LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PUBLIC ACCOUNTS

(Reference: Inquiry into land valuation in the ACT)

Members:

MR R MULCAHY (The Chair)
DR D FOSKEY (The Deputy Chair)
MS K MacDONALD

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 30 AUGUST 2006

Secretary to the committee:
Ms A Cullen (Ph: 6205 0136)

By authority of the Legislative Assembly for the Australian Capital Territory

WITNESSES

The committee met at 2.02 pm.

FLINT, MR PAUL, Executive Director, Council on the Ageing (ACT)

PARKER, MR MALCOLM, Housing Options Adviser, Council on the Ageing (ACT)

THE CHAIR: Good afternoon, ladies and gentlemen. Before we take evidence, I need to advise you of some procedural matters. The committee has authorised the recording, broadcasting and re-broadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings. Before the committee commences taking evidence let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee and evidence given before it. Parliamentary privilege means special rights and immunities attached to parliament, its members and others, necessary to the discharge and functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in-camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

Today these proceedings relate to the inquiry into land valuation in the ACT. Mr Flint, I invite you to make a statement, if you like, to the committee and outline the views of your organisation on the inquiry that we are presently undertaking.

Mr Flint: Thank you, chair. I will initially give a few background comments and then talk about the land valuation system. From a COTA perspective, in our last budget we were supportive of a broad-base tax in order to maintain the level of services to older people. That is basically a summary of our budget submission. In contrast, COTA have been critical of some of the narrower taxes that have been imposed recently. In our previous submissions on rating and land valuation, COTA supported a well-defined and transparent system. We see those as being prime criteria.

The components that relate to service delivery, that is, to individual services to the household, should be set appropriately and reflect the services delivered, that is, things like garbage and street cleaning. Other charges should relate to additional funding required for the overall services of government. COTA has drawn a distinction between efficiency in service delivery and reduction in service delivery. We believe that it is important that the level of support to older elements of the community is maintained. That is really the background that we come from.

In relation to this particular inquiry about land valuations, one of our concerns is that the terms of reference, from (a) to (g) in particular, are very technical in nature, rather than attempting to achieve what the community would desire and what the aspirations of government are in managing the process. COTA is not opposed to adjustments in

planning and accommodation of older people within the community. In fact, COTA is supportive of change which better meets the needs of our community.

However, if the rates policy, through the evaluation of alternative land use, is used as a mechanism to promulgate change it may be at odds with other government policies. That is a significant concern we have. In this area, rating policies are not isolated from other government policies and other government charges, particularly in relation to the sale and purchase of property.

A concrete example of this is if we look at older people in older areas or in areas which have changed their usage to more intensive forms of accommodation. From a community viewpoint, we frequently would view the older people changing their accommodation as being positive; they, as individuals, would. It makes sense to move from the old family home to a unit, townhouse or apartment. That is desirable both for many older people and from a community use of resources. The cost of rates on the family home tends to encourage this process.

However, costs associated with selling and buying in the same area generally lead to one of two outcomes with older people. The first impact is that they decide not to move and simply bunker down in their present position because there is no advantage in moving. That is brought about, at least partially, by other government policies. The second is that they feel they are forced to move but are forced to move out of the area. Therefore, there is a physical and social dislocation for the older people. Both of those outcomes we see as quite undesirable and not consistent with the overall thrust of government policy.

In respect of the broader rating issues, the concern of COTA relates to older people having some certainty about the outcome of the process or the mechanism. The process should take into account in an appropriate way especially those people that are involved in genuine hardship. Rates deferral is the current approach for people in hardship. It is basically, as we would see it, an accountant's viewpoint of the situation.

However, older people in hardship do not generally use the deferral mechanism; they would rather avoid it. The reason for this is that the older people are afraid of deferment because they believe that it will blow out in costs because of the interest rates and that they will end up with no value left in their own property. That is a concern for them. COTA believes that a mechanism should be developed that caps the share of the sale value that could be taken by deferred rates. Through that, a better deferral mechanism could be developed. We hope that that would then mean that it has a greater level of use and performs the function that it is supposed to within the community.

Another issue that we have is that often the community of older people would see that the valuation system tends to follow trends and be a little fickle. The short-term trends or fashions are followed. This results in significant variation in rates and uncertainty for older people, particularly in the older areas of Canberra. We would look to a mechanism which provides less rather than more uncertainty within the mechanism.

On the issue of transparency—and I have left the sheet behind; it was about your last point, related to transparency; it was (h) or something—we believe that there should be a highly transparent system; that the issue, where the current system adjusts rates for successful complainants but not for other complainants, really is not just or fair; and that

it means that, if people are articulate and cantankerous, then they are likely to be rewarded, while the frail, the disabled and the disadvantaged are penalised.

On the issues of housing and rental values that are talked about there, our bias is that the level of rates should be appropriate to maintain services to the older people. That is where we started. We would see that this might dampen the effect of both property prices and the level of rental returns but that in the long run they would be in balance. We see them not being critical issues in their own right.

In conclusion, COTA would look for a fair, equitable and just arrangement that spreads the burden of taxes as broadly as possible within the community and ensures that we have a reasonable level of services to meet the needs of community members.

THE CHAIR: Thank you, Mr Flint, for that outline of views, which is much appreciated. I start off by exploring the concept of asset rich, cash poor—and I imagine some of your members would talk to you in those terms, if not in exactly those terms—and draw down a little further on this issue of people whose properties, which is quite typical in Canberra in recent years, have doubled in value but their income has not grown by anything much, if at all, and maybe at best by CPI. You have come up with a suggestion of capping a share when that property is eventually disposed of, in terms of the rates liability.

Is the issue, from your experience, that people are worried that by taking advantage of the deferral system the value of their house will be totally eroded, or is it also a fact that—and I have had this raised with me—a lot of people in the latter part of their lives do not want to be leaving what they perceive as debt to their children or whoever the beneficiaries of their estate are? That is the first part of it.

The second bit then is: have you come to a view of what would be a reasonable share for government to cap itself out, in terms of rates liability, on the sale of a property?

Mr Flint: They are really two aspects of the same issue—and some people will take one or the other—but both are generated by the uncertainty associated with an interest rate, particularly with the interest rates that we went though in the 1980s that are very familiar to a lot of older people. When you work through it in a mathematical model, they are generally surprised about how small it is but will still avoid it because, if last time we had 17 or 18 per cent interest, what would stop us having 25 or 35 per cent? Especially when you can get interest in the current market of 27 per cent for some short-term loans, it is a very scary concept for a lot of older people.

If you look at the appropriate level of setting for an interest cap on the property value, it is probably only a few per cent of the property value. Your experts might look at it in a different way, but it could even have a ratchet effect so that, for example, if you defer your rates for 10 years you might be looking at one or two per cent of the property value. If it is for 20 years it might be three or four per cent, something like that. There may be a component that varies, but at least it gives a level of surety that the great majority of the value of the house will be retained.

One of the things that have exacerbated this problem is the bonds and that for residential aged care facilities. Even though it is not appropriately based, there is that fear that, if

I defer the interest, then I have got no money to be able to pay my way to get into a facility if I need it.

THE CHAIR: And I will be left out in the cold, in effect.

Mr Flint: Yes. That reinforces it. They may not be soundly based concepts but they are strongly held.

THE CHAIR: That makes a good deal of sense to me. There was a proposal—and I am rusty on detail, but you probably are aware of this—or a suggestion that our rating system be changed to effectively freeze rates on people once they have retired and that once that property is disposed of you reactivate it back to the current market rating system. Did your organisation have a view on that particular scheme? Do you recall that discussion some time ago?

