

Real estate and valuation forced to centre stage by a Europe in crisis

TEGoVA to debate response at autumn General Assembly in Rome

Whilst EU freedoms have enabled property investors and professionals to go cross-border, and EU energy efficiency and environment policies have transformed the built environment, until now it has been accepted that property taxation, rent regulation and planning are intrinsically local and not suited for EU law. But property and valuation are now perceived as root causes of the crisis in Europe and that, in turn, has produced the quickest and most radical policy response ever, bringing every aspect of real estate and valuation to the heart of the EU political process. It's called EU Economic Governance.

To avoid contagion and move forward together, the EU member states have imposed upon themselves common control of each government's economic and budgetary policy. They let the European Commission give them both general and country-specific 'guidance' on how to balance their budgets and foster sustainable growth, with three levels of coercion according to each country's political capacity for European integration: The Czech Republic and the UK are under no pressure, the 25 Fiscal Pact countries are strongly committed to taking the collectively prescribed medicine, and the Eurozone states face a fine of 0,1% of GDP if they don't comply.

Until now, the Commission would never have taken stands such as those set out in Guidance under the Commission Annual Growth Survey Nov 2011. Like these for example:

"Greater efforts should be made to shift taxation away from labour towards ... high value property taxation ..."

"Economic literature points to ... taxes on immovable property being the least distortive to growth ..."

"To enhance labour mobility and the

efficient allocation of the housing stock, rebalancing housing taxation away from transaction towards recurrent taxes might be warranted."

"The debt bias in housing is due to the tax deductibility of mortgage interest payments (or even capital payments) in the personal income tax that provides incentives for building up debt and overinvestment in housing, i.e. a misallocation of resources at the expense of (more) productive investment."

And that's nothing compared to the country-specific 'Recommendations', the engine of the coercive process (see chart below).

And valuation has become centre stage! Thus for example, Denmark is to review its property and municipal land value tax system, Greece is to expand the base of its real estate

tax by updating asset values (to yield at least €400 million extra) and lift restrictions on access to the profession of, inter alia, the sworn-in valuer and real estate broker and Portugal is to review the framework for the valuation of its housing stock and land for tax purposes. In the latter case the Portuguese Government is to present measures to ensure that the taxable value of all property is close to the market value and property valuation is updated regularly (every year for commercial real estate and once every three years for residential real estate). These measures could include enabling municipal officers, in addition to tax officers, to evaluate the taxable value of property and the use of statistical methods to monitor and update valuations.

Such detailed, coercive instructions from the EU in these areas would have been unthinkable just months ago. To understand this – and also the restrictions on banks' mortgage lending and the shifting of banking supervision from national to EU level – don't think of some bureaucratic 'EU nebulous'; think of tribal chiefs facing an unprecedented attack and founding an economic, budgetary and political Union in the process. ●

Michael MacBrien is Director General of the European Property Federation and Adviser to TEGoVA.

TABLE OF COMMISSION/COUNCIL 'RECOMMENDATIONS'

	Shift Tax Burden to Property	Review Reduced VAT Rates including Renovation and Repair of Housing	Review System of Valuation for Taxation Purposes	Rationalise and Liberalise Rent Regulation	Reduce Volatile Interest Payments on Mortgage Loans	Rationalise Planning & Zoning	Eliminate Obstacles to Shopping Centre Establishment	Reduce Obstacles to Cross-border Construction and Real Estate Services	Increase Construction Competition
Austria	x								
Belgium									
Bulgaria									
Czech Rep.	x								
Cyprus									
Denmark	x		x						x
Estonia									
Finland									
France		x				x			
Germany									x
Greece	x	x	x			x		x	
Hungary	x								
Ireland	x						x		
Italy	x								
Latvia									
Lithuania	x								
Luxembourg									
Malta									
Netherlands	x			x					
Poland						x			
Portugal	x	x	x	x				x	
Romania							x		
Slovakia	x								
Slovenia									
Spain	x	x						x	
Sweden	x			x	x	x			x
UK	x			x		x			



Roger Messenger REV
Chairman of TEGoVA

Welcome

Dear Fellow REVs,

Welcome to the first edition of the Journal of the Recognised European Valuer. This is the latest step in TEGoVA's profile development following the new website and presentational material, in this case designed specifically for REVs and reserved for them (the general membership of TEGoVA receiving copy at a later date). As part of the privileges of REV status, this Journal will provide expert analysis on European valuation developments and coverage of EU real estate policy initiatives at a time when the Union is undergoing a profound and complex transformation bringing property and valuation to the heart of the EU agenda. Further editions of the Journal will focus on specific parts of EVS 2012 and ideas for the next edition or extra-Blue Book initiatives and on REV developments, but we also want the Journal to become a forum and tribune for discussion and debate between REVs, particularly on your ideas for the improvement of the REV scheme and its benefits to members. We hope you find this of interest and should be delighted to receive your feedback on this edition and any articles or subjects you would like to see included in the future. Finally we would like to thank the IRRV for their indispensable contribution towards this Journal's artwork, design and formatting.

