LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Inquiry into commercial rates)

Members:

MRS V DUNNE (Chair)
MS T CHEYNE (Deputy Chair)
MS B CODY
MS N LAWDER

PROOF TRANSCRIPT OF EVIDENCE

CANBERRA

FRIDAY, 1 MARCH 2019

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Secretary to the committee:
Dr B Lloyd (Ph: 620 50137)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

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Amended 20 May 2013

The committee met at 10.17 am

DEL RIO, MR ALFONSO

THE CHAIR: Good morning and welcome to the sixth public hearing of the public accounts committee's inquiry into commercial rates. Today the committee will be hearing from Mr Alfonso del Rio, a partner in Clayton Utz; Mr Paul Powderly, State Chief Executive Officer of Colliers International; Mr Steven Flannery, partner and head of Knight Frank Valuations & Advisory, Canberra; Mr Robert Rixon, an independent valuer; Mr Philip Doyle, the senior director of asset services at CBRE Canberra; Mr and Mrs Eric and Susan Cappello, property owners; and Mr Peter Sarris, property owner.

When we ask witnesses to appear, I will ask each witness if they have read and understood the privilege statement, which is the pink laminated sheet. Today's hearings will be broadcast, recorded and transcribed. The witnesses will receive a proof transcript for their consideration from the committee secretary, Dr Lloyd. Any corrections or clarifications should be raised with him in the first instance. If any questions are taken on notice, please liaise with Dr Lloyd. I draw witnesses' attention to standing order 254D(b), which now provides that questions taken on notice are to be answered within five working days of the receipt of the uncorrected proof transcript of proceedings.

That having been said, I welcome Mr del Rio from Clayton Utz. Mr del Rio, you have understood and read the privileges statement?

Mr del Rio: I have.

THE CHAIR: Thank you very much. Would you like to make a brief opening statement?

Mr del Rio: I was invited to attend to speak to this committee; I did not put in a submission. It is not my usual inclination to put in a submission. I am, to some extent, a reluctant person who comes to speak to you and discuss some issues of concern. I am here in my personal capacity as a lawyer who has represented a number of people, including the ACT government, in property matters for over 30 years, not in my capacity as a partner of Clayton Utz, because the views of a partnership, by their very nature, are quite diverse and very broad.

THE CHAIR: Thank you.

Mr del Rio: I do have some comments that I am happy to make.

THE CHAIR: Yes, thank you.

Mr del Rio: I am happy to take questions. Do you want me to make some comments and observations?

THE CHAIR: If you would like to start off with some comments.

Mr del Rio: Sure.

THE CHAIR: The committee will have questions as well.

Mr del Rio: Okay. My starting point with this is that the ACT government has embarked on its 20-year program to modernise rates and taxes and collections, which is a very ambitious program. I am certainly supportive of that program.

Underlying that program were four espoused principles. On the ACT government website the first is stability: that revenue is broadly predictable so that future revenue can be predicted. I would just like to make the observation that there is a flip side to that which does not seem to have been accepted, which is that as a property owner you also want to know that your expenses are predictable. It is fine for the territory to say that revenue needs to be predictable, but it is also, I would have thought, a principle of stability that the property owner have a broadly predictable system so that their future expenses are broadly predictable, which is obviously one of the main concerns of people who have addressed the committee.

The second principle is that it should be efficient so that it does not unduly influence and distort behaviours.

The third principle was that it should be equitable. In that principle it talked about horizontal equity and vertical equity, being the situation where horizontal equity applies to people who are in similar financial circumstances whereas vertical equity is the principle that people who earn more should pay more.

These are fundamental principles. We are not here to talk about policy or what is right or what is wrong; that is not my role.

The other key principle was that it was to be simple, being transparent and practical.

At the outset, I would like to emphasise that in my dealings I have had nothing but respect and admiration for individual officers within the revenue office and the AVO. I think they do a terrific job; I have always found them to be responsive and helpful. I would like to make, however, some general comments. I am not seeking to qualify what I just said.

We have a fundamental issue with what I would consider to be the independence of the ACTVO. We all know that when a developer commissions a valuer, then, by definition, the unspoken statement is "Oh well, the developer must have influenced the valuer because they are the ones who are doing it." However, when I have an environment where the ACTVO is a subset of ACT revenue, which then reports to the Treasurer, no-one seems to question the concept that maybe the ACTVO needs to be independent of the revenue office.

I am talking purely from a governance perspective. The concept that I have, one body that reports to the person who is there to raise the revenue, I see of fundamental concern. I would also commend to you the submission that was made by the API. They have not really said anything about independence, because there are some

things that people do not want to say, but if you look at point 1 of their submission, it talks about the fact that "We have been trying to engage with the ACTVO for a while but we are really not getting anywhere."

As a fundamental principle of governance, the system is fundamentally flawed in an environment where there is not a genuine independent process to determine valuations. I think that is something that should be looked at.

I have some specific, really boring, technical, difficult issues that have been around for a while.

THE CHAIR: Would you like to bore us with those?

Mr del Rio: Yes, I would love to bore you with those

THE CHAIR: Thank you very much, Mr del Rio

Mr del Rio: One is car parks. If I have a stand-alone car park in a units plan, the rates that apply to that one single car park exceed the income that I can receive from that car park. When you look at the base rate for a car park, it is set at a fixed rate. I also have to pay things like general rates, which include things for rubbish collection and other things, and I have to pay Evoenergy and ACTEW charges. I realise that ACTEW and gas charges sit outside the rent bit of your terms of reference. The same principle would apply for storage areas. If I want to individually buy and own a car park or a storage cage, the income that I will receive from that will be exceeded by the amount of rates and taxes.

There is an informal arrangement that exists where the revenue office has agreed not to apply strictly the law in relation to those small-value matters. But that is not a formal legislative position, and that position is coming under review. I note that these reforms started in 2012. Time has marched on and there are some issues which really underpin it and little issues that actually are symptomatic of a bigger problem.

THE CHAIR: Just to clarify, I as a citizen could approach someone who is running a unit plan—commercial, residential or something—and say, "I really need another car space or a storage space. Have you got a spare one?" "Yes, I do." I could purchase that or lease it?

Mr del Rio: The idea originally was that I would create mixed-use precincts where I would have, for example, 50 car parks which I could either rent out commercially or sell to an individual, and similarly with storage cages. However, because of the change to the rating system, it is financially prohibitive for me to do that. The opportunity that you could have if we had a different rating system is being prevented because the rates that are charged for a two square metre storage cage are identical with those charged on a $250,000 unit, just because of the maths involved on the minimum base rate.

THE CHAIR: But you are also saying that in a sense the valuation office is not complying with that, but that is an informal arrangement, and informal arrangements are invariably unsatisfactory because there is no certainty about them.

Mr del Rio: Correct.

THE CHAIR: Apart from converting the informal arrangement into something more permanent, which presumably would be something in legislation or regulation, is there any other workaround? What you are saying is that, for small parcels of land, essentially, there needs to be a differential rating system?

Mr del Rio: The rating system needs to take into account low values. Effectively, the minimum rate needs to reflect that there are some things where the minimum rate is not fair or reasonable. Certainly, charging rubbish collection services, water connections and sewer connections to an individual car park that does not have any of those connections has to be grossly unfair and unreasonable.

THE CHAIR: Is it the case that, if I owned a storage cage, a car park or both, I would be paying the standard rating charge and a valuation charge on top of that?

Mr del Rio: No. Generally, in a unit complex you have a unit, and stapled to that unit would come your car space and your storage area.

THE CHAIR: Yes, but if I went out and bought an extra car space—

Mr del Rio: If you could buy an extra car space then you would be rated the minimum value for that, and if you have a car space and a storage space, and they were separate from your unit, you would cop three different rating values. For people who are living in a mixed-use complex and who might say, "I want to buy two car spaces because at this point in my life that's a good thing, but then I want to be able to sell one," you cannot efficiently use a building for the long term because the rating system prevents you from doing that; the charges are exorbitant.

MS CODY: Are you saying that people do not do that at all?

Mr del Rio: That is correct. We started building unit complexes which had stand-alone car spaces, to facilitate this, and now you will not find any unit complex that has been built in the ACT which does that, because the rates—

MS CODY: Unit as in apartment or unit as in townhouse?

Mr del Rio: Either one.

THE CHAIR: Or in a commercial unit?

Mr del Rio: Correct. Ideally, you would create a mixed-use precinct and you would say, "I've got 50 car parks and I attach, as a separate piece of ownership rather than stapling it to the unit title." At the moment they are all stapled to the unit title.

MS CODY: Except for the residential mixed-use development that is currently occurring in Woden.

Mr del Rio: No. I would guess that that particular development will not do

individual—

MS CODY: They are. I have just inquired about purchasing a unit there.

Mr del Rio: If you do, you will find that you will get a very nasty surprise with your rates bill.

MS CODY: Okay.

Mr del Rio: Mathematically, that is the way that it works.

MS CODY: They currently are being offered on a separate basis.

Mr del Rio: Yes.

MS CODY: The apartment is one, and if you want to purchase a car park as well, that is a separate transaction.

Mr del Rio: Yes, and people are working on the assumption that that will all be okay; so the developer has not fully disclosed to you the consequences of them doing that.

MS CODY: I am not sure that that is entirely correct.

Mr del Rio: If you have looked at that and you have made an assumption that your rates bill is not going to be marginally different because you are getting the two separately—

MS CODY: I have not made that assumption.

Mr del Rio: That is fine. That is the fundamental problem, because people buy things without understanding the consequences of what they are doing, and they are making an assumption about what it is.

MS CODY: Should the government be held accountable for that?

Mr del Rio: I am not saying that at all.

MS CODY: Okay; I was just asking.

Mr del Rio: What I am trying to say is that you should be able to buy a separate car park and not end up in a position where you are paying for a rating system based on services where it is not possible for you to consume them. Why are you paying sewer and stormwater connections on a car park? Why are you paying electricity connections on your car park? Why are you paying for rubbish collection on your car park? The basis for the minimum charge was that every unit consumes a minimum level of service. That was the policy underlying that change.

THE CHAIR: As a lawyer, Mr del Rio, what would be the simple solution that created certainty?

Mr del Rio: You would have a differential rating system or a lower threshold, and you would apply a minimum threshold.

THE CHAIR: Every time you create exceptions, you run the risk of creating loopholes. If you had a differential rating system for a small parcel of land—it might be up to 20 square metres or something like that—could you envisage how there might be loopholes so that people could manipulate the rating system?

Mr del Rio: If you wanted to have an exception for small units then you could, in theory, have multiple units that in total add up to the same size area, but even if you did that the minimum rate would effectively get you to the same point. I do not see that as a big issue.

THE CHAIR: Do you think it would be a simple legislative fix if there was a will to do that?

Mr del Rio: Yes.

THE CHAIR: Are there other interesting things that you wish to tell us about?

Mr del Rio: Holding leases. Holding leases are things that are created on a broadacre parcel, so they are generally large areas of land which are then divided into little bits and pieces. Holding leases were exempt from land tax. That is what section 11 of the Land Tax Act says. When commercial rates were altered, and land tax was abolished, the land tax was effectively added to the commercial rates. Holding leases were not really dealt with at all.

If I have a holding lease, I am paying amounts of money. You do not pay land tax, but the problem is that there is no land tax assessment. Holding leases are generally done on large-scale developments. Again there is an informal process whereby you say, "Give me the split of residential versus commercial and then we won't apply the commercial rate on the residential rate."

THE CHAIR: In a holding lease there is apportionment?

Mr del Rio: Not under the legislation.

THE CHAIR: Not under the legislation but informally?

Mr del Rio: Correct.

THE CHAIR: From your point of view as a lawyer, do you think that informal arrangements which are not underpinned by legislation are a satisfactory way of going about it?

Mr del Rio: There is always room for policy to vary what the legislation says, but the basic principles that underline the system should be legislatively based. In this case it clearly is not, because when the change happened, consideration was not given to holding leases because in reality there would be under 100 of them. To create a whole system around quite a small defined area is a problem.

THE CHAIR: The thing is that there might only be a few of them but, for the individuals or companies involved, being charged land tax, effectively—because it is all being wound in together—is a significant impost on the cost of holding that lease while you actually work out what is going on. With a very large development like the one in west Belconnen, there might be holding leases there that might be in place for many years.

Mr del Rio: That is correct. The bigger issue that I have is that it is not transparent and it is not simple, because when you are buying a holding lease it is a bit unclear what the rating system is going to be. You are making an assumption about where things are going to end up.

THE CHAIR: It is hard for people to anticipate what their holding costs might be.

Mr del Rio: Correct.

THE CHAIR: Are there any other issues that you wish to raise in this space?

Mr del Rio: It has been raised elsewhere, but the concept that I will back-charge five years of rates is, in my view, a pretty fundamental problem. It flies in the face of that underlying principle of, "I've got to be able to predict what the future is." There is no doubt that the government has the legislative power to do that, but part of what society is being asked to do, including corporations, is not whether you can do it but whether you should have done it.

In an environment where a lot of the owners of those properties were unable to recover those outgoings from the tenant because the tenant has left, to effectively go back five years is unreasonable and results in an unfair outcome, whether it is for the landlord or whether it is for the tenant if the landlord can pass it on.

That is specifically about the LVC argument. That leads me to what I see as another fundamental problem with the system, that is, we have this concept that is being put to this committee that there was a bit of a discrepancy and it just all washes out. Can I explain to the committee that the process is this: I request my lease to be varied; I prepare a valuation; the AVO prepares a valuation in response; I get a development approval from the planning authority; I then act in accordance with that approval. I then register the variation of the lease at the ACT land titles office. That is then notified to the ACT revenue office, who then did nothing for five years. The AVO had all of the material information, because it was involved in the determination of—

THE CHAIR: At the very beginning.

Mr del Rio: the process. We then have the interesting position where they say, "We've determined the value of the land without improvements as X for lease variation charge purposes," but that doesn't necessarily mean that that is going to be the same as the unimproved capital value. And that is a really hard thing to explain to people, because there is the discrepancy between the two.

THE CHAIR: Actually, there was some admission from the government this time

last week that in those cases there had not been perfect communication inside government, which was a slight back-step from the government, who had previously said it was the responsibility of the leaseholder to tell the ACT valuation office that they had changed their lease purpose clause.

Mr del Rio: Correct. I have a position where the government approves the process to vary the lease, the government signs the lease variation, the government registers the lease variation, and somehow it is the responsibility of the landowner to notify the government, and the government has access to this information.

That brings me to another point. If I transfer a property, that notification of the transfer is notified automatically to the revenue office, because they want to make sure that they send the bill to the right person. Occasionally, we have issues where, with the rates notices—and I realise this committee is not about rates; this is so that you understand the problem—the rates office keeps sending stuff to the original owner. The original owner says, "I'm not the owner anymore; I sold the property. Can you go onto your system and look for it?" I have had cases where my client has been put to the expense of making me do a title search to prove to the revenue office that my client does not own the property, when they are sitting in front of a computer and all they have to do is look it up.

This concept that it is the responsibility of the landowner to notify the government of a change which can only be signed off on by the government is, frankly, ludicrous. It is very different from a position where I, as an individual owner of an investment property, live in that property and move out. I then have an obligation to notify the revenue office. I can understand that logic, because that is within my control, but in circumstances where 100 per cent of the control sits with the government, it is an untenable proposition, in my view.

THE CHAIR: The committee, not just in this inquiry, has explored that particular issue of back assessment of rates. It has been put to the committee that it was the leaseholder's responsibility but, in your experience as a property lawyer, do you know of any mechanism whereby the leaseholder could efficiently notify the ACT valuation office of their change of lease?

Mr del Rio: No.

THE CHAIR: There is no form?

Mr del Rio: There is no form; there is no requirement in any legislation; there is no policy behind it.

THE CHAIR: When all of this happens, the kit does not say, "By the way, you have to notify us that this has happened"?

Mr del Rio: There is a fundamental assumption by any property owner who transfers a property and registers an instrument through the ACT government at the land titles office that the government are aware of it. In the case of a lease variation charge, the only way that can happen is if the ACT government sign the lease variation. They must sign it. I must make an appointment with the ACT government for them to

register it. For a landowner to assume that somehow they have an obligation to tell the government that the lease is registered is just ridiculous.

