

“ Rent falls are a mystery when valuing in a void

■ Rent reviews surveyors are relying on guesswork as well as evidence, says **Anthony Lorenz**

AFTER FOUR DECADES NEGOTIATING RENT REVIEWS and lease renewals, I thought I was getting good at accurately pinpointing market rental values in a particular quarter, or even in a month. This is especially true looking back at a valuation date with three to six months' of hindsight.

But for the first time in my career I have to admit to having to use some guesswork in finding the right answer on each and every one of the central London rent reviews I am handling. Nobody knows when rents fell during the period September 2008 to March 2009. This is a big problem.

Here are some facts. First, there is little or no evidence in the market to show any dramatic falls in rents from the top of the market in June 2007 to June 2008. Most of the June 2008 settlements were at or near June 2007 figures.

Second, we know that the market that existed in September 2008 is no more. The top rents of June 2007 to June 2008 had fallen 20% by March 2009, or in some cases by 30% or more.

Third, there has been little or no activity in the central London market since the collapse of Lehman Brothers on 15 September 2008. Corporations we know and act for have discussed downsizing, but very few have actually pushed the button.

Most tenants are overwhelmed with space and staff are floating about in their offices, but again they haven't taken any action, as they



don't know how deep the recession is going to be or how long it will last. Accordingly, the demand for offices in central London has ground to a standstill but we have little doubt that it will be kick-started again as soon as those companies make decisions.

Remember, when companies are downsizing they are not as conscious about the price per square foot that they are paying – especially when they are halving their outgoings by halving the space they occupy.

The real problem caused by this lack of activity is knowing how far, between September 2008 and March 2009, the market fell on a month-by-month basis. This causes a problem trying to work out the rent at rent reviews during that period.

There are three possible arguments, the first being that the market fell off a cliff on 15 September 2008 and therefore rents should be adjusted down to today's level from 16 September 2008 onwards.

The second argument says that rents fell

gradually on a month-by-month basis from 15 September 2008 to March 2009. Or maybe, the third argument goes, the real fall in rents happened in December, January, February or March 2009. There is no evidence of exactly when these rents fell.

Exactly when rents fell is a conundrum that faces all rent review surveyors. It will probably be the cause of hundreds of arbitrations at which a tenant's surveyor argues for the first option and the landlord's surveyor argues for the third.

I predict that the most difficult time ever to predict rents in the history of rent reviews will be the quarter between September 2008 and December 2008. For example, we are involved in one big West End review which, when settled, will show rents on three floors in the same building on July 2008, the September quarter 2008 and the December quarter 2008. Watch this space for the quarterly fall.

Life isn't meant to be easy and this is a problem that all valuers face. Let's hope we can take a sensible line and settle somewhere in between the best-case scenario for the landlord and for the tenant. We need to remember that a fair settlement between surveyors is one where neither party thinks it has won.

Anthony Lorenz is senior partner at the Lorenz Consultancy



■ MY TENANT HAS GONE INTO ADMINISTRATION. CAN I SEND IN THE BAILIFFS?

You must be clear about what the bailiff is being asked to do, but if an administrator has been appointed, your options are already limited.

For example, a landlord cannot end a lease early by physical re-entry using a bailiff – or, for that matter, by issuing court proceedings – without the court's permission. This is because insolvency legislation places a statutory moratorium in effect upon administration, barring creditors from taking action, and thereby



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giving the tenant a chance to return to profitability.

The court has a discretion in granting permission, weighing up a landlord's interests against those of the creditors. Do not forget that a notice is required to alert a tenant to possible forfeiture, unless the forfeiture relates to non-payment of rent.

Alternatively, you might want to use the bailiff to seize goods to the value of any debt owed by the tenant. This is an ancient remedy available to landlords only and is known as 'distress'.

But again, the statutory moratorium prevents a landlord from using this weapon if an administrator has been appointed.

If you know your tenant is in difficulty, act

quickly – if possible before the tenant enters administration or some other form of insolvency.

If an administrator has been appointed, while bailiff action may be out, other angles may be available. If there are arrears, there may be former tenants, guarantors or subtenants that may be pursued. There may be a rent deposit that can be used. Or the administrator may consider an early surrender. These are all possibilities that would merit further investigation.

To ask our experts for professional advice, email your questions to richard.heap@ubm.com. All queries will be dealt with in the strictest confidence. It is recommended that parties always seek independent legal advice.