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Property Rating in Ipoh - Malaysia

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Abstract

Property rating is a constitutional practice broken down to a workable policy by the enactment of Act 171 of 1976 which empowers all local authorities in Malaysia to levy property rates based on the assessed value of the properties whether by annual or improved value approach. Whatever approach is adopted, there are international established methods and standards of valuation of properties for rating purpose. This paper concentrate on the conventional methods of valuation as is the practice in the study area since the study is specifically to have an in depth understanding of the practice with a view to advancing recommendation for improvements. Paramount to appreciate is that, the computer aided mass appraisal of properties depends on these conventional methods to develop a data bank upon which it can rely thus the utilization of conventional methods cannot be discarded. The study was conducted qualitatively with in depth interview with the valuation officers as the primary tool and documents analysis is employed for triangulation. The study revealed manipulation of process by the political leaders for personal interest against the national interest while the need for professional training of the staffers is required to sufficiently appreciate, thoroughly understand and interpret the requirements for the application of the various methods of valuation as appropriate on classes of properties or uses.

Keywords: Valuation, Rating, Act, Methods, Approach

1. Introduction

section 127 of Act 171 1976 of peninsular Malaysia has empowered local authorities subject to approval from their respective State Governments to impose either separately or a consolidated rate charge on land and landed properties based on their assessed annual value or improved value as the state deemed appropriate to adopt. Consequently Perak been the state hosting Ipoh which incidentally is the capital city of the state has opted for the adoption of annual value basis(Government 2006).

Annual value by the context of the Act is defined as the estimated gross annual rent at which a holding might reasonably expect to let from year to year with the landlord paying the expenses of repair, insurance, maintenance or upkeep and all public rates and taxes(Government 2006) .

1.2 Property Rating

It is a compulsory levy on the occupier of a property or hereditament in some countries like England, while in Malaysia the levy is on the owner of the property. Levies are determined on the basis of the assessed value of the property mostly on the annual value either exactly what the property fetches from the open market negotiations or as estimated by the assessor or valuer using the appropriate established methods of valuation(Plimmer, et al 2010).

1.3 Property Rating in Ipoh

Ipoh is one of the major cities in Malaysia characterised with city hall status which is the highest class ranking in terms of city categorization. The city like the other cities in Malaysia is administered by a Local Authority council under the supervision of Perak State whose capital is Ipoh. Section 130 of the Local Government Act 171 of 1976 empowers the state to adopt either an Improved value or Annual value approach thus the adoption of Annual Value approach by Ipoh council(Pawi, et al 2011). The city has consistently witnessed growth in terms of property portfolio from a total of 199,058 number of properties subjected to various kind of uses in 2006, the number increased to 206,919 properties in 2007, 214,650 properties in 2008, 228,448 properties in 2009, 233,552 in 2010 and 256,569 in 2011. The department consist of staff numbering about forty staff with greater proportion having lower requisite professional qualification (zulkarnaini, et al 2011 & Md.Ishtiak, et al 2012). Consequently, all properties adjudged rateable are assessed and charged rates for the provision of such public services by the local authority as Waste

Management, Landscaping of the city, secondary roads provision and maintenance, recreational facilities, Grass cutting and neighbourhood cleaning, drainage cleaning and fumigation as well as issues on the protection of public health and social welfare among others(Houses & Accommodation 2011).

2 Aim of the study

The aim of the study is to critically assess the system with a specific reference to highlighting how far is the policy married into practice, contribution of rates to the overall running of the local authority in terms of revenue generation and valuation methods in determining the assessed value of the hereditament . The study also explored areas of defects and proffer recommendations to improve the practice with a view to enhancing the system.

3 Literature Review

Methods of valuation for rating assessment are numerous and applied depending on the nature and use to which a property is subjected based on certain international best practice and standards aimed at ensuring fairness on both parties, those methods include;

3.1 Rental Comparison method of valuation

The method is not considered most appropriate where there are no adequate suitable and reliable market rental evidence, yet the method is the most popular method of valuation that is widely applied in rating assessment valuation especially on those properties whose comparables in usage are let though not necessarily exactly the same in structures, condition or sometimes even location(French 2004).

