



Economic Affairs Scrutiny Panel

Retail Policy Review

Witness: Buckley and Company

Wednesday, 14th November 2018

Panel:

Deputy K.F. Morel of St. Lawrence (Chairman)
Deputy D. Johnson of St. Mary (Vice-Chairman)
Senator K.L. Moore
Deputy S.M. Wickenden of St. Helier

Witness:

Managing Director, Buckley and Company

[14:01]

Deputy K.F. Morel of St. Lawrence (Chairman):

Thank you so much for coming to see us.

Managing Director, Buckley and Company:

That is quite all right and it is easier to do it this way than write tomes to you.

Deputy K.F. Morel:

Yes, it often is and thank you for seeing us in public as well.

Managing Director, Buckley and Company:

That is all right.

Deputy K.F. Morel:

It is always helpful but I understand not everyone wants to do that. Before we get started, we will just introduce ourselves, literally for the record, and so we will start here with Scott.

Deputy S.M. Wickenden of St. Helier:

Deputy Scott Wickenden, I am Deputy of St. Helier District No. 1 and I am a panel member on the Economic Affairs Scrutiny Panel.

Deputy K.F. Morel:

Deputy Kirsten Morel, I am chairman of the Economic Affairs Scrutiny Panel.

Senator K.L. Moore:

Senator Kristina Moore, I am a member of the panel.

Deputy D. Johnson of St. Mary (Vice-Chairman):

David Johnson, Deputy of St. Mary and vice-chairman of the panel.

Managing Director, Buckley and Company:

Simon Buckley, Director of Buckley and Company.

Deputy K.F. Morel:

Brilliant, yes, thank you for coming here and assisting us with the Retail Review. We are focusing on the Retail Review because I know a little bit about your business and it extends, I think, outside of retail as well but we are kind of concentrating on the retail areas as much as we can.

Managing Director, Buckley and Company:

Yes.

Deputy K.F. Morel:

Just to get started, first of all, I just wanted to get an idea of what your business, again, more for the record than anything else, and how your business ...

Managing Director, Buckley and Company:

Yes, sure. We are a firm of chartered surveyors and commercial property agents. We specialise in all aspects of commercial real estate; from valuation, rent review on the professional side, to lease renewals, rents, leasing, sales, acquisitions of investment property and all forms of commercial property, including retail.

Deputy K.F. Morel:

I just missed it; do you do the maintenance side, the kind of ...

Managing Director, Buckley and Company:

Yes, our sister business, Voisin-Hunter, looks after property management function, so maintenance, renewals, insurance, all those other on-costs, day-to-day running costs for premises.

Deputy K.F. Morel:

Brilliant, thank you. First of all, before we go into any specifics, I just thought we would start with kind of high level and what your general view on the retail sector is in Jersey, how the retail sector is doing, from your perspective.

Managing Director, Buckley and Company:

Jersey often reflects other places and, typically, we look to the U.K. (United Kingdom) for guidance on trends in marketplaces. If the U.K. is strong and buoyant Jersey is often strong and buoyant with it. That is a fairly sort of general statement; obviously each sector is different. We, as an Island community, are different and we have different inferences, different cost bases, et cetera. Jersey generally, from a retail perspective, is always and always has been regarded by retailers, particularly those from the U.K., the U.K. multiples or international multiples, as a safe place to be. A captive audience, we are a one-town Island. We have, generally, a higher level of disposable income. We have good quality offering in terms of retail space when it is available. We have long leases. We have a steady economy and safe Government, in inverted commas.

Deputy K.F. Morel:

Yes. You mentioned when retail space is available.

Managing Director, Buckley and Company:

Yes.

Deputy K.F. Morel:

One of the things that has come up on to this review is a perception that there are empty shops in town. Do you think there is an issue with empty shops in St. Helier?

Managing Director, Buckley and Company:

There is no doubt about it, there has been a fundamental shift in retail, not only in Jersey but elsewhere. Jersey has been a little bit sheltered from it; it is not without some casualty. I think we can look quite a long way back for the changes that have occurred. We are in a low point without really the opportunity to predict how it might react thereafter because we are in uncharted territory in many respects. But the retail market has changed significantly ...

Deputy K.F. Morel:

Is that online that you are referring to or in other places as well?

Managing Director, Buckley and Company:

There are all sorts of inferences; shopping habits have changed through online. The desirability of a lot of products in shops these days has waned. If you look at the track record of M. and S. (Marks and Spencer) over the last 10 years, it used to be the go-to place for food and clothing. It started to wane in terms of its clothing range. They have reinvented it a number of times; they have just done it again. It peaks and sort of has a bit of a recovery and then slumps back again. But even their food offerings are under pressure. The whole market sector is changing for a number of different reasons. Yes, online is becoming very much more prevalent; the effects.

Senator K.L. Moore:

How would you describe the current demand for retail premises across the Island?

Managing Director, Buckley and Company:

If I go back to the days when we were doing lettings to Next in Queensway House, for instance, I know they have just moved to new premises but they had outgrown those and they wanted to put a different offering together to include homeware; different retailers, different aspects. But if you then look at Woolworths, the changes there into New Look and then New Look under pressure and other things. The demand is there. Quite often we are now looking at the wrong sort of space for where the demand fit is, in that we have a historic town centre and we have some limitations on external or out-of-town retail, quite understandably through the planning policy and restriction on land use that we have. I have currently on my books 4 principal shops in town available; that is 4 more than perhaps we might normally have. But of those 4 I have 2 lots of interest in half of it. With a fair wind we might, within the next 3 to 6 months, only have 2 units left. The numbers of units will ebb and flow. But I also have 2 requirements that I cannot fulfil from a U.K. multiples course who want to be on Island; I just cannot find a space for them because they are looking for something significantly bigger than we can offer and in a different format because it is not to be High Street. Some of the press coverage and, understandably, because it is visible in town, focuses on empty shops and I can see that and I can see people being concerned about that. Of course, it is never good to have shops empty for too long. You have got to have a churn of space at some point, otherwise you just end up with the same people who are offering the same thing and there is no change. I remember the situation when we were acting for H.S.B.C. (Hongkong and Shanghai Banking Corporation) in Hill Street for the 2 buildings they vacated when they moved to the Esplanade some 20 years ago, dare I say. I was interviewed by the press under the strapline "Hill Street Blues." You have got to have new space and you have got to have vacant space to allow things to happen. Unfortunately,

in the retail market there is not a lot coming through behind for the space that is currently available, so it is looking a little bit sad certainly.

