# Valuations & Comparable Evidence

## *What the Client should know.*

The saying that valuation is an art not a science is well understood by most property valuers. However, the degree to which valuation opinions vary from the subjective to the speculative depends, in many cases, *on where it is, what it is and indeed when it is.* In a buoyant market with plenty of comparable evidence available, valuations are relatively straight-forward. The typical freehold suburban house in any town or city will currently have the benefit of many accurate examples of prices to guide the valuer. Arriving at a reasonably accurate opinion of value in these cases should present little difficulty.

The problems increase where the property is somewhat unusual and comparable evidence is not plentiful. Perhaps it is a remote location or it is an unusual property or indeed the market is quite erratic or there is a combination of these factors. In these situations opinions can differ quite radically. Sometimes that difference is resolved through litigation or arbitration. If valuers can point to realistic examples to support their opinion differences should be overcome. On the other hand and in the absence of examples on which to base the opinion, the valuer is left with little or no support. So what does the lack of information mean for the valuation and the quality of the advice arising from that opinion? Quite simply that the opinion is open to question and may be inaccurate. More importantly the client should be informed.

The decision some years ago in the UK case *Merivale Moore Pic v Strutt & Parker (1997) EGCS 142*, examined this point. In that case the plaintiffs were introduced to a leasehold development property in the West End of London by one of the partners of the defendant firm. The plaintiffs were developers but had no prior experience of development in that part of the city. They instructed the defendant firm to advise them on the acquisition. The defendant completed an appraisal and valued the rental income and the yield. The yield evidence was based on information supplied from the fIrms investment department. The property was purchased for the valuation price of £3.6m. Difficulties later arose including a falling property market. The plaintiff brought proceedings against the defendant for negligence. They claimed that the rent levels for the various floors in the property were wrong and the yield level was also wrong. They also claimed that the valuation should have been heavily qualified.

Judgement was given for the plaintiff. Damages were awarded at just over £2m including interest. The court criticised the choice of yield level used in the valuation. It pointed out that there was a difficulty in this regard due to the lack of comparable evidence for this leasehold valuation. While the court was of the opinion that the yield level was too low it said;

*"the defendant would not have been negligent if its advice had been accompanied by an appropriate warning, caution or qualification"*.

In other words, the valuer should have told the client that due to the particular difficulties with the property and the lack of acceptable comparable evidence, the valuation was open to question.

In situations where the lack of comparable evidence is a problem, the advice must be qualified to that effect. Unusual valuations should carry an appropriate warning. Bear in mind that the property at the centre of the Merivale dispute was located in a busy capital city. Granted, the issue focused on the choice of yield level for a leasehold valuation but similar valuation problems arise quite frequently and for a variety of reasons, often based on the lack of good quality comparable evidence. The logic behind the decision in Merivale is sound. If advice is less certain because of a particular difficulty then the client should be informed of this difficulty before they rely on that advice.

Take for example a valuation for either capital or rental purposes of an office premises on the fringe of a small town. In many cases there is no reliable comparable evidence available. The next best option may be another similar town in another county. Is that really comparable at all? Based on this evidence the valuation advice could be very wide of the price actually achieved on disposal. The

Merivale decision instructs the valuer to bring this issue to the client's attention.

The decision not only has general application but even the more routine residential valuation for a building society loan should not be overlooked. Remember these valuations are subject to the provisions of the Building Society Act 1989. Section 25, 1(c) of that act states that in deciding to grant a loan the building society must obtain,

*"...a written report on the value of the security and any factors likely to affect its value* ..."

It is arguable that *"any factors"* include a lack of comparable evidence upon which to base the assessment of value in the first place (not to mention structural issues that most valuers attempt to avoid). Suppose the property or its title is unusual or there are some local infrastructure changes planned. What effect will these have on the reported value? If it is unclear then the client must be told of this. Otherwise the opinion is misleading as it supposes a certainty that does not exist.

A recent conversation with a colleague illustrates the problem. His organisation planned the sale of a large industrial property. Two firms of valuers advised him as to the disposal value. There was a considerable gap between both valuation opinions. The question was how could there be such a wide difference of opinion. Perhaps one answer lies in the fact that it was in a relatively remote location. Both valuers had little by way of supporting evidence to underpin their assessment. The real problem is that both valuation opinions were stated as fact, without qualification. The client should have been told by both valuers that in the particular circumstances the figures should be viewed with caution. This is precisely what the Court said in the Merivale case and held the valuer to be negligent to the tune of over £2 million.

*Brian T Doyle. BSc, LLB, MA, FSCS, FRICS, MIAVI is a locally based Chartered Surveyor providing consultancy property services in the Galway-Clare area. He also lectures on property valuation and compulsory purchase law in the School of Engineering at Galway-Mayo Institute of Technology. He can be contacted on 087-6701356 or at btd@oceanfree.net.*