Notwithstanding the popularity of the method, It is easier applied when there are enough data on recent rental values of similar or comparable properties within the same or closely similar neighbourhood(Almy 2002). Such rental values are usually adjusted to cater for the differences between the comparable and subject property mostly at a lump sum figure and thus dependant on the Educational training of the assessor, Experience, objectivity and comprehensiveness of the available data on both properties cutting across parameters as; Physical condition of the properties, age and structural layout of the property, location advantage/weakness, Internal planning, amenity and value of the premises, property size and accommodation details/characteristics, internal finishing and facilities, functional efficiency and essential services as well as the date of fixing the existing rent(Zealand, 2002,Houses & Accommodation, 2011) .

The need for taking into accounts the aforementioned parameters while making comparative analysis makes it necessary to reduce both comparables and subject premises into a common standard that is universally adopted called the superficial or floor area usually in square meter and thus determine the rate on each square meter from the comparable properties before it is the applied on the area of the subject property after making the necessary adjustments(Yau 2009). There are cases where unit of accommodation are used rather than the superficial floor area such as the case of profit oriented or private hospital or cinema and theatre halls where there are such requisite evidences, otherwise the Depreciated replacement cost method is best used as will be seen later. Other special premises such mining and mineral exploration/extraction sites exist which usually operate on licenses grants, these kind of properties are better assessed on their turnover of how many barrel/tonnes sold annually(Standards 2010).

3.2 Profit/Account method

Originated from the Ricardo Theory of rent which states that profit is a long determinant of rental value of Agricultural land. But in rating valuation however, it is assumed that the rental bid of a hypothetical tenant is related to the profit earning capacity of the hereditament owned by the hypothetical land lord, thus based on the income and expenditure of a business operated in a property(Jarvis 2001). It involves the determination of gross receipt from all the sections of the business and then deduct the operational expenses to arrive at the gross profit/divisible balance from which a proportion is taken to represent the rateable value. Where the business operator did not make any profit it does not mean that the rating authority should automatically accept no rateable value for a simple fact that there are other business operators who are well willing to take over the premises for a certain rent payment which the economist termed as the opportunity cost of using the premises(Goodspeed & Witte 1999). The Guideline of the professional institutions and Rating valuation forum 1997 of the united kingdom clearly made a position that the method can only be applied where there is no direct or reliable market rental evidence on the property but the method is most appropriate where there is location or legal monopoly while the presence of income and expenditure are paramount considerations as well(P. K. Brown 2008), this position is buttressed in the case of ***Port of London Authority v. Orsett Union*** **1920,** Lord Dunedin ruled that,

"... What will the hypothetical tenant give for the subject? If the subject is an ordinary one, similar in character to other subjects which have stood the test of the markets, the inquiry is simple. But when the nature and circumstances of the hereditament in question do not admit such a test, some other way must be found. Now there are several ways of attacking the problem. One way is to consider what profit the hypothetical tenant could make out of the hereditament, not in order to rate that profit, but in order to find out what he was likely to give in order to have the opportunity of making that profit. Another way is to see what it would cost an owner to produce the hereditament in its present form and then to see what a tenant who had not himself the money to be an owner, would give the owner yearly, it being assumed that that sum must bear some relation at ordinary rates of interest to what has been spent. No question of law is necessarily involved in either of these methods"(Sayce & Connellan 2003).

The method suffer a challenge of accessing proper books of account as business operators find it pretty hard to disclose their true and undistorted accounts although the valuer could make estimate of reasonable income and expenditure to manage such an enterprise by a hypothetical and efficient tenant with a view to arriving at a hypothetical rent payable on the property and thus be used as estimated rateable value. It is most preferable how ever to use comparative analysis where exist evidences of rent on similar kind of property. Although the method is mostly applied on properties developed for business operation with primary aim of making profit yet it was originally and in fact recently applied to public utilities and leisure properties that are not specifically meant to make profit as in the case of ***Kingston Union AC v Metropolitan Water Board [1926]*** as well as the cases of ***Hoare v National Trust [1998]*** and ***National Trust v Spratling [1997]***. Certain public leisure or recreational properties are operated with primary objective of making those services available to the less privilege or low income earners even though managed by private enterprises, such properties could be granted some subsidy and differential pricing even when there exist comparable rental evidences(Lichfield & Connellan 1997).

