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The Statutory Task

- Instruction to revalue – section 1 & 37 of 1975 Act.
Relevant dates from 1995 timetable order:
- Level of value 1/4/2008
- Physical circumstances of properties 1/1/2010
- Not for the assessor to set aside statute – the ‘as at’ date is the ‘as at’ date – the assessor cannot make up his own regime

The Best Of Times

→ 1/4/2008 a choice level of value date for a revaluation

→ Markets seen to be at or around a peak?

→ Some subsequent reductions in rents?

→ Pessimism as to period immediately ahead?

→ Assessors:

→ Cannot chase skyrocketing values beyond AVD

→ Cannot chase plunging values beyond AVD

→ Can only do what is right at the appointed date

→ But.....

Change Following Revaluation

- The meaning of change of circumstances was altered in 1984 to end the express exclusion of changes in levels of rents etc.
- *Barclay Menswear* and *Sports Shop (Fife)* cases build on that change
- The existing tone of the roll provision acts as a cap not a floor
- Change during the currency of a roll due to a change in level of value is not ruled out in principle and not unprecedented in practice

Recession In The Property Market

→The suggestion is that for some property types and locations there is:

→A dearth of new lets

→A passing of rent reviews

→An increase in vacancy

→A lengthening of rent free periods

→An increase in capital contributions

→A reduction in rents

Change Of Circumstances

- A change can only arise once the roll is in existence and must affect value
- The circumstances will likely vary from location to location property type to property type
- The application of the principles can only be realised based on evidence usually for the pitch, precinct or estate
- What constitutes adequate evidence is likely to be a matter of contention in some cases

Points To Remember

- We are to value taking one year with another
- A single rent is not normally determinative of value
- Trading and rental value are not the same thing or necessarily directly connected
- Generalisation needs particularisation prior to application

More Points To Remember

- The tone of the roll is not normally fixed at the highest level of rent achieved
- Levels of value tend to be struck across a range of transaction evidence
- The idea of a fall in 'peak' rentals achieved is not necessarily indicative of a need for adjustment

Priority Timing & Outcome

- The current job is revaluation
- It may take some time for the effects of the downturn to work their way through to the nooks and crannies of local markets
- There will be cases where compelling evidence indicates that there has been a fall in values from the tone level since the roll came into existence and a reduction in valuation is merited

The Other Side of the Coin

- If a single rent merits a reduction then a single rent merits an increase?
- The tone of the roll cap sets the upper limit?
- The greater the reduction the greater the headroom?
- The standards set on the way down should also be applied on the way up?

Is The Legislation Sound?

- Was the 1984 design intended to deal with exceptional cases?
- Was it designed to deal with current circumstances?
- Is the logic of revaluation likely to be undermined?
- Is the regime in need of revision?

Dates For Lodging Appeals

- MCC appeals can be lodged on the 2005 roll until 30th September 2010
- Revaluation 2010 appeals can be lodged until 30th September 2010
- MCC appeals can be lodged on the 2010 roll at any time until 30th September 2015
- New proprietor/tenant/occupier appeals can be lodged within six months of acquiring an interest

Timetabling Of Appeals

- Assessors have no control over what will be lodged or when; the process may spread over years
- Scheduling will be interesting
- It will be important to be clear in advance as to what is to be argued in each and every appeal
- The times and character of cases may not suit 'last minute' attempts at resolution
- If volumes of comparative subject cases heard increases, then time pressure is likely to become severe on existing timetable

A Challenging Revaluation

- Will this be a normal quinquennium with a tricky start - or a bumpy ride all the way through?
- Will the legislation and case law hold up throughout in the face of difficult issues encountered?
- Will the statutory timetable for disposal be met or will extensions be required?
- Will the valuers involved be able to meet the challenge?