



Issue No.02 Summer 2012

land valuers news

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

Code of Conduct Reviews

The Department has commenced a review of the property industry Codes of Conduct and will shortly release a Discussion Paper for comment.



The review will cover the Licensed Valuers Code of Conduct (made under the *Land Valuers Licensing Act 1978*), the Code of Conduct for Agents and Sales Representative 2011 (made under the *Real Estate and Business Agents Act 1978*), and the Settlement Agents' Code of Conduct 1982 (made under the *Settlement Agents Act 1981*) (the Codes).

The Discussion Paper aims to stimulate dialogue and invite written submissions on the Codes from industry participants.

The review is being conducted to consider whether:

- the Codes promote and encourage fair trading practices;
- the Codes impose regulations that are excessive to the scope of the Act and areas of risk;
- there are any drafting and technical issues;

- the Codes are consistent with the Australian Consumer Law;
- the Codes reflect best regulatory practice; and
- any other issues that arise from the consultation process.

Submissions received will assist the Department in making recommendations to the Minister for Commerce on the content of the Codes and any required amendments.

Copies of the Discussion Paper will be available on the Department's website once they are released (<http://www.commerce.wa.gov.au/ConsumerProtection>).

The Discussion Paper will also be available from the Consumer Protection Contact Centre on 1300 30 40 54. The Department will advise the industry of the paper's release via e-Bulletin.



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Risk management programs for land valuers

The 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.



The Department is keen to ensure industry compliance with this article of the Code.

It is acknowledged that risk management programs will vary based on the specific nature, size and complexity of the valuation business. However, it is expected that, as a minimum, risk management programs would include some of the following: the maintenance of appropriate professional indemnity insurance; the existence of documented compliance procedures including an internal disputes resolution process; training systems for employees; and/or participation in continuing professional development (CPD).

Courses in risk management and CPD programs include those offered by the Australian Property Institute and seminars held by professional indemnity insurers and insurance brokers.

Maximum remuneration fees

The Minister for Commerce, the 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.

Land valuers' maximum remuneration fees were last increased on 28 September 2010. The latest increase was found to be warranted following a submission from the Australian Property Institute, and will be based on the Consumer Price Index to compensate for inflation.

In real terms, as an example, maximum hourly rates that land valuers will be able to charge for valuations or assessments under

clause 5(3) of their remuneration notice would be \$357 per hour, which is an increase of \$17 per hour on the current hourly rate of \$340.

The new maximum fees will be able to be charged once the remuneration notice has been published in the Government Gazette. This is likely to occur in late 2012 or early 2013. The Department of Commerce will notify the industry when the new fees are published.

The land valuation industry is currently scheduled to be rolled into the second stage of national licensing. The precise dates of the program are yet to be scheduled. Irrespective of the roll-in, the issue of fee regulation or deregulation will remain a State responsibility.

The current increase in the maximum scale of fees is therefore an interim step prior to consultation on deregulating maximum fees in light of the national licensing system.



Conflict of interest

The Department reminds 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.

Australian Small Business Commissioner

Mr Mark Brennan has been appointed as the inaugural Australian Small Business Commissioner on 17 October 2012 and will officially begin this role on 2 January 2013.

The establishment of the Australian Small Business Commissioner was announced by the Australian Government on 14 March 2012. The position was created as a result of feedback from small business stakeholders to the Government's Resolution of Small Business Disputes Options Paper.

Mr Brennan will work in consultation with industry and other governments to provide advice, dispute resolution services and advocacy of small business interests within the Australian Government.

Mr Brennan's role is designed to complement that of State Commissioners as the Federal Government did not want to duplicate the Commissioners' functions or have people shopping around to get different outcomes on settling disputes.

More information on the Australian Small Business Commission can be found through the Department of Industry, Innovation, Science, Research and Tertiary Education website at: <http://www.innovation.gov.au>.

The Western Australian Small Business Commissioner seeks to provide a low-cost, non-litigious means of resolving business-to-business and business-to-State-Government disputes, while preserving business relationships.

Alert for residential valuers



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.

The sale price of these property packages is usually higher than the market value of the property, as the sale price is adjusted to include the cost of the incentives.

When valuing these types of properties, valuers should ensure they make enquiries to determine whether any incentives are included in the sale price. The details of these incentives should be included on the Offer and Acceptance form, but they may need to be obtained from other sources.

It is important to take incentives into consideration so the valuation reflects the true market price of the property. This is particularly important when the valuation is being used for lending purposes.

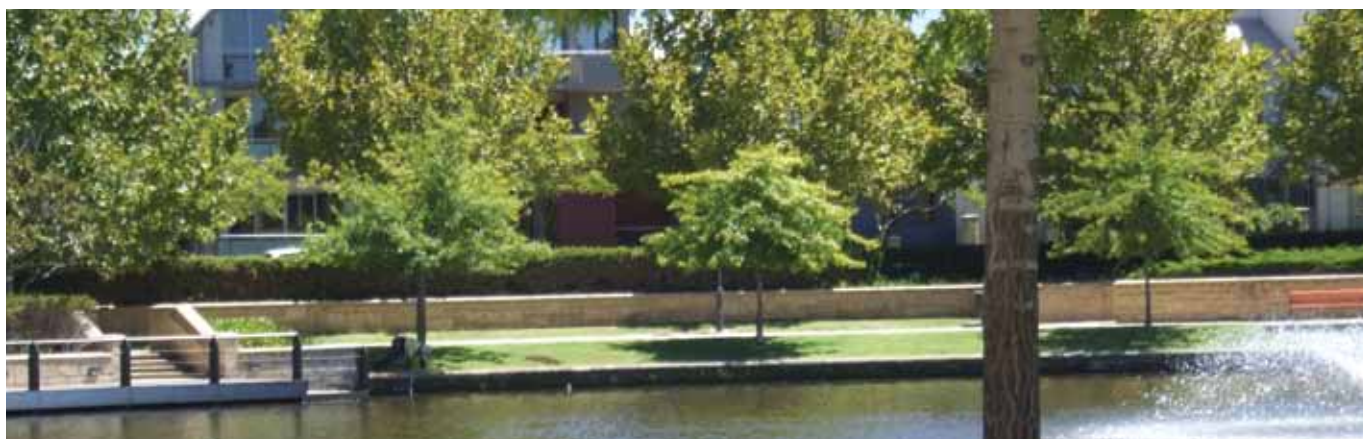


> E-Bulletins

The Department occasionally publishes land valuer e-Bulletins which provide valuers and other interested parties with industry related news and up-to-date information on the Department's policy developments.

Our e-Bulletin archive can be found under *News, Publications and Forms* on the Department's website: www.commerce.wa.gov.au/CP/landvaluers

If you would like to subscribe to our e-Bulletins, update your email address or if you have any queries, please email pinews@commerce.wa.gov.au.



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General enquiries

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For newsletter or e-bulletin subscription enquiries, email pinews@commerce.wa.gov.au

Website shortcuts

www.commerce.wa.gov.au/CP/LandValuers

www.commerce.wa.gov.au/CP/LandValuers/Proactive

www.commerce.wa.gov.au/CP/Licenses

www.commerce.wa.gov.au/CP/Forms

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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