Successful application of the method will no doubt require the availability of the preceding year accounts of the business operated in the premises excluding any income from the investment of accrued profit if any appears, then make the necessary adjustments in stock and purchases to arrive at gross profit.

The total working expenses in the course of operating the business ignoring expenses related to repair on the property except for those liable by the tenant as well as insurance to the building and other extraneous expenses which are not related to the operation of the business are then deducted from the gross profit to produce Divisible balance.

There should be a consideration for tenant share which should consist an interest on the capital invested to run the business, his remuneration for managing the business and a profit for running the business venture. All those added together are assessed at a percentage of the Gross profit or Gross receipt which is deducted from the divisible balance to produce the Residue(Plimmer, et al 2002).

The Residue is what consist of the Rent to the landlord as well as the rate to the rating authority, usually the rates are determined from the residue which is considered as the assessed value of that property.

3.3 Depreciated Replacement/Contractors approach

This is another established method of valuation whose application is preferred on such properties that are relatively difficult to value on comparative method of valuation due to the absence of comparable transaction because they are hardly or never let and thus the validity of its application as alternative to assessing the worth of the property(Brown & Bond, 2011). The depreciated replacement cost method is based on the theory that a tenant will not pay rent in excess of the annual equivalent it will cost him to build his own replica of property that satisfy his functional and occupational demand derivable from the subject property. Its operation is based on determining the cost of reproducing an exact replica or similar of the subject property in terms of physical, functional and economic satisfaction using a prevailing construction cost and depreciating it to reflect the structural disposition of the subject property at a rate of depreciation considered appropriate to the characteristics and condition of the property in question(Olusegun 2002).

Needful to appreciate is that situation may arise where you have multiple complementary structure or buildings within the same property but of different constructional standards, designs and finishing necessitating an apparent variation in the cost of construction to be adopted in order to arrive at their replacement cost, in such situation the assessor must use high level of experience and discipline due to the complexity and difficulty to assign the appropriate rate of construction cost per square meter on each of the complementary components to under or over valuation(Emeny & Wilks, 1984). An illustration is a situation for example a water corporation with multiple storey structure office complex at the frontage, water treatment bays at another part, power house, clinic, security post, restaurant and the rest, this will no doubt require different rates of construction cost for the different components due to their difference in construction standards and material consumption(Wyatt 2009).

Thereafter a value of the land is added which is usually determined through the method of comparative analysis of recent market transactions on land preferably within same vicinity and having similar characteristics. Scholars have opined that no property or land parcels are the same they must differ at least by their situates and nature either on the surface or beneath thus the need to make adjustment on all comparable parcels considered during the analysis(Bird & Slack 2006).

It is worthy of note here that the method is only applicable in the absence of direct market rental evidence and or profit/account evidence and where there is an element of monopoly on its occupation having the potential or hypothetical tenant the only possible occupier as is the case in public properties and private operational properties that seldom change hands such as the oil refineries, power stations and mining co operations to mention a few(Bird & Slack 2002).

All hereditament falling within the afore mentioned circumstance are better assessed using the method in order to determine the capital value of the property from which a proportion or percentage is adopted as rateable value. The basic challenge in the application of this method is the absence of a criteria for determining the percentage of the capital value that could be adopted as a rateable value . In ***Cardiff City Council v. Williams (VO) [1973] 18 RRC 1,*** Lord Denning, citing the Solicitor General in ***Dawkins (VO) v. Royal Leamington Spa Corporation and Warwickshire County Council [1961]*)**, described the following passage as the 'classic explanation' of the Contractor's Basis:

