

Dublin City Council
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Minister Eoghan Murphy, TD
Department of Housing, Planning & Local Government
Custom House
Dublin 1

23rd June, 2017

Dear Minister,

I refer to correspondence from Minister Simon Coveney dated 13th April relating to the Rates Legislative Framework (copy attached). I have considered the proposed measures as set out by the Minister. In addition, this matter was discussed at the meeting of the Finance Strategic Policy Committee held on 15th June 2017. I set out below issues agreed by the SPC members as highly relevant to the Minister's proposal.

Rates Background

Dublin City Council is the largest rating authority in Dublin with 21,000 ratings. There are 14 rate collectors managing the collection of commercial rates within the city. The Rate Collector in his/her own name may pursue any amount in the District Court and is not limited by jurisdiction, Section 152 Grand Juries Act (Ireland) 1836 maintained by Local Government (Collection of Rates) Act 1924 and endorsed by the Public Bodies Order 1946. Commercial Rates of €321m (income for 2017) account for 38% of the revenue base for Dublin City. Therefore the effectiveness and stability of the rates legislative framework is critical to underpinning service provision in Dublin City Council.

Due Date

Under current arrangements, rates are due in each financial year on two dates being 1st January and 1st July. This process is archaic and inefficient. Amending legislation should provide that the full rates bill is due on 1st January of the financial year.

Valuation Office Resources

There is an acute shortage of available resources in the Valuation Office to value commercial properties referred to the office. The estimated sectoral value of this lost income in May 2016 is in excess of € 23.5m per annum. Currently DCC has approx. 800 cases awaiting revision. The Valuation Office are currently seeking to resource the office and have a dedicated team to prioritise revisions to be completed within 6 months by the end of 2018.

Dublin City Council estimates that in May 2016, €2.39m of lost rates income is associated with revisions etc held with the Valuation Office but not assigned to a specific value.

Vacancy Refunds

Dublin City Council applies a 45% refund to vacant commercial property owners. Since the 1930s, the vacancy refund rate in Dublin City was 50%, changing to 45% with effect in 2017.

Dublin City Council pursues this charge (historically 50%, now 55%) with equal vigour to the full charge on occupied properties. It is important that property owners avail of the trading potential of their assets. Not to do so undermines their asset, the adjoining properties and the general local trading environment. It should be acknowledged that Dublin City Council has continually operated a vacancy refund regime of 50%, 50% charged, and so differs significantly from other local authorities in this regards.

Table 1 illustrates the value of vacancy refunds (and therefore the value charged) in Dublin City from 2012 – 2015. The Local Government Reform Act introduced provision that all local authorities may vary the level of vacancy refunds between 0 and 100%. To date, only Fingal and Dun Laoghaire Rathdown have reduced the value of vacancy refund provided i.e. increased the rates charge. It would be equitable for rate payers across all local authorities to have a minimum charge for vacant commercial properties set at, for example, 25% of full commercial rates due. In this way, a clear asset use policy message is communicated to property owners.

Table 1: Vacancy Refunds

Vacancy Refunds Dublin City 2012 - 2016										
	2012		2013		2014		2015		2016	
Area	No. of Accounts	Vacancy Credits	No. of Accounts	Vacancy Credits	No. of Accounts	Vacancy Credits	No. of Accounts	Vacancy Credits	No. of Accounts	Vacancy Credits
Central Area	519	€3,998,258	553	€4,678,432	520	€3,292,518	479	€2,730,963	477	€2,727,046
North Central Area	186	€1,089,824	199	€1,015,851	220	€1,051,523	207	€872,939	150	€732,055
North West Area	227	€1,495,091	265	€1,457,689	229	€1,314,017	263	€1,085,722	213	€1,010,350
South Central Area	378	€2,283,313	364	€1,912,214	339	€1,648,624	334	€1,527,788	251	€1,019,313
South East Area	993	€6,575,671	1028	€8,305,296	1019	€7,317,206	954	€6,949,833	813	€5,717,616
Total	2303	€15,442,157	2409	€17,369,482	2327	€14,623,888	2237	€13,167,245	1904	€11,206,380

Subsequent Occupiers

Changes to the rates legislative framework was enacted in 2014 with regard to subsequent occupiers (Section 32). There is broad concerns that this measure would benefit greatly from revised provisions to bring clarity for implementation. Clarity is required regarding the definition of owner i.e. does it include long term leaseholder etc. and the legality and impact of applying a charge to a property when sold (an individual buys a property and a charge may be applied if the previous owner has not cleared their rates).