Best Wishes

Roger Messenger REV, Chairman
of TEGoVA
Krzysztof Grzesik REV, Editor

Interview with John Hockey, Chair of the European Valuation Standards Board

Having reviewed the latest edition of EVS you appear to have developed the book considerably compared to the 2009 edition, and even appear to have the endorsement of an MEP.

I am not sure about endorsement, but the preface written by Jan Olbyrcht, president of the European Parliament's URBAN Intergroup, certainly supports EVS 2012, and in particular welcomes the comprehensive coverage of the relevant EU legislation that applies to property. As regards the expansion of EVS, it was inevitable that the book had to be updated, but as you have seen, this edition goes beyond the provision of standards and their application. We have a new Part II detailing European Union legislation pertinent to property valuation, followed by a series of technical documents in Part III.

You mentioned updating of Part 1, was there a lot of rewriting required?

A considerable amount of editing took place and substantial additions have been added. The standards board became aware of confusion amongst valuers in several areas of reporting and as the primary focus of EVS is real estate, where property is the asset, rather than other asset classes, our quest was to remove any confusion and provide the clarity needed.

So what are the main changes to Part 1?

Starting with the definition of "Market Value" in EVS1 it now refers more broadly to the "asset" rather than the "property" and uses the phrase "valuation date" rather than "date of valuation". Some "Assumptions" and "Special Assumptions" that may be made in forming an opinion of Market Value are set out and confirmation is provided that "Forced Sale Value" is not a basis of valuation, though once all the relevant constraints are identified it may be seen as a market value assessment on the special assumption of a stated but limited period for marketing the property. Both EVSB and the TEGoVA General Assembly had considerable debate concerning the concept of "highest and best use" and it became apparent that in essence it is the use that is permitted at the valuation date that offers the highest value based on reasonable

expectations. Commentary is provided that explains this concept in a European context, which incidentally appears to differ from other world regions.

As the application of "Fair Value" is used in two particular but distinct contexts, two separate definitions are provided in EVS2 – a "General Definition" and a definition "For Accounting Purposes".

In EVS3 all "Qualified Valuers" and their representative professional or technical organisations are now required to adhere to the TEGoVA Code of Ethics and Conduct, as provided within Part III as one of the 11 technical documents.

EVS4 considers detailed terms of engagement that must be agreed in writing with the client prior to submission of any valuation report, stressing that these are minimum terms. This new requirement ensures that the client and the client's professional advisers know what to expect and are able to judge whether what they receive is what they wanted and expected. Following on from the terms of engagement, EVS5 now states that these terms should virtually mirror the headings of the report, and provides additional requirements, including provision of a description of the valuation methodology and analysis utilised in forming the opinion of value.

EVS 2012 contains eight valuation applications, three more than the previous edition. All of the applications in the previous edition have either been updated or replaced, with the scope of each application being clearly set out. The new applications address specific qualities and skills needed by valuers for cross-border valuation, EU valuation rules for hedge funds including real estate funds, and the specific valuation challenges of the EU Energy Performance of Buildings Directive.

I must mention EVA8 – Property Valuation and Energy Efficiency as it provides guidance on all valuation-relevant aspects of the Energy Performance of Buildings Directive, including how best to advise clients on whether any renovation required by the building being valued is sufficient in scale to trigger the upgrading of the building's minimum energy



John Hockey
Chair of the European
Valuation Standards Board

Finally, when can we expect further TEGoVA publications?

Before we look forward, I must mention the 13 Country Chapters provided by the member associations on the TEGoVA website. They illustrate differences that currently exist in country-specific legislation and practice across Europe. As to the future, we intend expanding the research area of the website and EVSB is currently concentrating on four specific areas, valuation certainty – a problem in several countries; valuation for statutory purposes establishing where legislation or case law impacts on such valuations; matters relating to loss adjustment that can support EVA4 – Assessing insurable value and last, but certainly not least, agricultural practice where the landscape of agricultural reform is changing rapidly. As to when ... as soon as they are complete! My final comment is a request from any readers to provide information to assist the Board or tell us of problems where the Board may be able to help. ●

performance required by the Directive in the event of 'major renovation'.

