

COMMENTS FROM AUSTRALIAN PROPERTY INSTITUTE

INTERNATIONAL VALUATION STANDARDS COUNCIL

EXPOSURE DRAFT

Proposed Code of Ethics

for Professional Valuers

Comments to be received by 30 September 2010

July 2010

Exposure draft

**Proposed Code of Ethics
for Professional Valuers**

published July 2010

This Exposure Draft is published by the International Valuation Professional Board (IVPB) for comment only. The International Valuation Professional Board is an independent technical body of the International Valuation Standards Council (IVSC) responsible for the development of benchmark educational standards and guidance, and for the development of technical guidance to support the application of the International Valuation Standards.

Comments on this Exposure Draft are invited before 30 September 2010. All replies may be put on public record unless confidentiality is requested by the respondent. Comments may be sent as email attachments to CommentLetters@ivsc.org or by post to the International Valuation professional Board, 41 Moorgate, LONDON EC2R 6pp, United Kingdom.

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Note for Respondents

Objectives

In the conduct of its activities, the IVSC makes a distinction between standard setting and best practice guidance. Standard setting is clearly the remit of the International Valuation Standards Board, while professional practice guidance falls to the International Valuation Professional Board. As such, the Code of Ethics is viewed as falling within International Valuation Professional Board's purview and consistent with the above noted distinction, will also be published in a separate document from Standards.

This document is largely based on the prior IVSC Code of Conduct as well as a significant number of codes from professional valuation and accounting bodies.

Request for Comments

The intent of this Exposure Draft is to seek views from interested parties. The IVPB seeks comment on the proposed Code of Ethics and would like respondents to express a clear overall opinion of the Code. The IVPB is also soliciting comments on specific questions, together with supporting rationale. The IVPB would value comments on whether:

- 1 The structure of the Code is clear;
- 2 There are any topics that need to be included or deleted from the Code;
- 3 The Code should be more or less expansive to professional needs;
- 4 There are any parts of the Code that conflict with your market, local regulations or valuation disciplines.

The Australian Property Institute (API) acknowledges that the proposed Code of Ethics for Professional Valuers is designed to be complementary to by-laws, regulations and Codes of Professional Conduct of professional associations that control or monitor the activities of Professional Valuers. The final product will require a review of existing or proposed Codes by the various professional associations to ensure compatibility and consistency is maintained.

There is a need for greater clarity of the role of a Professional Valuer when engaged by a client to act as an advocate rather than as an expert, and the potential for "success fees" resulting there from.

Some minor amendments to the Code are recommended and reflected in the following sections:

1 c)

3.2.5 -3.2.6

3.3.2

3.5.2

3.5.3

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Preface

The International Valuation Standards Council (IVSC) is the global standard setter for the valuation profession. Its mission is to establish and maintain high quality international valuation standards, to contribute to development of the worldwide valuation profession and to serve the public interest.

IVSC member bodies may not adopt less stringent standards than those in this Code of Ethics. However, if a member body is prohibited by law or regulation from complying with any part or parts of this Code of Ethics, it should comply with all other parts of the Code of Ethics. It is incumbent upon IVSC member organisations and/or domestic bodies to write supplemental standards to enforce the principles articulated within this Code of Ethics.

1. Introduction and Fundamental Ethical principles

A profession requires the acceptance of a responsibility to act in the public interest.

A

Professional Valuer's responsibility is not only to the client or employer but also to the

public interest. Valuations shall be completed by a Professional Valuer in compliance with the International Valuation Standards ("IVS") and the following ethical principles:

- A) **Integrity:** to be straightforward and honest in professional and business relationships.
- B) **Objectivity:** not to allow conflict of interest, or undue influence or bias to override professional or business judgment.
- C) **Professional Competence and Due Care:** to maintain the professional knowledge and skill required to ensure that a client or employer receives competent services based on current developments in best practice, legislation, and techniques; to act diligently and in accordance with applicable technical and professional standards.
- D) **Confidentiality:** to respect the confidentiality of information acquired as a result of professional and business relationships and not to disclose such information to third parties without proper and specific authority (unless there is a legal or professional right or duty to disclose), nor to use information for the personal advantage of a Professional Valuer or third parties.
- E) **Professional Behaviour:** to comply with relevant laws and regulations and to avoid any action that discredits the profession.

