

Case study

Introduction

The purpose of making a rating appeal is to ensure that the Rateable Value or other information appearing in the Rating List in respect of a non-domestic property is correct. The ratepayer client is likely to view this simply as a means of reducing their Rateable Value and, therefore, their business rates liability.

Importance of a chartered surveyor

Making a valid rating appeal is a straightforward matter requiring no particular specialist skills. However, the prosecution of an appeal in order to produce the most favourable result, either by negotiation or through the tribunal procedure, is best achieved through the advice of a specialist rating surveyor. A surveyor will be familiar with the complex legislation concerning business rates and the 400 or so years of relevant case law pertinent to the ascertainment of rateable value and rate liability.

A rating surveyor will advise on the merits of an appeal, negotiate on a ratepayer's behalf with the statutory Valuation Officer (or Assessor) and seek to agree a fair rating assessment. If it isn't possible to agree a revised Rateable Value, the same chartered surveyor will give expert opinion evidence before a Valuation Tribunal, which will determine the amount of the new assessment. Exceptionally, appeals are made against decisions of Valuation Tribunals and the chartered surveyor will act as expert witness giving evidence before the Lands Tribunal.

Specialist skills required by a chartered surveyor

To achieve the best results for his/her client, the chartered surveyor will need a number of specialist skills:

- A thorough knowledge of the appropriate legislation (for example, the Local Government Finance Act 1988) and the plethora of statutory instruments governing such matters as the calculation of rates liability, grounds and timescales for the making of appeals and the procedures subsequent to their making. It should be noted that the law and practice in respect of certain of these issues differs between England, Wales and Scotland and the chartered surveyor should be familiar with them as appropriate.
- Knowledge of the local market and all comparable transactions as the relevant rating valuation date;
- The ability to analyse other, often complex, transactions to be able to compare them on a like for like basis with the subject property and the terms of the definition of rateable value;
- Good negotiating skills in order to reach an amicable settlement on behalf of the client. At this stage the only duty owed by the surveyor, in addition to normal professional standards, is to the client to achieve the best possible settlement;

- Good presentational skills in both written documents and orally at any hearing, when it has not been possible to reach a settlement with the other party to the dispute, including where necessary, the ability to assess the viability of referring the issue for tribunal determination and to advise the client accordingly;
- Full and detailed knowledge of the RICS Practice Statements entitled 'Surveyors acting as expert witnesses' and 'Surveyors acting as advocates'.

Typical procedure for rating appeals

It is important for the chartered surveyor to receive instructions as early as possible, since there are often time limits for the service of appeals. The terms of appointment should comply with the RICS Code of Practice for Rating Consultancy. Appeals are usually made following the general rating revaluations which occur every five years (the most recent was on 1 April 2010) of following subsequent changes either to the property or its locality.

A chartered surveyor specialising in rating matters will be aware of all the grounds for lodging an appeal and the relevant timescales.

It isn't necessary for the chartered surveyor to have completed his/her detailed rating valuation prior to making an appeal, but it would clearly be prudent to have formed a view regarding the correctness of the existing assessment. The surveyor should arrange an inspection of the property and establish the relevant evidence before commencing negotiations with the Valuation Officer. He/she is likely to liaise with chartered surveyors advising other ratepayers of similar properties.



Following negotiations with the Valuation Officer, the chartered surveyor will usually report the outcome to the client. If it has been possible to reach agreement on an acceptable assessment, the report would usually include an estimate of the revised rates liability and any rates savings following the settlement.

In most cases, appeals are settled amicably by negotiation and the file can be closed once agreement has been documented formally and any rate refund due to the client has been paid.

If agreement cannot be reached the chartered surveyor should report this to the client, together with the lowest rateable value assessment that the valuation officer is prepared to agree. He/she should advise of the possible outcomes of proceeding to the valuation tribunal hearing and the consequences for rates liability given different outcomes. He/she will ensure that the client is aware of the affect on rates liability of transitional arrangements which can impact on the amount of any rates savings.

The chartered surveyor must recognise the duties of the expert to provide impartial and independent evidence to a tribunal, even if it may be contrary to the instructions or best interests of the client. Any surveyor who does not feel confident that they can fulfil the duties under the RICS Practice Statements should decline instructions.

Summary

The surveyor must have a thorough understanding of rating law and procedures and of the calculation of rates liability. An essential skill for the chartered surveyor is an ability to negotiate the most favourable outcome for a client, which is most likely to be achieved through thorough detailed examination of the evidence and proper preparation.

Reference material/web site

RICS Guidance Note 'Rating Appeals' 3rd Edition

RICS Rating Consultancy Code of Practice 3rd Edition

<http://www.communities.gov.uk/localgovernment/localgovernmentfinance/businessrates/>

Date of publication of this document: March 2011

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