feasibility studies;
 - compensation for acquisition and resumption of land;
 - strata title unit entitlement assessments;
 - expert testimony;
 - marketing reports;
 - valuations for arbitration purposes;
 - valuations for rating and taxing purposes; and
 - valuations to establish replacement cost for insurance purposes.
- be a member of the Royal Institution of Chartered Surveyors (RICS), with a designation of General Practice (obtained before 1 January 2000), Valuation or Commercial Property Surveyor and have at least four years' practical valuation experience, two years of which must be immediately preceding the date of application for a licence; or
 - have attained the appropriate degree in property valuation studies and have at least four years' practical valuation experience, two years of which must be immediately preceding the date of application for a licence.

Licensed land valuers must abide by a Code of Conduct which provides a set of legally binding standards for the conduct of land valuations in this State. A copy of the Code can be obtained from the Land Valuers Licensing Board's website at www.commerce.wa.gov.au/landvaluers.

Licensed land valuers must not charge professional fees in excess of the maximum allowed by regulation under the Act.

What information must a client provide?

A land valuer acts upon a client's written instructions. These instructions should state the name of the instructing party, the addressee if it is different to the instructing party, the physical address of the property and the purpose for which the valuation is required.

Land valuers and licensing

Applicants must meet certain criteria before being issued with a licence. Only suitably qualified applicants with experience are permitted to operate as land valuers. To become a licensed land valuer a person must:

- be a current Associate, Fellow or Life Fellow member of the Australian Property Institute with the designation Certified Practising Valuer; or

How to choose a land valuer

At the end of each calendar year, the Department of Commerce publishes a list of all licensed valuers in the Government Gazette. A register of licensed land valuers, updated monthly, may also be viewed on the Land Valuers Licensing Board's website at www.commerce.wa.gov.au/landvaluers

People wishing to confirm whether a person is a licensed valuer can also contact the Department on 1300 30 40 54. However, the Department's own legislation prevents it from endorsing or recommending any particular individual.

When you are considering using a land valuer, it is important to ask whether the land valuer has professional indemnity insurance cover. This may be important later as, if you suffer financial loss and feel that the land valuer has been negligent or unprofessional, you may be entitled to lodge a claim against the land valuer's professional indemnity insurance and sue for the recovery of monetary loss you may have incurred.

How to lodge a complaint

Complaints about land valuers may be made in writing to the Land Valuers Licensing Board or the Department of Commerce.

The legislation that governs the conduct of land valuers is the *Land Valuers Licensing Act 1978*, Regulations and Code of Conduct.

Due to the subjective nature of valuation and the fact that it is a professional opinion, you may not agree with the assessment made. In this case you may wish to discuss your concerns with the valuer or get a second opinion.

Neither the Land Valuers Licensing Board nor the Department of Commerce has the power to resolve a question about the validity of the amount of value or the consequences of your reliance upon the valuation. Nor can the Board or the Department deal with claims relating to financial losses. These must be made through the courts.

Where you have evidence that the land valuer has made an error, or has been provided with incorrect details which have been used as the basis of the valuation, you have the right to provide this information to the valuer and request that a new assessment be made.

In cases where there are allegations, supported by prima facie evidence, that a land valuer has breached the Act, Regulations or Code of Conduct, a disciplinary hearing may be held before the State Administrative Tribunal to determine whether breaches have occurred. The Tribunal may reprimand, fine and/or cancel a land valuer's licence where it is satisfied that a breach of the legislation has occurred. Information regarding ongoing hearings is available on the Board's website.

Land Valuers website

The Land Valuers Licensing Board has a website which contains useful information for the public and those working, or intending to work, in the industry. You can visit the site at www.commerce.wa.gov.au/landvaluers.

Transition

The Western Australian Government has foreshadowed that responsibility for the regulatory services provided by the Board will transfer to the Department of Commerce from 1 July 2011.

National Relay Service: 13 36 77
Quality of service feedback line: 1800 30 40 59
Translating and Interpreting Service (TIS) 131 450

This publication is available in other formats on request to assist people with special needs.

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