"As I understand it, the argument is that the hypothetical tenant has an alternative to leasing the hereditament and paying rent for it; he can build a precisely similar building himself. He could borrow the money, on which he would have to pay interest; or use his own capital on which he would have to forgo interest to put up a similar building for his owner-occupation rather than rent it, and he will do that rather than pay what he would regard as an excessive rent - that is, a rent which is greater than the interest he forgoes by using his own capital to build the building himself. The argument is that he will therefore be unwilling to pay more as an annual rent for a hereditament than it would cost him in the way of annual interest on the capital sum necessary to build a similar hereditament. On the other hand, if the annual rent demanded is fixed marginally below what it would cost him in the way of annual interest on the capital sum necessary to build a similar hereditament, it will be in his interest to rent the hereditament rather than build it"(connellan, & sayce, 1995).

Application of the contractors method of valuation in determining annual value or rateable value of a property is further solidified in the case of ***East Sussex*** where the appellants challenged the approach adopted by the valuation office based on submissions from their advisor who applied the shortened profit approach where a 7% of the Gross receipt was adopted to represent the rateable value and further argued that at best could be to use a comparable rental value of similar occupation. The tribunal rejected the adoption of comparable value for the ground of insufficient comparable alternatives and favoured the contractors approach on the premise that; (a) It is a clear method for rating assessment valuation with clear intellectual justification. (b) That it is established for quite a long time and is widely understood by rating and valuation officers. (C) It is equally used by a greater proportion of local authorities especially on properties that has no sufficient rental evidences and for which receipts and expenditure valuations could not be applied. Such properties include among others; Schools, sewage works, museums, public halls, fire stations, public conveniences, cemeteries, art galleries, and bus stations/train stations(Lorenz & Lu 2008).

Application of the method is sometimes explicitly stated in the statutes to be the basis of valuation for properties whose comparable transaction are hardly available as is the case in section 126(1) of the Rivers state local Government Edict No.13 of 1980 of Nigeria which states that "assessment in respect of a property occupied by a public utility corporation, other than tenements used as dwellings should be assessed on depreciated replacement cost method which should be reduced to annual equivalent"(Olusegun 2002).

It is worthy of emphasis that where a contractors method is used, caution must be exerted to include the necessary components as land values, cost of external works (landscaping, fence work, swimming pool, play ground, pavements, road, passages and others), rateable plants and machinery(Plimmer et al. 2002). Contractors method of valuation for rating purposes is not without challenges, some of which includes.

(a) Determination of the rate of construction/m^2: Determining the current cost of constructing new exact replica of the subject property as a desirable substitute is compulsory and challenging, because there may be quite high number of such properties with different construction standards and finishing such that what is applied in property X may not be applicable to another property without necessary adjustment and thus making some assessors to either abandoned the method or apply the rates arbitrarily. Equally important to note is that most assessors do not have the requisite knowledge to determine the prevailing rate of construction cost per square meter and thus resorting to guess work which is detrimental to the exercise and in such situation it is needful of the assessor to liaise with quantity surveyor to acquire the requisite prevailing cost of construction to apply to the subject property. Therefore construction cost must be a product of comprehensive research and analysis of building components, materials, labour, professional fee and interest on capital to avoid ill based figures that will translate itself throughout the valuation(Kong 2011).

(b). Allowance for depreciation: Having determine the cost of constructing new replica of the subject property that is not new, it becomes necessary for the assessor to depreciate it to a certain percentage to reflect its current status and depreciated replacement cost value caused by either physical deterioration, functional inefficiency, reduced economic opportunities and aesthetics due to intensity of use, age, construction standards, maintenance practices, estimated life span of the property and the rest. It is therefore wrong for assessors or authority to pre determine rate of depreciation without recourse to peculiar differences in properties measured on the weight of the aforementioned factors(connellan, & sayce, 1995).

