

Decision of the Disciplinary Committee
C111-9/08

Re: John Barter

Charge

On 21 January 2009 Mr John Barter was charged with:

- a) *Misconduct in a professional respect, and*
- b) *Negligence in his performance as a valuer.*

By an Investigation Report dated 21 January 2009 by Mr Bob Wenck, details of the complaint and investigation were provided to the valuer, Mr Barter, and to this Disciplinary Committee (the Committee).

Submissions by the valuer

By email dated 5 March 2009 Mr Barter advised he wished to attend the proceeding to defend the charge laid and would not have legal representation; however wished to have his personal assistant present.

On 9 June 2009, Mr Barter made oral submissions at the hearing about the charges and the penalty to be imposed.

Findings

Based on the evidence presented by the Investigator and Mr Barter, this Committee finds Mr Barter guilty of the charges made against him being misconduct in a professional respect and negligence in his performance as a valuer in the valuation he conducted at 9 Andromeda Parade, Robina on 21 May 2008 in that:

- *Mr Barter failed to conduct his professional duties in a manner that reflected credit upon himself and his profession;*
- *Mr Barter failed to abide by the Code of Ethics, Rules of Conduct and Practice Standards as adopted by the Australian Property Institute (the Institute);*
- *Mr Barter accepted an assignment that was influenced by a requirement for a predetermined result where the exercise of objective conduct was required;*
- *Mr Barter allowed the performance of his professional duties to be improperly influenced by the needs or preferences of a client or other party;*
- *Mr Barter relied upon critical information supplied by a client without appropriate qualification or confirmation from other sources;*
- *Mr Barter valued the land associated with the complaint in an amount incapable of cogent support on the available evidence and as a consequence, found a valuation amount inconsistent with the duties of independence and impartiality;*
- *Mr Barter, in making a valuation of the land associated with the complaint failed to sufficiently observe the Practice Standards of the Institute and in particular, International Valuation Standard 1- 6.4, in that he did not conduct adequate and relevant research and did not consider all pertinent market evidence, trends, comparable transactions, failed to contact real estate agents to bridge the gap between RP Data evidence of both non-DA and DA*

*approved sites and documentation of appropriate and thorough field notes;
and*

- *Mr Barter breached section 8 of the Valuers Registration Regulation 2003 being that -
A registered valuer must not make a valuation if the instructions to make the valuation require a predetermined result.*

Penalty

The Committee has decided to reprimand Mr Barter for the reasons stated above.

The Committee requires him to abstain from making a valuation if the instructions to make the valuation require a predetermined result.

The Committee has decided that Mr Barter's registration be suspended for a period of three (3) months, effective from the date of this decision.

The Committee has also decided to impose a monetary penalty upon Mr Barter in the sum of \$7,500.00 (75 penalty units) which is to be paid within six months from 9 June 2009.

The Committee recommends based on Mr Barter's own suggestion that he undertake further studies particularly in the methodologies of valuation to improve his proficiency as a registered valuer.

Appeal

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

Costs

Mr Barter is ordered to pay the costs of the disciplinary proceedings in the sum of \$4,680.50 within 6 months from 9 June 2009.

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

Dated 12 June 2009

Chairperson

Valuers Disciplinary Committee