Mr Flint: Yes. We are not wishing to increase the burden on anyone within the community. If you defer the rate or reduce the rate level for people that can genuinely pay for it and do not have a problem in paying, then it means that other members of the community have to pay more or that services are reduced. We are not looking for blanket exemptions for older people as an appropriate mechanism; we are looking that people in genuine hardship are catered for and that the system overall, of which rating is a component, facilitates the change that we want as a community.

From that point of view, if we are either pushing people out of their dwellings faster than is desirable or pushing them further away than is desirable so that they have got less support, we as a community end up having to support them in other ways. We might get a little more rates but we will be paying in other ways. We believe that, as a community, we will be worse off.

THE CHAIR: So you are better off to encourage people to stay in their home, effectively, for as long as possible.

Mr Flint: Or to change homes in the same area—we are quite supportive of that—but the rating system is pushing one way, to push people out if they are in the areas that are having significant land value increases. On the other side, the costs associated with buying and selling are pushing them to other parts of the city where they will need greater support.

THE CHAIR: And where they won't have a social network, possibly.

Mr Flint: All those social and physical networks, yes.

THE CHAIR: The last area of questioning from me: you are aware that the government have decided to change their method of indexation of rates from consumer price index to wage price indexation. What impact do you think that will have on your constituency, and is there much appreciation yet of what that will mean to people's capacity to meet rate increases?

Mr Flint: That is something we have not looked at closely. You have also got to look at the prime group of consumers, from a rates perspective, that will be influenced. That will

be pensioners and full pensioners. There are adjustments at the federal level on the indexation of pensions. It will depend very much on the differences in the indexing.

THE CHAIR: It is about 45 per cent higher if you use wage price indexation, on current figures. Given that a lot of people that you represent, I guess, are at best on CPI-increased income annually, do you think that will have a backlash effect?

Mr Flint: If they are stuck on a CPI, it definitely does, because it broadens the gap.

THE CHAIR: How will they cope?

Mr Flint: There will be some federal changes that are wage indexed. But even so, that will probably mean a broadening of the gap because of the relative sizes of the base. That puts more pressure on them to change their accommodation. It puts more pressure on those that choose not to, so that they reduce their other expenditure. This is a worrying thing to some extent.

With the ones that I described as bunkering down, the biggest inducement for people to move from the large family home to other places, other accommodation, is the garden. We are bunkering them down in these places that generally have bigger properties, bigger gardens. They let them go. A lot of people find that a very frustrating experience. It does not help at all.

THE CHAIR: Where else would they economise? Would they economise on energy usage or on medication?

Mr Flint: Everything.

DR FOSKEY: Water use.

Mr Flint: Part of it, yes. You turn your tap off; you do not water your garden; you let everything go; the house will fall to bits. It does not matter which one of those you do, as a community, in the end we are going to have to have higher levels of support because we will end up supporting them in one way or another.

DR FOSKEY: You have obviously ascertained how older people feel about this system. I am wondering whether there are avenues for advice that your constituency can go to and whether there is any advocacy available for them. For instance, their concern about using the deferral system may not always be well founded. How can they try that out? I know that fear leads to caution, but is there a proactive basis by which, say, the government goes and talks to people and tells them about their options?

Mr Flint: I do not know whether the government does it. We do it, as an organisation. Care Financial Services is another one that does it. There are a number of organisations that do it. But our experience generally is that, although you can go through it with a mathematical model and demonstrate a reasonable outcome, they will still avoid it. The majority of them will unless they are in a circumstance where there is a total lack of family or other dependants and there is no concern about leaving a property. Then they will still avoid it. The other option is that they feel that they are in such financial straits that they have no other option; then they may do it. But the experience is that it is not

well taken up.

DR FOSKEY: But in this case they would still have to seek that advice, rather than have it freely offered and made available to them?

Mr Flint: Yes.

DR FOSKEY: Is the process for deferral a simple one?

Mr Flint: I do not know that there are any particular difficulties in the process.

Mr Parker: The last time I inquired about the deferral system, it was basically a statement of assets and liabilities, income and outgoings, and the government then assess whether they are able to meet their liabilities or not. It is fairly simple for a pensioner to prove that they are unable to meet that outgoing.

THE CHAIR: A supplementary to what Dr Foskey pursued there: is there any proactive work done in terms of going out and telling people, who really may not know how to weave their way through the system, of these services, apart from what COTA does as a—

Mr Parker: The government themselves do mention it in a leaflet that goes out with the rates. I believe I have seen that a couple of times, but it is the only place I have seen that is proactive.

THE CHAIR: Otherwise you are not aware of any—

Mr Parker: No, there is nobody out there actively talking to them.

Mr Flint: There is a high degree of ignorance about its availability too.

DR FOSKEY: The Turner Residents Association has mentioned an issue regarding the rates rebate cap. People who had applied and were receiving it before 1 July 1997 are on a different formula to people after that. It seems to me to be fairly significant that you can maintain a level of concession of 50 per cent if you happen to be one of the early ones, or it is capped at $365 per property. Have you any—

Mr Flint: We do not see that as an equitable, fair or just arrangement. It treats older people in very similar situations in a quite different manner. We really do not feel that that is an approach that should be supported in the longer run.

Mr Parker: It makes people put off moving because, if they move from their old house on a 50 per cent rebate to a new place where they won't get that discount, they say, "We had better not move."

THE CHAIR: It is counter to the other pressure to move.

Mr Flint: Yes.

Mr Parker: So they will put up with the old place that needs more maintenance and is

not quite as suitable.

THE CHAIR: Thank you, Mr Flint and Mr Parker, for your evidence. We appreciate your making the time available to assist the committee in its inquiry.

Mr Flint: Thank you.

HARDING, MR PHILIP, President, ACT Division of Australian Property Institute

SWINBOURNE, MR RICHARD, Councillor, ACT Division of Australian Property Institute

PROTOPOPOFF, MR STEPHEN, Valuation and Leasing Manager, ACT Division of Australian Property Institute

THE CHAIR: Gentlemen, I have to inform you of some procedural matters before we hear from you. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings. Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

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I ask you before you make comment to identify yourself and the capacity in which you appear. We do not have a written submission from the institute, but we are delighted that you are able to lend us the benefit of your experience and thoughts on our particular inquiry, which impacts on a large number of the people of the ACT. Mr Harding, I invite you or whoever wishes to do so to make an opening statement and then we might have a few questions.

Mr Harding: Thank you, chairman. My name is Philip Harding, I am the President of the ACT division of the Australian Property Institute. Chairman, we deliberately have not put in a proposal. We have come here basically as valuation professionals to assist the committee in any way, probably more so involved with answering questions on processes and relativities between different types of systems that are land based.

We are not a lobby group. Our organisation, which is the successor of the Australian Institute of Valuers and Land Economists, is a body that is really devoted to educating our members and maintaining standards within our industry group. So we come to you with very open hands and really offer ourselves to answer questions that you may have on valuation processes and techniques that may assist the committee. I trust that that will be of some value to you.

THE CHAIR: Yes.

Mr Harding: Should I introduce my colleagues?

THE CHAIR: Yes.

Mr Harding: Richard Swinbourne is one of our senior members, a councillor of our division and a life fellow of the Australian Property Institute. He is also the managing director of a very large company which specialises in rating valuations in Australia and New Zealand.

THE CHAIR: Which company is that?

Mr Harding: Egan National Valuers. Stephen Protopopoff is employed by the United Group in a property capacity, but he is here today given his past experience working for the Valuer-General of New South Wales in rating areas. So we have got a bit of a broad cross-section of people to assist the committee.