4 Research Methodology

The research was designed and conducted as a case study with sole objective of having an in depth knowledge of the practical happenings in the study area with a view to comparing it with universal standard, theoretical principles that have operated and tested across the globe and are adjudge viable. Data from both primary and secondary sources are utilized for the purpose of triangulation so as to validate findings of the research. Primary data was collected through an in depth interview with the local authority valuation/assessment officers to a saturation point which was attained after interviewing the third respondent. Observation was also conducted at three different times with the researcher being introduced as a student. The formal introduction has created a comfortable position to proceed with the work as usual among the staffers while the researcher carefully studied files and activities . Whereas secondary data were obtained from documents such as the working files, the rough field data collected from various sites as well as the comparables used as the basis of determining the assessed value of the subject properties. Analysis of data is done descriptively after identifying the significant themes from the coded and categorized data which was narrowed and scaled down to the specific themes providing tentative answer to the research questions.

5 Discussion of Findings:

Rating assessment is a revenue generation outlet of the local authority even though the revenue generated goes back to the public in a way, yet it is natural for people to evade or avoid such payment as the case maybe. While the local authority will try harder to maximize the generation. The ability to improve this generation capacity is largely dependent on the number of properties available on the authorities valuation list as well as the assessed value of those properties on the valuation list. As a result, the local authority is expected to pull efforts together to ensure that no single property exist within its rating authority without being captured in the main valuation list as every single dollar is important to the spending need of the Government. Contrary to this assertion, the findings of the research revealed that there exist some properties which are completed and occupied without been captured in the valuation list thus evasion of rates payment by those owners of the properties which by implication could be referred as unpatriotic. None the less, it is not an unexpected happening but the local authority staff always be up and doing to fulfil the primary purpose of their employment. The outright revelation from this situation is the poor coordination mechanism between the assessment department and the building department or land title departments who issue certificate of occupancy or certificate of fitness to owners directly for months or even years in some cases before notifying the assessment department. The situation has created loss of revenue to the authority or areas of payment in case where they backdate the assessment charges thus leading to barred debt in the long run. This could have been avoided if there were close and prompt coordination between complementary departments.

The basic principle of rental comparison in the valuation of property for rating purposes requires that the property must be assessed "rebus sic stantibus" that is as it is on the day of valuation assessment without taking into account what it was or what it will be thus the value is expected to be true reflection of the market as at the date quoted in the assessment report. Contrary to this principle is what is obtained from the study area where properties are valued in 2012 on the basis of comparable property valued in 1982. The time lag between 1982 to date is long enough to ascribe wide differential margin on all the components of property value determinants positively within the city and therefore expected an upward review. Reason for the practice is the in ability to reassess properties on the list prepared since 1982 for non approval from the state Government due to political reasons and shortage of qualified personnel and therefore hung on to the list of 1982. Worthy of mention here is that the act actually empowered the state governments to approve submissions from local authorities on property assessment but not to the extent of satisfying personal interest first before the national interest, because the rejection was mostly for fear of losing votes while it is retarding the country's objective of becoming star rating country in 2020 on rating assessment and as well making the functions of the local authority narrow and unsatisfactory since there are no adequate resources to attend to ever growing needs of the populace as mandated on the local authority.

Equally the application of depreciated replacement cost of valuation requires the attainment of current cost of construction per m^2 to assess the cost of construction of a property as at the date you are assessing, but also a reverse is the case where a property is newly constructed, completed and occupied in 2011, yet when assessing the property it is assessed on the construction cost for 1982 which obviously will not in any away be close let alone being the same. Second part of this method also requires determination of land value which is done also through comparison, yet they still refer to assessed value of comparable land as at 1982 which of course at present may have got higher value than the subject land under assessment.

The presumption of the authorities is on section 137(2) which states " The valuation list together with the amendments made under section 144 shall remain enforce until it is superseded by a new valuation list". while section 137(3) " A new valuation list which shall contain the same particulars as in subsection (1) shall be prepared and completed once every five years or within such extended period as the state authority may determine".

Literal interpretation of those section will inform the reader that those in power seek cover from the ambiguity of the actual intent of the law to pursue personal interest as against national or public interest to which the policy intended. In addition even though the policy granted the powers of extending rating period beyond fives, it does not meant an extension to be in perpetuity as is the case in the study area as there was never a specific official extension from this time to a definite future date, instead each time the local authorities made their proposal, it only returned un approved without stating when it should come up.