THE CHAIR: Are they the main issues?

Mr del Rio: In the interests of time I will hand over some examples of disparities in valuers between valuations, so that you can get an idea of the extent of the spread of values. People talk to you about value being a precise science, so I have prepared a little spreadsheet that I gave a presentation on some time ago where four valuers were involved in determining the before and after value of a property. The before value was between $2.1 million and $6.1 million and the after value was between $7.65 million and $13.4 million. I am not querying the expertise of the valuers, but when I have four different valuers with that degree of spread, you can understand that the concept of, "That's the unimproved value," is a pretty shaky concept, which gets back to the independence point.

When people get their rates notice, whether you are an individual residential owner, which I know we are not talking about, or a commercial owner, what happens is that early in January you will get a notice from the AVO which will include a valuation notice, which will have valuation year 1, valuation year 2 and valuation year 3, and you will also get your rates notice.

Most people do not look at valuation 1, 2 and 3; they just look at the rates notice and the amount. Because we have a rolling three-year average on valuations, if I go from $1 million to $2 million in year 1, I do not really notice it that much because the impact is spread out over a three-year period. In year 2, it goes up significantly and in year 3 it really hits me. Because I did not pay attention, and maybe I said, "I've read in the paper that rates are going up; yes, that looks okay," you do not actually realise that the impact of the value is what really slams your rates.

By the time I have worked that out, my 60 days to appeal the process have run out, and that time frame is never extended. So the impact and the timing are quite important, from when you get your rates notice, because you get your valuation notice with your rates notice. Most people, in my experience, do not look at the valuation notice, and it is only in year 2 and year 3, when the full impact of the increase has become realised, that people wake up and say, "Goodness me." But when they want to challenge the original valuation, it is too late because that happened one year ago or two years ago, as the case may be.

That is the system. I am not saying that is a problem, but, fundamentally, in an environment where the territory reserves the right to go back five years and change something because it could not be bothered to look at its own records, it seems somewhat unfair that the taxpayer, the landowner, only has a strict period of 60 days within which to respond.

THE CHAIR: I know that committee members have a lot of questions. One of the things that you talked about has come up a lot: the issue of the independence of the valuation office itself. It has been put to the committee by a number of bodies that we should have a system which is more like the system in other states which have a statutorily independent valuation office. Would you be in agreement with a proposal

of that sort?

Mr del Rio: That is one way to resolve the independence issue, so I would certainly be supportive of that; or you could have a review panel that can make a determination to overrule the AVO beyond the ACAT process. You could have an absolutely independent valuation office or you could have a secondary process that is a genuine review of the valuation notice, other than the ACAT process, because the ACAT process, because of the involvement of people like me, is particularly expensive and time consuming.

THE CHAIR: The committee has heard evidence that we probably need both: statutory independence and an intermediate process.

Mr del Rio: Yes.

MS CODY: We have also heard evidence that the review panel would mean more paperwork for people, and red tape.

Mr del Rio: The intermediate step is an appeal process; it is just a lower cost appeal process.

MS CODY: That is right. We have asked questions of witnesses, and they believe that that would mean more red tape.

MS CHEYNE: Is there anything else that you can expand on as to why an independent body could help with valuations and with being more accurate?

Mr del Rio: Because they are answerable to a different master.

MS LAWDER: In a similar vein, you gave an example of the wide disparity of valuations.

Mr del Rio: I can hand that up if you like if you want to look at it now.

MS LAWDER: Yes, we would like to see it.

Mr del Rio: It is pretty stark.

MS LAWDER: I am just trying to think through—because it is perhaps not an exact science—whether an independent valuation process would still throw up those wide disparities.

Mr del Rio: Generally, if you look at how valuation issues are resolved commercially, there is quite often a process in, for example, commercial lease reviews where—there are lots of different processes. One is to have a valuer appointed by a tenant and a valuer appointed by a landlord. They get together and have a discussion. If they cannot agree or they are outside a certain range, it goes to a third valuer, who makes an independent determination. You tend to find that once people are obliged to work together and discuss the underlying assumptions of what is involved, parties do come closer together.

MS LAWDER: We have also talked about the ACAT process and how it can be expensive and time-consuming. We have had a bit of evidence presented to the committee about that. Without identifying anyone specifically, are you aware of any examples where people choose not to go through ACAT because they just throw their hands up and think it is not worth it? So perhaps the number of cases going to ACAT may not be reflective of the dissatisfaction.

Mr del Rio: If a person comes to me and says, "I want to challenge a rates valuation in ACAT," my answer to them is, "Mathematically, on a cost-benefit analysis, don't waste your time," because you do not recover the amount of money. If ACAT were a costs jurisdiction or there were an agreement where the valuers' costs were paid independently and you removed the lawyers from the process altogether, you would have a totally different outcome.

The problem is that the AVO in many cases, as is identified from the API submission, are not really engaging, because they have no legal obligation to engage because there is no-one that is sitting above them other than the ACAT process. And 99 times out of 100, when I am dealing with small-scale property owners, with the amount of money that is at risk from a valuation perspective, even if it is a $50,000 a year increase, in rolling the dice you have to wonder whether it is economically worthwhile.

So in my view, absolutely there is. There are many people who have come to see me and discussed it. My answer is always, "Commercially do the numbers. These are the numbers. Try to come to an agreement with the AVO."

THE CHAIR: What you have described there, though, is that there is a bit of moral hazard. The appellant has to use their own money. The defendant, the valuation office, is using taxpayers' money. It is difficult for someone who is not putting their hand in their own pocket to act proportionately.

Mr del Rio: It is even more basic than that. You have the AVO, who is accountable to the revenue office, whose job it is to maximise the amount of revenue that the territory collects. That is the fundamental problem. You should not have the person who is determining the value being employed by the person who is responsible for the collection of the rates. Ultimately, the AVO position, normally and justifiably, is "Well, I will defend my position by as much as it takes for as long as it takes because that is my position."

THE CHAIR: But also they are not paying the bills?

Mr del Rio: Correct.

THE CHAIR: Whereas your clients are paying the bills themselves?

Mr del Rio: Yes, but they also get the benefit of the appeal.

THE CHAIR: Some of the evidence that the committee has heard is that even for people who have had somewhat successful outcomes in the ACAT process, their costs have exceeded or come close to exceeding the benefit that they received from the

successful outcome.

Mr del Rio: The problem is that it is just the system. If you look at the values that I put before you, valuer 1 was the AVO and there were three other valuers. If you look at the tables, you will see that there is this clumping together, and one of those valuers was appointed as an independent expert. Generally you have these outliers but the general consensus view. That is what you need to get to. We cannot have a position where we are spending huge amounts of money determining these things with people who are not independent.

MS CODY: Mr del Rio, can I just clarify your opening statement. I know that you have not made a submission. I was just wondering how you came to appear today.

THE CHAIR: I think the committee wrote to him, didn't we?

Mr del Rio: Yes. I was asked to come and provide evidence.

MS CODY: By the committee?

THE CHAIR: Yes.

Mr del Rio: Yes.

MS CODY: In preparing your information, did you attend any meetings with other people to help form a view?

Mr del Rio: No.

MS CODY: I am just wondering whether you are a member of any political party.

THE CHAIR: That question is out of order. We will pass on.

Mr del Rio: And no, I am not. I am happy to answer such questions.

MS CODY: Thank you.

Mr del Rio: I do not have alignment to any particular organisation.

MS CODY: That is fine; thank you.

Mr del Rio: Other than as a member of the ACT Law Society conveyancing committee, a position that I have held for approximately 20-odd years.

MS CODY: I am sure that it is a very important position for you. It gives you a lot of good information, which helps in these sorts of matters.

Mr del Rio: It does not. As you will find from the submission from the Law Society, the Law Society does not involve itself in political matters or form a view—

MS CODY: Sorry, that was not a political question. I am talking about the rates

inquiry. If you are doing conveyancing, you look at all sorts of land-related, sale-related matters. Anyway, let us move to my questions. Do you have a commercial property?

Mr del Rio: No.

MS CODY: Apart from being a partner in Clayton Utz, you do not have any other businesses or any other commercial entities?

Mr del Rio: No, I do not.

MS CODY: Excellent.

Mr del Rio: I do not have a vested interest in relation to this matter.

MS CODY: Thanks.

THE CHAIR: Do members have any other questions for Mr del Rio?

MS CHEYNE: Just on rates notices.

THE CHAIR: Yes. So you can be consistent.

MS CHEYNE: Yes, that is right. We have quite a bit of an evidence base now, Mr del Rio, about the transparency or otherwise about the information contained in the rates notices in their current form. Do you have any views on how helpful rates notices are at the moment and/or whether they could be improved? And if so, how?

Mr del Rio: In keeping with the fundamental principle, as announced by the government, where it is important for government to have certainty of income—and I have said that the flip side to that should be that a ratepayer should have some certainty as to expenditure—it would not be too hard for the consequences of the increased valuation to be reflected in the rates notice. If I get an electricity bill and I flip the page over, it helpfully tells me what my electricity consumption was over time. I see what my gas consumption was over time. It does not really tell me what my rates bill has been over time, because we do not want to highlight particular issues.

It would also be useful for people to understand the rolling three-year average. What you do not see is that it would be not too difficult for the government to say, "On an assumption that your valuation does not change, and on an assumption that the rating value does not change, you can expect your next three yearly rates bills to be X, Y and Z." That would be helpful from a planning perspective and it would be a relatively easy thing to do, accepting that that requires the government to note that if the rating percentage changes, that will have an impact on the rating base.

What people do not understand is that if they increase their valuation by half a million dollars or a million dollars, in year 1 the change is not very big because they only get one-third of the increase. It is the year 2 and the year 3 impact, and it is generally only on year 2 that people realise what has happened.

MS CHEYNE: So all of that would help lessen some of the shock that we are hearing people are experiencing.

Mr del Rio: Correct, and also make a decision that, "Oh my god, this value is ridiculous. I am going to challenge it." As I said, the majority of people do not look at the valuation notice; they only look at the rates notice.

MS CHEYNE: Thank you.

THE CHAIR: Mr del Rio, thank you very much for your contribution to the inquiry. You will receive a proof *Hansard*. If there are issues that you wish to clarify that arise out of your perusal of that, you can take those up with Dr Lloyd. Thank you for your attendance here today and we apologise for the spelling errors in your name.

Mr del Rio: Thank you.

THE CHAIR: In accordance with the standing orders, I would like to call a brief private meeting.

Hearing suspended from 10.58 to 11.16 am.

POWDERLY, MR PAUL, State Chief Executive, Colliers International

THE CHAIR: The committee will now hear from Mr Paul Powderly, the State Chief Executive of Colliers International. Mr Powderly, I presume that you have read and understood the pink privilege statement?

Mr Powderly: Absolutely.

THE CHAIR: Do you have an opening statement to make to the committee?

Mr Powderly: Thank you for the invitation to give you some of my thoughts on what has happened over the past three or four weeks, and on all the evidence you have heard. I give you my thoughts as a participant in the property industry. I have been with Colliers International for 30 years. I have been an owner of real estate. I have been the president of the Australian Property Institute. As a participant in the marketplace, I always give government, whoever is in power, my thoughts on how a system works or does not work.

I do not come here with any bias. It is more about saying how we can always continue to improve the system. I have a couple of key messages that I wanted to provide you and the government with in respect of the system. Whilst we all understand very clearly that we need to raise revenue to run and pay for the services that this great city needs, the key is to make sure that our rating and land tax system, or our revenue system, is in tune with the priorities of the city. And they change as the city grows.

One of the things we have missed, in the application of charging rates now, is how the city is changing, and how we are encouraging the city to become a more compact, inner-city, urban infill. Some of our measures now, I believe, are a little bit in conflict with that. I will touch on some of that later, depending on what questions you ask me.

The key thing for us is to make sure that the system is equitable. At the moment it is slightly inequitable for owners of small properties: small units and 100-square-metre commercial owners. That is by virtue of the way the system has evolved. We need to be very careful, in that the nation's capital is here for one reason: really to serve parliament. We need to make sure that we have the most cost-effective office market in Australia, so that we do not have this conversation about decentralisation, and so that Canberra is seen to be most competitive, and that we take departments from Sydney and Melbourne and bring them to Canberra. That is really what we want.

It is about all of the businesses that feed off government, whether it is private accounting firms, the big four banks—all of those service providers—so that they find it to be a very competitive environment for them here and that it is cost effective to locate here rather than just being a small branch town.

Those are the key objectives that I always look at in terms of our system. I have looked at hundreds and hundreds of examples. Many people have given evidence based on their own personal circumstances. I have some generic things to go through, but I will see what sorts of questions are asked and what sort of information you would like to hear from me; then I can potentially provide—

THE CHAIR: The committee has been pursuing, in the context of commercial rates, the process of valuation—and you are a valuation specialist—and the issues of transparency, about how people understand the valuation process and the subsequent rate process. Generally, there has been uniformity of view that tax reform is a useful thing but perhaps it is not as finely tuned and well-oiled as it could be. This has brought about a lumpiness in the process which has brought people to this table. I suppose that is a short summary.

I will start with issues about the transparency of the valuation system and the fallout that that has for the rating system. The committee has received quite a lot of evidence that could be construed as there being an inherent conflict regarding the ACT valuation office being a subset of the revenue office. There has been a lot of evidence that perhaps we should have a more statutorily independent process. Do you have views on that aspect of the issue?

Mr Powderly: Yes. In my former role, when I was the president of the Australian Property Institute, I was fairly instrumental in—rightly or wrongly—the current ACT valuation office ending up within government, because the commonwealth was shutting the Australian Valuation Office and sacking hundreds of people. I felt that it would be silly to lose a lot of that intellectual data and information, and that the territory should come to some arrangement whereby the valuers who left the commonwealth could be part of the ACT government. As I said, rightly or wrongly, there were a lot of people who believed that they should not be sitting within government and that there is a vested interest because they are acting for the treasury office.

At the end of the day that might be an issue, but an easy way around it is to have a simplified system of being able to deal with those variations in valuations. I think that is the biggest thing we have had for many years. Having ultimately to go to ACAT or the Supreme Court is not a cost-effective and equitable way to deal with small discrepancies or difference of opinions in valuation and/or rating matters.

I heard earlier one of the experts say that sometimes it can cost $100,000 to turn up to save $5,000, and people just do not go down the path of doing it. That is not a fair system. As I said it is very easy to fix: basically, set up a non-cost, cost-effective system where experts in the field who are independent can very quickly adjudicate on it and you do not have to make it a legal process.

I do not think you have to change the whole system but it is certainly an easy way to fix it. I know there have been some conversations over the past few years to try to think how that might work. I do not think it has happened. I am no longer involved as the president of the API. Certainly, that would be a very simple way to get some equity back into it, if people feel that they can go along, in a very low cost environment, to try to get things resolved. There is human error on the government side. Once they are made aware of it, they correct it very quickly, but sometimes it can be very costly to try to get that done.

THE CHAIR: You would see that an intermediate appeal system is more important than statutory independence?

Mr Powderly: Yes, I think so, because there is a lot of confidential information that you sometimes want to be held by the right people. You do not necessarily want something out there—a private firm, for example, having people's confidential information. That was one of the reasons why I said to the commonwealth government, "There's a lot of information about people's pensions, people's assets, and you will lose that data if you just remove the Australian Valuation Office and don't have somebody as the gatekeeper for that information."

As I said a lot of people will disagree with me, but I think there is a better way to keep in check a government that has to levy taxes. People always have a view about whether it is right or wrong, whether it is Liberal, Labor or a coalition. There has to be a system that says, "I think you're being a little bit inequitable here, and these are the reasons why."

THE CHAIR: In that process, from your background in property, how would you structure it, if you were running the system?

Mr Powderly: A number of examples already exist, and I think I have given evidence on this once before. The Commonwealth of Australia are the biggest users of property. They rent a million square metres of space in this city. If a rent review comes up, the landlord gets a valuer and the commonwealth gets a valuer. If they do not agree—there are no lawyers—there is an independent party. In my case, when I was the president, I would nominate an expert. He would decide it, and it is binding—no lawyers. If the Commonwealth of Australia, who are paying hundreds of millions, or billions, of dollars in rent can deal with a process so simply, why can't we, as a tax jurisdiction?

