

**Decision of the Disciplinary Committee
C110-8/08**

Re: The Valuer

Charge

On 2 February 2009 the Valuer was charged pursuant to section 50(1)(b) with:

“incompetence in his performance as a valuer in that he:

Failed to obtain, verify and apply relevant sales data that may have affected the valuation made as at 26 April 2008, in particular failed to conduct adequate and relevant research, to perform competent analysis and to draw informed and supportable judgements in respect of the property at 27 Goodwin Street, Bundaberg.”

By an Investigation Report dated 2 February 2009 details of the complaint and investigation were provided to the Valuer and to this Disciplinary Committee (“the Committee”) appointed pursuant to section 50(3) of the *Valuers Registration Act 1992* (“the Act”).

On or about 25 February 2009, pursuant to section 50(5) and (6) of the Act the Committee decided to start proceedings against the Valuer.

Findings

Based on the evidence presented by the Investigator and his Counsel, the Valuer and his Counsel, this Committee finds the Valuer guilty of incompetence in his performance as a valuer in respect of the valuation of property situated at 27 Goodwin Street, Bundaberg for the reasons outlined below:

1. He did not comply with Rules 1.10 and 1.13 of the Australian Property Institute’s Rules of Conduct, effective 1 January 2008 by failing to undertake a sufficiently comprehensive inspection and further failed to include instructions, allegedly received from his client, (for which no proof was offered or tendered) which expressly excluded the requirement for a comprehensive inspection.
2. He contravened section 7A of the *Valuers Registration Regulation 2003* and the applicable Rules of Conduct in that he failed to take all necessary steps that a competent registered valuer would take to obtain and verify factual data that may affect the valuation. He failed to source genuinely comparable sales evidence which was available to him, or ought to have been available to him at the relevant time, and made comparisons with properties which were not truly comparable and which a competent valuer, or a valuer conducting a competent valuation, would have known, or ought to have known, were not comparable.

Penalty

Pursuant to section 59(1)(a), the Committee reprimands the Valuer for the reasons stated above.

In consideration of the costs of the Disciplinary Proceeding, which the Valuer has been ordered to pay in full below, the Committee has decided not to impose an additional fine or monetary penalty on the Valuer, pursuant to section 59(1)(c) of the Act.

Costs

The Valuer is ordered to pay the costs of the Disciplinary Proceeding in the sum of \$20,381.54 within twenty-eight (28) days from 19 August 2009.

These represent the whole of the costs of the Valuers Registration Board of Queensland (VRBQ) with respect to the proceedings, including the whole of its costs of the investigation. The Committee decided that such an order was appropriate because the Valuer advised in March 2009 that the charge would be defended, presented no material to support his position, and ultimately (through his Counsel) conceded that a reprimand was in order and was an appropriate sanction, at least with respect to part of his conduct. The Committee considers that the Valuer unreasonably caused the investigator and the VRBQ to incur the significant costs that were incurred and in the circumstances described that the Valuer ought to meet those costs in full.

An extension of time to pay these costs may be considered upon receipt of a submission.

If the Valuer does not pay the costs within the prescribed timeframe, the Valuer's registration will be suspended until such time as the costs are paid in full. If upon renewal of the Valuer's registration the payment of costs still remains outstanding, the Valuer's registration will be cancelled.

Appeal

Under section 61(1)(c) of the Act, the Valuer has a right of appeal of the Decision of the Committee to the District Court, Brisbane.

Dated 19 August 2009

Chairperson

Valuers Disciplinary Committee