



## **SECTION 18 – ASSISTING IN JUDGING WHETHER OR NOT APPROPRIATE**

We have had several situations where, after the event, clients (as former tenants) have advised that they feel their building surveyor should have recommended use of a section 18 valuation.

But sometimes the judgement does, by definition, involve contemplations more in the domain of valuation/general practice surveyors, than building surveyors.

The example in case was that of a building surveyor judging that section 18 would not be of assistance because the premises had been re-let subject to a Schedule of Condition (SoC). As such, the landlord still had its "loss", albeit deferred up to the break/lease expiry in year 5.

However, through a similar experience on a property elsewhere, the client subsequently came to learn that a SoC does not necessarily transfer through to any (continuing) loss for the landlord. If, as is usually the case, the following circumstances apply:-

- Landlord has re-let at full open market rent as if on an FRI lease;
- The 'excluded' items are not restated as obligations upon the landlord to attend to during the currency of the lease;
- Clearly the Property was not in that poor a state if the new tenant could take up occupation and trade successfully, without carrying out any (of the 'excluded') works.

As such, it will be appreciated that the Landlord certainly suffers no 'Diminution in Value' during the currency of the lease, because he is receiving the otherwise full open market rent.

Then, at break/expiry, assuming the new tenant has complied with their obligations and hands back in 'no worse a state of repair', then there is no good reason as to why the landlord cannot effectively repeat the exercise all over again.

In other words, the so-called required works, are not actually required at all in order to achieve a letting at the full open market rental value, hence maximum freehold value.

There are many similar scenarios to this which are more in the day-to-day experience of an agent/valuer.

There are situations in which a Schedule of Condition can transfer through to diminished value (e.g. significant reinstatement which will inevitably still have to be



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done in any event), but close scrutiny of each case from a valuation/open market perspective is always necessary in order to determine whether or not such is likely in reality.

This note is therefore to restate an offer we have already hopefully made to you, namely that we are happy to talk through any situations you have when you are about to recommend a common law settlement to a tenant client and you wish to check whether or not a section 18/Diminution Valuation might assist you in achieving a lower settlement still? Rest assured that we do not always recommend that such is required. We are more than busy enough, and have our reputation for sound and perspicacious advice to protect.

Please do not hesitate to telephone if you have any queries whatsoever.

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