MS CHEYNE: How does our market compare to other jurisdictions in terms of competitiveness and investor confidence?

Mr Powderly: There are two answers to your question. The first one is in terms of a comparison of statutory charges. Last year I got one of my team, a research person, to look at all of the Australian office markets in terms of what their average net rents are, what their outgoings are, statutory outgoings, to get a bit of a benchmark to see how we were. I did that because I was trying to convince certain commonwealth public servants and ministers that they should not be taking departments out of Canberra, and giving reasons why they should stay in the nation's capital.

With the comparison that was done—this was at June last year, so it is not today—Canberra's statutory charges were 8.57 per cent of our net income. For Sydney and Melbourne, they were six and five per cent of their income, so they were lower; we had a higher percentage than those. With respect to Perth, we were about the same. We were lower than Adelaide. We sat in the middle of the pack reasonably well, as an average, in the marketplace.

It is at the two ends of the extreme that we have the problems in Canberra. That is an average of $32 a square metre. The little guys are paying $70 a square metre in Fyshwick, Turner and Braddon, and the big end of town is paying $26. So the average is okay—

THE CHAIR: In statutory charges?

Mr Powderly: Statutory charges, yes. The average is okay but we have to finesse the extremities of it, to make sure it is a more equitable system. Whilst most of the institutional people would not like me saying this, an extra dollar or two a square metre in their assets, which are often $100 million or $200 million, is not as important as it is to the little guy who has an extra $3,000, $4,000 or $5,000 which can represent 20 per cent of the entire rent that he is getting from the property.

From my point of view, it is teetering, in terms of making sure we get the right bucket of money that we need in the territory to run the services. I think we need to do a bit of finessing to make sure that it is equitable. As you would all know, there are now external influences: the banking royal commission, bank lending practices and bank lending ratios. Most smaller owners who have now gone outside their lending ratios do not have the income to support them because their statutory charges have gone up. We have this double whammy that is affecting a lot of those owners. We as a jurisdiction should always make sure that our rating and taxing system responds to those external influences.

In terms of investor confidence, at the moment with the market in Canberra commercial investment activity is strong. There is strong interest nationally to buy property in Canberra, primarily because we have a very competitive stamp duty system at the moment. The government has been very focused on making sure that we are competitive, and our stamp duty rate, up to the top tax rate, is very competitive. It is not much cheaper anywhere else in Australia but it is not more expensive, which is what this government has always tried to do.

I believe in getting rid of stamp duty because it is an ineffective tax, and we have to somehow pay for that. Residential investment is one that is struggling. Investors are struggling to get into the marketplace for two reasons: the banking issue, to be able to borrow money; and their net income, because of the way in which we have changed the way we rate apartments and units.

We can talk about some of those cases. You have probably already heard of the extreme examples. That has been a bit of a double whammy. As I said, for a city that is now trying to head everybody towards infill and multi-unit mixed-use outcomes, so that we are not doing urban sprawl, we need to have a rating system that encourages more of it, not discourages investors from buying into the marketplace.

If 10,000 apartments sell in Canberra, that means a lot of construction, a lot of economy activity, and it is very good for the economy. If only 2,000 are selling then we know what difference that makes in the economy in terms of economic activity.

MS LAWDER: In your opening comments you talked about tax reform being equitable—perhaps not your exact words—and a disproportionate impact on small investors or businesses.

Mr Powderly: It is whoever is participating in that. If you are a tenant, if a landlord has to pay an extra $5,000 a year in rating revenue, he is going to have to charge it to

you in the rent that he charges for the property or, if he has a recovery of outgoings clause in his lease, then you are going to have to pay for it as a tenant. So you may just be a tenant. If as a landlord you have locked yourself into a long-term lease and you get charged these things, you cannot recover them for a period of time. Again, most of the people are on interest cover requirements with their bank. I do not know many people who own property outright in cash. The banks are saying, "You now need to move back within the new APRA guidelines, so you need to find more money," and sometimes they do not have it. So it affects tenants, it affects the small business, and it affects the small business owner.

MS LAWDER: How would you see a more equitable approach that does not disproportionately affect small businesses or small investors?

Mr Powderly: There are two things that have occurred in the past few years that have had the impact. One is the fixed charge, which is $2,800 or thereabouts. That on 100 square metre unit in Fyshwick is an enormous percentage of rates. Everyone has to pay that. The same fixed charge is on a $2 million property in the inner south. So I think we need to look at a series where, if we are under a threshold of a certain value, of $100,000 or $150,000 land value, that should be zero or low or $500, something that is more equitable. That would fix a lot of issues straightaway.

The second thing is that we have now gone to this system—and I always worry about how these things just transpire—where we have decided that, instead of rating somebody on a $100,000 property and charging them rates, we are saying, "No, you're part of a $20 million building. We're going to rate the $20 million property because the rate in the dollar is much higher, and then you're going to have to pay your proportionate share." That has only happened recently, and we have been doing this for 30 years.

THE CHAIR: So that is calculate and divide rather than divide and calculate?

Mr Powderly: That has just changed: a massive percentage increase in the rate in the dollar. Again, they are things that we have just played around at the edges of. I can see why: it raises more revenue. But we need to maybe think about whether there is a different way to do that and be a bit more equitable.

There are a million things in Canberra that you look at and see that you could charge money for. My favourite one is that workers going to work every day in the Kingstons and Manukas and all these shopping centres have to pay for parking during the day, but the patrons who go and eat there at night do not pay for parking. Now, $1 or $2 just to park outside a restaurant at night-time would raise millions and millions of dollars, which would allow some of these sorts of things to be more equitable for the small business owner. But parking is one of those things that people do not like to go to—as long as you make it the same for everybody.

My view is that we just need to fix that bottom entry level to make it more equitable. Examples I have are 100 square metre units that are paying as much as $60 and $70 a square metre—

MS LAWDER: Commercial units?

Mr Powderly: Yes—$60 to $70 a square metre in statutory charges. That is double the square metre rate that an institution is paying for a $50 million or $20 million office building. People say "scale" but at the end of the day these are the people we probably should be helping rather than making it harder for.

MS LAWDER: You mentioned Fyshwick. Does it depend on the location or is it across the board?

Mr Powderly: Fyshwick has had two major things here. One is the construction of the major retail centre in Iron Knob Street, which means that a lot of people have moved away from the traditional areas of Fyshwick.

THE CHAIR: That is the Brand Depot area?

Mr Powderly: Yes. It has experienced massive vacancies at the same time as increases in rates. So people have had buildings that are empty and they have had the triple effect: they have had values deteriorate, they have had vacancy—you cannot find tenants—and they have been smacked with higher costs for rates and taxes. Again, there is no mechanism at the moment to deal with areas that are impacted. It is a land release. We release in a certain area to compete and we create this great new super retail centre, but we do not then look after the people who are impacted by the diminution in value and their livelihood.

MS LAWDER: Hume, I guess, could be used as another example of that.

Mr Powderly: Yes, Hume is similar. But, as I said, industrial values are very different to the quasi-retail values that we are talking about in Fyshwick and Phillip in the service trades area. The industrial suburbs have sort of settled down with their values. Again, new strata title—you have commercial stratas in those areas. You will find that that fixed rate in the dollar does impact your overall rates.

MS CODY: Mr Powderly, I am just double checking. The committee invited you here today to give evidence.

Mr Powderly: Correct. Sorry I did not provide a submission.

MS CODY: No, you did not. But you have given us some interesting comments in your opening statement. You also said in your opening statement that you were involved in commercial property yourself, personally, as well?

Mr Powderly: I have always been involved. Obviously I am running Colliers International. I have owned residential. I have owned commercial property. I have had Campbell shopping centre. I moved into the suburb and wanted to refurbish it. So I have always had an interest. My wife runs all of our financial accounts. If she thinks we can afford to pay whatever, she thinks it is fine, whatever the rates are. She does not even look at them. But from my perspective it is just—

THE CHAIR: Gee, you said that in *Hansard*. She can read that.

Mr Powderly: That is all right. She will know. But from my point of view it is just that we understand that we have got to raise a certain amount of money each year. We just need to make sure that when things change and the banking has an impact on Canberra, we have a rating system that is a bit flexible to deal with it. I know that the government will always look at these things and will take on some of those comments. They have done so over the years. They reduced stamp duty. We provided advice as to why we were not competitive with other jurisdictions, and they have made those changes. As I said, I often give advice. It does not necessarily give me any benefit. But I am giving it anyway, openly and honestly.

MS CODY: You mentioned in your opening statement office vacancy rates, particularly as we rely on the commonwealth agencies. How are our office vacancy rates currently sitting in the ACT?

Mr Powderly: The office vacancy rates have come off pretty much an all-time high. As you know, we went through a period in the past four or five years of very high vacancy rates, up around 13 to 15 per cent. It varied, depending on withdrawals. It is still double digit. It is still higher than we would like. But we are in a situation where we built a million square metres into this office market from 2007 through to 2012, and we have always had this hangover to get over the party of building new accommodation. So the city is well set to see that contract further.

We have a few obvious large movements, with homeland security and the territory moving into new buildings. That will see vacancy rates perk back up a bit in 2021. But at the moment it is probably two or three per cent higher than we would like it to be. That is in some ways good for the commonwealth, because if they need to expand we have the ability to satisfy their needs. Only this morning there was an advertisement for another 18,000 square metres expansion into Greenway by the commonwealth department down there. That is good for the city. We want more of that happening, from a federal government perspective. At a three per cent vacancy rate, we cannot help them. At 12 or 13 per cent, we have the provision in the marketplace to deal with it.

But the biggest issue for that market, and it came through in the study we did last year, is that the rents in Canberra are not growing at the same rate as our statutory charges are going up. That is creating just that little bit of disconnect. But, as I said, I am hoping that now we have had the major increase in values it should be more of a seamless line—

MS CODY: A steady increase.

Mr Powderly: for the next few years, which gives some institutions some comfort that they can just assume now that rates are going to increase around the CPI, or three per cent. But there have been some quite large increases as we have gone through this transition process. No-one should think they are perfect. The Australian Taxation Office introduced GST in the year 2000. We are still having court cases today because the system is not right. It is 18 years on and the GST legislation is still being played around with to get it perfect. And you will never get it right, because there is always going to be somebody who is not happy. But what we have got to do is try to make sure we are flexible to make those little changes.

THE CHAIR: On the vacancy rate, you said 12 to 13 per cent. Is that across the board, A to D?

Mr Powderly: That is the headline number.

THE CHAIR: What does it look like in—

Mr Powderly: We can break it down into A, B, C and D grade, and then we break it down to sub-markets. You have Barton, which is under one per cent office A grade. In the city is 4½ per cent. So it varies. The issue for us is that most of the office space vacancy is sitting in what is called C and D grades, so it is not space that is going to be occupied. What we need to do is to have those buildings washed through the system and be redeveloped, used for an adaptive use, whether it is residential, hotel or other things. That will sort some of the vacancy rate out.

THE CHAIR: But that is not going to help the people in Fyshwick. We are not going to build a hotel or residences in Fyshwick.

Mr Powderly: No, none at all. Those small business areas that are going through that major transition are the areas that we need to be helping. Your Phillip service trades, your Belconnen service trades, your Fyshwick and Mitchell are sort of the small business engine rooms. And at the moment they are struggling just a little, I think.

THE CHAIR: Hold that thought and I will come back to that.

MS CODY: In your current position, you obviously deal in a lot of commercial property. How is investment looking in the ACT? Has it declined at all with the change in the rating systems?

Mr Powderly: No. It would be true to say that the investment appetite in Australia is extremely strong. Because of the lack of investment opportunities on the eastern seaboard, there is a lot of focus on people buying in Canberra. Probably this year we will have a record year of commercial sales.

The people buying love Canberra, love the long lease covenants of the commonwealth. People selling are selling for one of two reasons. One is that they are taking advantage of the fact that either they have made a few dollars and it has gone up in value or the bank has said, "Under the new requirements, you need to change your exposure. You borrowed too much; you have to sell." As I said, in the commercial sector which we deal in, which is sort of plus five million, it is not really impacting that part of the marketplace. It is the small bit; the sales that I am getting are because people have to sell. That is the sad bit.

In that middle tier, where we operate, where Colliers International operates, the rating is not really an issue that we talk about in that sector. The rents are high; the property value is high; and the rents are generally recovered, if they go up, by the commonwealth. So you have an increase in statutory charges, and if it goes up, you charge the commonwealth for it. The commonwealth are waking up to that, by the way. They are now saying, "We are not going to do those leases anymore." As I said,

it does not impact that sector of the market we are playing in, but I am sure that if you asked the people at the smaller end of the marketplace that question, they would have a different answer for you.

THE CHAIR: That leads back to that thought. You have said that there are sectors of the market, like the trades areas around Belconnen and Phillip, that need assistance. With your property experience, what sort of assistance would you give them? If you ruled the world, what sort of assistance would you give them?

Mr Powderly: I would just look at people who have the small, low value land values and look at how that fixed levy has substantially increased their rates costs. As I said, it just came along in the past few years. It is the single biggest reason that rates increase: having to fix the levy on small properties meant that people's rates went up. If I had the magic wand, I would say, "If I took that off, and there are 10,000 or 5,000 of those properties, how am I going to find the other $10 million that I have to make up in the system?" Then I would look at what I am charging at the big end of town or what I am charging for parking. If you take it away from someone, you have to find the revenue. I know that it is a bucket.

THE CHAIR: So in a sense you are proposing perhaps a sliding scale for the fixed levy?

Mr Powderly: Correct.

THE CHAIR: Based on the value or the size of the block or something.

Mr Powderly: Yes. Which is what we used to have. If you had a $100,000 unit, your rates were calculated on that. Now, also, we are calculating on the $20 million development you are part of, so you are getting a different amount of rates to pay. As I said, particularly for residential, that is a problem for residential investors.

As I said, it is just a couple of little things like that, without changing the whole system, that gets it more equitable. Then we just have to deal with anyone who has a different view on value: how they get an equitable way to proceed with objecting to that without it being cost prohibitive.

I will say that I would get 50 to 100 calls a month from people who say, "Here is my rates notice. Should I object?" I look at it and go, "No." Human nature is that no-one wants to pay more; human nature is "I just want to pay less." But that is not reality.

MS CHEYNE: You get 50 to 100 calls a month?

Mr Powderly: Absolutely. Every owner in this town will send me their rates notice and say, "Should I object?" I go, "No; that is about right." There is no point—

MS CHEYNE: Is there ever a time when you say, "Yes, you should object."

Mr Powderly: Absolutely. And vehemently I will run it to the ACAT if I have to, if I think it is out of line. I have done some very large objections. One of the sites was from $28 million down to $21 million. Everyone makes mistakes. It is just one of

those things that you sometimes have to fix. A lot of times, if you write to the treasury office and point it out, they fix it. Sometimes you do not have to go to ACAT. But sometimes you have to, because people have the view that "I am right and I am never wrong." That is how it goes.

MS CHEYNE: I am sure there are many people who have that view.

Mr Powderly: You cannot believe.

THE CHAIR: Ms Cody, did I detect you had a supplementary?

MS CODY: Yes, I did, but then I got caught up listening to other bits of evidence. Keep going; it may come back to me.

THE CHAIR: Okay.

Mr Powderly: That was my magic wand answer.

THE CHAIR: In relation to that, the committee heard, in its inquiry into the rates and unit plans, about what was coarsely described as divide then multiply being substituted with multiply and divide. Is that happening in commercial unit plans as well?

Mr Powderly: No, it is not happening. It is residential that experiences that issue.

THE CHAIR: It is only residential? Okay.

Mr Powderly: When you have mixed use, there are obviously things. The other big thing that has changed recently—I call it the elephant in the room because I have not had an answer in terms of people that I have written to about it—is that we turn around and have a site valued based on its residential use to get its maximum value and then we levy the commercial rate in the dollar which is four times the residential rate. I have seen people's rates bills go from 300,000 to 1.8 million just because we have changed the way we are going to approach it. If it is in CZ zoning, we apply the commercial rate in the dollar, but we have used the residential value to get to the highest value of the rate. That is not on.

THE CHAIR: We heard evidence about that and a suggestion that there should be better apportionment about paying rates on what is activated and then paying—

Mr Powderly: It is very easy to do.