Deputy K.F. Morel:

It is interesting. You are describing a kind of movement and I was going to ask how you think the movement of premises through town ... how the town is shaping up and the movement is taking place.

Managing Director, Buckley and Company:

If I look at the 4 I have got, I have got one in the eastern end, one in the western end, one in the middle and one to the north, so got a bit of everything really. The one in the west of St. Helier is the Co-op store adjacent to their new Grand Marché; a great shaped store, no particular bites on that one. The Hammonds unit in the middle of town there is some interest. The Queensway House store for Next, some interest but nothing particularly strong. Then Highland House, we have got that under offer, which is the one that appeared on the front page of the *J.E.P. (Jersey Evening Post)* but nobody bothered to ask us how we were getting on with it. There we are, we could have told a different story for that one. That one is under offer, due to complete this year.

Deputy S.M. Wickenden:

We know that feeling.

Senator K.L. Moore:

Do you find that commercial property owners are listening to the changing situation they you ...

Managing Director, Buckley and Company:

Of course, yes, absolutely. There is no landlord we have ever acted for, except perhaps at the height of the market in these heady days before the recession, where they will not listen to sensible advice. The Highland House deal is a sensible deal. It is based on realities of life.

Senator K.L. Moore:

But that is in terms of financially. However, the space you are asserting is due to the historic nature of the town there is little option.

Managing Director, Buckley and Company:

There are no options really in town unless you put several landowners together, and that is nigh on impossible because they have all got competing issues. I have got an enquiry for 30,000 square feet; where am I going to put 30,000 square feet in the middle of town? I cannot.

Senator K.L. Moore:

Have you been at ...

Managing Director, Buckley and Company:

I cannot be clever about it either because the rents in town or the model of rents in town, the old B.H.S. (British Home Stores) building and it is a fairly chunky space, but that is far too valuable for the use that was needed.

Senator K.L. Moore:

Right. Talking to S.o.J.D.C. (States of Jersey Development Company) about some potential coming forward from any future developments that they have but not really putting the space ...

Managing Director, Buckley and Company:

Yes. The competing land use as the ... I would think we would be into another Scrutiny hearing if S.o.J.D.C. decided to put up a box retail on the waterfront because it is not highest-use value or the best use of the necessary land use. We do not have hundreds of these inquiries, it is one or 2. Those occupiers would nestle in next to J.E.C. (Jersey Electric Company) and B.&Q., for instance, but where is the land availability there? There is not, so we are tied for space.

Senator K.L. Moore:

Obviously following the demise of L.V.C.R. (Low Value Consignment Relief) there is no existing warehousing space around the Island that would be suitable.

Managing Director, Buckley and Company:

Funnily enough, I was talking to somebody about large warehousing and agricultural sheds just before this meeting and the availability of big-space sheds is pretty limited as well. The 2 that were occupied by play.com, one is being reinvented and broken down into a smaller space up in St. John and the other is about to be built on for housing. They would not necessarily be in the right spots anyway from a retail perspective. Retail needs visibility, it needs car-parking; it is not just a warehouse converted. There are a multitude of issues that need to be considered.

The Deputy of St. Mary:

Going back to your earlier comment about having your clients who wanted fairly big spaces, for instance, would Woolworths' old site have been big enough to accommodate that sort of line of ...

Managing Director, Buckley and Company:

Possibly, if they were prepared to work over 2 floors, and they probably would be. But if we have the demise of New Look as a business, which they have looked a bit shaky up and down the country

and their accounts are not great at the moment, if they were to go bust that might create an opportunity. Again, they jumped in when Woolworths bailed out. But it is in the here and now that I need that space.

The Deputy of St. Mary:

Yes, I realise that. I just wanted to try and get a feel for ... we had lost that chance before, okay.

Managing Director, Buckley and Company:

The most recent large-space deal that we put together was for the Co-op, the first floor of Grand Marché, where Dunelm are now situated, so that was 20,000-plus. If I had 2 or 3 of those then that might be helpful but the Grand Marché was originally built as a car park, so it is ...

Senator K.L. Moore:

If you had completely free rein, what would you propose to Government or to the market even in order to resolve the demand that you see as being unfilled?

Managing Director, Buckley and Company:

Government can play its part by being helpful in terms of planning and land use. It is down to the market for the rest of it. You have got to have a landowner prepared to build and take on the mantle of planning. I have not got a lot of landlords or know a lot of landowners that I can go to for that type of space just at this moment in time.

[14:15]

But these inquiries do take time to fulfil and the initial inquiry does not necessarily mean it is going to be ... we have lost the opportunity in a year's time even.

Senator K.L. Moore:

From a land-use perspective, the Island Plan debate is still a couple of years away, would you be suggesting to Members that we include an element of out-of-town retail offering in that plan?