THE CHAIR: I might just lead off with a question that arose when we had the AVO, the Australian Valuation Office, appear before us. It was not an issue that I felt terribly comfortable with, but you might be able to give us more comfort. It seemed to be acknowledged that you could have a situation in suburbs of Canberra with a small turnover in properties where distortions could occur in the market as a result of maybe only one or two properties coming up for sale in a period and they could be highly priced properties which would impact right across the values of that area. Do you have a view about that, any of you gentlemen, and also do you have any thoughts about how you might rectify that anomaly, short of going through the objection process and so forth?

Mr Harding: I will kick off. I would say that in a situation like that you would certainly be looking outside the individual suburb. What generally happens is that an individual in, say, the Australian Valuation Office will be given a geographic area to look at so that, whilst one suburb might show a scarcity of sales in that geographic area, you should be able to pick out sales from that general location which would then flow through. He will have an idea of relativities between the suburbs themselves and should be able to determine a market value for that geographic area, given the relativities between the suburbs.

Mr Swinbourne: I agree with that. It really is the task of the valuer to draw together the available evidence and apply it as it needs to be applied. The scarcity of sales is a factor and it does make it difficult at times, but it just means that the valuer needs to use his wider expertise to draw together the available evidence.

THE CHAIR: I got the impression, though, that that was potentially an anomaly that may not be addressed adequately. Whether that is because the remuneration to the valuation office is such that it limits the amount of resources that they can apply in a particular area, I do not know, but I did get the distinct impression that the scenario I spoke of was possible and you could conceivably have a situation where a suburb had a seven-figure transaction but there may only be a couple occur in a particular period, which would theoretically inflate the values in that area, possibly at a rate greater than would be reasonably assessed as the values. I would have to go back and look at the evidence, but they did not seem to suggest that they do cast the net so widely. Whilst you are saying what should happen, from your knowledge of the AVO what do you believe is

the case in that situation?

Mr Swinbourne: I don't know that we can really get involved in the processes of the actual AVO.

THE CHAIR: Could you just put your title on the record for Hansard?

Mr Swinbourne: Sorry, Richard Swinbourne.

THE CHAIR: And the capacity in which you appear.

Mr Swinbourne: I am representing the Australian Property Institute.

THE CHAIR: Thanks. Sorry about that.

Mr Harding: I would like to interrupt there. The employees of the Australian Valuation Office are also our members.

THE CHAIR: I understand that, yes.

Mr Harding: We certainly have not come here to speak for them as a commercial entity.

THE CHAIR: No, I recognise that. The three of you obviously have significant experience in the area of valuations. I suppose what we hope to do as a committee is to look at anomalies that might arise. If we can make recommendations that produce more equitable outcomes in this area, obviously that will be a great accomplishment. This is one possible anomaly that has been presented in evidence and it is just a matter of whether you believe that that concern is valid and whether, if it is, there is a better way to go about it. From the knowledge you have of how they operate, do you think that they do, in fact, cast the net much more widely?

Mr Swinbourne: No, I have no reason to believe they don't cast the net widely enough. We've got 100 suburbs across Canberra and there are enough sales occurring across the territory really to get that evidence. Sure, some areas will be a little bit skinny of that evidence, but I don't really see that there should be a problem in that respect.

THE CHAIR: Okay. Are any of you familiar with the Administrative Appeals Tribunal views that were expressed some time back that really started the process of this inquiry—it wasn't only that factor, but they certainly gave it a fair degree of impetus—and the criticisms they made in terms of transparency, process and so on? Do you have a view on what they had to say, not necessarily on a particular case, but the principles that were raised in that decision?

Mr Swinbourne: From my recollection, and you might correct me, they were referring in some part to preparation for appeals and information available for appeals. To me, that was more a procedural matter, probably between ACT revenue and the AVO.

THE CHAIR: I think their concern was about people who were wanting to object. I am assuming some of you represent parties that would wish to object. I certainly know United has a broad range of client interest, more commercial than residential, obviously.

For example, in filing objections on behalf of clients or people you consult to, or even your own commercial interests, are you comfortable with the amount of information readily available, the transparency of the process and the materials you need to run those sorts of cases, or do you have areas of concern where you would like to see improvement?

Mr Swinbourne: I think probably the amount of information available goes both ways. If a ratepayer is submitting an objection, then they are required to give the grounds of objection and quite often they support that with a valuation. Probably, that is something that has changed over recent years, where more information is provided with the objection than used to be. I have not seen a great deal of what the AVO are providing back of late, but I have no reason to believe that it is less than adequate. Maybe that is the case, but it has not been a problem.

Mr Harding: I have had real experience of that in the commercial field. We have recently submitted objections on behalf of clients and have received back from the AVO written justification of their figure. Whether or not we agree with them, I would have to say that what we were provided back was an analysis of the sales evidence that they had used in an attempt to justify the figure they had put on it.

THE CHAIR: Did that withstand the test as far as you were concerned? Did you feel that, under scrutiny, it was—

Mr Harding: In terms of the information provided?

THE CHAIR: In terms of accuracy. Even though they may have relied in good faith on that data, did you believe that they had sufficient data to justify the valuation?

Mr Harding: Certainly my client didn't.

THE CHAIR: I am sure, but, genuinely, did you believe that they really needed to go further?

Mr Harding: From a professional point of view, I was quite happy—in fact, surprised—that it had got that sort of level of response.

THE CHAIR: One of the issues that have been raised with me—I do not know whether it has come up in formal evidence, but certainly we have talked about it—is the fact that it is quite difficult for a residential objector to really get anywhere without enlisting the services of a valuer, and obviously the cost-benefit of the exercise starts to become questionable unless you pool a group of people. Do you have a view about whether that is really a course that you would have to go down to be successful? The second part of that question relates to paragraph (k) of our terms of reference, which is about equity between landholders and which came up in earlier evidence, if you heard it, and that is the problem that I may, with a group of neighbours, succeed in objecting to the valuation on our properties, but that does not flow through to the neighbourhood, whereas, if I have been successful, I have demonstrated that we have been rated too highly. Do you have a view on those two issues?

Mr Swinbourne: I think the last point first, probably. If an objection is successful on a

particular property, then there is no real reason why that successful objection would be applicable to any other property in the street. It could be a successful objection because there is an electricity substation on the front lawn or there is a drainage problem for that particular block. To try then to apply that same reduction right along the street could end up with a real inequity in the process. From where I have seen it—from the private side, not the AVO side—most objections that go through seem to be for a particular defect of the property, disability of the property, whether it be a location or physical defect, where that particular property needs special consideration. It is generally not the whole level of values in the area.

THE CHAIR: Are you aware, though, of people having grouped together? I understand that in Red Hill there were a group of residents that pooled together, retained a valuer and succeeded in having downward revisions on the values of their properties. So they were not about unique circumstances on a property.

Mr Swinbourne: Yes, that can happen.

THE CHAIR: In those scenarios, do you believe that the rates ought to be adjusted for the suburb, if it is on the basis of the actual data being challenged?

Mr Swinbourne: No, I don't. Each ratepayer has an opportunity to assess their particular circumstances by a particular date after they receive the notice. It would make it extremely difficult for the territory in their revenue collection if large slabs of the rateable area suddenly had a reduced income.

THE CHAIR: It would be a bit tough for the ratepayer, though, if they have inaccurately assessed them, wouldn't it

Mr Swinbourne: They do have an opportunity. No one is denying them the opportunity.

THE CHAIR: But you recognise that it is a pretty costly process for an individual to do it properly.

Mr Swinbourne: Yes, it is, and this is where I go back to the comment about the disability of a particular property. There is probably no reason for a valuer to be employed for those particular circumstances. But in more major instances where it is likely to go to the AAT, yes, it would be necessary in most cases to have a valuer.