THE CHAIR: Yes. And paying the lower rating on the non-activated space and things like that.

Mr Powderly: In my example, I sat down with my colleagues who worked with the ACT valuation office to come to their rating value of 20 million, 30 million or whatever the number is. They said, "I have assumed 800 units at $50,000 a unit and this much commercial, and that is how we should be rating it—residential for that portion rather than just doing it all commercial." I understand the gain—it gets us to a

bucket of money—but let us make the system a bit more transparent and equitable so that people can see that if their value is 80 million because it is based on all these residential units, they should be paying rates on 80 million as a residential site, not as it being a commercial site worth 80 million.

THE CHAIR: In that you have touched on a couple of issues that came up yesterday in evidence. One of the things that dawned on me yesterday was that in a sense the ACT valuation office is becoming a player in the planning policy by saying, "We think that this property could reap this much residential space with this many basements and things like that." And then, in a sense, the owner has to develop to that to cover their costs, in a way. Do you think that that is a legitimate role for the valuation office?

Mr Powderly: I am not sure whether I would use the word "legitimate", but they have to be informed to be actually able to assess values. Sometimes you have to make those assessments. It is very easy in Braddon: you see it is six storeys and there are going to be four storeys of residential, ground floor retail and first floor office, because that is what the planning outcome says you do. When you do valuations, you work on that basis, because you try to get as accurately as you can what the territory should be getting as fair value for their property.

The issue for me is something that came up 25 years ago. There was an old lady who lived in a house in Torrens Street. She had been there for 63 years. It got rezoned to be allowed to be four-storey apartments. Her value went from 200,000 to a million. She was never going anywhere until she passed away, but we were going to triple or quadruple her rates because we had just rezoned an area and it was not her fault.

That is happening in Braddon. You have restaurateurs there who are in buildings and are there for 10 years or eight years. The developer's land has been revalued, the rates have gone up four times, and we expect the tenants to be able just to wear that. It means that when we go and get our schnitzel or whatever else, we are going to have to pay four times. If you cannot access the development rights, you should not necessarily be paying rates on them. That is again an issue that we have not dealt with.

THE CHAIR: So it is about activating those rights and when those rights should be activated?

Mr Powderly: Correct. I heard a discussion about somebody being back-charged for five years worth of rates because they did not change the value when they redid the change of use on the block. But they did not activate it. They did not actually develop it; they did not access those rights.

THE CHAIR: And the block is still there, isn't it?

Mr Powderly: It is a big point that everyone is trying to get to the middle ground of, but I think again it is about equity. I go back to the old lady who is sitting there. We saw sense not to belt her, so she could stay in her home till she left. Then the developer bought it and he paid the new rates because he could afford to because he was developing it. That is the sort of simple pub test that we need: to look back a few times and say, "Okay. If that is the way we are going to be and we are going to be

equitable, how else are we going to find the money in the system to make sure that we have the right amount of revenue?"

MS CHEYNE: We have also heard evidence more broadly in terms of confidence and how things are working in the ACT—that there is a real backlog in terms of development applications. I appreciate that this is not about rates, but in terms of doing business in the ACT, people have said that it would help if development applications were sped up a little bit. Has that been your experience?

Mr Powderly: Absolutely. The planning directorate would be sick of my calls. We are behind with the development of new buildings in the territory, for example, because you cannot get the building approvals. It is months behind. I understand that a resourcing request has been put in to get more money, to get more people to help to process things. The last thing you want to do is stifle activity and economic stimulus. We are currently growing. We have some good indicators. Unemployment is low. All of those things are great. The last thing we want to have is a blockage, and be unable to get things through the system.

We are not saying that they should be approved in 30 days. There is a statutory time frame, and let us make sure that we work to the timetables. People are putting up millions and millions of dollars. If you get 12 months behind because you cannot get approval, and you are getting stung for these large rates on a site that has been rated as commercial and it is ressie, it could mean a difference of millions of dollars. I think the head of the planning directorate is across it, and they are trying to make changes. I have made multiple requests to them about this, because people are in my ear saying, "I'm still waiting on my DA. It was supposed to have been out two months ago." It is an issue for everybody.

MS CHEYNE: While you would not necessarily agree that there is this perfect storm, there are probably government levers, regarding doing business in this town, that can affect and have a broader impact on people's operations. That is helpful feedback.

Mr Powderly: My experience is that many parts of government have sought advice about how things are going. People want to know how the real estate market is going, and treasury wants to understand whether there is strong confidence. The planning authority has always asked questions. As I said we just need to be quicker in responding.

The banking royal commission came down with its findings. Getting money from banks will get worse rather than better. We need to make sure, as a jurisdiction that has very high disposable incomes and that is very light on mortgages, that our system is as efficient as it can be in terms of making sure that people do not get into mortgage distress because we are banging heaps more rates through the system. We have to pay our fair go. You have to pay your rates; it is part of life. We just need to make sure that we are doing things within the macro-economic environment of the ACT.

MS CHEYNE: You talked before about people calling you when they got their rates notices. Do you get feedback from people about the current form of the information that the notices contain? Do they say that it is confusing or does not give enough information, particularly for some of the smaller investors or smaller business owners

who might not have time to understand tax reform in the ACT or where to go to check how these things are being calculated?

Mr Powderly: There are two answers. Most of my clients that we manage buildings for are sophisticated investors, wealthy families that have 20 or 30 properties. They understand it. They know where to go to get the information. They will just ask us whether we think their value is too high and whether they should object.

We sell land for the territory. We have sold Fluffy blocks; we are selling residential. There is a much greater multicultural society of people buying that domestic product, and they have a definite lack of understanding of the information they get in those notices. We do get a lot of questions from that sector of the marketplace, but not from the sophisticated end. As I said most of those people are repeat offenders; they have multiple properties and they understand what they are getting.

MS CHEYNE: Yes, that is who you are dealing with, but you can see that there is probably this subset in town who are doing these smaller investments—

Mr Powderly: I was having this conversation with some banks the other day. As I said before, to get a loan now, they put you through a very high scrutiny test on your monthly expenditure. They get your tap-and-go credit card for six months and go through every single item, to work out your affordability before you can get a loan. It is a long process.

One of the things they ask you about is your monthly costs. One thing that you could be doing is trying to give people some certainty going forward about rating costs. It would help a lot of those people if the bank knew that next year you are going to have to pay $6,000. It may tip you over the edge regarding getting a loan. They do look at that level of minutiae regarding your serviceability.

I was sitting here earlier when there was a discussion about what information you get on your electricity bill or your gas bill. It is fantastic. I can work out why my electricity bill has gone up—because my kids are now taking 15-minute showers instead of six-minute showers. The consumption levels come up on your statement. I think that would be handy.

MS CHEYNE: Yes, and reduce some of that shock a little bit that we have been hearing about. Is there anything else that we could be doing? I think the "pay now" has frightened a few people.

Mr Powderly: Yes, I think so. Again, for most of the people that I deal with, that is not really the issue. It is more about what is the most cost-effective system that can be put in place. They need to be able to find out quickly, "Yes, I'm wrong," and feel as though they have been able to find out that information.

MS CHEYNE: They are able to get access to justice, in a way, and get a quick response—

Mr Powderly: Correct; in a cost-effective—

MS CHEYNE: Yes, without saying, "That cost me a lot of money and I've still got to pay it."

Mr Powderly: Yes

THE CHAIR: Mr Powderly, thank you very much for your attendance here today and for your insights into the property market. You will receive a copy of the proof *Hansard* next week. If there are matters that you wish to clarify, you can take those up with Dr Lloyd.

FLANNERY, MR STEVEN
WALKER, MR PHILIP

THE CHAIR: The committee will now hear from Mr Steven Flannery. Mr Flannery, have you read and understood the privilege statement?

Mr Flannery: Yes, I have.

THE CHAIR: Thank you. Before we begin, I would like to put on the record that the committee recognises that you wrote to us about an individual case where you were an owner. You wrote to us last year. We did not have an inquiry on foot at the time. We received that correspondence at the time. We have subsequently decided to publish that letter that you wrote to us last year as part of the evidence of this inquiry because it relates directly to the calculation of commercial rates. It has been put on the inquiry's web page as a document, so it is there as part of the evidence. That is just so that you know exactly where you stand.

Mr Flannery: Thank you.

THE CHAIR: We have basically taken some decisions on your behalf because what you wrote to us last year is directly relevant to this inquiry. Do you want to make an opening statement?

Mr Flannery: Yes. I am by trade a property valuer. I have done valuations for circa 30 years, probably 20 of which were in offices in and around Braddon. I believe I am familiar with valuation matters as they arise, and with the Rates Act. I have worked in primarily commercial property valuations over that period. I wrote to the committee on a couple of fronts. One was in the context of some of the valuation principles, but, secondly, in relation to the matter of FANDS, which I was personally engaged with, to try to unlock or provide some real-life examples of where I think some of the injustice occurs. To that extent I am open to questions on both valuation matters and FANDS directly.

THE CHAIR: Let us deal with your submission, which is in more general terms, and then move on to the individual case, which, as you know if you have been following this, has actually been a subject of discussion on a number of occasions. In fact, it was raised this morning by a witness as well. In your submission you highlight four issues about the rating valuation system. Could you reflect on those? You talk about sudden increases in value, transparency, the appeals process, and a sort of definition of how the rating system works.

Let us begin with the issue of definition. There have been a number of submissions that we have heard from people, and will hear again, about what could be called the apportionment of rating values across properties. There seem to be two issues with apportionment. One is that sometimes the whole property is valued at the commercial rate because that is the highest and best use, and it is also the highest multiplier, it seems. Then there are other issues of apportionment where people have potential rights that have not been activated but are paying rates based on that unactivated use as well. We have heard and received evidence about both of those issues. How do you

see that we could address what appear to be inequities in relation to apportionment?

Mr Flannery: I think the definitions that are set out in the Rates Act are way too simplistic because they state, basically, that unless a property is 100 per cent residential or rural it is deemed to be commercial. Particularly in more recent times, in the last decade or so, an increase in the number of mixed-use developments has seen a more complex end product and mix of uses than probably was evident previously.

To that end, we see properties in all sorts of locations in and around commercial areas with different zonings. CZ5 zoning is typical zoning where that occurs. It is fair to say that the territory, when selling land over the past decade, installed purpose clauses which were as broad as possible, as opposed to some of the previous crown leases issued, which were really quite narrow in their use. What that has led to is a mismatch between some crown leases which are very use-specific and the very broad nature of more contemporary crown lease purpose clauses.

THE CHAIR: So there has been a gradual change. We have also heard evidence from commercial property owners that if they tried to let their property they could not let it. An example was that someone who could not let to a dentist because he did not have health in his crown lease.

Mr Flannery: Yes, that is true. Over that same duration, 20 or 30 years, there have been definitional changes within the Territory Plan, and therefore some of the descriptive words within the purpose clause are not necessarily defined in the new definition. So there is a distortion there just in terms of marrying potential uses.

THE CHAIR: If you ruled the world, how would you fix that system? You are not the first person I have asked that in those terms.

Mr Flannery: Whoever's job it is to undertake to do that valuation or unimproved value assessment must have regard to the individual crown leases. I understand that it is a big job, and it may be unfortunate, but the reality is that each crown lease is different and sometimes completely different. It could even be next door. The wording, a comma, an "and" or an "or" can change completely the meaning of a purpose clause. So, unfortunately, and as difficult as that could be, the only way to assess is probably on the basis of market value under the terms of the Rates Act, then unimproved value determined by the valuer's judgement around highest and best use—whatever was permissible at the time and given the market forces of the day, what the land value might be.

THE CHAIR: But highest and best use at the time has also created anomalies in the system. We heard evidence yesterday from an engineer of a case where the valuation is that the highest best and use is residential and they have got a $20 million plus value on the property but it is currently, and must continue to be, a commercial valuation, so they are paying the commercial valuation on the residential value, which is significantly higher than if it were—

Mr Flannery: That is a very large distortion of where it goes to next. You have, in the purest sense, the highest and best of permissible uses. In the practical sense, for whatever reason that might come about—whether it is the building that is on it,

although it is supposed to be an unimproved value, or whether it is some other constraint within the crown lease itself—the planning code might limit the height of a development and yet the crown lease may not have to be subject to any GFA limitations, and a residential right might exist but there might be another planning rule which says you must have an active ground floor commercial and it cannot be residential. So all of a sudden you are distorted in terms of what the potentials of the site are. So, in determining the highest and best use, I guess you need to be mindful of not only what the wording of the purpose clause is but also what the planning provisions that sit around that are.

THE CHAIR: One thing that has been drawn to my attention is that the Rates Act is drafted in such a way as to imply that every year the ACT valuation office should look at every lease, which clearly does not happen because of their massive appraisal process. But what you have said is that, in a sense, you have to look at the fine grain because no two leases are the same.

Mr Flannery: The law requires the commissioner to review the unimproved value. He engages the ACT valuation office currently to undertake that work, so it is a legal obligation on their part to actually do it.

THE CHAIR: But it seems that the legal obligation is to look at every lease every year, which clearly they do not do. And through the mass appraisal process, you end up with a sort of one size fits all, which is not appropriate either.

Mr Flannery: No. It is probably to fair to say, though, that the vast majority of crown leases would be residential and would not change year to year, so that takes out the bulk of the issue. Then you are left with other precincts, whether they call it a commercial or a mixed-use precinct, where it is more likely and more typical that variations of crown leases occur. If it is Deakin or Kingston or whatever the precinct may be, it is a matter of reviewing that and looking through what the crown lease purpose clauses are for a particular property. In some cases they differ quite insignificantly, but the impacts of the words that change can have a direct impact on value. It is an annual process, so from year to year it is an obligation on the commissioner and their engaged valuer to have some understanding and record-keeping of the changes that occurred during that year before, between then and the next one.

THE CHAIR: Let us hold that thought until we get to the issue of your own personal lease, which we will do separately. There are issues with some increases in valuation that you have touched on. There are also issues with the appeals process and transparency. Could you touch on those briefly?

Mr Flannery: As somebody who has worked in this space for quite a few years, I find it quite a frustrating process. There is quite a scope for people to be less than cooperative, I find, in that process. With the initial directions hearing, if we are going through the ACAT process, the applicant writes in and there are certain fees, which are not significant; that is not the deterrent. However, the mediation process that follows I have found to be very subpar. The situations where I have managed to resolve a matter at mediation I could count on probably three fingers. The process has not worked. I am not sure exactly why. I think people that attend those meetings, and

the mediator, should perhaps be more empowered and more encouraged to resolve some of the outcomes, to take some of the costs and process out of the actual ACAT matter.

THE CHAIR: Without putting words in your mouth, do you see the mediation process as a hurdle to get over so that you can get to the main game, which is the hearing?

Mr Flannery: Yes. It appears that way. There are two values, typically, to be valued in a lease variation matter, for example. I have had situations where we are all but agreed on the before value or the after value and then we cannot agree on the other value because we want to know what the difference is. I say it is not about the difference; they are separate valuations. They are a valuation before and a valuation after. It is not about the difference. So failing to agree on one number does not mean you cannot agree on the other. It is a really frustrating process. I have even had examples where the valuation office have said that they need to leave the hearing to go off to treasury or the commissioners and see what they are going to agree to. That is not part of the process.

THE CHAIR: Ms Cheyne, I know that you have questions about transparency.

MS CHEYNE: Yes. This is a follow-on from your suggestion that there needs to be a formal review of the revenue office.

Mr Flannery: The governing body that sits above all of the valuers in the industry is the Australian Property Institute. I feel that they could have a much better role in trying to unlock some of the valuation issues. There seems to be a distinct lack of trust between industry and the government valuation office.

MS CHEYNE: And the solution is?

Mr Flannery: I have wondered myself whether it would be possible for the umbrella organisation under which all valuers fit to have a greater role in hearing matters and maybe some sort of their own mediation, maybe a different process from the one held at the ACAT hearing. I think some of those matters—

MS CHEYNE: We are hearing this a lot.

Mr Flannery: Up until recently, I sat on the Property Council. We pushed for many years to get qualified valuation experts appointed to the ACAT panel so that they could hear valuation matters particularly. We found previously that there were other professions there, whether they be architects or lawyers. No disrespect to any of those other professions, but they are not necessarily valuation professionals.

