

NEGOTIATING RENT REVIEWS IN A RISING MARKET

The market for quality office space in London's Mayfair and St James's is firing on all cylinders, with rents rising in these sought-after addresses by almost 20 per cent in less than a year.

It seems as though the market last experienced in June 2007 has returned, which is prompting The Lorenz Consultancy to recommend that its clients take prompt action in addressing their rent reviews and especially renewals

Anthony Lorenz, Senior Partner, says: "A recent case study illustrates the value of adopting a pro-active approach. We acted for the Hamilton Gallery, a world-renowned photographic art dealership, in Carlos Place, Mayfair. They had a rent review due in September 2011, and with Mount Street rents going from strength to strength, we thought it a good idea to agree this rent early.

"As a result, a five-year-old rent was increased from £185,000 to just less than £250,000 per annum, to the satisfaction of both the tenant and the landlord – a private family trust."

Lorenz continues: "In spite of the fact the rent review dates may not be due until the end of the year, we are taking the initiative now. In many cases when acting on behalf of a tenant, we are compelling landlords to quote their intended rents and, if they do not, are demanding that the RICS appoint an arbitrator or an expert to determine what the rent should be."

Why take this approach? Lorenz explains: "Even though a valuation date might not be due until the end of the year, it is very difficult for an arbitrator to determine the right rent if the date of its determination is perhaps more than four to six months beyond the review date.

"This is particularly the case in a rising market. If we do not take steps to force the issue, it is quite common for determinations to be made eight or even nine months after the review date, which inevitably means a higher settlement for the tenants.

"Conversely, when we are acting on behalf of landlords, our professional strategy is to take our time and not to be rushed when dealing with rent review in order to best serve our Landlords client's interests. As a rent review example, working on behalf of Loftus Family Property, The Lorenz Consultancy negotiated the December 2010 rent review on office premises in Baker Street W1. The 45,000 sqft building was let to a tenant at a passing rent of £47 per square foot and after extensive negotiation the review was settled in June at £55 per square foot. In this case, the rental value was defined within the lease as the date of the Arbitrator's Determination and not the review date ie November 2011 instead of December 2010.

This is all the more important when dealing with lease renewals, where it is vital to remember that the valuation date is not the same as the date of the lease expiry."

“Another crucial element is the date of any court hearing. It can take nine months to a year for a court hearing to be organised and in such cases where our consultancy is acting for a landlord in a rising market, our tendency is to ‘go slow’, whereas when representing tenants, our approach is to ‘kick on’,” says Lorenz.

Under the Landlord and Tenant Act, tenants have the right to serve a Section 26 notice on a landlord to demand a new commercial property lease, not more than 12 months or less than six months prior the expiry of an existing lease. “Of course in a rising market, a tenant should do this as soon as possible and then press for an early court hearing, so that it can be held as close as possible to the expiry date. In this instance, the valuation date is virtually the same as the expiry date,” says Lorenz.

“If the tenant fails to take these steps, the consequences can be costly. He can find himself paying a much higher rent because of the rising market. He will also be liable for back rent at the new rate, dating from the original expiry date.

“Of course not many rent renewals go all the way to Court before being settled, but without a timetable for action in place, there is little incentive in a rising market for a landlord to bring a renewal to a prompt conclusion.”

The Lorenz Consultancy’s rent review team has exceptional experience and insight into the requirements of a vast range of clients, dealing with hundreds of cases in all market sectors every year. This enables us to tailor our approach to each case to deliver the best possible outcome.