THE CHAIR: Do you think there is enough individual data available on the system for an individual ratepayer, without recourse to professional help, to be able to run an objection to a valuation?

Mr Swinbourne: All the sales are available. All the unimproved values ascribed are available. Land details are available.

THE CHAIR: Is the basis of successful objections available?

Mr Swinbourne: I have no idea.

THE CHAIR: I do not think so.

Mr Swinbourne: If the rates roll were updated at regular intervals that would be the only way that those objections would come through. I do not know whether there is any register of successful appeals.

THE CHAIR: Do you want to add something there, Mr Protopopoff?

Mr Protopopoff: I am representing the API. My experience is that the transparency of the data that Richard mentioned in Australia and in Canberra is probably as high as anywhere else in the world, so that's the question. I guess the second part is whether individuals are capable of taking that data and making an assessment. I guess that is yes. Valuers are specifically trained for a number of years and have a lot of experience, so it is probably a bit difficult to say they can make the same valuation assessments. In my experience of practice with the state valuation office, Valuer-General's—I am not sure of the operations of the AVO or the service provider—we would often field the calls, see the letters, talk to the people, see the people and actually walk them through how the decision was made prior to them going any further to appeal. In most instances the objection was either allowed or disallowed in consultation with the individual ratepayer before they had to engage a valuer or go to any expense.

THE CHAIR: Are you saying that you would get a negotiated outcome?

Mr Protopopoff: You would, and certainly give the reasons as to why you believe that was, as a valuer, as an expert, as a professional. I think you are asking the question: is the individual ratepayer an expert valuer? I think that it is probably an unfair thing to ask if the valuer is an expert.

THE CHAIR: I am not saying an expert valuer but, basically, I guess what I am putting to you is: can they really run the objection with any prospect of success if they do not have access to professional help, based on whether there is enough information there for them to adequately run a case?

Mr Protopopoff: In my experience, once again, I would say that the people who own the property know their property best and generally are very aware of what it is worth at any given point in time. The vast majority of people are and, yes, I believe they actually can state a solid case.

THE CHAIR: United represents lots of government interests, I know.

Mr Protopopoff: I do.

THE CHAIR: Do you have commercial clients under your umbrella as well?

Mr Protopopoff: Yes.

THE CHAIR: Do you get many rates issues raised?

Mr Protopopoff: We do, actually, in both. I would say the majority of the rates issues raised are actually under the realm of leases, should they be paying the rates versus the amount of rates they may be being billed or charged.

THE CHAIR: So it is more a landlord or tenant dispute about the flow through of outgoings and such like.

Mr Protopopoff: We do get those, but we do get queries. Probably the ones that I have actually had with United have been outside the ACT of recent times. I guess as a third party the tenant is under the lease responsible and therefore says, "Can I have a crack at objecting to the land value because I think that seems like an unreasonable increase?" So they actually as a third party are not able to object.

THE CHAIR: They do not have standing, I imagine.

Mr Protopopoff: In that situation the owner often says, "It's not my responsibility." So they are less inclined to object.

THE CHAIR: Just one last question before I hand over to Dr Foskey. Do you have a view about the challenge facing our older citizens who, as I talked about earlier, are often asset rich and cash poor and who find that the values of their property and their rates are going up at a rate well in excess of their income? On the final day when they sell up their property, I am sure it all shakes down, but have you given any thought, in any experience of yourselves or your members with those sorts of people, to what might be a more compassionate arrangement than we presently have?

Mr Harding: Chair, I don't think the API should get into that. That is a social issue. It is not where we are coming from. But certainly from a personal point of view, I am a great believer in deferment. My understanding is that there is provision in the Rates Act for deferment. I do not have sophisticated knowledge of it, but certainly as an individual I think there should be some deferment of rates. It is crazy. We've all got grandmothers.

THE CHAIR: The mechanism is there. There seems to be a reticence to use it by many.

DR FOSKEY: When an objection is lodged is a different valuation organisation brought in to check it out or would the AVO do the work?

Mr Swinbourne: My understanding is that the AVO does the lot.

Mr Harding: Sorry, what was that?

Mr Swinbourne: Whether an additional organisation does the objections.

Mr Harding: No, it would be whoever did the rating.

Mr Swinbourne: The AVO.

DR FOSKEY: There is one area that Mr Mulcahy forgot to ask you that I am interested in as well. Have you got any thoughts about the professional standards required of the people conducting valuations and criteria for selecting valuers? Could you just give us an outline of what would be seen as the appropriate qualifications?

Mr Harding: In the ACT, as you are probably aware, there is no registration of valuers.

Accordingly—and commercially—the only people who do valuations in the ACT are members of our institute. To be a member of our institute you are required to undertake an academic course, which currently is a university level course. In my day it was the technical college, but it is now a university course. You are then required to undertake two years of training under supervision.

It is a very difficult and onerous task these days to become a valuer. I have absolutely no doubt that, if anything, our members are academically overqualified for a lot of the work they do. Certainly every organisation that takes on young people and is training them will now only take on people with the relevant academic qualifications.

DR FOSKEY: What are the relevant qualifications?

Mr Harding: At the University of Western Sydney it is a bachelor of business (land).

DR FOSKEY: So you have to do it—that is the only place in this area.

Mr Harding: You cannot be a member of our institute unless you have that academic qualification.

DR FOSKEY: Yes, and you cannot do it in the ACT.

Mr Harding: You cannot do it in the ACT.

DR FOSKEY: Is it distance education?

Mr Harding: I have a family member who is doing it by correspondence. If people wait around long enough and we do not get an education course going here, there will not be any valuers. We will have to come up with a new system because we are all falling off the perch, basically.

DR FOSKEY: You will have to make it look sexier.

Mr Harding: Just as an aside, it is a big issue for us getting a local education course going. The institute is talking to the University of Canberra about it. In answer to your question, there is a high level of training and academic qualification before you are qualified to be a valuer in the ACT.

DR FOSKEY: This is a question that displays my ignorance to some extent; nonetheless, I am going to ask it. It is about land tax. If one owns land, one pays rates. If one rents a property, one pays land tax as part of one's rent. There is a portion the owner pays as land tax. Is that distinct from the amount the owner pays as rates? Is that on top of that?

Mr Swinbourne: Yes, it is quite distinct.

DR FOSKEY: It is. How is that land tax worked out? Do you have a role in that? Is your initial valuation—

Mr Harding: The land tax is based on the unimproved value. It is on the same basis that

the general rates are worked out on. There is a rate in the dollar.

Mr Protopopoff: There is a separate formula which varies from time to time.

Mr Harding: The ACT Revenue Office would take the single unimproved land value, then calculate general rates and land tax and, in the instance of commercial, the fire levy off that figure.

DR FOSKEY: Is there a process for objecting, to a degree, to a level of land tax?

Mr Harding: By objecting against the statutory value.

Mr Swinbourne: The valuation, not the—

Mr Harding: The rate in the dollar is set by government as part of the budget. I guess one thing valuers have always raised their eyebrows about over time is that valuers are the people held out as the evildoers with high land values. But, at the end of the day, the government of the day sets the rate in the dollar, based on the land values it is given. They could get every block in Canberra valued between $1 and $2 and still levy exactly the same amount of rates by increasing the rate in the dollar they apply to those values. It is political.

DR FOSKEY: But this is where the use of unimproved land value comes in on the rental market. A person is renting a house. From what I have come to understand, the land tax paid by the landlord on that house is the same for that area, whether it is a quite run-down, two-bedroom house or a four-bedroom house with three bathrooms.

Mr Harding: It would be, if all the land were valued the same. If they were all identical blocks of land in the same area, they would all have the same rating value and therefore the same land tax value.