THE CHAIR: Are you saying that there are not valuation specialists on the ACAT?

Mr Flannery: There are now. That has changed in recent years. I think that there are three, currently.

THE CHAIR: If you have a valuation matter, are you assured that you will have a

valuation specialist on the tribunal?

Mr Flannery: No, I do not believe that you are assured at all. In our case, which we will come to, there was an external valuer, which we were happy to have present, hearing the matter.

THE CHAIR: For the benefit of Ms Lawder and Ms Cody, we are going through Mr Flannery's initial submission. Then I said that we would move onto his individual case, which Mr Flannery wrote to us about last year. We agreed to publish the letter relating to that. Ms Lawder, do you have any questions?

MS LAWDER: No, for fear of duplicating what might have already been said.

THE CHAIR: Ms Cody?

MS CODY: Just a couple of clarifying questions. Mr Flannery, at the moment, in this particular part of the hearing, you are appearing as someone from Knight Frank? Is that correct?

Mr Flannery: No. I am actually appearing on my own behalf.

MS CODY: You are appearing as yourself?

Mr Flannery: On behalf of FANDS and as a property valuer in the market in Canberra.

MS CODY: I missed the beginning. I apologise for that; there were competing priorities. How did you find out about the inquiry?

Mr Flannery: I followed the residential inquiry; I was keen to see if there was going to be a similar one for commercial properties. I was pleased to see that there was. That is how it came about. I was interested in the residential one.

MS CODY: As part of your submission for FANDS, did you work with other people to develop that submission?

Mr Flannery: During the case of FANDS, which occurred in 2018, I am going to say—early 2018, maybe the end of 2017—I had legal representation. I have sought some counsel from those people in the past. So I have had assistance, but there is nothing there that I am not comfortable with.

MS CODY: Fair enough. Are we are going to talk about Mr Flannery's other—

THE CHAIR: Yes. At the moment we are talking about the submission. Mr Flannery has made four points. I am mindful of the time, and we might move to that issue. I understand, Mr Flannery, that Mr Walker, who was your legal representative, is here. I understand that Mr Walker may wish to be a witness.

I want to clarify whether it is the case that Mr Walker would like to join us as a witness. He can join as a witness or as Mr Flannery's legal adviser but not both at the

same time. Just to make it clear, a witness can be supported by a legal adviser, but then they can only advise the witness and cannot give evidence. Or someone can appear as a witness. Is that perfectly clear? The standing orders allow that. Mr Walker, I understand that you wish to join Mr Flannery to give evidence in this space in relation to the FANDS inquiry?

Mr Walker: I am a barrister at the local bar and I appeared for FANDS in the ACAT review about which Mr Flannery was about to go into some detail. I initially came along here just to watch proceedings, but if the committee thinks that because of my involvement with that case I might be able to help them, I am happy to tell them what I know of what went on in that case and give you a bit more underlying factual information. Also, Mr Flannery has been asked by Ms Cody about the preparation of the submission. I had some input into that submission, just because writing those sorts of things is the kind of thing I do.

THE CHAIR: Thank you very much for that. One of the other confounding factors is that when you, Mr Flannery, wrote to us about your case last year, the make-up of this committee was different.

Mr Flannery: Okay.

THE CHAIR: So some of the members are getting up to speed on this as well.

Mr Flannery: I understand.

THE CHAIR: Mr Flannery, could you briefly outline for the committee what happened in the case of FANDS?

Mr Flannery: FANDS is a matter that came as a shock to us as landowners. As I said, I have worked in the Braddon precinct in property for the best part of 20 of my 30 years in the industry. We were originally in Torrens Street, at the back of my former boss's home. We outgrew that space. We moved to Lonsdale Street, where we bought a property to house our business, on the upper level, and the balance of the property was an investment property. We acquired the property—three families. Initially there were more; unfortunately, one passed away and one exited. It ended up being three families and was largely acquired by their superannuation funds as part of a longer term investment strategy whereby we housed our business. That business was subsequently taken over by a multinational firm. We outgrew that space again, and it became purely an investment property. We moved to the next street, which was Mort Street.

THE CHAIR: You owned this property for some time, then you changed the lease purpose clause?

Mr Flannery: That is right.

THE CHAIR: You then had a back rates evaluation. Could you talk to me about that?

Mr Flannery: We acquired the property in about 2002, from memory. We went about fitting it out and improving it to the point where we could move our business into it,

which we did, on the upper level. I am a bit scratchy on the date, but in about 2008 there was a policy that affected Braddon. There was previously a height limitation and some usage limitations, and they were, as part of the policy of renewal and rejuvenation of this area, lifted. Subject to a formal application, you could obtain rights to do residential apartments—not on the ground floor et cetera, as I mentioned previously—and/or other uses.

We undertook a crown lease variation. I am trying to recall whether it was in 2010 or 2011, but it was certainly resolved in 2011, and it was resolved through the ACAT process, or the AAT; whatever it was defined as then. We traded from that business until, as I said, we were acquired as a business in 2006. I cannot recall exactly when, but some time after that we outgrew the space, so we relocated again and we just had it as an investment property. We sought to unlock the potential of the site, in line with the government policy of the day, and we sought a variation of the crown lease purpose clause in 2010-11. The right was granted in 2011. We paid the then change of use charge, as it was. We obtained the rights to have restaurant and residential uses, given the change in the policy and the precinct.

THE CHAIR: But you never activated those rights?

Mr Flannery: No, we did not.

THE CHAIR: What happened next?

Mr Flannery: In late 2016 we received a rates bill, a typical rates bill, which we gave to the accounts lady to pay. It was in the order of $90,000. I have copies of these, should they be required. Within a matter of weeks, we were issued with a revised rates notice. I might refer to my folder, if I may.

THE CHAIR: Yes, sure.

Mr Flannery: The revised rates notice was accompanied by a letter. The letter from the ACT revenue office was dated 6 September 2016. So we received the letter in 2016; in 2011 the variation was granted. The letter states:

> I refer to the rates and land tax for the abovementioned property. The property has a recent change of purpose clause allowing it to be used for one or more of the following uses …

It outlines the uses. It continues:

> As a result, this has led to an increase in the unimproved value as at the retrospective dates.

That was from 2009-10 through to 2016. It is all spelt out in the letter that I have submitted.

THE CHAIR: The letter said that it had undertaken a recent review.

Mr Flannery: That is right.

THE CHAIR: Does five years before sound like "recent" to you?

Mr Flannery: Glacial terms? No.

THE CHAIR: You had been receiving rates notices on a regular basis between when you paid your lease variation charge; you have outlined that in the letter. The valuation did not change; then it suddenly changed.

Mr Flannery: It actually did change.

THE CHAIR: It went down?

Mr Flannery: It actually went down over the period. We are not the people who provide these values. Others within the ACT valuation office do. Being cognisant of the change, we registered it. It was registered on title, we paid the CUC on the day back in 2011; the reviews happened. It appears to have been reviewed. It is not like it has not. It has just remained static. Yet we get a letter five years later saying, "Oh, by the way, sorry, we've decided that it has now changed completely," and those values, the values applied retrospectively, are largely unchanged.

THE CHAIR: You then received, essentially, a back rates bill for $540,000?

Mr Flannery: I think there were three or four accounts. One was the revised rates bill for the year ahead, which moved from something like $90,000 to $265,907.60. That was a shock in itself, but we also received retrospective rates of $546,009.30 as well as some retrospective adjustments for land tax—$30,462.19, because land tax was in existence during the early years and subsequently not—and a city marketing levy of $37,143.

THE CHAIR: That all added up to north of $600,000.

Mr Flannery: Yes.

THE CHAIR: How much time were you given to pay?

Mr Flannery: The retrospective elements were more than $600,000, plus the rates increased from $90,000-odd to $265,000. It was more than $800,000 in total rates owed, and we were given the normal 28 days to pay.

THE CHAIR: Did you approach the revenue office for some sort of arrangement to pay?

Mr Flannery: I did. I personally could not find that amount of revenue in that amount of time, apart from what we thought about it. We paid what we were able to, and I sought—I am not sure what the term is. It is a provision where they hold it over and they charge interest. I think the interest charge was 10-point-something per cent.

THE CHAIR: Did you come to an arrangement?

Mr Flannery: I did, yes.

THE CHAIR: You came to an arrangement but you were also being charged interest at 10 per cent-ish?

Mr Flannery: Yes. We paid as much of it as we could. The other issue, of course, with our situation, as I mentioned earlier, is that the property was acquired in the superannuation funds of the individual families. I am no expert on superannuation law, but it is a very complex area. With respect to the ability and capacity of a superannuation fund to raise moneys to pay rates, banks do not particularly like lending on superannuation funds, anyway, let alone for rates and charges which they would probably see as retrospective.

THE CHAIR: So you could not go out and borrow the money to pay the government?

Mr Flannery: No, and certainly not in the time frame.

THE CHAIR: There are a lot of things that happened at the AAT. This committee has touched on this issue a couple of times before this inquiry, in annual reports hearings. The clear message that the committee received from the government was that it was the responsibility of the ratepayer, the leaseholder, to tell the government when there had been a variation of the lease purpose clause. A witness this morning commented on that. Would you like to comment on that? Mr Walker might like to comment on that as well.

Mr Flannery: I will comment on that. As a ratepayer, I thought it was our obligation to pay the rates that were due and payable at any particular point in time. We did that for the 15 years that we owned the building, without fail. To get a notice like the one we have spoken about is simply unjust, in my view. It is above and beyond anything. The Chief Minister was quoted in an article in the paper as saying that he was "shocked"—"regrets the rate shock". Can I suggest that he is the one receiving it; the rate shock is a whole lot bigger for the person having to pay it.

Mr Walker: There is a provision in the Taxation Administration Act about notifying the commissioner of certain circumstances. I do not have it in front of me, so I am not going to try to paraphrase it and then get it wrong. But it was put in the case that somehow there was some obligation to come to the commissioner and say, "There has been a change of lease purpose clause; could you please now adjust my rates, and adjust them upwards?" I have dealt with a lot of land and development cases, revenue cases and so forth, for and against the commissioner, over the years. I have never heard of such a practice.

But I am not a conveyancer, either, so I made some inquiries of people who are conveyancing solicitors—and I mean experienced conveyancing solicitors. I am talking about people who have been in the game for decades. I asked whether they had ever heard of anybody, following a lease purpose clause, going along to the commissioner, knocking on his door and saying, "I've just varied my lease; could you please increase my rates?" They had not only never heard of it but they said there was no such practice.

What is more to the point, in the course of the case there was an officer of the commissioner who had prepared a witness statement for ACAT. I was lining up to ask him a series of questions about how the commissioner managed these people who came forward, knocking on his door, telling him they had lease variations and could he kindly increase their rates, because they knew it did not happen. That became fairly apparent from some earlier statements. The witness from the commissioner's office was never called, the end result of which was I was not able to ask the questions: "Please explain what the process is. Show me the forms you fill in to say 'I have just had a change of lease purpose clause'. Who do you file them with? And what happens?"

The witness was not called, those questions could not be asked, and it is my belief, as I sit here, from the information I have had from people, that there is in fact no such practice. In fact—and there was some evidence along this line; Mr Carlo King gave evidence but it was somewhat vague—I asked whether there was any practice whereby the commissioner would be notified when there was a lease purpose clause change, with a potential consequent change to the unimproved value of the lease. It did strike me as the most obvious thing, even if there had been a practice in revenue that people came and volunteered that there had been a change in the lease purpose clause, that you could not always depend upon people fulfilling that obligation.

One rather expected that, as the variation is executed by the lands area of the territory administration—and the commissioner is part of the same government administration—there might be an internal practice whereby those changes to lease purpose clauses were notified to the commissioner. The evidence in the case was somewhat varied. There was a suggestion that he got notice that they were registered, but it was not entirely clear. If that is the case then it is difficult to know why he did not get to notice that FANDS had changed its lease purpose clause earlier on.

It is all the more obvious because a large amount of revenue is actually paid to the territory, typically, for change of use charges upon a lease being varied. Again, it is a bit surprising that there was not notification, and one part of the territory did not say to the other part, "We just had this change of lease purpose clause; we'll give you notice of it and you, commissioner, can go away and do what you need to do in relation to the unimproved value of the site as a consequence of that change."

That was what I assumed—and I suspect most people would assume—would happen to keep the commissioner's unimproved value determinations up to date, given variations in lease purpose clauses. It was not apparent from the evidence that there was such a practice, but the evidence was vague. One way or the other, it did not seem to take place in relation to FANDS, and the suggestion was that FANDS should have come forward and informed the commissioner. As I said to you, as best I can discover, there is no such practice and we never got the opportunity to question the commissioner's witness about any such practice.

Mr Flannery: Can I just add something? As the ratepayer, I felt as though the government had been notified on more than one occasion. We lodged a formal application to vary the purpose clause back in 2010-11, as I say. We go to the ACAT or administrative appeals tribunal of the day where we pay our fees, we get a receipt and we formally do the variation. We go to ACTPLA, I think, as they were

then known, and pay our tens of thousands of dollars for the change of use charge and get a receipt. We then register the change on title. How many times does the government need to be told? "Oh no, there is another department." It is not our job to do their job.

THE CHAIR: It was conceded last week that perhaps there could be better communication between ACTPLA and the revenue office.

Mr Flannery: Some communication would be good.

THE CHAIR: One of the things that has fascinated me about this case, and it is set out in your letter, which is now part of the evidence, is that when you did have a retrospective rate determination, it seems to have gone back before the change of lease process. The increased unimproved value is high before that period. Do you know how they came to that calculation?

Mr Flannery: This is something that has perplexed me for many years. I have had a number of debates with revenue people around this. How does the value get increased on the basis of a particular 1 January, whichever year, when I do not have those rights available to me? It seems to me that it is only done to help the averaging of the rating value for the year that they first want to capture. I am sure that if it was tested at law it would seem to be unjust that you can go back to 2009 when the variation did not occur, when it was not registered until 2011.

THE CHAIR: You did not test that at law?

Mr Flannery: No. It was not a subject of the FANDS matter. It was raised as an issue, and it is probably fair to say that the findings of ACAT may well be lawful in accordance with the legislation in place at the time but, as I said initially, we just feel as though it is unjust.

This is the approach where the commissioner—and we have just heard about our failings to notify them—who has a statutory obligation to assess an unimproved value annually and employs who he chooses—and that is the person that we at the group understand to be the Australian Valuation Office—fails to do that, and five years or six years on, he can write to people and say, "Never mind that I failed; here is your recently adjusted purpose clause as it has had the impact of X." It just is beyond me how that is fair and equitable, and I would have thought that our taxation and rating system is all about fairness and equity.

THE CHAIR: In the case of your company, FANDS, which is owned by a number of individual families, what has been the economic impact on your company?

Mr Flannery: We have had to sell the property. As I said, we had moved out of it because we were then in a different business. We absolutely intended to retain it as part of an investment. You do not do things in your superannuation fund for the fun of it; you do it for your future. We had absolutely no intention of selling it.

Given the circumstance—and not just the retrospective circumstance but the ongoing one, whereby you are paying rates for all of these uses that you are not using—where

you go from 90 to 265 with no apportion or no adjustment around the usage or the values, to simply say, "Look, we have seen that it has changed, and not only can you now pay the higher value but we will choose the highest rate in the dollar as well; we will have both, thank you"—

THE CHAIR: Would you have been in a position where your superannuation funds would have had to sell the property if there had not been the back rates issue? If it was just the rates going forward, would you still have been in the situation where you—

Mr Flannery: It was not only my decision. For me, personally, the amount of revenue generated by the building had actually declined over the five years quite significantly, because rentals in the market at the time were lowering. To have at the end a rates bill that represented half of the income generated by a building or circa half the rent is just unsustainable.

THE CHAIR: I get the impression that Mr Walker has something to say.

Mr Walker: There are just a couple of things you asked about that I might be able to usefully add something on.

THE CHAIR: Yes, okay.

Mr Walker: You asked the question about the increase in the value back prior to the date that the change of lease purpose clause occurred. As I said, I did not come here expecting I would be sitting in this seat, so bear with me. But my recollection, because I looked at this when I prepared the case, is that first, as no doubt members of the committee are aware, rates are assessed on an average of three years unimproved value so that you do not have sudden spikes. It sort of smooths it out, which is, no doubt, a very good idea.