Managing Director, Buckley and Company:

Yes, I think we need to. I think we need to look at being able to rationalise built space that we have got. A prime example might be the old B.&Q. site, for instance; while that has got retail space on it, some flexibility in terms of how that might be redeveloped in due course. For instance, it is the only site I can think of, of any significant nature, that is already quasi-retail already. Blowing their trumpet for them, not that we act at the moment. It is just sort of some sensible thinking and sensible land use because a retailer will not want to have consent to go and sit in a converted farm building in the

middle of St. Ouen, he will want to be on the main road somewhere with high visibility and easy access to the population and all the other services. It has got to be edge of town, in an ideal world.

The Deputy of St. Mary:

Just before I move on, I was going to point to a ... have you seen this comment? Yes, it says that the overall planning debate will begin in 2 years. I think it has got to be sooner than that because there are other areas ...

Managing Director, Buckley and Company:

I hope it is a bit sooner than that because it will be out of date by the time we have it finished, if we are not careful.

The Deputy of St. Mary:

Yes, I think discussions will take place sooner rather than later, yes, okay.

Deputy S.M. Wickenden:

The Island Plan does take a while to do, does it not?

The Deputy of St. Mary:

It does, yes.

Deputy S.M. Wickenden:

Not that I have done it before but I think the centre has.

Deputy K.F. Morel:

I think the debate is 2 years away but, yes, I ...

The Deputy of St. Mary:

Moving on, we have spoken mainly about out of town so far; can you get out of town? Is there much demand for premises there, like Quennevais, for instance, which I frequent? There are 80 shops there, are there not?

Managing Director, Buckley and Company:

There are. Generally speaking, I think the village centres are reasonably catered for. We do not have a massive list of people desperate to be in those units and there are not a massive number of people exiting those units. The smaller outlying Parishes, I think of Trinity, does not have much of a shopping presence and the shop in Trinity struggles. It is a bit of a community effort at the moment. But in terms of the consequences of that going, it would be nice for Trinity to maintain a presence.

I live in Trinity but I am nearer St. Helier, so I do not frequent it because it is just going in the wrong direction for me. Those are nice to have in many respects and it is good for the community. But our retail offering is not going to fall off the back of them not being there. I think the village centres are fine, generally speaking from my professional perspective in terms of demand and supply and everything else.

The Deputy of St. Mary:

A specific point on that, Quennevais, for instance, is a mixture of residential and ...

Managing Director, Buckley and Company:

Yes, Quennevais is a slightly different animal in that it is probably the largest retail offering ... more traditional retail offering outside of what I call big-box retailing, such as your sort of big carpet stores, your big furniture stores. It is traditional retailing but out of town. It is probably the only centre of its sort in the Island.

The Deputy of St. Mary:

That will seem to struggle, would it not?

Managing Director, Buckley and Company:

It is struggling in parts at the moment, yes. I guess we will come on to the levels of rents, et cetera, as in a general comment separately. Outside of the levels of rent because that clearly has a factor in parts of this debate. But, generally, it is pretty well reflective of the fact that there is less demand from retailers to be represented. We are not turning people away because we cannot put a deal together. We have just not got people to talk to or less people to talk to than we have had before. There is a churn, it is a slower churn. I remember when we first were involved in that project back in 2004 or 2005, we were inundated with inquiries. Pre-recession or during recession it was full. It is only post-recession that it has suffered.

The Deputy of St. Mary:

Am I right in thinking that Quennevais was one time owned by one corporate landlord and it is now ...

Managing Director, Buckley and Company:

Quennevais itself, when my client first got involved with it in 2004, was nearly in single ownership. The previous owner to that had just started selling apartments. The sale of apartments continued but all the retail space is still under one ownership, so there is split residential and commercial.

The Deputy of St. Mary:

Okay, thanks. The sale of commercial, is that to institution landlords or private landlords?

Managing Director, Buckley and Company:

That is a private landlord.

The Deputy of St. Mary:

Okay.

Deputy K.F. Morel:

Yes, talking about kind of institution and private landlords, as an overall kind of estimation on your part, how does Jersey's market fall in terms of the institution landlords and the private landlords?

Managing Director, Buckley and Company:

It splits more so on the size of unit and the quality of the tenant in that unit. All your peripheral stuff is never going to be institutionally aimed. Your prime space whereby ... I can think of so many ... pre-recession again, some of the bigger institutions, Global Pension Fund, et cetera, the Royal and Sun Alliance and people like that had representation and had the waterfront for a while until recently. There is institution investment that has been and it is traditionally institution investment in retail but it is for the bigger, better lot sizes. I am showing my age now, Etam and Next and places like that, the Next current Queensway House building is owned institutionally. But then there are a lot of wealthy private landlords that still see retail as a possibility. Then you have got a lot of local landlords still and then, of course, there is the owner-occupier. It is a real mixed bag. To put a percentage on who owns what would be difficult because one large shop is going to be a disproportionate percentage of the market in terms of unit size.

Deputy K.F. Morel:

But as you kind of look down King Street, through your eyes sort of thing, you are seeing a complete mix and mainly small shops and you are seeing a complete mix.

Managing Director, Buckley and Company:

Yes. Institution investment across the Island has suffered following the decision to charge pension funds income tax. Our market for investment to institution investors has disappeared. Well, has not disappeared, it has changed, it has had to adapt and go to slightly different markets. More so in terms of office because the office market is a different investment market animal to the retail and is traded more often than retail premises.

Deputy S.M. Wickenden:

As you have guessed, we are going to move on to kind of renting level. In many of the submissions for part of this retail review that we got we have received a great deal of comment about the cost of renting properties as being a driver of high prices and an obstacle to retail businesses opening. In your opinion, as being here a very long time and you have been in this business a long time, what role do you think that rents play in both the cost of goods and the opportunity for retail in St. Helier?