Summary Proceedings

Dublin City Council makes extensive use of legal channels to pursue commercial rates debtors. Dublin City Council understands that consultation is ongoing with the Courts Service on the optimum approach to dealing with rates cases with regard to both the recovery of unpaid rates and the use of the resources of the courts. It has been mentioned that consideration should be given to using civil proceeding through the Circuit Court and no longer using summary proceedings in the District Court. It is important to note that the process within the District Court has worked very efficiently to-date from Dublin City Council's perspective. Key points regarding both the cost effectiveness and efficiency of the summary proceedings are outlined below:

Speed

Where the Six Day Notice procedure is utilised the initial return date on the Summons (usually within 6 weeks of the date of printing of the Summons) is the actual hearing date. This has a significant impact on the collection and cashflow given that a high proportion of debtors will discharge their rates liabilities in full or agree phased payment arrangements in order to avoid a court process on receipt of the summons.

Should the proposed legislation require that Dublin City Council adopt the civil process, there is a longer process attaching to that change. Currently the time frames are 10 to 12 weeks after

the application with the District Court and 14 to 16 weeks with the Circuit Court. A longer lifecycle would impact on the cashflow and collection performance.

Jurisdiction

There is no monetary limit on the proceedings under the Six Day Notice procedure. Dublin City Council regularly exceeds the District Court jurisdiction which is presently €15,000. If legislation were to require that Dublin City Council adopt the civil court proceedings more than half of Dublin City Council's proceedings would be issued in the Circuit Court.

Judgement Mortgage

The other Dublin authorities changed in 2005/2006 to civil proceedings. The District Court order in summary proceedings is not sufficient to register a judgement mortgage, whereas the judgement obtained in the Circuit Court may be lodged as a judgement mortgage. However, a material difference in respect of Dublin City Council is that the number of owner occupiers in the other Dublin authorities is high whereas rated occupiers in the Dublin City are largely in lease arrangements with very few landlords occupying premises. Dublin City Council does not therefore have the same interest in securing judgement on properties.

Increase in Court Fees payable

Taking consideration of the current financial constraints within the City Council and requirements to resource key priority services, every effort is made to ensure the cost of collection of debt is minimised. The potential changes in the cost base of both Summary proceedings and Civil proceedings have been reviewed to determine the financial impact. There are increased costs in relation to court stamp, court fees and solicitor's fees. Taking on average 2,400 cases p/a, a cost analysis demonstrated that Dublin City Council's costs would triple if Dublin City Council were required by legislation to issue civil court proceedings. The *increased* financial cost to Dublin City Council is estimated at approx. €0.9M

There would clearly be a budgetary issue should legislation require this change.

Dublin City Council have worked closely with the Courts and has a number of dates allocated at the start of the year to facilitate swearing of summons and hearing of same. Dublin City Council has scheduled court hearing days in the last quarter of the year. A review of the activity showed that on 17th November 2016, 413 cases were listed for hearing, 336 cases listed for 8th December 2016 and 190 cases listed for 15th December 2016. On each day the lists were cleared and on 15th December 2016 the court did not sit in the afternoon as all business had been concluded in the morning. This is an example of how effective the current procedure is when both parties co-operate to ensure the efficiency of operations. It is unlikely that ordinary summary court could deal with the above quantum of cases in the timeframe as required. This would have significant financial implications.

This arrangement has worked very efficiently both for the Courts and Rates Office and Dublin City Council strongly favours retention of this process and updating of the rating legislation to ensure continuity of the summary proceedings process where required.

Impact on the Rates Base

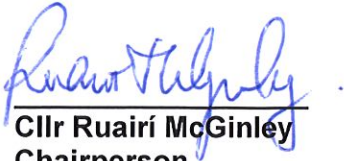
The correspondence from the Minister references Rates alleviation schemes. Dublin City Council is acutely aware of the importance of cost competitiveness for business. The elected members and executive, as part of the annual budget process, proactively seek to balance the City's service needs with minimising the cost burden to businesses. It is important that the requirement for an adequate resource base to provide reasonable services for the capital city is not minimised. In this regard, it is suggested that in parallel with a provision to reduce rates, a provision to increase rates under specified conditions should be made.

Parity of Ratepayers

Dublin City Council applies rating legislation equitably across ratepayers i.e. all those with a rating liability are charged rates and this liability is pursued until discharged or it is determined

cannot be discharged. It is important that any change would not distort that position and create a perception, that could be articulated in Court, that some ratepayers received favourable bias (i.e. through a rate alleviation scheme). It remains open to local authorities to support businesses in specific areas through a grants mechanism.

Yours sincerely,



Cllr Ruairí McGinley
Chairperson
Finance Strategic Policy Committee