

VALUERS REGISTRATION BOARD

IN THE MATTER OF

an Inquiry under
Section 32(2) of the Valuers Act 1948

AND

IN THE MATTER OF

Five charges under Section 31(1)(c) of
the Valuers Act 1948 against **Valuer G**

BOARD OF INQUIRY:

PA Curnow (Inquiry Chairperson)
HJ Puketapu
KR Taylor

COUNSEL:

T Gilbert for the Valuer General
T M Walker for Valuer G

DATE OF HEARING:

13/14 April 2015

DATE OF DECISION:

22 December 2015

DATE OF CLARIFICATION:

10 March 2016

The Board of Inquiry issues the following clarification to be read in conjunction with the 22 December 2015 Decision;

Valuer G has not been found guilty of Charge 2 Part A, although Valuer G was in breach of the relevant Standards.

To expand the explanation on this, identified in the King v Valuer General Valuers Board of Appeal, CIV - 2009 - 085-32, 17th December 2009 decision, was the New South Wales case of Pillai v Messiter (No 2) (1989) 16 NSWLR 197. This is accepted as the leading authority whether or not a finding of a breach of professional standards on its own justifies the finding of professional conduct warranting a disciplinary sanction; Kirby P said *"departures from elementary and generally accepted standards, of which a medical practitioner could scarcely be heard to say that he or she was ignorant could amount to such professional conduct; ibid. But the statutory test is not met by mere professional incompetence or by deficiencies in the practice of the profession. Something more is required. It includes a deliberate departure from accepted standards or such serious negligence as, although not deliberate, to portray indifference and an abuse of the privileges which accompany registration as a medical practitioner"*

In adopting the "Pillai" approach, the "King" decision, noted " *... that the valuers profession, as with other professions, requires, before an adverse disciplinary finding can be made, a two-step approach as follows:*

1. *Where the matters alleged in the disciplinary charge have been established to the point that there has been a departure from acceptable standards; and then, quite separately*
2. *Whether that departure has been significant enough to warrant disciplinary sanction for the purposes of discipline'*

As the Board of Inquiry decision states, Valuer G did depart from the accepted Standards. The Standard was repeated in paragraph 143. The Valuer G report did not *"provide sufficient information to permit those who read and rely on the report to fully understand its data, analysis and conclusions"*

This being the first step in the 'two step' approach. **Before an adverse disciplinary finding can be made, the second step noted above is necessary.**

The Board of Inquiry finding in respect of the second step is encapsulated in paragraph 166.

Therefore, the Valuer Generals Charge 2 Part A failed, as both of the "King" steps need to succeed before a guilty finding can be made.



P.A. Curnow
Chairperson