Managing Director, Buckley and Company:

The cost of goods is not related to the price of rent.

Deputy K.F. Morel:

Some would say it feeds into ...

Managing Director, Buckley and Company:

It is part of a business model but what you pay for a product made in China or the U.K. or France or Germany, or wherever it is made, is a wholly set of different circumstances to that of the model of rent that you might or might not pay in premises. To say rent pushes up the price of a product, that is not true. It pushes up the cost of operating. It does not push up the price of the product that you are offering. If you cannot afford the premises, you cannot blame the rent for the cost of the product increase to try and justify it. It does not make sense; it is backward. I think there is a danger that sentiment and goodwill thinking is not necessarily reflected in reality in some of these statements that you see. The issue of rent, there are a number of headlines lately that are somewhat frustrating, annoying, idiotic, whatever you want to call them. We go through a period where a retail tax is levied. We go through a period last week where they say we should perhaps relax some of that retail tax, it is not working. Then Mr. Crowcroft says we should tax landlords who have got empty shops and then somebody says we have got congestion charging that we need to make because there are too many people in town. Is there any joined-up thinking anywhere in all of that? The answer to that, from my point of view, is no.

Deputy S.M. Wickenden:

I think we are asking the same questions ourselves.

Managing Director, Buckley and Company:

It is just bonkers; that is a good technical term, is it not, bonkers? It is just silly. I do not know of any landlord that is deliberately keeping their shop vacant and why would we want to tax them for that purpose? No idea. It is not going to encourage them to do anything different and they are trying already to get ...

Deputy S.M. Wickenden:

We have heard that the Next building, the old Next building, is being kept vacant because it is more financially viable to keep the Next company in the lease that they are paying right now.

Managing Director, Buckley and Company:

But they are already committed to that lease.

Deputy S.M. Wickenden:

Yes, but in a way they are committed to a lease but it is being kept intentionally vacant because of the money ...

Deputy K.F. Morel:

I do not think it is intentional but what you are saying is that there is no incentive and there is no incentive to find a tenant.

Deputy S.M. Wickenden:

No.

Managing Director, Buckley and Company:

There is every incentive on the tenant's part to find an exit, absolutely.

Deputy K.F. Morel:

Yes.

Managing Director, Buckley and Company:

There is every incentive on the landlord's part because I act for them, to find a new tenant because when Next's rent finishes they will have no rent and they will want a new tenant. They will be more than willing to take a surrender from Next for the balance of their lease to do a deal with a new tenant on a longer term, end of story. It is just bonkers.

Deputy S.M. Wickenden:

Okay, and, again, this might be the bonkers rumours that go round, and it is nice to have you here to clear it up.

Managing Director, Buckley and Company:

It makes our job very much harder.

Deputy S.M. Wickenden:

I was not here to try and antagonise you on that.

Managing Director, Buckley and Company:

No, no.

Deputy S.M. Wickenden:

Certainly you have managed to clarify it.

Managing Director, Buckley and Company:

I am happy that I have got in a forum to speak, quite frankly.

Deputy S.M. Wickenden:

Yes.

Managing Director, Buckley and Company:

No, anything that you are asking me is to elicit debate and it is fine. Do not worry, there is nothing personal.

The Deputy of St. Mary:

Just to follow up on that, therefore, if a Next situation arises, your basic take is that it is in the interest of both parties to negotiate and certainly let the tenant surrender and negotiate.

Managing Director, Buckley and Company:

They talk on a regular basis. The dialogue is there, it is just that there is not an end solution that suits everybody.

The Deputy of St. Mary:

No, we are not challenging it, it is simply that there is a story going around that, why should they bother getting another tenant if they are getting a nice rent now?

Managing Director, Buckley and Company:

The landlord is in the joyous position of having an empty shop but having rent paid on it. But that will last for a certain period of time and then he will have an empty shop with no rent paid on it.

The Deputy of St. Mary:

He needs to get on with it now.

Managing Director, Buckley and Company:

Of course he is interested to get it re-let. He will take a surrender from the tenant and say: "Tear your lease up, I have got a new occupier." There will be a financial arrangement between the 2 or 3 parties involved because there is a fit-out to be done, there is a dilapidation's claim to be made, there is a lease to be torn up and rent to be given out. There is a deal to be done.

The Deputy of St. Mary:

Thank you.

Managing Director, Buckley and Company:

Absolutely.

Deputy S.M. Wickenden:

Do you think that the levels of commercial rents deter off-Island businesses from branching out to Jersey?

Managing Director, Buckley and Company:

No.

Deputy S.M. Wickenden:

No.

Managing Director, Buckley and Company:

In a word.

Deputy K.F. Morel:

Yes. What do you think attracts or does not attract businesses, retail businesses to Jersey?

Managing Director, Buckley and Company:

Any business outside of the Finance Centre, I think, from our experience. Any business that wants to come to Jersey has a stretch of water to overcome, the idiosyncrasies of the Island, the Island ways. Specifically from a retail point of view they often see Jersey as a good place to be, as I stated at the outset; generally good premises, good quality environment, higher than the average disposable wealth, a captive audience, all those sorts of things. But you have got the issue of shipping, your distribution, to think about. You have got your price pointing because of G.S.T. (Goods and Services Tax) and their V.A.T. (Value Added Tax) and extra costs; we are advised extra costs of shipping. There is a retailer that we have nearly secured in the Island 3 times who most recently decided not to come to the Island because to invest in the Island in one location was not worth the effort when they were considering and embarking upon an expansion into Switzerland

where they were going to go to 6 places. We are a small community. We often hear the name Primark. Why can we not have a Primark? Primark does not operate in any small colloquial town of 90,000 to 100,000 people. Why would it come to Jersey and do the same?