2. Conduct

Professional Valuers comply with Standards either by choice or by requirement placed upon them by law or regulation; or at the instruction of clients, intended users, and/or national societies or professional organisations. A valuation prepared under IVS binds a Professional Valuer to follow this Code of Ethics.

This Code does not have formal authority in law, nor is it intended to be other than complementary to the rules, by-laws, and regulations of national societies or professional organisations that control or monitor the activities of Professional Valuers.

3. Rules of Conduct

A Professional Valuer must maintain high standards of honesty and integrity, and must conduct activities in a manner not detrimental to his/her clients, the public interest, the valuation profession, or his/her respective professional valuation bodies.

3.1. Integrity

3.1.1. A Professional Valuer must perform assignments with impartiality, objectivity, independence, and without accommodating personal interests.

3.1.2. A Professional Valuer must not act in a manner that is misleading or fraudulent.

3.1.3. A Professional Valuer must not contribute to or participate in a valuation service that other reasonable valuers would not regard to be justified.

3.2. Objectivity

3.2.1. A Professional Valuer must not act for two or more parties in the same matter without the written consent of all the parties.

3.2.2. A Professional Valuer must take all reasonable precautions to ensure that no conflicts of duty arise between the interests of the client and those of the Valuer, his or her firm, relatives, friends, associates, or other clients. Potential conflicts should be disclosed in the report and in writing before accepting instructions. Any conflicts of which a Professional Valuer becomes aware must be disclosed immediately. If conflicts come to the attention of a Professional Valuer after completion of the assignment, disclosure must be made within a reasonable time. These may include financial interests, business and personal relationships and provision of other services by either the Professional Valuer or the organisation in the case of an organisation being appointed to do the valuation.

3.2.3. A Professional Valuer must not knowingly develop or communicate a report that contains false, inaccurate, or biased opinions and analysis.

3.2.4. A Professional Valuer must not accept an assignment that includes the reporting of predetermined opinions and conclusions.

3.2.5. Fees must not depend on a predetermined outcome or

be

contingent upon any aspect of his or her report.

3.2.7. Major assumptions in respect of facts that are not known or that cannot be determined must be prominently disclosed and must be reasonable to

a group of peer Professional Valuers.

3.2.8. Unless the nature and extent of such reliance is specified as a limiting condition, a Professional Valuer must not rely upon critical information from a client or other party without appropriate vetting for reasonableness or confirmation from an independent source.

3.2.9. Projections, assumptions, modelling and methodology used by clients or other parties must be considered by a Professional Valuer and evaluated as to their reasonableness and where material differences exist, an explanation should be provided.

3.2.10. A Professional Valuer should not use or rely on unsupported conclusions

based on prejudice of any kind or report conclusions reflecting an opinion

that such prejudice is necessary to maintain or maximise value.

3.2.11. A hypothetical condition may be used only if it is required for legal purposes or for purposes of reasonable analysis, or for purposes of comparison. The use of a hypothetical condition must result in credible analysis, and its use must be disclosed and explained.

3.2.12. In a review of another valuer's report, a Professional Valuer must exhibit

impartial judgment and justify the reasons for agreement or disagreement

with the conclusions of the report.

3.2.13. A Professional Valuer's objectivity may be threatened by a broad range of circumstances, for example, self-interest threats, advocacy threats, familiarity threats, self-review threats, and intimidation threats.

Safeguards may eliminate or reduce such threats, and may be created by external structures (e.g. the valuer's professional body, legislation

or

regulation), or by the valuer's work environment (e.g. quality control

policies and procedures). There may also be safeguards specific to the valuation engagement.