DR FOSKEY: Would this have an impact on the affordability of private rental housing, then? For instance, in a city like Melbourne, where there is a range of properties in varying states of repair, you can still get quite a cheap house in an otherwise expensive suburb.

Mr Harding: Yes.

DR FOSKEY: Is that because they have a different system of land valuation? What is the story?

Mr Harding: There are two systems that I think we are talking about. There is unimproved land value and improved value, with the value of the improvement. There is a differential between a terrible house and a mansion next door.

DR FOSKEY: Yes.

Mr Harding: Yes, they will have different rates. In the ACT they would pay the same level of rates. That is correct.

DR FOSKEY: Yes, okay.

THE CHAIR: Would you not agree that the biggest factor in the rental market would be the vacancy rate?

Mr Swinbourne: The demand for the accommodation.

THE CHAIR: Yes. That would really drive it.

Mr Swinbourne: That certainly drives the rents. There is no doubt about that.

THE CHAIR: Yes.

Mr Swinbourne: The landlord will always ensure, or try to endeavour, that he gets a reasonable return out of his property. But, as you say, the demand for the accommodation will drive that strongly.

DR FOSKEY: I would rather not use the next three minutes talking about that, if that is okay.

THE CHAIR: All right. I just wanted to clarify, though, what you will raise. I think there is another factor that is critical to it.

DR FOSKEY: Yes. There are a variety of factors, I would say. I am just interested in some of the issues that were raised by residents groups. For instance, people were concerned—and I do not know whether this is for your organisation or purely a matter for the government—because they felt that the methodology for determining the rates or the land value should be disclosed on the notice of valuation. Is the AVO responsible for the notice of valuation, or the government?

Mr Swinbourne: It is ACT Revenue.

DR FOSKEY: What is your opinion about having valuers registered in a separate way, rather than just through being members of your organisation?

Mr Swinbourne: The profession was registered right across Australia until there was recognition in the Hilmer report. It decided that, as only a partially registered body, we should remove registration right across Australia. The reason why we were only partially registered was because we did not have it in Canberra or the Northern Territory.

All the other states faced deregistration simply because we did not have it here. We have never had registration here and in my view—and I think this is the view of the local API—we do not need it. The market takes care of that. We have our own very tight disciplinary procedures, code of ethics and rules of conduct that our members are held by, and probably more strongly than a registration body might do.

Mr Protopopoff: I can probably expand on that. I was previously working in New South Wales. In order to practise, I was required to hold registration and be a member of the institute. I chose to be a member of the institute properly because they provided the ability to monitor the valuers in town and provide better practice knowledge, experience

and discipline.

Mr Harding: That is right. Bear in mind that registration really is just a licensing. It may well start off with the greatest of good intentions at the beginning, but at the end of the day it ends up as a revenue issue. It is a licence fee collecting thing. It does not really look after the education or disciplinary aspects, apart from criminal negligence.

DR FOSKEY: They still need to belong to an association for that.

Mr Harding: The whole point of the API is to maintain and improve the educational standards of its members. That is the chief function.

DR FOSKEY: That is very old fashioned.

Mr Harding: It is very old fashioned—you are right—but it works. As I said, you cannot get a job in the ACT as a valuer unless you are a member of our institute, whereas in New South Wales you can be registered and not have anyone looking over your shoulder. You can pay your licence fee and run around and do whatever you like. Anyway, it works for us.

DR FOSKEY: A number of other issues were raised by the Turner residents association, but I think we have come to the end of our time.

Mr Swinbourne: We are more than happy to follow up on anything.

THE CHAIR: I appreciate that. Thank you for the time you have made available. I am sure your evidence will be helpful in our deliberations.

Mr Harding: Thank you for the opportunity.

PREISS, MR BRENDAN

THE CHAIR: Mr Preiss, I believe you heard me read out the instructions to witnesses earlier on.

Mr Preiss: Yes.

THE CHAIR: You understood all that. We have your submission here. You are appearing as a private individual today. I invite you to give an outline of your submission for the benefit of the committee and the record. If you would like to, feel free to proceed.

Mr Preiss: I appear as a citizen ratepayer with some knowledge. I am prompted in part by an experience—I think you were referring to it as an anomalous situation—a couple of years ago which led me to inquire into how valuation processes occur within the ACT, eventually with some success. My past knowledge of valuers is limited to some reviews I did for the commonwealth 30-odd years ago into their structures.

In essence, I would make three or four points, which my submission really goes to. I think the outcome of this committee's deliberations could lead to some practical, real improvements in the practice of land valuation as it applies to the rating system in the ACT. I think that would be a very beneficial result. It would not have to cost a great deal of money. There are faults in the system which are not acknowledged by the ACT Treasury and the AVO.

The system should be understandable, equitable and efficient. It is not. It is not easy to obtain details of how the system works. I can refer you to numerous examples around Australia and overseas where administrations are much more willing to outline, in public, full details of how the system works. It should be defined and published.

Secondly, it should be adhered to. That does not occur. I think formalising the definition of how the systems work would help. Formalising what we will call the quality assurance statistical tests that are applied in most jurisdictions would help. I would even go so far as saying there might be some form of instrument—perhaps a disallowable instrument—set before the Assembly in these matters.

I think it is possible to explore some major alternatives to the present system. The coat has been trailed before this inquiry of moving away from the unimproved value system towards the total improved value, or capital value, system. The Valuer-General of New South Wales, as I understand it, generally speaking, uses for mass appraisals—which is what we are talking about—the unimproved value system. For the ACT to move and become an island of an alternative practice might have some issues.

On some reflection I have done, I think the total improved value probably has within it the potential for even greater inequities and lack of understanding. It would have inevitable transition costs and, indeed, might be greeted with such suspicion by the population that it would hardly be worth the attempt.

I believe one method, if the committee were disposed to seriously consider looking at major alternatives to the current system, would be to conduct some sort of public inquiry—not by this committee because I think we would need to set up, with respect, an

expert committee to outline the pros and cons and so on, to settle people's views.

In terms of my comments about the anomaly, my interest in this was sparked some years ago when, in the suburb that I lived in, in the locality that I lived in, the valuation rose on my property by 49.6 per cent. When I inquired about this, I obtained what are called the sales analysis data sheets from ACT Revenue. I think a very small proportion of the population is aware of those. I realised that, by inquiring of a commercial web site, every property in my locality, and indeed in other surrounding localities, had been rerated by the same extent. That led me to make some inquiries and eventually to pursue an objection.

In the course of that, I made a discovery. I did not fully appreciate what I was discovering because I could not find the methodology. I have subsequently established that, in that particular land valuation exercise, some 14 properties were assessed in the suburb I lived in, of which three were in the locality I lived in.

The three properties that were assessed and used in the sales analysis—and there could have been other ones used because there was a wider range of properties—represented the three highest priced sales ever recorded in that locality. I think two of them still represent the two highest priced sales ever recorded in that locality. This is not in accord with what is said and what has been put in submissions before you—that valuation practice discards or does not take account of the extreme positions in a range. The suggestion is that median values are broadly observed.

The other thing that arises in particular is that we are told there is a kind of general time parameter applied. In the ACT, the date they use to fix valuations is 1 January. It differs in other jurisdictions. The general impression given is that three months either side is about right, but there are small sample issues. I do not deny that. In order to incorporate two of the high-priced properties in this particular instance, in one case we had to go back to July of the previous year and in the other case we had to go back to May.

In general, therefore, I am sceptical that the system is transparent enough for people, firstly, to know what is expected; and, secondly, then to establish whether "the rules" have been followed. I think it is very difficult for an ordinary person to appreciate how, for example, the analysed land values are reached. Without taking too much time, I will say very quickly that they are reached by the valuer on some basis—and it is not always clear to me that it is a physical inspection—deciding that the sale price of a particular property will be adjusted by the value of improvements. That is what we are told.