Deputy S.M. Wickenden:

It is not their business model.

Managing Director, Buckley and Company:

No.

Senator K.L. Moore:

However, we do have a growing tourism market.

Managing Director, Buckley and Company:

Yes.

Senator K.L. Moore:

Those tourists are known to spend money on things that they might not ordinarily purchase. Does that not play a factor in the thinking of people ...

Managing Director, Buckley and Company:

With the greatest respect to our tourism industry and certainly it is improving over the ... it is getting better and better.

[14:30]

I do not think the retail offering that we have now is either detracting or attracting any particular growth in retail because of it. There are retail offerings here that are unique to the Island. There are retail offerings here that you have elsewhere but often at a slightly lower cost base. I do not think the numbers of visitors we have is going to influence that.

Deputy K.F. Morel:

One thing that people often ask for, and this is both through retail and kind of clothing sectors, you mentioned Primark but also discount food retailers, et cetera, people will say: "But why do we not have one of them?" As though we can pick one off a shelf and bring it to Jersey. But you also mentioned Jersey's higher than average disposable income, in that sense do we fit those discount markets at all with our demographics?

Managing Director, Buckley and Company:

There is a proportion of the population that will, there always will.

Deputy K.F. Morel:

Yes, there is a proportion but is it not for those retailers?

Managing Director, Buckley and Company:

I think it comes back to the ... part of the question is: what are the barriers and what are the negatives for those retailers wanting to come here? We punch above our weight in terms of the finance industry. We punch above our weight in retail frankly. We do really well in most things that we do and that is one of the great things about Jersey. We should not really beat ourselves up about what retail offering we have and for the fact we have got a few empty shops. It is not perfect but it is not the end of the world. But to try and change that is part of this debate, is it not? The barriers for those to come in, it is possibly the size of the market as much as anything. We have a cake of a certain size, you can chop it up into as many slices as you want, but it is not going to change the size of the cake.

The Deputy of St. Mary:

Shall we move on? A couple of aspects on the formal leases, we hear of review clauses being couched in such a way that they can only work one way, i.e. they review upwardly and therefore increase, but not downwardly.

Managing Director, Buckley and Company:

I know of 2 or 3 examples in my time where we have an upward and downward review clause. On occasion those downward review elements have kicked in. However, they are the minority. They are rarer than rare, upward and downward review clauses. It is common practice up and down Jersey, Guernsey and the U.K. to have upward only review clauses.

The Deputy of St. Mary:

In the U.K. there have now been instances where major landlords have been brought to heel ...

Managing Director, Buckley and Company:

We are talking about retail over a long period of time. Yes, that is to be the case. Where we have this fundamental shift in retail happening, and it is more marked in the U.K., there are more towns affected in a greater way than Jersey is. The retail consortiums are looking at ways of working with landlords and doing things differently. Gone are the days where tenants want 21-year leases, frankly. Flexibility is certainly a key factor for tenants, because they do not know how their business model is going to look in 5 years' time, let alone 10 or 15 years' time.

The Deputy of St. Mary:

Within that area of flexibility, would it be logical not to outlaw decrease ...?

Managing Director, Buckley and Company:

The market needs to find its own level. Where a tenant will often counter the issue of an upward only rent review clause, on a 9-year lease, is by inserting a break clause every third year. Rent reviews are typically on a 3-yearly pattern. So if he has a rent review coming up and he cannot afford the rent and wants to be out or the threat of rent is going up beyond his capacity, he has the opportunity to vacate. There are negotiations that go on. Ultimately if a lease is signed you have a balance between landlord and tenant's aspirations, what landlord and tenant needs and what landlord and tenant desires. Let the market find those levels.

The Deputy of St. Mary:

If you have a prohibition about decreasing rent or you are not stopping the market ...

Managing Director, Buckley and Company:

You cannot interfere in commercial leases; just cannot.

Deputy K.F. Morel:

I do not think we are suggesting we need to do that. We are just trying to understand them. Like you say, you talk about the market, but the market is being artificially sent in one direction. It is not being given the opportunity to come in the opposite direction.

Managing Director, Buckley and Company:

There are not many landlords that I know that will not renegotiate terms on rental because a tenant is struggling. We have done a number of those this year, to keep the High Street - not necessarily the High Street - offices occupied and other industrial buildings occupied. A sensible landlord with a sensible tenant in need of a solution to a particular issue will find their way through.

The Deputy of St. Mary:

Still on leases then, you mentioned flexibility: is there a standard for certain-sized shops with the length of lease and reviews?

Managing Director, Buckley and Company:

It is a case-by-case basis. Most leases nowadays are 9 years rather than in excess of 9 years into a contract lease. Most are on 3-yearly upward only reviews. Part of the problem with reviews, if we can just go back to that point, in the good times, when everybody was making good money, quite

often rent reviews were to the higher of open market or cost of living. A market review is market level and has to be justified. The tenant has a right to counter any claim for an uplift the landlord might want to make. He can argue his case and provide contrary evidence to the fact that the landlord is wanting an uplift. That is a negotiated settlement. R.P.I. (Retail Price Index) is R.P.I. Quite often over a long period of time they balance out over a couple of economic cycles. In a shorter lease term, where you do have that balancing act of ups and downs in the economy, you have the potential for a short lease to be out of kilter. If 9 years ago, when we were just going into recession, somebody agreed a high rent, because that is what the market demand was and it was subject to a R.P.I. increase 3 years in at the start of recession, 6 years in they have another uplift, although smaller, because we are in recession. There you have an upward trend that they cannot control. That is the danger. Like with a lot of these things you should not sign a legal document without taking the appropriate advice. It is not just legal advice; it is surveying advice as well. The number of times we see cases whereby people are in difficulty over a lease because they have not taken advice beggars belief, frankly. That is not to plug my industry, but it is common sense; you take advice, you do not sign your life up to a 9-year term. Why would you? It just does not make any sense. A little bit of money spent up front can save you an awful lot of grief at the end.