The 2009 increase was done on, effectively, a theoretical basis: if this had been the purpose clause, then what would the value have been in that year given whatever the market was in 2009 and 2010 so that you get your three years and you can perform the average? But the important rider, to be fair about this system, is that the increase, the actual imposition of rates, does not occur until after the change has occurred. They work out what the value is based upon the three-year moving average. That involves going back to see what the value would be for the three-year moving average, but you do not get retrospectively charged the rates back before—

THE CHAIR: But the thing is that in actuality the value was this amount in 2009 based on the use, and 2010 that amount again. One of the other ways of doing it is that when the value increased, that would be the new baseline and those three figures, 2009, 2010 and 2011, would be averaged rating.

Mr Walker: You would take an average off that, but you would impose the rates going forward from the change. You would not impose it back prior to the change.

THE CHAIR: Yes, but to me it seems that what you have described is a hypothetical thing that really only clicks in in 2011 when there was a change of use.

Mr Walker: That is my recollection of it, but it is not the easiest legislation to get your head around. Remembering back a year and a half or two years, that is my recollection about the way it worked.

THE CHAIR: Yes; that goes to one of the issues about transparency.

Mr Flannery: Yes. I just have one other matter I would like to raise, if possible, if we have time.

THE CHAIR: Yes. We are running over time, so could you do this briefly.

Mr Flannery: I will be very succinct, and I could provide a copy of the letter, perhaps. I did write to the Treasurer prior to 15 May—I did receive a letter back on 15 May 2018—asking for grace around the circumstances that FANDS faced. I did receive that response. I am happy to provide copies here today if need be. It is a very short letter that basically finds that the matter was heard at ACAT—it recognised that—and was not found to be outside any legal situation. It said that FANDS was not treated any differently to any other ratepayer or unfairly treated.

I just want to reiterate that it is not a matter where we are questioning the lawfulness of the decision; it is just about the fairness or inequity and justness. Reading this, I have the distinct feeling—and it is kind of a double-edged feeling, because part of me says, "If it was only just us, that actually makes it worse. If it is going to be more, I do not know what the outcome of this is and how many more cases there will be." I would like to think that if I could find an example of where we were treated differently, the committee may look to review that.

THE CHAIR: The committee can leave that with you. If you can demonstrate that you were treated differently to other people, you need to bring that issue directly to our attention, mindful of the fact that we have to report by 4 April.

Mr Flannery: As I said, I have a copy of the letter which I will hand across.

THE CHAIR: Great; you can leave that with Dr Lloyd.

Thank you for your attendance here today and for casting some light on an issue that has been discussed by this committee. It was discussed last week; it was raised again this morning by other witnesses; and it has been discussed in annual reports along the way as well. It is useful to have that issue aired by people affected by it.

You will receive a proof *Hansard*. Could you peruse that, and if there is anything that you need to clarify, you can take that up through Dr Lloyd.

Hearing suspended from 12.51 to 2.04 pm.

RIXON, MR ROBERT

THE CHAIR: Welcome to the afternoon session of the sixth day of hearings of the public accounts committee's inquiry into commercial rates. The committee welcomes Mr Robert Rixon, a valuer. Mr Rixon, have you read and understood the privilege statement on the pink card?

Mr Rixon: I have.

THE CHAIR: You have made a submission. Do you wish to make an opening statement?

Mr Rixon: Yes. I have been a valuer for about 30 years. For half of that time I have been here in Canberra. Initially, I was the ACT regional manager for the Australian Valuation Office, and for the past 13 years I have been with Colliers International. I have plenty of experience on both sides of the fence when it comes to assessment of unimproved values for rating purposes. I hope that this submission today is very constructive rather than critical of the system.

In short, my submission contends that the mechanism for assessing statutory rates for properties that contain heritage-listed improvements should be changed. The existing land value based mechanism is not appropriate and a rental based system would produce better outcomes.

The unimproved value for land is an appropriate mechanism for assessing statutory charges for non-heritage-listed properties. For Canberra, an incredibly important element of our leasehold system is to avoid land banking and encourage development in accordance with planning guidelines and our crown leases. Canberra is still very much in its growth phase and, in order to encourage development, this is very important.

If your site is undeveloped or substantially under-developed, the mechanism will mean your land is still valued at its highest and best rates. You will be paying the maximum amount of rates, so you may as well develop the land to its maximum potential. But heritage is different. Canberra has a short but incredibly important history. Our built environment is not that old, so there is not a lot of heritage, and most of it is held by government, where statutory charges are not a great issue. I am referring to a small component of the market but one that will grow in size and importance.

I believe the best way to preserve heritage buildings is to promote their use. If privately owned heritage buildings can be preserved, as required under conservation management plans, that is a great outcome for government, who would otherwise need to provide the funds, and also for the community, who benefit from the preservation of the history.

For privately owned heritage buildings, the commercial reality is that there needs to be profit to allow for the cost of preservation. The land value mechanism has meant that profit is difficult because the statutory charges are too high. I have done a check

of some privately held heritage-listed buildings and found that the rates per square metre for statutory outgoings, excluding excess water and sewerage charges, is anywhere between double and three times what the PCA benchmark average is.

The essence of my submission here today is more about the system than about individual amounts of rates. My recommendation is to adopt the gross rental value of rateable commercial heritage-listed buildings for calculating statutory charges. This will ensure that a property is being assessed on its maximum potential to generate income and can be easily monitored to ensure affordability for the owner, and that, based on a rate per square metre or percentage of income, it does not differ greatly from other commercial buildings.

Consistency and transparency are imperative for any calculation of rating values, and the elements of a possible model may be outlined as follows. The maximum gross or net lettable area is measured for each heritage building. This is essentially a hypothetical measure, as it may be determined that some buildings have not been built to their maximum size or even with the heritage status. After the initial measurement is made and agreed by the rating authority, it will become a constant. So it is not something that will be argued from year to year. The highest and best use as allowed under the crown lease should still apply. This may also have an influence on whether a gross or net lettable area is calculated. This, of course, will need to be monitored, as some buildings may be adaptable to alternative uses.

The calculated rent should be fully gross and effective to avoid confusion and possible dispute regarding both outgoings and incentives. The ACT revenue office will be able to apply single or multiple threshold rates, according to their discretion, to the assessed gross rental value.

I believe this process, if managed correctly, will encourage owners to submit details of current rents and recent lease details to the ACT valuation office or other professional valuation entities. To facilitate this process, a standard web-based form could be developed that allows data population by the owner. That, essentially, is my area of contention and the recommendations for a solution.

THE CHAIR: Thank you, Mr Rixon. There is a risk with any system which has exceptions—

Mr Rixon: Yes.

THE CHAIR: that you will find a way to wriggle around the exceptions or whatever. Presumably, for simplicity's sake, these would be properties on the ACT heritage register?

Mr Rixon: Yes.

THE CHAIR: They would have to be registered properties, not even properties up for assessment, for instance?

Mr Rixon: I would imagine it would be registered and subject to some sort of conservation management plan.

THE CHAIR: What sort of properties do you have in mind? The Sydney building?

Mr Rixon: Yes.

THE CHAIR: Those former residential buildings in Manuka which are now office blocks et cetera; they are the sorts of things that you would have in mind?

Mr Rixon: They are the sorts of things. To be up front, and I have disclosed it in my statement, as a valuer I have been involved in UV disputes in the Sydney and Melbourne buildings, so I do have knowledge of those buildings. They are the ones that stand out, and they stand out in Canberra because they tick all the boxes. We are not really that old. There are not many privately owned, and the ones that you have pointed out probably account for a large part of the market.

THE CHAIR: I actually do not know enough about heritage; Ms Lawder may know more because she is the shadow minister for heritage. With the citations for the Sydney and Melbourne buildings, if it were possible to maintain the facades and do something different behind the facades of the Sydney and Melbourne buildings, would the gross rent approach be a disincentive for development to its highest and best use?

Mr Rixon: I do not think so. The whole idea of owning any commercial property is to try to maximise your profit. The point I am getting at is that we are not necessarily saying, "It must be for this use." It is whatever use is going to be allowed under the crown lease and the Territory Plan.

Essentially, the conservation management plans and the zoning for those heritage assets are just restricting the size of the development as well as enforcing upon owners the maintenance of the aesthetics of the facade. If the market changed and all of a sudden restaurant use was not as valuable as another form of retail use, if that is allowed under the crown lease, that should change. It will change the gross rental value but that is the market at work.

MS CHEYNE: Apart from heritage properties, how well do you think the rates system is working?

Mr Rixon: In terms of the way rates are assessed?

MS CHEYNE: Yes.

Mr Rixon: As part of my opening statement, I noted the merits of a land-based rating system because it promotes the development of the land to its highest and best use. The issues I have around rating assessments is that there is probably not enough on the relativities. There is more focus on actual benchmark values. By that I mean you have a large market out there, and if some are not being valued high enough, and these ones over here are being valued correctly, the only ones that will dispute are the ones who think they are either higher or at about the right amount. All the ones down too low will not make any noise. The attention is all on trying to solve the issues regarding the ones who are complaining.

When the rating burden is distributed by the rating authority, they do not make adjustments for what might be under or overvalued. It is just the same rate that is cast over. There needs to be a greater check of relativity of values in the territory, and to say, "Is it right to have this value at this amount if these ones are here, or should there be adjustments made?"

MS CHEYNE: How could that be achieved?

Mr Rixon: That should be achieved every year with the rating process, but there are a lot of properties to rate and not that many resources to do it. There could be a case for an independent review.

MS CHEYNE: An independent review case by case?

Mr Rixon: I think you would look at it on an asset class basis. I must admit I was not really prepared for this question.

MS CHEYNE: This is helpful; keep going.

Mr Rixon: My issue is about relativity. It may well be that you need some fresh eyes to look at it and assist with the process.

MS CHEYNE: Should the valuation office also be independent? Would that assist? We have received a lot of comments that people are uncomfortable that it sits with the revenue office.

Mr Rixon: For the function of government, it is important to have the very good flow of information that you might get from government. I do not think that there is any motivation on any valuation office in any jurisdiction in Australia basically to assess values because they are trying to appease the relevant revenue office. I do not think there is an issue in that regard. If you then take it outside, even to, say, the firm that I work for, there have to be greater issues regarding probity. If you were to take it outside government, it would still have to be a very independent, non-aligned organisation.

THE CHAIR: A lot of the advice that we have received is that it should be a statutorily independent office, more like the valuation offices in other states and territories, and perhaps more like the AVO was before it was abolished.

Mr Rixon: Yes. Unfortunately, just before it was abolished, it was part of the ATO, which I never thought was a good mix. That has worked in the past. Previously, in Darwin the AVO was the office of the valuer-general for the Northern Territory, but it was still a commonwealth entity as well. That seemed to work. Yes, you could look at those sorts of models.

MS LAWDER: Thanks for your submission. On the page where you talk about heritage buildings, in the last paragraph on that page you say:

> An investigation of most privately owned commercial heritage buildings in the

> … CBD … shows statutory charges to be significantly higher on a rate $/m^2$ or % of gross income compared to non-heritage buildings.

Is this some research you undertook yourself?

Mr Rixon: Yes. I have done a lot of valuation work on behalf of owners of heritage buildings who are complaining about their rates because they think the UV is too high. The only other avenue to object is based on the underlying land value: doing closer analysis of the information they have given you regarding what rates they are paying and looking at it on a rate per square metre basis; and comparing that to other non-heritage-listed properties and recognised published indices like the PCA benchmark.

THE CHAIR: PCA benchmark?

Mr Rixon: The Property Council of Australia publishes a benchmark for outgoings for different classes of properties. For instance, for Civic, below 4,500 square metres there are published rates. I think that is currently in the $30 to $40 per square metre mark, whereas a lot of the properties I have looked at in the Sydney and Melbourne buildings are roughly double that or even more than double that. But I did not want to get too caught down in just sitting and complaining about the level of rates; I did want to present a system change, I guess.

THE CHAIR: In relation to the heritage buildings that you are aware of, you cited the Sydney and Melbourne buildings. They would have multiple owners?

Mr Rixon: Yes.

THE CHAIR: The multiple owners might own 1,000 or 2,000 square metres or something like that. But you are saying that the outgoings for those are essentially being determined by the rating across the board in Civic, where the buildings are quite different: the partitioning is different; you can be more flexible in the redesign of your building; the floor plates are larger. Does that have an impact on the rentability of the heritage buildings?

Mr Rixon: Yes, it can do. If you have not got the freedom to adjust the floor plate design, that can have an effect on its rent. The main restriction, of course, is that as an owner you cannot say, "Look, times are going to change here. We are going to get more customers through here. Let's just knock down and rebuild something that is more contemporary with glass facades and that sort of thing." They are not going to have that luxury. That is where the heritage component will affect rental values.

I am hoping that by having this system we are going to have multiple rental transactions occur. That is more robust market evidence to be used for the assessment of the rental values. The landowners themselves should be asked to provide what their current deals are. You should be incentivised to do that because you might be assessed too high. You should say, "Hang on. Here is my tenancy schedule. Here are my current leases. It is showing as less".

MS LAWDER: I want to go back to the CBD where your research has shown that

statutory charges are higher for heritage buildings than non-heritage buildings. You say:

> This demonstrates that heritage buildings have lower net income growth and greater cash flow uncertainty.

Speak to me more about the cash flow uncertainty. Is that just because they are paying more in those statutory charges and they are unsure what the rates in the future are going to be? What do you mean by that?

Mr Rixon: I do believe that there is greater cash flow uncertainty with those heritage buildings under the current regime, where minor changes to the land value will have a bigger effect on the base rate per square metre of outgoings payable. There is also the fact that if the buildings are not being preserved well, they will not have the appeal for tenants to go and occupy them and that will impact the gross rent that they achieve. There is all that sort of thing.

If you have a fairer base, if they are not receiving very high rents because of various reasons, they will not pay very high rates. But if things improve and they start to increase the amount of rent they are getting, their rates will increase as well. I think that is where the volatility is.

MS LAWDER: To use a Civic example again, when you calculate the rates based on the underlying land value—for example, Northbourne Avenue maybe seen as desirable and attractive and the land value goes up—you are saying that if it is a heritage building, that is not appropriate. But in that location, I guess, you also would expect greater foot traffic and greater patronage. Is that true?

Mr Rixon: Absolutely.

MS LAWDER: So with their income, the cash flow uncertainty is mitigated, perhaps, by passing trade?

Mr Rixon: Yes. Passing pedestrian traffic will have an effect on the amount of rental value you can get, certainly from retail. I guess the main restriction on the heritage component is that you do not have that ability to respond to market changes which require more contemporary development. I personally think that that is a good thing, and I do like the idea of preserving the heritage, but the best way to preserve the heritage is to use it, and in regard to commercially and privately owned heritage, that must be based on a fair and equal playing field with the amount of rates they pay.

MS LAWDER: If you were a lessee in a heritage-listed building, a registered building, who would be responsible for the conservation management plan: the lessee or the owner?

Mr Rixon: The owner would be responsible. They can then pass some sort of onus onto the tenant via the sublease, but at the end of the day the Heritage Council would come knocking on the owner's door if they thought there was any fault going on.

MS CHEYNE: I want to go to attracting valuers to the ACT. You were talking before

about there being lots of properties but not many valuers within our valuation team in the ACT government. How can we bring more valuers here?

Mr Rixon: Great question.

MS CHEYNE: Please don't just say, "Pay more money." You can say that, but not just that.

Mr Rixon: How much are you willing to pay? We do not have a course here in Canberra.

MS CHEYNE: No. We keep hearing that, and also that attempts were made to set it up and it just did not go anywhere.

Mr Rixon: That is right. As a profession, it may not have the glamour.

MS CHEYNE: It sounds fascinating.

Mr Rixon: Compared to other professions, it is important. A lot of people who do the courses see it as a great base; then they go on to become investment analysts for trusts and that sort of thing. So it is difficult. Sydney, Melbourne and the other capitals are the nursery ground for teaching, and then they also capture certainly the younger valuers. I do not know. I wish I knew the answer to that question. We have been in the hunt for new valuers for a while. We have been fortunate enough to put on a new valuer in the past few months, which is great, but it does seem as though there is more work—

MS CHEYNE: Did you poach them from the ACT government?

