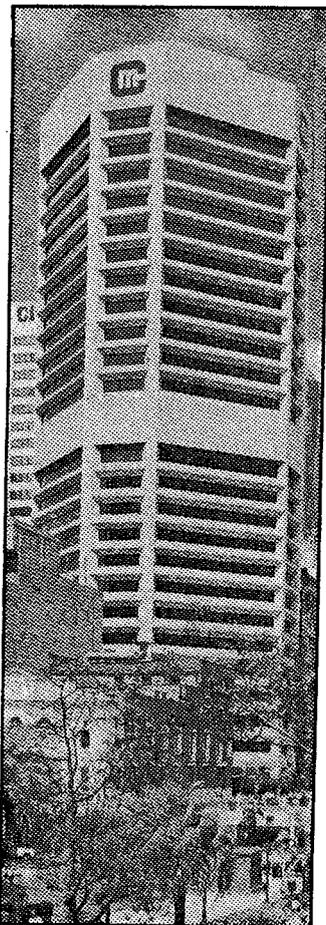


PROPERTY

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Court case could hit office building values



The CML building

By TURI CONDON

A court decision handed down last week could lead to the further erosion in the value of beleaguered office buildings.

The Queensland Supreme Court held that the definition of a "market rental" meant incentives had to be taken into account.

The case arose last year when Holmans solicitors, which leases space in the CML Building at 300 Queen Street in Brisbane, lodged a construction summons against its landlord, Colonial Mutual Life.

In his judgement last week Justice Dowsett said evaluating similar premises "... inevitably involved a consideration of incentives with appropriate adjustments".

While the decision affects only leases that do not give specific directions on the treatment of incentives, it is likely to add some clarity to the currently murky rental-review process.

A Holmans' partner, Mr Michael Sparksman, noted the decision would have wide ramifications for the valuation profession and the value of buildings, with about 85 per cent of leases mentioning "market rental value" rather

than including specific provisions on the treatment of incentives.

An avalanche of similar actions could be expected, according to Mr Sparksman, who said there were at least another five cases with either litigation commenced or a judgement pending. On the upside, the decision should negate the use of secrecy clauses preventing details of rentals and incentives being made available to valuers or other interested parties, in turn leading to a clearer idea of a building's income.

Along with the disastrous state of CBD property markets, potential investors have been deterred by the incomplete picture of many buildings' income streams.

Offshore investors in particular have had trouble coming to grips with Australia's two tiers of rentals - "effective" and "face".

Jones Lang Wootton's April *Australia and New Zealand Property Digest* assessed for the first time the gap between effective and face rentals calculating effective rentals in the Sydney CBD to be a 27 per cent discount on average face rentals. In Melbourne effective rents are 32 per cent below face rentals, according to JLW.

Tenants have also been interested. An Australia-wide tenant, the serviced-office operator Servcorp, wants the courts to to unmask secretive leasing deals in Melbourne's Rialto Building. Servcorp Pty Ltd will request third-party discovery as part of an ongoing action with the building's joint owners, St Martins Victoria and Grollo Australia, which may reveal how far real rents have fallen in that city.

While valuers already have made adjustments for incentives, the case is likely to refocus attention on the assessment of a building's income. Mr Sparksman suggested the finding could wipe 20 per cent off the value of the CML Building.

This assessment allowed for ratchet clauses which prevent rentals from falling. However, if vacancies in the building were taken into account the erosion in value would be above 20 per cent, he said.

Mr Sparksman criticised valuers' treatment of incentives and of secrecy agreements, saying the Australian Institute of Valuers and Land Economists had been "evasive and has failed as a profession to give clear and unequivocal guidelines to a profession which was at the heart of the property industry".