The Deputy of St. Mary:

Just to sum up that bit: is there a trend there for shorter leases than there used to be?

Managing Director, Buckley and Company:

Yes, definitely; 3 and 5-year leases. It takes away the opportunity for those issues to get out of kilter with the market and the economy.

Deputy K.F. Morel:

Just before we move on, you mention R.P.I.; is that the standard movement on when there is a rent review?

Managing Director, Buckley and Company:

As I say, in the hay day it was the higher of the market or R.P.I. Through the recession, if we were negotiating for a term, it would only be market because we would not want to be seeing an uplift automatically. On occasions where it is an unusual deal, a deal where there is not really any evidence around of similar properties, because that is how you would benchmark it. If it is off a base rent that is fair and reasonable at the start, an R.P.I. might then be appropriate.

Deputy K.F. Morel:

That is interesting. The reason I was asking is because obviously we are seeing R.P.I. increase at the moment and, as we were talking about earlier, affordability for Islanders, which is obviously the

same affordability for tenants. If we are talking about upward of 4.5 per cent, and if it keeps going, say up to 5 per cent, those are quite large rent hikes. You think potentially landlords might move to market ...

Managing Director, Buckley and Company:

We have just concluded a rent review whereby, slightly differently, it was the first rent review in a 9-year lease where there was an automatic uplift, a fixed uplift. The rent had been agreed at a slightly lower rate, the landlord was going to gain at the first review by having a fixed uplift. We have done away with that fixed uplift and kept it as it was, but moved down to break down to break clause. The landlord had benefited from having the tenant for another 3 years, beyond where he was at, but has accepted a penalty in the form of not having ... for that benefit the cost to him is some reduction in rent, but he has the security. It is where the market works and it is how it should work.

Deputy S.M. Wickenden:

On the reduced timescale for reviews, is that for retail as well as the finance sector or is something different from the finance sector?

Managing Director, Buckley and Company:

Each part of the market will have its own particular set of circumstances at the time. The finance industry or the office market is stronger than the retail market. It is going to be subject to a different set of circumstances and a different set of negotiations. I would not be expecting to re-negotiate a rent review in an office building in the same way as I would be for retail. It is a different set of circumstances.

Deputy K.F. Morel:

That is interesting. Moving from rents to rates, obviously your clients have been involved with the rate system for many, many years, what do you think of the rate system over here?

Managing Director, Buckley and Company:

It is absolutely fine.

Deputy K.F. Morel:

Yes? Its idiosyncrasies, et cetera, landlords are happy with them?

Managing Director, Buckley and Company:

We talked about attracting U.K. occupiers to the market, you should see their eyes light up when you tell them about the rate system. Not in how it works and what it means and what a quarter is, but when you tell them it is 3 per cent to 5 per cent of rent, as opposed to 35 per cent to 55 per cent

of rent in the U.K.; it makes a huge different, absolutely. They cannot quite believe it often. As long as our rates system keeps us head above water and in a pleasant and good environment, leave it alone.

Senator K.L. Moore:

That is the argument, is it not? In the last Government, there was criticism that there was no money available for investing in St. Helier, in particular ...

Managing Director, Buckley and Company:

Is that not S.o.J.D.C.'s handout coming up?

Deputy K.F. Morel:

They are meant to be paying a dividend back into ...

Managing Director, Buckley and Company:

That was the deal, was it not?

Deputy K.F. Morel:

I am not sure.

Managing Director, Buckley and Company:

That is another issue.

Deputy K.F. Morel:

Yes, we will come to that.

Senator K.L. Moore:

We regularly hear from the Constable of St. Helier a general frustration that there is a lack of investment in the town infrastructure and there could be more done in terms of regeneration. So there is perhaps a question to ask and to explore about what is a reasonable level of rates.

Managing Director, Buckley and Company:

Yes, quite probably. It also opens up the question: should we have one rate Island-wide or whether we have Parish rates and other things. It is a big subject. There is a danger that you start lumping on great chunks of money to the rates bill on top of all the other stealth taxes, if I can use that phrase. I do not mean it negatively.

Senator K.L. Moore:

They were mostly kicked out.

Managing Director, Buckley and Company:

It is probably the best way of describing it. Certainly, for me running a business, I do keep wanting to go down to the Treasury and ask them for a sticker for the windows at tax collection point because that is all I seem to do. There will be a breaking point. We were talking about retail struggling, why put it on retail rents? There is a balance to all this.

Deputy K.F. Morel:

On the rates side there is the issue or revaluing. There has not been a revaluing since 2003, thereabouts, as far as I understand it. There is a suggestion we should revalue every 10 years. That would help the retail sector. Is that something you would agree with?

Managing Director, Buckley and Company:

Depends on what they revalue it, to be honest.

Deputy K.F. Morel:

It does depend, but there is a suggestion ...

Managing Director, Buckley and Company:

Are we talking upward or downward?

Deputy K.F. Morel:

Yes, only upward. Well, 15 years without a revaluation for rates purposes does seem a very long time.

Managing Director, Buckley and Company:

The Parish Constables need to get their heads around a table and sort that one out. If they were to come back with a sensible solution that was fair and equitable across all sectors perhaps they will get some support for it. However, to suggest we are going to levy another tax on a particular sector without much thought or care as to how it is going to play out, I would think that that would be a bit of a dangerous move.

Deputy S.M. Wickenden:

Part of my speech next month will be very much along the lines of people do not mind things like rates and taxes being put up if they know what they are going to get from it. As long as you can show what people are getting for what they are paying then people are okay. If you put the price

up, for the sake of making more money, without explaining the outcome, that is where people get frustrated.