Mr Rixon: No, we did not.

MS CHEYNE: Good. Just checking. It is a small market.

THE CHAIR: Would there be value in things like asking, if there is no nursery for valuers here because there is no course, how you poach people out of the nursery elsewhere? Are internships, sponsorships or things like that the sort of thing that perhaps the industry needs here?

Mr Rixon: As an organisation, we advertise nationally, and even part of it through the industry body, the API; we can advertise nationally with them as well. I was on a teleconference the other day where they were talking about starting up a graduate program from Sydney. It would be good if we could just wave more carrots at them to come to Canberra.

THE CHAIR: But even if you started a new program now, the pipeline is still quite a long one to get fully fledged valuers out the other end.

Mr Rixon: Yes, it is. Even with the prospect of looking outside of Australia, it is difficult. Although I do a bit of international work, I do not get the feeling that there is the same level of technicality outside of Australia as there is here, so we are not going

to be bringing in better—

THE CHAIR: Are there peculiarities with the ACT leasehold system that make it a bit daunting? Or is it that land is land is land?

Mr Rixon: I would hope not. I find it an interesting aspect. At the end of the day, you really need to look at valuation at its highest and best use. There is a whole suite of things to look at, one of them being the crown lease and the peculiarities.

THE CHAIR: Thank you very much for your attendance here today and for your submission and insight into something that has not been touched on very much in the inquiry.

Mr Rixon: That is all right.

THE CHAIR: You will receive a proof *Hansard* of today's hearings through Dr Lloyd. If there are things that you wish to clarify, you can take those up in the first instance with Dr Lloyd.

Short suspension.

DOYLE, MR PHILIP, Senior Director, Asset Services, CBRE Canberra

THE CHAIR: The committee now welcomes Mr Philip Doyle. Mr Doyle, have you read and understood the privilege statement?

Mr Doyle: Yes, I did.

THE CHAIR: Thank you. Do you have any opening comments that you would like to make?

Mr Doyle: I will have been with CBRE for 17 years in a couple of days. I have worked in the property industry for over 30 years in Canberra, primarily as a property manager. I am probably really here from a property manager's perspective, representing the owner and, I feel, giving a view of what I have seen of what has happened to rates charges in my tenure as a property manager.

THE CHAIR: So your expertise is property management rather than valuation or sales or—

Mr Doyle: Yes. I am a qualified valuer but never practising. I did the valuation course and saw the light halfway through the course not to be a valuer.

THE CHAIR: That is the reason we cannot attract valuers: they see the light and change professions.

Mr Doyle: Yes—not so much professions but change to different parts of the property industry. It is a problem in the industry at the moment, valuers; it is a big problem.

THE CHAIR: From your perspective you have seen, as a property manager dealing with owners but also in a sense as the intermediary between the owners and the tenants—

Mr Doyle: Correct.

THE CHAIR: With the changes in the commercial rates since tax reform began in 2012 and the change from having two property taxes, rates and property tax, to one rolled-in amount—

Mr Doyle: Albeit the same total amount—but it changed. It's slightly higher.

THE CHAIR: What is your perspective, given your background, on those changes? Where are the impacts? The committee is interested in where the impacts are not equitable, in your view, if that is the case.

Mr Doyle: When they abolished land tax and rolled that in with rates, land tax was gone for commercial properties but the rates assessment charge was the same. The new rates assessment charge was the same amount, slightly more in the first year. I had a look at some properties that I have managed for a long time, since about the tax reform. I have seen rates increase over that period by close to 100 per cent, in a period

of about eight years. For a couple of properties that I have managed over that period it has increased by 100 per cent.

THE CHAIR: From rates and land taxes as it was to the rates now, you are seeing 100 per cent increases, not just 100 per cent increase in rates, but for the whole thing?

Mr Doyle: Yes. It has virtually doubled in that time. Probably what is more interesting is how as a percentage of the building outgoings the rates charges have grown. Back in 2011-12 they were about 20 per cent of the total cost of running a building per annum. They are now 30 to 35 or 36 per cent of running a building. That is what has happened with the rates.

THE CHAIR: So the differential has changed?

Mr Doyle: Yes—a big increase in the proportion of rates to run a building. When you make an investment you look at that and say, "Rates are now 36 per cent of my cost to run this building." That influences decisions about investment in Canberra.

THE CHAIR: Do you have experience across the border as well, for comparison?

Mr Doyle: No. I do not manage anything in New South Wales.

THE CHAIR: When you are looking at the outgoings, what are you talking about? Are you talking about rates, water, electricity? How much of those is passed on directly to the tenant, or does that depend?

Mr Doyle: It depends from lease to lease. But if you are talking about gross rental, in the end, no matter what the lease says about outgoings, in theory everybody should be paying roughly the same amount for comparable premises. That is in theory; it does not always happen that way. So it depends from lease to lease if it is passed on, but in the end if it can be recovered from the tenant it will be as part of the outgoings clause. But in the long run if there is no outgoings clause and a tenant just pays what we call a gross rent, it would be reflected in the actual rental value, so the rental value will be higher than where somebody is paying a net rent, so to speak.

THE CHAIR: Are the properties that you manage across Canberra, or do you have hotspots?

Mr Doyle: I predominantly these days manage city and Barton properties personally.

THE CHAIR: So that is A and B class offices mainly?

Mr Doyle: A and B buildings, yes.

THE CHAIR: If you are seeing the rates proportion of outgoings increasing you also, I presume, are seeing the absolute amount of outgoings increasing?

Mr Doyle: Yes, at a far lesser rate. Our job is really to minimise outgoings for the owner and grow rental: give him a better return, in simplistic terms. So we are always looking at ways to reduce an owner's costs without putting pressure on the building

occupancy, within reason. What we are seeing is that costs always go up but rates have gone up at a far greater speed than the rest of the costs and far greater than CPI or anything like that. It is 100 per cent—

THE CHAIR: From your experience in the market you deal in, what sorts of pressures does that put on the viability of the buildings?

Mr Doyle: To be honest, most of my tenants in my buildings are commonwealth tenants. Some have what we call gross leases, where it does not affect them until they have a market rent review. That is when it all gets adjusted and takes account of the growth of outgoings. But it does impact on the decisions that tenants make across the board. It affects the small business operators, the mums and dads, if they have outgoings clauses. It affects them immediately when the landlord has to recover that amount. If it is a gross lease, it affects them when they have their rent reviewed.

THE CHAIR: With people who have gross leases and rent reviews every two or three years or whatever it may be, does the landlord have the capacity to actually recoup the outgoings that they have made in the interim between—

Mr Doyle: It is dictated by what the market says. A market rent review and deals will be done, and that becomes evidence, so a landlord takes account of that. It depends on supply and demand. That dictates the market firstly. If we have high vacancy rates then the rental growth would be less. So to say that they can recover then is not correct, because it depends on what has happened in the market.

THE CHAIR: And they have borne that cost for a number of years, so there is an opportunity cost there as well. In the market that you are dealing with, what is the vacancy rate?

Mr Doyle: For A-grade city, it is about six per cent. The overall vacancy rate for Canberra is around the 12 per cent mark.

MS CHEYNE: Is that normal?

Mr Doyle: As I said, I have been in it for 30 years. I started in Canberra. The vacancy rate in Canberra was between three and five per cent in a very tightly held market way back in the 80s. It has been up around 10 per cent for some time now. I think it has become the norm. It allows—

MS CHEYNE: Has it been at 10 per cent since this tax reform started, or beforehand, or after?

Mr Doyle: It probably coincides quite closely with since the tax reform but it is not related. I do not think the vacancy rate is related at all to the tax reform. That is my opinion.

MS CHEYNE: Why?

Mr Doyle: Because of supply and demand. We are driven primarily by our commonwealth government tenants. They drove the new developments we saw in the

mid-2000s to 2010. We saw numerous new buildings built around that period. They moved out of the older buildings and then people backfilled the older buildings. Then the D-grade buildings became the problem. That is another topic: rebirthing those D-grade buildings and re-using and repositioning them.

During the 2005-2010 growth period it was driven by energy-efficient buildings. That was probably the real factor in driving commonwealth accommodation to the higher standard. So the top end is what created the vacancy rate, because they moved to these newer buildings back then. The commonwealth have not grown much, as far as new accommodation goes, since then. Generally there has been filling up vacant commonwealth property through the operation Tetris project.

THE CHAIR: There are places around town where older buildings have been knocked down and some have been rebuilt for office accommodation—

Mr Doyle: More apartments.

THE CHAIR: The old AFP site on the corner of Northbourne and—

Mr Doyle: Yes, that is one example of a complex of buildings that has been knocked down.

THE CHAIR: That has been repurposed for commercial?

Mr Doyle: What is being developed now is commercial. There is a scheme for apartments on part of that site as well, but what is currently being built is for commercial property. Off the top of my head, there is probably less space being built than what was there originally. There is roughly 18,000 square metres currently being built, and the buildings that were there previously would have totalled possibly a little bit more than that. I do not know for certain but possibly they were a bit more than that. Those buildings needed to be redeveloped, yes.

THE CHAIR: Will we see repurposing or redevelopment—I will show my age and where I came from—in what used to be known as "DEET Street", down Mort Street as well?

Mr Doyle: We manage "DEET Street". With respect to all the buildings in Mort Street—that section of "DEET Street"—my company, CBRE, manages those buildings. We often talk to the owners about those buildings and what is the future plan for them. I feel that they have another lease of life in them, provided capital is expended. They probably have another 10 years, come current lease expiry, on the basis that the landlord invests capital in the building services. So we are talking about 2033 to 2035 for redevelopment. That is my view of when that site will need to be done. Ideally, it would be great to have combined ownership of those buildings, so that you can have bigger floor plates. There are relatively small floor plates for 10, 12, and 14 Mort Street.

MS LAWDER: A previous witness said that their company worked mainly in the mid-tier, middle-size market. You talked about commonwealth clients. Are they more at the bigger end of town?

Mr Doyle: From a property management perspective, definitely. We are at the bigger end of town as far as our managements go. We do have a few smaller managements for local clients. We find on that side that it is very competitive with respect to finding tenants, and costs are a major factor. Gross rental, rent plus the outgoings, is a major factor for tenants.

MS LAWDER: How frequently would one of your owners or landlords raise with you the issue of increasing statutory charges such as rates?

Mr Doyle: Definitely when they get their annual bill. I do budgets every year for my clients, and in the past few years I have definitely got my budgets wrong—and I have always been under—in allowing for rates increases. I set the budget for a financial year; I do it in May. I provide it to the owner and we get our rates bill in late July for a city property. They have always been under budget; I seem to have got it wrong for the past few years, thinking that it will come back. They have been hitting us quite strongly in recent years. That is definitely a time when landlords raise it with us as an issue. Valuation time, when they get their properties valued, is an issue, too. Definitely annually we have a discussion about the size of the rates increase.

MS LAWDER: Are they unhappy about or object to the revaluation or do they think, "Good, my property is worth more now"?

Mr Doyle: No. Unhappy is the answer. There is no direct correlation between the unimproved value and the value of the property. The valuation of the unimproved value is one factor in the process. The other factor is the rating factor. We use two factors. The government seems to be able to chop and change the rating factor to suit their revenue targets, and the owners have no say in that.

We saw for a number of years that, for a lot of properties that we manage, the unimproved values stayed the same but rates were still going up. That means that government are dictating the growth of rates collected through the rating factor. To a degree, the valuation does not have a lot of effect on what the landlord pays, because they can play with the rating factor. If land values were going backwards, the rating factor would go up, so that they could maintain their revenue collection. So there are two parts.

What probably was a problem—I do not know for certain but I assumed this—was that for a period annual valuations were not being done, which meant that the rates stayed the same. For this year, it appears that they have gone out and done a lot of valuations and there has been a massive jump in the UV. So you already have a high rating factor, there is a massive jump in the UV, and impacts are being felt.

THE CHAIR: When you say that re-rating has been done, is that in the market that you are dealing with?

Mr Doyle: No, by the government valuers.

THE CHAIR: But in the market, you said you dealt with—

MS LAWDER: All of your properties.

Mr Doyle: Yes.

THE CHAIR: The sorts of properties that you are dealing with.

Mr Doyle: Yes, and other properties that we manage in our firm.

THE CHAIR: In relation to those valuation jumps, and sometimes quite large valuation jumps, have you assisted clients through the process of challenging rates or considering whether to challenge rates?

Mr Doyle: Yes, we have. We have found that in previous years it has been a tedious process to object. We engage valuers to do that; either our firm's or another firm's valuers to do that. It has not been the easiest process to work with. A lot of times it ends up in ACAT to be resolved. There have been a few over the years. One was the site we talked about, the old AFP headquarters that was redeveloped. I know that was in court for some time, in dispute with the valuers and whatnot.

We do make an assessment for them and try to understand where the government valuers are coming from, with respect to the increase in the UV, the unimproved value. If we feel that an objection needs to be lodged, we will lodge it. I must say that we did not lodge any this year, for a number of reasons.

THE CHAIR: Could you elaborate on the number of reasons? Do you think that the valuation office got it right or—

Mr Doyle: No, it was probably just put in the too-hard basket a lot of the time. We discussed the impact with our landlords. The cost of lodging the objections was an impost. It was also a matter of throwing one's hands up. "We were unsuccessful last time; why go through the process and the cost again?"

THE CHAIR: If the cost is high and the prospect of success is lowest—

Mr Doyle: Low.

THE CHAIR: Low, okay; that was your word. Also, even if you do succeed, the extent to which you succeed may not offset the costs.

Mr Doyle: Correct. Also, because they use the three-year average unimproved value, you do not feel that impact of getting it reduced in one particular year. It is averaged out over the three years. We did one in 2012-13, from memory, for a large building in the city. We saved $20,000 in rates per annum, but it would have cost the landlord $40,000 to go through the process.

MS LAWDER: With any of the properties you have been involved with, I imagine some have been revalued, re-rated, recently. Have you experienced any requirement for owners to back-pay rates?

Mr Doyle: Where the unimproved value has been backdated?

MS LAWDER: Yes.

Mr Doyle: No, I have not. I have heard about it. I have actually thought, "How can they do that?" No, none of my clients has experienced that.

MS CHEYNE: On the valuation team more broadly, we have had feedback about whether resourcing there is appropriate.

Mr Doyle: In the government valuing team?

MS CHEYNE: Yes, for what is required in the ACT, and whether it should be more independent. Do you have a comment on that?

Mr Doyle: Yes. Firstly, on the resourcing, that is a real issue for the valuation industry at the moment.

MS CHEYNE: There is clearly a problem right across the industry, in terms of there not being enough valuers.

Mr Doyle: Not enough valuers, and what valuers come through the course do take other avenues of property. It is a great course, but we find that a lot of our valuers move on to other parts of the industry and become developers, analysts or property managers.

To answer your question as to whether there are enough valuers, I would probably say no. I am assuming that they did not do annual valuations for a period. There are probably not enough numbers in the valuation office. Conversely, are they conflicted? Possibly, they are, to a degree; I do not know. I know they are professionals and they are—

MS CHEYNE: Yes, we do hear that.

Mr Doyle: But are they slightly representing a client, being the revenue office or the treasury office? Should it be independent, similar to the V-Gs in other jurisdictions? Possibly, yes. It would make some owners more satisfied if there were a little bit of independence there.

MS CHEYNE: How do we attract valuers when there are other, more exciting, jobs like becoming a property developer?

Mr Doyle: There is not an easy answer. I do not have an answer for that. We have been trying. It is a real problem for the industry. We have been trying to find answers and attract valuers. There is no easy answer. Valuation fees have not grown, probably since I started in the industry, to a degree, for some of the big properties. It means that, as an employee, you have to work harder and do more reports to make the fees you made 10 or 15 years ago. There comes a time when that is not attractive to you.

It is twofold. You have to grow the fees so that you can attract people to the industry. That is one side of it. It is not easy. Having no course in Canberra is a problem.

Having a valuation course in Canberra would be great. They have to do it by correspondence, so you lose some people who were thinking about being a valuer. Doing it by correspondence is a lot harder than turning up. That is one thing that the industry should look at, establishing a course here again. When I came through, there was a course here at the TAFE college. It was a four-year associate diploma course.

