

Decision of the Disciplinary Committee
C102-3/08

Re: The Valuer

Charge

On 25 June 2008 the valuer was charged that:

“being a registered valuer, (he) contravened the Rules of Conduct of the Australian Property Institute and pursuant to section 50(1)(b) of the Act, was negligent in his performance as a valuer in respect of valuations conducted of properties situated at Lots 331 & 332, Wings Road, Upper Coomera, in that (he):

- a) Failed to meet required professional mandatory standards, with his market research, investigations and sale application for the subject valuations, and*
- b) Failed to meet required professional mandatory standards, in applying the cost approach, as the maximum that can be adopted, for market based valuations, of to be erected dwellings.”*

By an Investigation Report dated 25 June 2008 details of the complaint and investigation were provided to the valuer and to this Disciplinary Committee (the Committee).

Submissions by the valuer’s solicitors

By letter dated 15 August 2008 the valuer’s solicitors indicated they would be representing him at the hearing to defend the charges against him.

On 15 December 2008 the valuer’s solicitor made written and oral submissions at the hearing about the charges and the penalty to be imposed.

Findings

Based on the evidence presented by the Investigator, the valuer and his solicitor, this Committee finds the valuer guilty of the first charge made against him in that he failed to meet required professional mandatory standards, with his market research, investigations and sale application for the subject valuations for the reasons outlined below:

1. He failed to contact real estate agents in the area particularly in a market that he knew was moving in an endeavour to bridge the gap between RP Data evidence and what was happening in the market place;
2. His lack of appropriate record keeping of file notes;
3. He did not comply with the professional practice of the API, in particular section 7 of the API/NZPI Professional Practice Property Pro Residential Valuation and Security Assessment Supporting Memorandum; and
4. He contravened section 7A of the *Valuers Registration Regulation 2003* in that he failed to take all necessary steps that a reasonable registered valuer would take to obtain and verify factual data that may affect the valuation.

Based on the evidence presented by the Investigator, the valuer and his solicitor, this committee has dismissed the second charge made against him.

Penalty

The Committee reprimands the valuer for the reasons stated above and requires him to abstain from the conduct specified below:

When providing a valuation in circumstances where there is insufficient recent comparable sale evidence the valuer is to cease failing to adequately research the extent of market evidence for consideration as a valuation basis, in particular by ceasing to:

1. Not make contact with local real estate agents;
2. Rely on outdated sales; and
3. Rely on stated sales alone.

The Committee has decided to impose a monetary penalty upon the valuer in the sum of \$750.00 (10 penalty units) which is to be paid within twenty-eight (28) days from 15 December 2008.

Appeal

Under Section 61(1)(c) of the *Valuers Registration Act 1992*, the valuer has a right of appeal of the Decision of the Committee to the District Court, Brisbane.

Costs

The valuer is ordered to pay the costs of the disciplinary proceedings in the sum of \$4,747.00 within twenty-eight (28) days from 15 December 2008.

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

Dated 15 December 2008

Chairperson

Valuers Disciplinary Committee