

Current topic and summary of the research project

Market and Non-Market Determinants of Property Valuations decided through the Court System in Family Law

Separation in Australia:

Developing a Scientific Approach

In this research phd project I created a data base of 658 court cases within Australia from the various law report sand reviewed the theoretical basis of valuation, concepts, approaches and methods through exploring appropriate literature on valuation and factors which influence the valuation process. Specifically, focusing on the role of the property profession and the impact on valuers' decision-making process.

The role of expert witnesses is an essential requirement of the Family Law Courts. The discussion show how witnesses have been qualified to testify about some matters as an expert but also to testify about facts that require no expertise. The reality is that the process of tendering a witness as an expert and having the court find the witness to be an expert is problematic in all cases, but especially so when the expert is also a fact witness. There are numerous rules in place to avoid bias in expert witness however bias can not be eliminated entirely.

In summary my data base that was created provided a high level of pre-agreement on the value of the family home. However, for those cases, approximately 15% of the sample, valuations varied widely not only between the two parties to the divorce case but also between these and the court valuations. While the statistical evidence presented in the chapter is indicative of no bias or inequality of decisions against the female party, the apparent lack of accuracy within the valuation evidence requires further analysis. Likewise, several questions are raised from the findings. These issues are explored in more though more detailed case-study analysis of a selection of court decisions and through structured interview evidence with the leading law firms in Australia dealing with divorce.

Examining these case studies in detail it expanded on the findings and triangulates evidence using different techniques. Quantitative findings indicated that male and female parties often agree on the valuation of the matrimonial home. When there was disagreement, the court

was slightly more likely to go with the woman's proposed valuation. In this chapter, there is also evidence of women seemingly being favoured by the courts.