

OUR VIEW ON COMMERCIAL RENT REVIEWS

All commercial and industrial tenancies should be protected by an executed Lease Agreement. Relying on an Agreement to Lease, a gentleman's agreement or an exchange of letters can lead to unexpected and possibly very unfair situations. It is important that the Lease Agreement has fully detailed schedules of Landlord's and Tenant's improvements and the basis of future rent reviews to allow for these improvements.

We are aware of a lease where the tenant took up very poor space and spent significant sums to refurbish and fit-out a space which had been neglected for years. The building was then sold and the new owner tried to carry out a rent review based on the upgraded space created by the tenant. An attempt was also made by the new owner to terminate the lease to enable redevelopment of the site. Because there was a lease in place, the formal rent review process resolved the issues as the formal Lease Agreement was binding on the new owner.

Rent reviews occur at regular intervals during the term of the lease. If a lease is renewed, often there is a rent review at the same time. Frequently the tenant will want to know the new rent before they renew although the lease normally provides for the renewal decision to be made first. If the rent is critical to the tenant's business, it is advisable to get professional advice on the current market before exercising the renewal.

Most leases have standard rent review clauses. The intent of these is to allow both parties to negotiate on a fair rent basis and, failing agreement, defines the process that allows a market rent to be set.

At the start of a new lease rents may be set at a different level to current market rates depending on the approach of the parties and demand for the space. At rent review, the rent has to be fixed at market levels. A standard lease transfers the rent fixing process to an independent party.

After receiving the initial notices of the reviewed rent, the landlord and tenant have 14 days to negotiate agreement. If they cannot agree they can choose to use the arbitration provisions of the lease or use valuers. Usually valuers are used as they have the information and understanding of market conditions. The valuers appoint an umpire to decide the matter if they cannot agree.

Like all valuations, rent reviews are based on a comparison with other transactions. Availability of information or knowledge of the circumstances of the lease has a big influence on the result. The information is analysed and interpreted by the valuer to form an opinion of rental and this can vary from valuer to valuer.

Rent reviews don't always go smoothly. There can be delays and disagreements that incur costs and fees that can make the process very expensive and frustrating. There are ways to avoid this and make the process more effective. At Appraisal we have the expertise to assist you through the rent review process and any tenancy negotiations.

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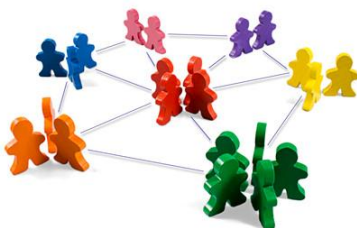
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IN SALES, A REFERRAL IS THE KEY TO THE DOOR OF RESISTANCE.

BO BENNET

MARKET COMMENTARY

The residential market is now in a typical winter slow down and this should not be confused with last year's decline. Indications continue to be positive but we are still some way from normal.

Quotable Values' latest Price Movement Report accurately shows the change over the year, but doesn't help with where we are now and the outlook from here. It indicates the decline has become steady at -8.5% (-8.7% last month), rather than heading back to 0 or a more stable environment. The pause we see now in the QV result is similar to what happened in October and November last year.

The indications are that the market is recovering and that buyer demand is building and a shortage of houses to sell is evident. In an earlier newsletter we noted the time lag between the change in the market and the effect on value and price. This is what is now happening and it will be some months before we see the prices change.

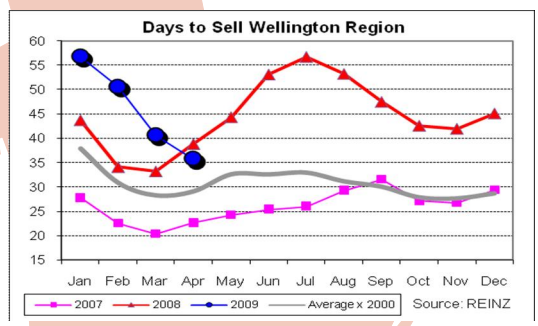
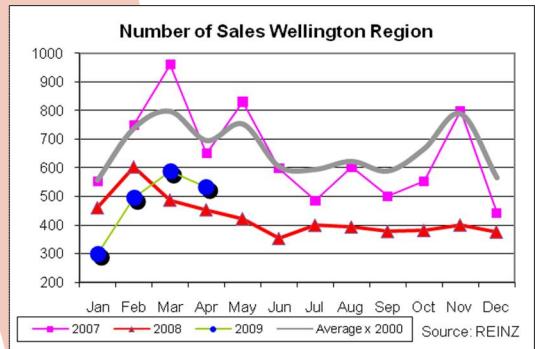
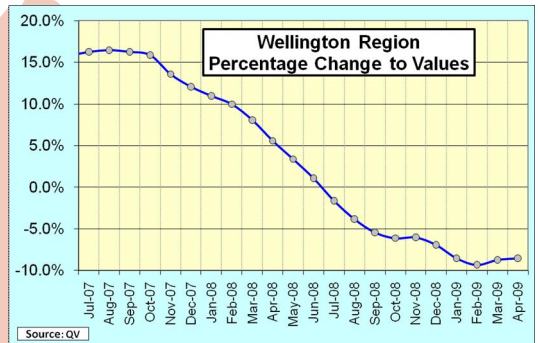
The figures from the Real Estate Institute of NZ reflects what we are seeing and hearing in the market. The number of sales is better than at the same time last year, but still below average. A shortage of listings is holding the market back and a seller's market is developing in some areas. The 'Days to Sell' shows how the market has changed. Selling times are now near normal and less than last year at the time it started to increase dramatically as prices declined.

With lower interest rates and increasing migration recovery, stable or slightly increasing prices will become more evident particularly about October as the effects of the winter months dissipate. In Wellington it may already be too late for the bargains, as buyers are now more active. Real Estate Offices are reporting multiple offers on properties, and much better turnouts for open homes.

THE VALUE OF NETWORKING

Appraisal recently hosted a networking function for local businesses. We believe that using our local networks is one of the keys to working our way out of this current economic blip and we thank those who attended. We also thank Peter Dunne, MP for Ohariu-Belmont and Katrina Shanks, National Party MP and Andy Foster, Wellington City Councilor for giving us their time and taking away our feedback.

From the feedback, everyone felt it was a valuable function. So much so that Katrina Shanks has offered her premises as a meeting space and we have been asked to arrange a Budget post-mortem on 4 June for our interested clients and contacts. Space is limited, so when you get your invitation RSVP as soon as possible. First in first served!



The economy and unemployment are expected to influence the next few months and may dampen enthusiasm, however based on current indicators there would have to be a significant deterioration for this to change current trends, particularly as some commentators are suggesting we may be past the worst of the recession.

As once said by Herbert Hoover

"Economic depression cannot be cured by legislative action or executive pronouncement.

Economic wounds must be healed by the action of the cells of the economic body - the producers and consumers themselves"

We hope you are taking some action to start the economic healing. When was the last time you recommended a person or business to someone else? Your endorsement could encourage a business transaction which will help a business that you know and trust to survive in these straightened times.