What we are not told—it is not even on the back of the valuation notice—is that it is the depreciated value of improvements. You will not find that word on the back of your valuation notice. We do not know what the methodology is for arriving at that. But it is evident, when you look at the sales analysis sheets, that these adjustments for improvements vary to an absolutely amazing extent. They can be half a million dollars or they can be less than $50,000 for houses of the vintage of 1928 to 1938 in the area I live in.

I understand, of course, that there are variations in improvements, but it is the calculation of the improved value which leads to the adjusted value. That in turn leads to the calculation of a percentage difference of unimproved value this year and unimproved

value last year. That then flows automatically to every block in the neighbourhood, because there is a fixed ratio. It took me a fair while to work this out.

If there are discrepancies because we are using extremes or because we are not making an adjustment for out-of-time valuations where markets are moving one way or the other or where there is no apparent methodology for calculating the value of improvements, we have a very uncertain system. I think the professional valuer's judgment is necessary at the point of the selection of sales, although I have been told that in years gone by a much wider range of sales was used to set a kind of median for an area. We are now down to about two per locality.

Secondly, the professional valuer's judgment is necessary on the calculation of the value of improvements. But in the New South Wales Ombudsman's report, which I am sure you are aware of and which I commend to you in every respect, there is a section which deals in particular with the problems of calculating the depreciated value of improvements. It says that there needs to be some consistency reached.

The other thing I would note—I will stop at this point—is that the question of evaluation of the results in the submissions you have received from the ACT Treasury and the AVO seems to hinge in part upon "look, the public must think it is okay because there is such a low level of objection". This is the public, of course, which the AVO described as unable to comprehend the system. What the submissions do not tell you is that the New South Wales Ombudsman's report is critical of the valuer-general's results in New South Wales because one-quarter to one-fifth of the objections resulted in the valuations being overturned.

In the submissions you have before you it is evident that 103 out of 243 objections were upheld, all but one by being revised downwards. That is one in 2.4 being overturned. That is the one calculation which is missing from the submissions. I think on a calculation of success in objections, you would have to suspect that perhaps there is an issue. There might be all sorts of reasons why people do not object.

Lastly, there are certain statistical measures of consistency. I am not a valuer, so I do not purport to be able to comment professionally on them. But again in the Ombudsman's report and in other jurisdictions they refer to them. They are generally referred to as the coefficient of dispersion, the median value price ratio, the price-related differential and the comparison of average value changes.

In the AVO submission they mention two or three of these, but I could not discern that they said they use them. It may be that they do use them. I do not have access to the procedure manuals, although in other jurisdictions these are up on the web. In Canberra there is apparently a tender document floating around at the moment, but I do not have access to that either. It may well be that we are going to require measures of this statistical accuracy or whatever.

I think there are a number of issues associated with public information about the system which are not confidential by any means. Secondly, there are a number of issues associated with the confidence that one can attribute to the judgments reached in the mass appraisal method. I think some valuers who are not directly engaged in the public sector side of things perhaps do not fully appreciate how the mass appraisal method

flows to a wide range of properties. The results come from a very narrow selection.

THE CHAIR: They should do, though, shouldn't they?

Mr Preiss: They should, but I have not always picked that up. It is possible, of course, as you have noted, that the individual ratepayer could go off and spend, as I understand it, $500 getting a valuer's report. I do not think that is necessary. In Victoria and New South Wales the valuer-generals are putting their procedures on the web. They are running newsletters. They are putting the land values on the web—in Victoria, improved land values.

In Canberra we do not do that. We rely upon a commercial firm. I think there are a great number of improvements that could be made. The opening statement I have made has been rather too long. You have my submission. The recommendations are consistent with what I have just been saying.

THE CHAIR: Thank you for that very interesting evidence. Obviously we have used up our time on this. You have given me certainly, and I am sure Dr Foskey too, a deal of information that will assist us in making further inquiries. We may want to talk a little further down the track.

I know you have attended a number of these hearings. You have obviously taken a very thorough interest in the evidence. I am interested in all of the issues you have raised. It is certainly my intention to dig deeper and see if there are explanations for those apparent anomalies, because they strike at the heart of the issues we have. I will leave it there. Dr Foskey may have some questions.

DR FOSKEY: No. I want to thank you for making the effort you have made. You have become an expert through necessity, I expect. I also think we would benefit from talking to you again.

Mr Preiss: I would be pleased to do so.

THE CHAIR: Thank you for coming in. Thank you for studying our words and looking through that evidence.

Meeting adjourned from 3.17 to 3.34 pm.

WHEELER, MR CHRIS, Treasurer and Chair, Economic Development Committee, Property Council of Australia, ACT Division

FLANNERY, MR STEVEN, Vice-President, Property Council of Australia, ACT Division

THE CHAIR: Gentlemen, in continuing the inquiry into land valuation in the ACT, I will just read to you the new statement for witnesses that we now have for your information. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly and committee proceedings. Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others, necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request, the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner, I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

I know that you have appeared before this committee before but, just by way of a reminder, it would assist Hansard if on the first occasion you speak you give your name and the capacity in which you appear. I understand that Ms Catherine Carter is not well today and will not be joining us. Mr Flannery or Mr Wheeler, if you would like to make some comments in relation to the inquiry, we would be pleased to hear from you at this stage.

Mr Wheeler: I will take the opportunity there. Thank you, Mr Mulcahy. My name is Chris Wheeler. I am Treasurer and Chair of the Economic Development Committee of the Property Council of Australia, ACT division. We have a few points we wish to make. Some of these you may not have heard before or may not even be conscious of from prior submissions.

Of particular concern to our members at the moment is the planning and development bill which is currently the subject of an exposure draft promoted by ACTPLA. One of the fundamental aspects of that draft bill concerns use as a development. This is a fundamental plank in determining rating value. At present, what is proposed in the planning and development bill is that, just because you have a set of rights in a crown lease, that is not enough. You cannot use those uses in a crown lease unless you have an approval to do so. So one of the underlying principles in assessing the rateable value of crown leases is an assumption made by valuers such as Steve that the range of uses in your crown lease, if there are two or three uses, is what is valued, the assumption being that the crown lessee can use the lease for those purposes.

What is proposed with this bill, of course, is that that will no longer be the case, so that only those uses in the crown lease that are approved to be used can actually be carried into effect and can then underpin true value. Further, if a use ceases to be used, then the way in which the current bill is drafted is that that use ceases to be authorised and must then be reactivated with another approval.

If the crown lease has three purposes—office, residential and shop—and from day one the crown lessee only uses it for office and shop, but wants to introduce residential three years down the track, the crown lessee will not be able to do that unless they lodge a DA and seek approval. But when the lease is first granted, the valuer will take into account the full range of uses and assess what is the highest and best use in determining the value of that site. That will no longer be the case. You will have a situation where, as uses cease and have been reactivated, the value of that lease will go up and down, so assumptions made about revenue flow will then have to be reassessed.

THE CHAIR: Could I just hold you there, Mr Wheeler. You are effectively saying that you contemplate under this new bill that some of the rights are being extinguished, in effect, that were contained within your crown lease.

Mr Wheeler: That is correct.

THE CHAIR: On which your valuation is based, as I am sure Mr Flannery will explain.

Mr Wheeler: There is a far broader issue here.

Mr Flannery: Steve Flannery, Vice-President of the Property Council of Australia. In clarification, it is almost the reverse of existing use rights, a term that is familiar in New South Wales in valuation and town planning roles.