Deputy K.F. Morel:

It could be. That brings me to 2 things. Would higher rates deter landlords, in your view? Secondly, do your ...

[14:45]

Managing Director, Buckley and Company:

The rates bill usually gets passed to the tenant.

Deputy K.F. Morel:

Yes, it does.

Managing Director, Buckley and Company:

So it is not the landlord's problem, necessarily.

Deputy K.F. Morel:

Yes, not that worried, absolutely.

Managing Director, Buckley and Company:

Well, it is only 50 per cent of the landlord problem even if it is occupied ...

Deputy K.F. Morel:

Yes, officially. The other thing was: do your clients feel like they get good value from the infrastructure around them?

Managing Director, Buckley and Company:

Generally speaking, rates bills come and get paid and that is it. We do not really hear much about them. There is no undercurrent of griping or complaining.

Deputy K.F. Morel:

As far as the general status in St. Helier is concerned, from your clients' perspective?

Managing Director, Buckley and Company:

The Parish, in fairness, have invested a fair amount of money over the time in street furniture and pavements. If you walk around any other town in the U.K. quite often they are looking a shade

greyer than we are. It is quite telling, the lack of investment. The Parishes have done a pretty good job. The Island does a pretty good job.

Deputy K.F. Morel:

Do you link in with the Parishes? We have the town centre manager, for instance, and we talked about the Island Plan earlier. Do you play an active role at all in trying to suggest ideas?

Managing Director, Buckley and Company:

We have tried on occasions. There is a danger of me sounding like we are not getting much out of it and I do not wish to portray a negative aspect to that. The town centre manager is a good role. The biggest problem with retail, in some respects, is the retailers themselves. I do not mean that they are not good at what they do; it is just that they are not very collaborative nor do not come together as a collective. About a year ago there was a retail forum put on in the Town Hall, we were the only commercial agents to turn up and voice an opinion. Most of the Island's big retailers were not there. We were in a room full of smaller retailers who clearly had more to gain for having a collaborative approach and wanting to see what ideas were there and what could help improve their opportunity in life. But you have a whole bunch of different people retail with different aims and objectives, so it is quite a difficult one to put your arms around. Certainly in terms of the way the town is presented, how it looks, what events are put on, what is there to keep tourists and those who are out shopping entertained, particularly at Christmas and other special times of year, like the Summer Street Fair, they are all good things that generate buoyancy.

Deputy K.F. Morel:

I am pleased to tell you there is a Retail Association, which I visited last night. They seemed to be doing good work.

Managing Director, Buckley and Company:

This spawned out of the event about a year ago and it was good to see it. Up to that point there was not really very much in the way of joined up thinking. The more the smaller retailers and medium-sized retailers club together and have a singular voice the more powerful they will be in government and local authority.

Deputy K.F. Morel:

Yes, absolutely.

The Deputy of St. Mary:

Just picking up on your point about any change in the rate system should be fair to all sectors, there is a mood among some people that the retailers are perhaps paying more rates than they should do and office properties are not. Would you like to comment on that?

Managing Director, Buckley and Company:

It comes back to perhaps trying to understand what the courses mean. We are told it is not based on rental value. I do not know what it is based on if it is not based on rental value. Maybe there is a better calculation that one can do to fairly reflect what comes back from the value of the property.

The Deputy of St. Mary:

If it is based on rental value then ...

Managing Director, Buckley and Company:

It might be a clearer more transparent way if people understand what the calculation is and how it relates to it. I defy anybody to give me a really good definition of what a quarter is that I can go and tell a U.K. retailer.

Deputy S.M. Wickenden:

We are going to move on to retail properties. When shops are left empty for long periods of time, do you think this has a negative effect on the rental interest in an area?

Managing Director, Buckley and Company:

Potentially, depends on what it is and everything else. A vacant shop window is always less appealing than a full one, clearly. I do not think St. Helier has got a ... Highland House in the north part of town by the market, the fact that that has been vacant for quite a while has not negatively affected the area as a whole. Being occupied would make it better, but I do not think that in itself is a good enough statement to say that it would bring it down. If Highland House and 5 shops either side of it were vacant all at the same time and nobody was cleaning windows or clearing litter or doing other things, yes. However, I do not think we have reached the stage where we have that many empty shops that we are creating a ghost town effect, if that is what the inference was.

Deputy S.M. Wickenden:

This next one is a good one for you, Simon. We have recently heard call for an empty property tax to be levied on vacant premises. What are your thoughts about this and how do you think landlords would react?

Managing Director, Buckley and Company:

Almost no comment. It is bonkers. As I say, I do not know of any landlords who we have ever acted for wanting to keep their shops empty for any longer than is absolutely necessary. To tax them for having the difficulty of not finding a tenant seems absolutely daft to me. Why would you then invest in retail? Why would you put money into owning a shop? Why would you take the risk? We do not get empty tax relief. You pay your rates and that is it. In the U.K. you get tax relief or empty rates. The Parish is getting its money, why charge them extra for not using the premises? The counterargument says they should have tax relief on rates, because they are not using the services.

Senator K.L. Moore:

That follows neatly on to the next area of questioning, which is simply: what other areas would you suggest in which government could assist the retail sector? Is there anything that could be done?

Managing Director, Buckley and Company:

I have said through this process, as short as it is, that we should leave things to the market to decide. We cannot say government needs to back off interfering with leases and then say government needs to do something else that is the bucking market activity. In short, I do not think there is necessarily much that can be done. Other than continue to provide a good environment generally and encourage business to thrive. Perhaps the one they could repeal is the Retail Tax. I do not know if that is doing anything more than going backwards. It would be interesting to see some statistics on that. It is a bit like the tax on pension fund income. We have never seen any printed material as to show what revenue has been generated since that versus what business has been lost out of the Island.