MS CHEYNE: Four years?

Mr Doyle: Yes, four years part time.

MS CHEYNE: It is still a commitment.

Mr Doyle: Yes, it was 3½ nights a week.

THE CHAIR: Mr Doyle, thank you very much for your attendance and participation in the inquiry. You will receive a copy of the proof *Hansard* of the proceedings from the secretary, Dr Lloyd. If there are issues that you want to clarify, take those up in the first instance with Dr Lloyd. Thank you very much for your participation.

SARRIS, MR PETER

THE CHAIR: The committee will now hear from Mr Peter Sarris. Mr Sarris, have you had an opportunity to read the privilege statement?

Mr Sarris: I have.

THE CHAIR: Could you acknowledge that you have done so and that you understand it?

Mr Sarris: I do, yes.

THE CHAIR: Thank you very much. Would you like to make an opening statement in relation to your submission?

Mr Sarris: I would, yes. I have been involved in the property industry since I was 18, so 35 years now. I am third generation pretty much; my father and kids are also involved in the family business. The property I wrote in about in this instance is Pialligo, but I have various interests in multiple properties within Canberra and New South Wales. Hopefully, I can explain some of the differences that I have seen in how Canberra treats property owners versus, for instance, New South Wales.

The submission I put in in this instance was for property in Pialligo. It is not your typical Pialligo site where all of the nurseries are. It is the one opposite on the left, on the airport side, a bit of no-man's-land. I have had that property since 2012, and in the past two years alone I have seen the rates go from pretty much semirural sorts of uses, from 13,000 to 44,000, I think it is currently, per annum. It is not a property that has really any structures on it. It is pretty much land rented. There is a nursery there that has some pop-up sheds. There is one house on the site that was the original. It is quite dated; I would almost call it a farming cottage. That makes up about 25 per cent of the site.

What has happened, not dissimilar to a lot of sites in Canberra, is that there has been a combination of value increase—to be honest, I can accept in some instances that it has changed, but my grievance in this instance is to do with how they classify the land. There is no apportionment. There is no acknowledgement that it is not all commercial. And they seem to value commercial in the city the same as in some rural land setting.

I did a check on the government website and, for instance, the rate I am being charged is 30 times what a rural piece of land would be. I am not saying it should be that, but it should be something in between. It is just, to be honest, inequitable and unfair. I have a property with higher valuation in Queanbeyan. Its rates are 7,600 this year. That is the disparity between the ACT and New South Wales. It is not even close.

THE CHAIR: Just refresh my memory again. What are the rates on—

Mr Sarris: It is 44,000.

THE CHAIR: And they are similar size blocks?

Mr Sarris: Not similar size, but similar land value. The Queanbeyan property is 900,000; this property is 800,000.

THE CHAIR: So the Queanbeyan property is more expensive and the rating is—

Mr Sarris: It is 7,600, yes. That is the difference.

THE CHAIR: I stalked you on Google Maps; I am presuming that the block in question is bounded by Pialligo Avenue and the road that goes up to the airport.

Mr Sarris: That is correct, yes. Beltana Road, yes.

THE CHAIR: You are next door to the Richmond Fellowship?

Mr Sarris: Yes.

THE CHAIR: It seems to me that the kernel of your submission about this block is that there is not appropriate apportionment between the use. You have the capacity to build a veterinary surgery on the site.

Mr Sarris: Yes.

THE CHAIR: You have not realised that.

Mr Sarris: That is correct.

THE CHAIR: But by creating the capacity to build a veterinary surgery on the spot, everything ceases to be rural and becomes commercial at a much higher rateable rate.

Mr Sarris: That is correct. Two years ago I was approached about—I am not even sure what you would call it—a vet hospital where it falls in with all these sorts of animal uses, semirural uses, and boarding kennels. I think that triggered a revaluation. Again, it was not so much a concern about the value; it was a concern about what they applied against that value. Commercial is simply 3½ times the residential rate, as a comparison. This vet-animal use is limited to 10 per cent of the site to begin with, so the other 90 per cent is as it was before; it is just general farming, nurseries and landscape yards. There is a residential house that occupies about 25 per cent of the block.

I have outlined what I think are quite simple remedies to allow apportionment. They do that in New South Wales, and for some reason they do not want to do it here. Again, it is not about avoiding your fair share of rates; it is just equating it to what you can and have. There seems to be a huge disparity in thinking it is a city building of office buildings versus where it is located.

THE CHAIR: One of the issues that there appears to be, one that has really only struck me in the course of this inquiry, is that there is no granularity in commercial land in the ACT. It is commercial or it is not.

Mr Sarris: That is correct.

THE CHAIR: In a sense, anything that is not residential or rural is commercial, and there is no granularity; there is no sort of large-scale industrial, high-end office et cetera or anything in between.

Mr Sarris: That is correct.

THE CHAIR: With your experience here and elsewhere, do you see that there is more granularity in other rating systems in other jurisdictions?

Mr Sarris: Absolutely. The Queanbeyan example, which is on Stephens Road, which I have listed, is the perfect example. It is a large industrial site. It is valued at 900,000. I do not know the difference between the residential or the commercial rating factor, but it is simply more affordable. When I say "more affordable", it is different. As I said, I am not sure what the multiple is, but 7,600 versus 44,000 is just—

THE CHAIR: The multiple is clearly a lot less, yes.

Mr Sarris: It is six times the difference; it is not close. It leads, especially in the industrial, in a shift to Queanbeyan and outer areas. I think you will see a lot of properties—and I cannot say I have experience in that, but it is starting—where people are just closing up in Fyshwick and moving away. They will just reopen elsewhere.

I also wrote about residential use only. In this, it is 100 per cent residential. The only way to achieve that is to strata title it with a qualified development DA, which is costly and unnecessary, especially when you have one owner who owns the whole site. It is just red tape.

THE CHAIR: On that property that you are talking about, even the 25 per cent which is residential, and the satellite map clearly delineates the residential component from the rest of it, you are not paying residential?

Mr Sarris: No; everything is commercial.

THE CHAIR: Before you changed to get permission to have the vet hospital on the lease, was everything at that stage rural?

Mr Sarris: It was probably an anomaly. It was calculated on the residential rate previously.

THE CHAIR: In Pialligo?

Mr Sarris: I think maybe they chose the middle ground originally, though they do not see it that way anymore. I am not sure if that was right or wrong, but rural was the predominant use. Every rural property has a house on it; they are not just yards. But in this instance there are very minimal structures on this land.

MS CHEYNE: You mentioned in your opening comments that there is this block, and I take the points that you raised about it. I think it is also well known that the Sarris family has properties right across Canberra. I know you said you would expand a little on how things are going more broadly. Are you a director of the Evri Group?

Mr Sarris: I have an interest in, for instance, 220 Northbourne. That was heard about yesterday. I can categorically say I lost sleep over that for many nights, when that notice was received. I do not think I am a director of Evri Group but I am a director of—

MS CHEYNE: The website refers to the Sarris family, but there are a few of you.

Mr Sarris: Yes. I have an interest in it.

MS CHEYNE: Evri Group and KDN are also affiliates, aren't they?

Mr Sarris: That is right. We partner in certain projects.

MS CHEYNE: Like Lakeview in Belconnen.

Mr Sarris: Lakeview and Link developments, which I think we saw you about many years ago.

MS CHEYNE: I do recall that; in a different life, yes. The head of KDN is Mr Katheklakis, whom we also heard from yesterday.

Mr Sarris: George spoke?

MS CHEYNE: Yes.

THE CHAIR: On behalf of the Property Council.

MS CHEYNE: Yes, in a different capacity. It is helpful to know how everyone is linked.

Mr Sarris: We have pretty much been involved since the early 60s. For over 55 years we have been turning over and investing in properties. With 220 Northbourne, for instance, it is just grossly inequitable. I know that across the road it is a lot less because it has residential use. We would gladly delete commercial use from that site, but we cannot, because we have government leases on it. It is just an anomaly. I think it can be easily fixed and I hope that we get some traction out of this rates inquiry. I do not think it happens in all the circumstances but it certainly happens in mixed use sites.

MS CHEYNE: Given your broad connections across the industry and your broad involvement, what is the broader investor confidence like in the ACT at the moment? We have heard that vacancy rates are high-ish, but is the current approach to commercial rates making the ACT less attractive to invest in?

Mr Sarris: From my perspective, as Phil probably mentioned earlier, it does affect

valuations and values. It is not any new buyer who will miss out; it is the current owner. For instance, every $100,000 in rates equates to a million or a million and a half off the valuation. It is simply 10 to 15 times—the valuation—so it is quite significant.

It is impossible to budget for and manage, when you have tenants. If you are lucky, you can pass on your cost. At the end of the day, the consumer is going to wear it. The property developer will wear it while the building is vacant, which is probably happening to me on multiple sites. There are instances where it can be passed on, but it is also a very temporary measure, and, when those leases run out, that is the real factor.

I do not think we have really hit what this means yet. It is still coming. The wave is coming, in my opinion, as to when we will see people disillusioned with how erratic these values are. There is nothing investors like more than certainty. When you just throw up 1,400 per cent increases on a whim, just because the legislation changes, I think that invokes a lack of confidence.

The losers are people who are sitting on and holding blocks of land. I hear things like, "You got concessions on stamp duty under $1½ million." These guys already own the property. The fact is that the rates equal stamp duty, year on year. No other jurisdiction that I know of comes anywhere close to that—using the example I gave as well.

MS CHEYNE: What will this wave of disillusionment that you are talking about look like?

Mr Sarris: There will be a lack of confidence. It is just beginning. I can only speak for ourselves, but we are very reluctant to reinvest in and grow Canberra. After 55 years, we are being pushed out and we are being told what to do. We certainly have to rethink our strategy on where we choose to spend our money. I can only speak for ourselves, but that is certainly—

MS CHEYNE: That is what you are talking about with starting to invest more into New South Wales?

Mr Sarris: That is right.

MS LAWDER: Of your interests, have you ever appealed or considered appealing against rates and revaluations?

Mr Sarris: I have.

MS LAWDER: How has that gone for you?

Mr Sarris: At Pialligo I did object and basically I did not get anywhere with it. The next step—and that is a flaw in the system—is to spend $50,000 to $100,000 to contest a perhaps $10,000 to $20,000 a year rates assessment. So the economies just do not stack up to do that. As Phil Doyle, I overheard, said earlier, you do a cost-benefit and a risk-benefit analysis and see if it is large enough. For

220 Northbourne it was obviously significant and we did go to ACAT. But the only thing we could really speak about in ACAT was the value they put on it, which we thought was an aggressive value. We got it discounted by 12½ per cent.

But what we could not fix was what the legislation says: that if you have mixed use, you just get rated on the highest value. So there is no correlation with the value in the land at residential, which is easily three times the current commercial rate—it may not be the case in another 10 years time but currently it is—versus buying the commercial rating factor. It is like a double whammy. Then you get an aggressive valuation office, so there are three things that can go wrong. And the fourth thing is that they assume you have got a structure that is four times what you actually have. There are four things working against you, and that is how it is legislated. It could be easily fixed.

MS LAWDER: When you added the use of an animal care facility and outdoor recreation, was that a lease variation charge?

Mr Sarris: It was, yes.

MS LAWDER: Have you in that instance, or any of your other interests, had back pay of rates payable?

Mr Sarris: We have. We have been lucky enough that they have only gone back one year. I know of persons who have gone back five years. Again, there is no compassion or notice or discussion. You simply get a letter in the mail saying, "You owe $X." That is when you start losing sleep.

MS LAWDER: When you did your lease variation for the block in Pialligo, did you write to or know you should write to the Commissioner for Revenue pointing out that your block may be more valuable and asking them to revalue?

Mr Sarris: I made a contribution in terms of betterment for that land, yes. That is when they revalued it. So that—

THE CHAIR: They revalued it straightaway?

Mr Sarris: In this instance I actually had no problem with the value and how they approached it. What I did have an issue with—and this is how it is legislated; they did not misapply, and I did ask the question—is that they rated it 100 per cent commercial. That is the simple argument in the Pialligo case.

THE CHAIR: In the Pialligo case, you applied for lease variation, you paid the lease variation charge and the ACT valuation office the next time around immediately applied that charge?

Mr Sarris: That is right.

THE CHAIR: Did you do anything to notify the valuation office that you had changed the lease?

Mr Sarris: I think they do—

THE CHAIR: But you did not?

Mr Sarris: through the betterment process. I do not think I do. Part of the process is we provide our valuation and they either accept it or put their own value on it. They in fact put a higher value than we put, but within reason. I am not against paying a fair share—

THE CHAIR: What I am trying to get at is that in other instances there were people who have been charged back rates because the government said that the lessee did not notify the government of their change of lease, even though they had paid the money, registered the lease et cetera. I just wanted to work out whether you had gone through any particular step to notify the government that you had changed your lease.

Mr Sarris: No, I had not. But part of the process with the betterment is notifying—I think that is all wrapped up in it. I got my increase straightaway.

THE CHAIR: They did not fail to notice yours?

Mr Sarris: No, they were very efficient.

THE CHAIR: There are a couple of other things that you touched on. There is a common theme in a lot of the evidence we have received that you have touched on in your paper. You have touched on what you see as a lack of independence in the objections process. But also, do you have view about whether there is sufficient independence in the actual setting of the valuations, given that the valuation office resides inside the revenue office?

Mr Sarris: I do not have an issue with the fact that there is a valuation office within the revenue office. But I think, as I have probably stated, that if someone does take issue then an independent person should come in. It is natural that the valuer who put a number on something would want to defend it to the end of the world. I did; it was a residential one. I did it with the New South Wales one on a house I have, and the minute I objected they got a third-party valuer. He rang me, he wrote to me, he told me, he asked me questions, we got interviewed and he went and did a site inspection. A lot of values are done by desktop, and I think you have to if you have 300,000 sites or something. You cannot value everything every day. But if people notice an anomaly, is it not common sense to get a second person to see if you are right or wrong? New South Wales do that. In fact, to follow from that, when I still questioned it, they got a third person to just review it one last time, without necessarily expecting it, and did another desktop—

THE CHAIR: So you—

Mr Sarris: I found it very thorough and I could not—

THE CHAIR: felt like you had a fair hearing?

Mr Sarris: Yes, I felt I had a fair hearing. Again, I do not sit here trying not to pay my fair share of taxes. But it is just not comparable. I do not think other property

owners on Northbourne Avenue are impacted. It is just like we all were in Pialligo where you have mixed-use sites. With the way that sites are sold now, it is quite desirable to have a cafe or something within a site. The current legislation simply says that until you lodge a qualifying DA, which you must commence within two years, it is 100 per cent commercial.

THE CHAIR: Given your experience, when you went for this change of use in Pialligo did you realise that by changing the use to veterinary the whole block would be—

Mr Sarris: No I did not. And I would not have done it if I had known. It literally is more than the income that it is going achieve, which I do not have anyway.

THE CHAIR: Well, you have not realised it yet.

Mr Sarris: I have not realised it yet. I think the difficulty in Canberra is that, unlike in New South Wales, every site has its specific permitted uses. Some may say 10 apartments; some might say 150. I think it is very difficult for the valuation office to just pick up a square metre rate and apply it to a suburb or to a generic number. Each site is specific. By having an independent review option, at least if the ratepayer sees an issue they can highlight it and then it can be tested. I think that limits 300,000 valuations a year, which is just impossible to do.

MS CHEYNE: How can we attract valuers?

Mr Sarris: I think running a course in Canberra would be a real benefit, perhaps through the Property Council. That is something we need. It is a good course and it gives a good grounding in all things property related, whether you want to be a property manager or a—I do not really believe in the term property developer; it is a property investor. Some people think developer is a dirty word. But really what they are doing is turning something into something bigger. They are investing their money to turn it into something that creates employment, creates amenity for people and is just good to have. I would really like to see a valuer course in Canberra. I would like my daughter to do it.

THE CHAIR: Mr Sarris, thank you for your attendance, your submission and your participation in this inquiry. You will receive a proof *Hansard* from the secretary, Dr Lloyd. If there are issues that you wish to clarify, take them up in the first instance with Dr Lloyd. Thank you very much. This concludes our hearing for today.

The committee adjourned at 3.26 pm.