3.3. Professional Competence and Due Care

3.3.1. A Professional Valuer must conform to the definition of a Professional Valuer in the IVSC definitions and must have the knowledge, skill and experience to complete the assignment in relation to professional standards.

3.3.2. Prior to accepting an assignment, a Professional Valuer must identify the problem to be addressed or the question to be answered and be certain he or she has the requisite experience and knowledge, or must disclose the lack of experience and knowledge to the client and take steps to secure the necessary assistance - resulting in a credible analysis.

3.3.3. A Professional Valuer working in a market or geographical location he or she is not familiar with must spend sufficient time to understand the relevant market, location, market forces and local laws to complete the assignment competently or align themselves with a local Professional Valuer who can supply that knowledge.

3.3.4. When engaging the services of external assistance, a Professional Valuer should establish that those assisting have the requisite skills and ethical principles.

3.3.5. A Professional Valuer shall obtain the client's consent when external assistance is required. The identity and qualifications of anyone providing assistance and the extent of their role should be disclosed.

3.4. Confidentiality

3.4.1. A Professional Valuer must deal with clients' affairs with discretion and confidentiality.

3.4.2. A Professional Valuer must not disclose factual data from a client, or the results of an assignment prepared for a client, to anyone other than those specifically authorized by the client, except when legally required

in judicial proceedings or in quasi-judicial proceedings within recognized professional valuation bodies of which the valuer is a member.

3.4.3. A Professional Valuer must observe confidentiality requirements, including additional requirements that may be imposed by law or regulation, if any, and specific confidentiality provisions requested by the client, if any.

3.4.4. A Professional Valuer must be aware of and adhere to any confidentiality requirements specified by the client/intended user, i.e. lender, auditor, attorney, etc.; or requirements imposed by law or regulation.

3.5. Professional Behaviour

3.5.1. A Professional Valuer must comply with laws and regulations of the jurisdiction or state in which s/he practices or where an assignment is undertaken.

3.5.2. Prior to accepting an assignment, a Professional Valuer must work with the client to determine the appropriate scope of work for the assignment.

The process is to identify the question to be answered or the problem to be solved and to determine the scope of work necessary to answer the question(s) or solve the problem addressed. The scope of work must produce credible results and must be disclosed in the written or verbal report. A Professional Valuer must obtain or confirm in writing all instructions and variations of instructions of the client or the client's representatives.

3.5.3. A Professional Valuer must be aware of and understand any standards that may influence the scope of work.

3.5.4. A Professional Valuer must not claim or fail to correct erroneous interpretation of the valuer's professional qualifications or expertise.

3.5.5. A Professional Valuer must not knowingly use false, misleading, or exaggerated claims or advertising in an effort to secure assignments.

3.5.6. A Professional Valuer must ensure that staff or subordinates assisting with an assignment shall adhere to this Code of Ethics.

3.5.7. A Professional Valuer must decline an assignment where circumstances preclude sufficient diligent enquiry and the necessary quality of work.

3.5.8. A Professional Valuer must make diligent enquiries and investigations to ensure that the data for analysis in the valuation can be relied upon.

3.5.9. A Professional Valuer must prepare a work file for each assignment which, upon completion, should contain a true copy, in paper or electronic form, of all written reports and correspondence, or memoranda of any verbal report, plus adequate file notes that substantiate the valuer's opinion by objective comparison, deduction, and calculation.

3.5.10. A Professional Valuer must enter into an agreement with the client/ intended user regarding access to the information contained in the valuer's work file. Such agreement shall include provision for access by judicial bodies and the valuers' professional organisation.

3.5.11. The work file for each assignment must be retained for a period of at least five years after completion of the assignment. If local laws and/ or regulations require information to be kept for a longer period, then the file should be retained for the period specified by local laws and/or regulations.