Mr Wheeler: Yes, that is right. To be fair to ACTPLA, they say this is not their intention, but we are working on what the words say in the draft bill. That is all we can go on. There is a further concern, of course, for existing leases. What do people who have leases today do before the bill, if it transforms into an act, comes into effect? There is a general provision that says that existing uses and existing crown leases will be preserved. However, that is subject to an express provision that says "unless there is evidence to the contrary". So, even though someone might have a crown lease today with a range of uses, if they are only using one of their five possible uses and someone can establish that, they will lose their other four, even though they have paid for them.

This has the potential to severely undermine the revenue base. It will create all sorts of problems, not only on a rights basis but in terms of values that underpin assets, particularly for APRA and for our members as a backing for super funds or whatever. It will create problems for financiers who have lent money on valuations. The whole system will need to be rethought. This is a disturbing element that I am not sure that you may be aware of and I doubt whether Treasury is, either.

THE CHAIR: Has this matter been taken up with ACTPLA at this stage by the profession, by the council or by lawyers?

Mr Wheeler: Yes, it has. To give ACTPLA their due, they have gone through quite an extensive public consultation campaign. There are 400 sections in this piece of legislation. It is an enormous exercise and it has not ended. They are aware of our response, they are aware of the law society's comments in this regard and they will be the subject of written submissions which will occur in the next couple of weeks. They have given some assurances that some of our concerns will be looked at but, as things stand today, we have got some severe reservations. As I say, that impacts on the valuation system, on the rates base.

THE CHAIR: I take you to the broader area of valuations in the ACT. I know you have extensive experience in commercial property matters and I am sure Mr Flannery, from a valuation respect, will have a view. What is your view about how the valuation system is working, especially in relation to commercial properties, and the experience of clients or members of yours in terms of objecting to valuations?

Mr Wheeler: Steve is probably better placed than I am.

Mr Flannery: From the outset, I was told 20 years ago when I started in this profession that valuation was not an exact science and it still remains that way today. There are some inequities and uncertainties around the adoption of a land value system as we have at the moment and they have been uncovered in all sorts of areas and all sorts of jurisdictions. At present, we have issues surrounding New South Wales statutory valuations. Obviously, the ACT have a request for tender out for their valuation services, and you have people like Treasury asking questions of the process. So it is obviously up for review in the public realm. It has tended to remain in the public realm, although it has been in the private sector at some points in some jurisdictions.

The system we have relates to land value. To follow on Chris's point, it is inherent when you are doing valuations, be they commercial, residential, whatever the focus or the purpose clause permits, that you approach it on the basis of an unimproved value for its highest and best use permissible. I struggle with the concept of capital valuation because of the changing nature and the improvement nature of structures.

THE CHAIR: Could you explain that for our evidence?

Mr Flannery: From experience, the situation where you have a capital valuation, so you have a value applied to both land and improvements, becomes one very subjective and very grey area. Take, for example, the amount of renovation currently being undertaken on a residential property. If that work were not needed to be approved—if it were just cosmetic refurbishment, and some of that can be very extensive—you would not pick up in any way the improvements made. The inequity, I guess, comes from when you then penalise them for improving the property by increasing their rates. So I struggle with the concept of capital valuation.

The land valuation process also can be difficult. It is based around a point in time. It is based on research on market evidence. All of those things, in order to get them appropriately addressed, need a lot of time and expertise applied. I think there is pressure on both of those situations, both within the profession for suitably qualified personnel and the time pressures that are placed on people, whether they be in the private or public sector. There are issues around that. That is not to say they are not insurmountable.

As to the dates of valuations, I don't know that we need an annual revaluation. That is a question mark I have in my mind, because the quantum of work required to achieve an accurate valuation at a point in time over the volume of properties on a mass appraisal basis may mean that you can have some other form of indexing rather than a revaluation per se.

There are issues in relation to objections and the treatment of objections. There are issues, I think, in relation to the application of some of the enhancements to value or enhancements to land rights, if you like, under the present system with a crown lease. In the Braddon services-trades area, for example, we have an industry and industry purpose clause in some cases limiting the number of employees. It is quite prescriptive. It is not dissimilar to some found in the older parts of Fyshwick.

THE CHAIR: Is that a planning issue or a valuation issue?

Mr Flannery: It is both. Obviously, they are fairly closely linked.

THE CHAIR: Where is the caveat on the number of employees enshrined?

Mr Flannery: That is within the crown lease purpose clause in some instances. So they can be quite prescriptive.

THE CHAIR: It is an extraordinary caveat, I would have thought.

Mr Wheeler: That is an unusual crown lease.

Mr Flannery: It is not uncommon in some of the service-trades locations, Fyshwick included. For example, we varied a crown lease, removed that restriction on the number of employees, did not remove the existing use but added additional uses as per the territory plan table of uses. We were then struck with a rates notice that affected my client in that the valuation prior to the uses being amended, the value itself, was amended, which struck me as a little bit inequitable, given that we did not have those uses available to us at that point in time. So that was a retrospective change in an unimproved value as a result. After two hours on the phone arguing with Treasury, I eventually gave up because the numbers were not big enough to keep going, but it just seemed an unfair situation.

THE CHAIR: Do you find that you are lodging lots of objections on behalf of clients?

Mr Flannery: It is interesting. We, formerly a valuation and town planning business prior to becoming part of CBRE, have done them over the years and I have got to say, from personal experience, that we have had a lot more in the current year than we have had in previous years.

THE CHAIR: What is your success rate? Can I ask you that? It is like asking a lawyer how many cases he has won. It depends how good the client is.

Mr Flannery: I don't know. I guess I have never measured it formally.

THE CHAIR: In broad terms—I do not want to put you on the spot personally—do you find that there is a reasonably strong prospect of success when you are running valuations, which raises the question of how accurate the valuations are?

Mr Flannery: There are certainly some cases with a lot of merit; others there are market forces at work and the value has escalated in line with them, so that is fine. But I think there are situations. The other anomaly that I find in the valuation process is of, say, two adjoining blocks having the same usage clause, having the same GFA, and yet they end up with different valuations for one reason or another.

THE CHAIR: How does that happen?

Mr Flannery: I don't do the valuations. Sorry.

THE CHAIR: But you must have a hypothesis about that.

Mr Flannery: It could be that someone somewhere along the line has objected to the valuations.

THE CHAIR: So they have always been higher.

Mr Flannery: So they have been skewed. It could be that it was just an anomaly that was not picked up because of the resources not being able to be applied.

THE CHAIR: To what do you put down the fact that you are getting more objections at the moment? The economy is pretty prosperous, so I am assuming that it is not because people are going bad. Do you think there may be errors creeping in that are prompting this factor?

Mr Flannery: I think there is a multitude of reasons. One reason, obviously, is that the market is strong, so values are rising. Whether or not people are seeing those returns rise through after the impact of rates and other increases, levies, et cetera that have been introduced, I am not sure of their motivation, but it seems that they are increasing and it is difficult at times for me to draw a line between the rationale, on paper at least, when reviewing some of these rating values and, like I say, the imbalance between two adjoining blocks, for example.

THE CHAIR: Do you do residential ones?

Mr Flannery: Primarily commercial, but our practice does all facets.

THE CHAIR: It does whatever.

Mr Flannery: Yes.

DR FOSKEY: Do you know of any cases where an objection to an evaluation has been submitted by a third party?

Mr Flannery: We submit as the third party on behalf of clients.

DR FOSKEY: But by an interested third party.

THE CHAIR: Are you talking about tenants?

DR FOSKEY: No, I am actually thinking—sorry, my mind is a little focused on another issue at the moment—of valuation of a site such as the site that is going to become the EpiCentre, where one might imagine that another interested party might have lodged an objection.

Mr Wheeler: The problem would be one of standing, how a third party is entitled to be actually heard in that dispute.