Now briefly describe what is included within Part II

We have provided a comprehensive overview of EU legislation as it applies to property. Although the EU does not regulate housing, property law or the relations between landlord and tenant, its general economic and social provisions have a direct impact. We have focused on the 'free circulation of the valuation profession' and the freedom to buy and sell property throughout the Union without obstacle. This is followed by specific EU Internal Market provisions on the valuation of property including valuation of property for company accounts, financial institutions and state aid rules as well as an overview of Internal Market taxation legislation including VAT and property. There is also a review of property and valuation aspects of EU health and safety policy, energy policy, environment policy and the Common Agricultural Policy.

Moving on to the last part of the book, which two documents would you highlight?

Difficult, but if pushed I have to say the "TEGOVA Code of Ethics and Conduct" and the Information Paper on Sustainability and Valuation relating to "Sustainability and Valuation". All member associations are required to adopt the Code of Ethics as a minimum requirement encompassing personal responsibility, corporate responsibility and responsibility to the profession. The Information Paper is both broad and comprehensive embracing corporate social responsibility, environmental management systems, "green buildings", "green leases" and "green rating tools".

Euro Crisis! Valuers to Meet in Rome for Assembly and Conference



Real Estate and valuation today are seen as key drivers towards recovery in Europe. In this connection, representatives of the valuation profession mainly from the EU countries and beyond will be meeting at a TEGoVA General Assembly and Conference in Rome on 9th and 10th November. The Conference will not only see the launch of the Italian Version of European Valuation Standards 2012 and a presentation of the Recognized European Valuer Scheme but will provide a forum

for urgent discussion about the EU's radical policies to shift property and valuation to the heart of its political process.

Member states have now imposed upon themselves common control of each government's economic and budgetary policy including requirements for countries to review their property and land value tax systems, lift restrictions on access to the property professions, review the framework for the valuation of its housing stock and to ensure that the taxable value of all property is close to the market value and property valuation is updated regularly.

The Conference will be held at Sala Trilussa of Palazzo Corrodi (HQ of "Cassa Italiana Previdenza e Assistenza Geometri"), Rome on 9th November. Top speakers will include a member of the Italian government, executives of the Italian Banking Association and CNGeGL (National Council of Surveyors and Graduate Surveyors). Simultaneous translation will be provided.

The Conference will also deal with pressing issues concerning the valuation profession in Italy where the last 15 years have seen a revolution spearheaded by the CNGeGL (National Council of Surveyors and Graduate Surveyors) and the Association Geo. Val. Esperti (Expert Valuation Surveyors) through their support of a nationwide campaign to train professionals to international standard.

Also worthy of note has been the publication of the "Codice delle Valutazioni Immobiliari – Italian Property Valuation Standard" (4 editions between 2000 and 2011) by Tecnoborsa (a joint-stock consortium controlled by the Chambers of Commerce, specialized in the real estate market) representing a significant contribution towards the establishment of a point of reference for valuation activity at a national level consistent with international practice.

Reform of the valuation profession in Italy gathered pace following the Basel II Accord and intervention from the Bank of Italy forcing banks to ensure that valuers underwent thorough training. At the same time the Italian Banking Association (ABI) published authoritative "guidelines for the valuation of property for loan purposes". The status of valuers has improved further following the introduction of valuer accreditation under ISO 17024 by CRIF Certification Services, a much needed and timely development in a country with no specific law regulating the qualifications of property valuers.

Also noteworthy is work currently being undertaken by CNGeGL and the Geo. Val. Esperti Association in developing a standard for property data collection and the creation of a national property database. ●

For more information about the Conference please contact:

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IFRS 13 SEALS MARKET AND FAIR VALUE DIVORCE

In May 2011 the International Accounting Standards Board published new guidelines on fair value assessment for financial reporting purposes, namely International Financial Reporting Standards 13 (IFRS 13). The latter take effect on 1st January 2013 and will become enshrined in EU law.

Until now property valuations for financial reporting purposes would have been based on the fair value of a property under International Accounting Standards (IAS) and in particular either IAS 16 (Property, Plant and Equipment) or IAS 40 (Investment Property).

In the past, European Valuation Standards advised that a fair value assessment of an asset should be based on its Market Value defined as *“The estimated amount for which the property should exchange on the date of valuation between a willing buyer and a willing seller in an arm’s length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion”*.

Highest and Best Use

European Valuation Standards 2009 declared that Market Value was in principle based on the highest and best use of the property” defined as *“The most probable use of the property which is physically possible, appropriately justified, legally permissible, financially feasible, and which results in the highest value of the property being valued”*.

