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## Property Leg

Edited by Silverman Sherliker

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### Q&A

#### Can rateable value be lowered?

**Q** My rateable value has doubled but the pub trade, and in particular my trade, has declined significantly. How can I get my rateable value lowered?

**A** The figures used reflect the Valuation Office Agency's (VOA) estimate of trade as at April 1, 2008. Check if you have previously returned a completed form to the VOA providing them with details of your trade levels. If you still think that there is a discrepancy you can provide details to the VOA of turnover from all sources (alcohol, food, gaming etc), excluding VAT, for the financial years 2005/6, 2006/7 and 2007/8. If there have been significant changes to the property or

locality this may be a ground for reducing your rates bill. Beware however, as the VOA will check your valuation and this may result in an even higher rateable value. Seek advice from a specialist solicitor or rating expert before you even speak to the VOA.

**File under: 12 Property law. November 23, 2009**

#### Is it worth an appeal?

**Q** My rateable value is higher than other pubs in my area. Does this make good grounds for an appeal?

**A** Although your assessment might be high, it may be that other assessments are low due to the VOA having relied on incomplete or inadequate information, or changes such as improvements to other properties not having been picked up. The sky is the limit when it comes to rateable values, so any information you now give to the VOA can result

in a further increase. If, however, you can show that your turnover has declined to an extent that the fair maintainable trade figures that are held by the VOA are too high, this is a valid ground for appeal.

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#### Is stopping my rent justified?

**Q** My landlord has not kept up with its lease obligations such as major roof repairs. Can I stop paying the rent?

**A** It is not advisable to withhold payment of rent and service charge, as the landlord can apply to forfeit your lease. If the landlord's breach of the lease substantially deprives the tenant of their enjoyment of its premises, the tenant can repudiate the lease contract by claiming derogation of grant. The best course may be for you to carry out any essential works of repair but seek

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If you have a legal query write to: Legal Advice, The Publican, Ludgate House, 245 Blackfriars Road, London SE1 9L

professional advice beforehand as you are likely to breach your lease covenants.

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# What if your landlord goes bust

It's not uncommon in the current business environment for some landlords to find themselves in financial difficulties – tenants should beware...

If affairs are not in order you could find yourself becoming an unsecured creditor of an insolvent landlord



ANY LEASED pub tenant who faces the prospect of a cash-strapped – or even insolvent – landlord should be concerned about what happens to monies held by said landlord, such as rent deposits, and advance contributions to service charge.

All creditors have a claim to monies in a rent deposit account unless they are placed in a separate account so that they remain identifiable.

So long as the rent deposit deed is drafted properly (monies being held on trust by the landlord to meet lease obligations and the deposit belonging to the tenant, but charged to the landlord), then the creditors should not be able to access the funds.

Advance payments of service charge should be held on trust as recommended by the RICS (Royal

Institution of Chartered Surveyors) service charge code, otherwise you may become an unsecured creditor of an insolvent landlord.

Beware if your landlord fails to take out buildings insurance. The tenant should insure the pub to avoid potentially uninsured losses.

To avoid double insurance, you should notify the landlord (and any other tenants in the building) that you have stepped in to insure the premises and should also advise the landlord that he intends to recover any contributions payable by other tenants in the building.

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