Mr Flannery: It is not common.

DR FOSKEY: No, but it is an issue, I think. There might be very good reasons for a third party to lodge an application. Obviously, the person who has benefited from a valuation is not going to do that. Anyway, I was just wondering about that. It sounds like it is not going to happen.

THE CHAIR: But you would not have legal standing, would you, in your view?

Mr Wheeler: The immediate reaction would be that that person would be unlikely to have standing. They would have to develop an argument that says that somehow some principle was being examined that underpinned everyone's value and they are somehow representing everybody else. Those sorts of arguments are normally not welcomed by tribunals or courts. So I would say that it would be somewhat difficult. You mentioned review objections. A current problem we have with the present system is that when an assessment is issued somebody has 60 days within which to make an objection to the commissioner. There is no time limit then on the commissioner to actually make a determination, to refuse the contesting or to confirm the original assessment. It is not until the commissioner actually responds that the applicant has the right then to go to the AAT.

The Taxation Administration Act, which underpins the assessment process, the review process, is the same for the Duties Act, stamp duty. I have clients in a variety of matters, but there are a couple which have had objections in for five years or more that have not been determined. The clients have basically said, "What can I do? How can I force a decision?" The answer is that you cannot. You can't go to the AAT until you've got this next level.

THE CHAIR: Is there no time frame by which you have to have resolution?

Mr Wheeler: No. For instance, to use an analogy under the land act, if a DA has been lodged and no decision has been made within the statutory time frame, there is a deemed refusal, which gives the applicant at least the opportunity to go to the AAT and seek redress. That is something which I think is a fundamental flaw in our present system, that if something takes—I am not suggesting a month, because some of them can be complicated if you need evaluation advice—two months and you have not got a decision within two months, there is a deemed refusal and then someone can go to the AAT to make the call. But hanging on the line for five years is beyond the pale.

DR FOSKEY: In these cases have you, on behalf of your client, or your client inquired as to the time delay?

Mr Wheeler: Submissions, personal and written, to the commissioner, and to Graham's credit he would nod and take that into account and whatever and you would be given X reasons, but still five years is a bit hard to justify. Submissions to the Treasurer, all that sort of stuff, well and truly happened, to the extent that the client was then seriously seeking our advice about approaching the Supreme Court to get an order of mandamus, which is essentially an order from the court to direct the decision maker to make a decision. The concept itself is beyond the pale. So that is a fault with the present system. It may be innocent, but I think it deprives people of basic rights.

The other comment we would like to make about the present formula for determining rates is, of course, that it is a function of three things. One is the fixed charge, another is the average unimproved value and the third is the percentage rate. The concept of average unimproved value was the subject of an inquiry some years ago and it was devised to even out the large increases, the spikes, you might get in some years. The concept behind averaging out is a laudable one but, of course, it is all a contrivance because in the last budget the rates figure, particularly for our sector, has gone up by 50 or 60 per cent, not the 9.75 per cent that it is for residential.

DR FOSKEY: So that will be the fixed charge that has gone up.

Mr Wheeler: The fixed charge is—

DR FOSKEY: Is what the government can increase.

Mr Wheeler: Yes. That is the percentage rate.

Mr Flannery: It is the rate in the dollar.

Mr Wheeler: And the levy. In this case, it is the fire services levy, which is in fact a function also of the average unimproved value. So, if the government does not get its end result—that is, a fixed amount of revenue from the rates system—it is dissatisfied with the increase in the average unimproved value, all it does, and it has happened since Adam was a boy, is it tweaks the rate. It tweaks the rate, so it is really an arbitrary thing. When you actually think about it further, the whole rates system is simply just a justification for getting revenue. The decision was made at a policy level that an equitable way to distribute and impose that revenue amongst individuals was to apportion it on a value basis. If that were truly the way in which the government intended to go, they would not tweak the percentage rate, but they do.

Mr Flannery: An exact science.

THE CHAIR: What would you favour? You might like to see the system thrown out altogether but, living in the real world, that is not likely to happen.

Mr Wheeler: Thatcher thought about a poll tax. I am not suggesting that. They are not particularly favourable.

DR FOSKEY: Kennett thought of that, too, by another name.

Mr Wheeler: Maybe. I guess you want to have something that is seemingly equitable to differentiate between people's ability to pay. An income tax may be the best way of doing it, but that is not going to be workable.

Mr Flannery: If we were to stick to a system that was not dissimilar to the one we have, the valuation of all assets, maybe including government assets, at a point in time, and maybe it is not yearly, maybe it is updated triennially or five-yearly, whatever it need be, because the mechanism that applies is the rate in the dollar change, you could focus a lot more attention on getting the number right around the relevant date and probably come back with a lot fewer objections and issues relating to the valuation at that time, and then you deal with the rate in the dollar, as you do.

Obviously, you would need a very rigorous register of all properties, crown lease purposes clauses, zonings, GFA potentials, variations that might occur between the dates, et cetera, but it is not something that I would have thought would be impossible to maintain. What that also could lead to is an asset register for the territory, in terms of their land, and it could run to all sorts of things in terms of the return on the government's assets and other operating property assets or the like. If we are going to maintain a system that is obviously not too dissimilar to the one we have, picking up Chris's point in relation to the facets that go into the mix to make the rates payable, we could focus our attention on certain points in time and make those numbers a lot more robust and then deal with the changes as they come about.

Mr Wheeler: I guess the essence of a good revenue raising concept is one that is efficient and fair. You have these arguments where people object because their value has increased so much but their neighbour's hasn't, and then, of course, you expend resources and revenue in contesting that, reviewing it and coming to a conclusion. If you actually had a broader based system which had, suburb by suburb, the general rates for the area for the various uses and set the rate per metre for a particular site—

DR FOSKEY: This is about transparency, too.

Mr Wheeler: Yes.

Mr Flannery: Absolutely.

DR FOSKEY: We just heard that in Victoria and New South Wales this information is readily available on the web and here people get their rates forms and have no idea how they have been calculated. That is quite a contrast.

Mr Wheeler: Yes.

Mr Flannery: There is the other avenue which was, I think, subject to an earlier rates rating inquiry: trying to demystify the system by taking out what you know are fixed charges. Garbage, for example, is a fixed charge in New South Wales. It does not exist in the ACT, yet it applies to the supply of water and sewerage fixed charges, presumably because we know what they cost. You can remove some of the uncertainty if you apply

fixed rates. Garbage is a classic, I guess, but for the ACT it is currently lumped in. We now have the new one which Chris mentioned, which is causing a lot of concern within the commercial property sector.

DR FOSKEY: The fire levy.

Mr Flannery: Yes, the fire levy.

DR FOSKEY: What about the water abstraction charge, which is a form of tax?

Mr Wheeler: It is a tax. The agency we represent understands the principle of water conservation and sustainability and does not have objection to that concept, but whether this is the right way of doing it. It is the same concept for the fire services levy, where you choose a name to disguise a revenue raising exercise and you justify the name. Does the fire services levy actually go to preventing fires and the like?

THE CHAIR: These taxes are not hypothecated.

Mr Wheeler: No, they are not.

THE CHAIR: They just go into the bucket and you rationalise them by giving them a nice title.

Mr Wheeler: It is just an excuse. If the water abstraction charge actually equates to the cost of providing the water and also saving up for a later day to build a dam or higher technology, all well and good, but it doesn't.

THE CHAIR: I regret that we have to bring things to an end because of time constraints, but I appreciate, on behalf of the committee, the appearance by the property council and your evidence. It has given us more work and more areas for inquiry. We may even come back to you on a couple of matters, if required. Thank you very much. This hearing stands adjourned.

The committee adjourned at 4.03 pm.