However there have always been problems with the proper interpretation of the words

“legally permissible”. The question is, do the latter words mean legally permissible at the date of valuation or also relate to a use which whilst not legally permissible at the date of valuation is expected, in the minds of potential buyers, to become so in the future.

The recently launched EVS 2012 answer this question by emphasizing that the market value of a property reflects the full potential of that property so far as it is recognised by the market place. It may thus take account of the so called ‘hope value’ arising out of possible uses of the property which whilst not legally permissible at the date of valuation may become so in the future.

TEGoVA’s position on interpretation of the definition of market value is as set out in paragraph 5.4.10: *“... The hypothetical seller will accept no less for his property and the hypothetical buyer will not want to offer more than he would pay for an equivalent property of similar usefulness to him. As each point of the definition of highest and best use (except the requirement for evidence) places some constraint on the definition of market value, the highest and best use assumption will not necessarily be the same as market value, albeit that it might be higher than existing use value. The most obvious common point of difference lies in the exclusion of potential permissions or other future opportunities for which the market might express hope value and in doing so judge the prospects, risks and costs of that future opportunity.”*

IFRS 13 has rather confused the issue by including the concept of highest and best use in the assessment of the fair value of non financial assets. The IASB through IFRS 13 now provides guidance on real estate valuation concepts which it did not do in the past.

Thus after defining Fair Value as *“The price that would be received to sell an asset or paid to transfer a liability in an orderly*

transaction between market participants at the measurement date” IFRS 13, paragraph 27 states *“A fair value measurement of a non-financial asset takes into account a market participant’s ability to generate economic benefits by using the asset in its highest and best use or by selling it to another market participant that would use the asset in its highest and best use.”*

Paragraph 28 states *“The highest and best use of a non-financial asset takes into account the use of the asset that is physically possible, legally permissible and financially feasible...”* and *“...a use that is legally permissible takes into account any legal restrictions on the use of the asset that market participants would take into account when pricing the asset (eg the zoning regulations applicable to a property)...”*.

In addition IFRS 13 has appended notes (Basis for Conclusions) and *“Illustrative Examples”* on how to interpret highest and best use. BC69 states: *“... The IASB concluded that a use of an asset does not need to be legal at the measurement date, but must not be legally prohibited in the jurisdiction (eg if the government of a particular country has prohibited building or development in a protected area, the highest and best use of the land in that area could not be to develop it for industrial use)”*.

Whilst BC69 appears to hint at flexibility in the interpretation of the words *“legally permissible”* the statement is somewhat contradictory and raises further questions.

To conclude, it appears that property valuers can no longer automatically assume that the Market and Fair Value of a property are the same. Indeed in the case of development property in particular, they are likely to be different.

Krzysztof Grzesik REV, Editor.

TEGoVA at Barcelona Meeting Point – European Conference on EU Energy Efficiency Regulation and Funding for Buildings – Step change to a new real estate economy

Organised by the European Property Federation in collaboration with Spain Green Building Council on Thursday, 18 October 2012.

On 14 June the European Parliament and Council of Ministers reached agreement on the Energy Efficiency Directive, the decisive latest stage in a massive ramping up of EU policy on energy efficiency construction and renovation causing a paradigm shift to a new, green European economy. As this shift is based on EU regulation and funding, it will happen no matter how depressed local real estate markets may be, providing sustainable business

opportunities for those who see them. Together, the Energy Efficiency Directive and the Energy Performance of Buildings Directive mean:

- all new construction to be near-zero energy
- obligatory energy efficiency renovation for all buildings undergoing major renovation
- 3% of the public building stock to be energy efficiency renovated every year
- energy distribution and sales companies to achieve new savings each year of 1.5% of annual sales to final customers
- energy performance certificates for all buildings
- 20% less emissions from buildings by 2020
- EU-controlled national energy efficiency action plans with long-term strategies for mobilizing investment beyond 2020 in the renovation of the national building stock, residential and commercial, public and private
- shift of EU funding toward energy efficiency renovation of the building stock.

At BMP, all parties come together as the regulation hits the market:

- property and valuation leaders and experts debate the market impact of the regulation, the financing challenges and the business opportunities it creates, including the link between energy efficiency, financial performance of property companies and market value and the social consequences of energy efficiency policies
- Spanish government representatives explain EU energy efficiency funding and how to access it
- investment banks and national energy funding organisations discuss financing solutions
- private sector initiatives to tap market opportunities.

Roger Messenger will address the conference on *“Sustainability and Valuation: European Valuation Standards 2012 – Bringing EU energy efficiency to the valuer-client relationship”* and also debate these issues with European property investment leaders.

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Kerry Macdermott IRRV (Hons)
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