

**VALUERS REGISTRATION BOARD**

**IN THE MATTER OF** an Inquiry under  
Section 32(2) of the Valuers Act 1948

**AND**

**IN THE MATTER OF** charges under  
Section 31(1)(c) of the Valuers Act 1948  
against **VALUER U**

**BOARD OF INQUIRY:**

HJ Puketapu (Inquiry Chairperson)  
KR Taylor  
PA Curnow

**COUNSEL:**

J Burns for the Valuer General  
Valuer U did not appear

**DATE OF PENALTY DECISION:** 18 July 2013

In the Board's decision dated 6 December 2012, Valuer U was found guilty of gross over-valuation in respect of two valuations. The property comprises two conjoint lifestyle/grazing blocks held in separate computer freehold registers, Part A and Part B. Valuer U provided two reports for the property held in their respective computer freehold registers with assessed current market values as at 17 March 2008 of:

Part A –	\$1,735,000
Part B -	\$1,800,000

## **THE COMPLAINT**

The complainant provided mortgage finance in reliance on the valuations of the two blocks respectively.

In its letter of complaint to the Board, the complainant believes Valuer U's report contained serious mistakes and that they grossly overstated the value of the property. The complainant provided copies of two separate valuation assessments of the property in support of their complaint from Valuer 1 (\$585,000 plus GST) and Valuer 2 (\$600,000 plus GST). These assessments were based upon the property being a single entity.

Following the Board's decision to hold an Inquiry, the Board heard evidence from Valuer 2 who was instructed by the Valuer General to prepare separate market valuations as at 17 March 2008 of the land described in Part A and secondly, the land described in Part B. Valuer 2 assessed a current market value of \$340,000 and \$260,000 respectively. Both assessments excluded GST.

The Board also heard evidence from Valuer 4. He assessed separate market values for Part A at \$430,000 excluding GST, and Part B at \$207,000 excluding GST.

The Board considered that the range of values provided by Valuer 2 and Valuer 4 establishes an objectively correct value for the property of \$385,000 for Part A. Valuer U's assessment at \$1,735,000 is significantly above this figure. The Board found the difference (450%) to be serious.

Further, the Board agreed that the range of values provided by Valuer 2 and Valuer 4 established an objectively correct value for Part B of \$233,500. Valuer U's assessment at \$1,800,000 is significantly above this figure. The Board found the difference (771%) to also be serious.

The Board found Valuer U had made numerous statements in their reports that bring into question their professional conduct and departure from acceptable standards. They relied on five sales, that after investigation by the Valuer General, the Board questioned the relevance of some of these sales. Valuer U confirmed that "Sale 13 had been incorrectly transposed and did not belong in the document" [their valuation reports] and that Sale 15 and Sale 16 were part of an exchange deal, and were relied upon as two separate transactions.

The Board cast further doubt upon Valuer U's remaining two sales, one which was recorded incorrectly and another which was denoted as Non-market Level - Non-Bona fide (taken from Valuer U's printout record attached to their email to the Valuer General of 18 August 2010).

Valuer U further failed to mention the sale of the subject property in 2007 for \$590,000.

The Board was satisfied that the departure was deliberate and sufficiently serious to portray indifference and an abuse of privilege which accompanies registration as a valuer. The deliberate departure was that in compiling two separate valuations, Valuer U offered no proper foundation in assessing the values stated in their reports.

In its decision, the Board was satisfied that Valuer U made a number of misleading and incorrect statements in their reports, and therefore did not maintain the highest standards expected of a valuer.

The Board concluded that Valuer U's valuation was a gross over-valuation in that they departed from acceptable professional standards.

A submission on penalty and costs was received from the Valuer General.

## **SUBMISSION FOR THE VALUER GENERAL**

The Valuer General contends that the numerous fundamental departures from acceptable professional standards were serious if taken individually and is compounded by the fact that the breaches were repeated in two separate reports for two different properties.

Further, the Valuer General submits, that if all of the statements and representations as contained in the Board's decision are considered together, they comprise a very significant departure from acceptable professional standards. The Valuer General asserts that the appropriate penalty would be to remove Valuer U from the Register of Valuers.

The Board agrees with the Valuer General that the consequences of Valuer U's conduct in this case are extremely serious.

The Board has not received any response or submission from Valuer U since their last email response to the Valuer General on 8 October 2009.

The Board has been advised by the Valuer General that Valuer U has been served with the Board's decision dated 6 December 2012, and that submissions for the Valuer General dated 8 March 2013 respectively, were served as follows:

Board decision was served:

- Friday 8 March 2013 - (last known address)
- Wednesday 6 March 2013 - (Valuer U's parents),

Submissions for Valuer General on Penalty and Costs were served

- Wednesday 20 March 2013 - (last known address),

- Tuesday 19 March 2013 - (Valuer U's parents)

The Board is satisfied that reasonable endeavors have been made by the Valuer General to serve upon Valuer U, the Board's decision, and submissions for the Valuer General on Penalty and Costs.

## **PENALTY DECISION**

Valuer U's departure from acceptable standards was deliberate and sufficiently serious to portray indifference and an abuse of privilege which accompanies registration as a valuer. In considering a penalty in this matter the Board is mindful of protecting the public and upholding the integrity of the profession.

The Board cited in its decision that while Valuer U deliberately departed from professional methods, it could not propose the same for a continual departure from professional methods nor a continual disregard of the rules. However, the Board turns its mind to a combination of misleading statements in Valuer U's report, incorrect information, the irrelevance of certain information, and a gross overvaluation by 450% (Part A) and 771% (Part B) respectively. These bring into question Valuer U's suitability to practice as a registered valuer.

The Board is of the view that these actions collectively are at the serious end of the scale. The Board agrees with the Valuer General, that the appropriate penalty is to remove Valuer U from the Register of Valuers.

The Valuer General has confirmed to the Board the status of Valuer U's registration as "resigned", therefore no formal order to remove them from the register is required.

The Board directs that should Valuer U apply to have their name restored to the Register pursuant to s 29(2)<sup>1</sup> that this case be noted in determining whether or not

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<sup>1</sup> Valuers Act 1948

Valuer U is entitled to have their name restored to the Register. Further, this case should be cited in any reference the Board might be required to provide for Valuer U.

## **COSTS**

Pursuant to s 33A<sup>2</sup>, the Board may order the valuer concerned to pay such sum as the Board considers appropriate in respect of either or both of the following:

- (a) The costs and expenses of and incidental to the Inquiry by the Board.
- (b) The costs and expenses of and incidental to the investigation conducted under s 32 of this Act in relation to the complaint which the inquiry relates."

The Valuer General's cost and expenses amounted to \$87,211.55 and the Board's costs were \$8,863.55. Total costs are therefore \$96,075.10, a significant amount. In as much as this cost (or any contribution thereof) is not met by Valuer U, the cost falls to the profession.

Valuer U is listed on the Insolvency Register as having an insolvency status of "Currently Bankrupt".

Notwithstanding Valuer U's unknown whereabouts and their insolvency status, the Board directs Valuer U should pay costs of \$48,000 being GST inclusive. This charge is to be held current for 3 years from this decision in any event Valuer U's insolvency status is discharged.



James Puketapu  
Inquiry Chairperson  
18 July 2013

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<sup>2</sup> Valuers Act 1948