Deputy S.M. Wickenden:

It is because they have not had a year of it yet. Treasury ...

Managing Director, Buckley and Company:

I appreciate that. The charge on income tax for pension funds was 10 years ago. I do not think anybody has produced anything to show the wonderful pot of gold we got for that one versus what we have lost out of the investment market.

Senator K.L. Moore:

Your advice would really be to maintain a relatively benign environment?

Managing Director, Buckley and Company:

Not necessarily benign, but an encouraging pro-business, proactive environment; make it easy for retail to happen and encourage it, rather than sit there shouting about it in a negative manner.

Deputy K.F. Morel:

With the retail tax, has it affected your clients' views of Jersey? Has it had an effect?

Managing Director, Buckley and Company:

If I could give you a live example. We have a transaction potentially to happen on a significant piece of land or significant retail premises that was at a stage of instructing lawyers. The tax man advised that he was going to charge tax. We then were back to not instructing lawyers, while everyone tried to understand exactly what this meant for them. In that particular circumstance, the repatriation of funds to the U.K. would be not plus the Jersey tax, it would be less the Jersey tax, in the normal way. For that particular example, the same level of tax would be paid, just in 2 different jurisdictions. The deal is back on, but it could have so easily derailed it. That, as a lot-sized investment, would run into £20 million to £30 million, might not have happened. It still has to happen. An initial investment of that sort of level and value out of property and the retail occupier ...

Deputy K.F. Morel:

Was that more a symptom of the unexpected nature of the announcement?

Managing Director, Buckley and Company:

There was an element that it was pretty short and sharp delivery for it. It could have been one of those unintended consequences. It has certainly cost me in terms of time. It has cost me in terms of lost revenue or deferred revenue. I am one part in the cog. When government wants to do these things it needs to be a little bit more grownup about it; put some facts on the table and understand exactly what they are doing, rather than thinking it is a great idea and off they go.

Deputy K.F. Morel:

One thing we have heard are calls for a reduction in the tax to 10 per cent. Would doing that play into the narrative ...?

Managing Director, Buckley and Company:

Why not just get rid of it?

Deputy K.F. Morel:

There is that. Would that jumping around just enhance the narrative in the sense of not knowing what they are doing?

Managing Director, Buckley and Company:

It does. Certainly that was one of the big impacts of the tax on the pension funds income. It could not have come at a worse time and you were left with investors looking at the Island and saying:

“What are you doing? You are the only jurisdiction that does it. Why would you bother?” We are supposed to be a mature finance centre. We are making financial decisions on tax that are sending the wrong message. That is certainly a case in point for this retail tax.

Deputy S.M. Wickenden:

Do you know of anyone in similar instances consulted by the Tax Department about the retail tax at all? Were you invited in to give your opinions?

Managing Director, Buckley and Company:

I believe the R.I.C.S. (Royal Institution of Chartered Surveyors) group made a statement. I have been involved with making statements before; it is time I will never get back and for no particular gain. Government tends to have the persona of ask a few questions, but ignore anything that comes back. I do not blame anybody who does not bother answering, frankly.

Deputy S.M. Wickenden:

Consultation should start at the first 25 per cent of something, rather than the last 25 per cent.

Managing Director, Buckley and Company:

I much prefer Scrutiny.

Deputy K.F. Morel:

Thank you. One last question, we are almost out of time, it is a bit from left-field, so to speak, but going back to planning ... well, pick up more, because you asked: “What can Government do?” Earlier in the hour you said that planning was an area. Do you think that there would be a lot to be gained by having a more flexible planning process within towns?

Managing Director, Buckley and Company:

We are in such a fast-changing world. To have a book that says: this is the 2,000-and-whatever Island Plan and this is it for the next 5 to 10 years, fine, because you have to have certain rules and certain parameters in which to run a planning department, I get that, but it does not necessarily mean that every page is plasticised; there has to be a degree of flexibility. Everything we do nowadays in my business, when negotiating anything for a client, the first word we put forward is “flexibility”. Everything has to be moveable. We talk about break clauses. We talk about rent review clauses. We talk about phase rents. We talk about penalties and all sorts. You have to have the degree of flexibility, to be light of foot, to be able to drive opportunities forward. That is not to say how good the Island is and how ... you do not want a great big retail box on the edge of King Street necessarily. It is not necessarily the right thing for it. If it was half a mile down the road and there was a bit of flexibility about the piece of land it could go on. Why not?

[15:00]

Deputy K.F. Morel:

What about things like change of use? I am thinking in urban areas. Is planning more important to the rural aspect to the Island ...?

Managing Director, Buckley and Company:

It depends on the quality of life you want as an Island, does it not? At the end of the day, if you want the Island to be successful and to be thriving and to be a good place to live and work, within sensible parameters on planning, for instance, you have to be allowed to do things. You cannot not change and adapt, because what was good 30 years ago for a retailer is non-existent nowadays. We all complain. The *Jersey Press* headlines are always the doom and gloom of retail in town. If we do not want those headlines and we want a robust retail offering that people enjoy and benefit from we have to be able to be providing. We have shown the way in offices. There is plenty of release of land for offices. The quality of the product that we are now offering through office builds is amazing. It is great. It is not quite London standards, but it is cut of the cloth we have. It gives another opportunity then for other areas to regenerate and that is really important; really important.

Deputy K.F. Morel:

Thank you so much, Simon.

Managing Director, Buckley and Company:

It is a pleasure.

Deputy K.F. Morel:

That has been fantastic. Good.

[15:02]