Profit/Account method is applied to those income producing properties with relatively large work force and working consumables whose like comparables are not easily found such as filing stations, hotels and others. The practice on this category in the study area is that, they are graded according to status as hotels are graded into stars as 5star, 4star, 3star, 2star,1star and others. In this categorization all those identified under the category will be charged the same regardless of their period of operation, their established goodwill, customer size portfolio, location, wage responsibility and such other factors necessary in arriving at the divisible balance. Consequently, newly established hotels who are struggling to promote their brand and services are bedevilled with high rate charge that could be detrimental to the success of that business. This is because greater patronage is accorded to familiar names and locations when it comes to issue of hotels especially those within the central business area and tourist locations when compared to others. Thus the need to further simplify the classification to cater for the new and growing in business for fairness and equality.

Section 140 of the Act 171 of 1976 states that " in order for the local authority to assess value of holdings liable for rates, it may require the owner or occupier to furnish returns of the area, situation, quality, use and rent thereof and to give all such information as may be necessary for the preparation of valuation list or for the purpose of such valuation". Literally therefore, we can deduce from this statements no details statements of operation of the business is require to actually see the financial footing of the operators based on their receipt, expenditure, liabilities and net profit as the method required which the authority employs in the valuation of such properties, thus charged on comparable operators assessments who may be doing better than the subject property while the assessment is claimed to be based on ability to pay and therefore the abilities of Mr A may definitely not be the same with abilities of Mr B despite the similarity of their of business at least there may be difference in terms of cost of operation or turn over based on patronage. The situation may be particularly more pronounced when you take an assessment made for an established five star hotel with long established goodwill to be applied on a new five star hotel struggling to establish patronage as is the present practice in the study area. The practice thus contradict the principle of ability to pay Principle employed by the authority.

Despite these shortcomings identified in the methodologies of property valuation assessment for rates charges in the study area, the revenue from rates is the major source of revenue to the local authority as revenue generation from rates as at 2006 was $23,285,709, in 2007 was $24,534,373, 2008 was $25,363,064, 2009 was $27,357,673, 2010 was $28,274,834 and 2011was $30,937175. This provide a clear indication that it holds a greater prospect considering the systematic increase in the revenue generation of the local authority from property rates.

6 Recommendation

The prospects in property rates could be better explored if the political power in the hands of state Governments are reduced in such a way that submissions from local authorities genuinely prepared for reassessments to enhance public services are never rejected. Such submissions are therefore taken as a way of information to the states. To ensure effective coordination as well as checks and balance, it could be made compulsory on the local authorities to report to state and to convince the state of the need for it to avoid the current situation when bills of some service providers had to wait in arrears and sometimes footed by the state.

Secondly, the staff responsible for property assessment be adequately trained to practically appreciate and master the application of the conventional methods of valuation which are still the back born of the automated valuation methods who rely on heavy data accumulated through the conventional mode, thus it is clear that, without an established data base from conventional system, you can never run the automated system.

The period stated in the law for revaluation should be religiously adhered to avoid loss of revenue as is currently the case with Ipoh. This is because, rates are charged on the basis of an assessment long ago that would have been the fourth oldest and is yet termed as the current.

There is an urgent need to ensure close coordination between the building department and the land titling section in such a way that as the title or certificate of fitness are issued to the beneficiary, the valuation section is also notified without further delay.

The utilization of ability to pay principle is some worth difficult as abilities to pay are relative and thus able could claim in ability, it is therefore my recommendation to adopt the benefit principle as against the present. Because benefit theory is so wide that even when you argue for not enjoying any service, it can be proven that ownership or occupation of the property within the sovereignty of the country and in a bounded locality that is secured and protected is a enough benefit worth paying for.

For ease of assessment due to the inherent challenge of manpower shortage, the local authority could employ the method of property banding where property of like design, accommodation schedule and characteristics are classified together and a sample is taken for assessment thus represent all the others of like characteristics except for land value where the location differs could be adjusted to reflect various locations.

7 Conclusion

Property rating being the major source of income to the local authority and the most closest Government to the people should be treated efficiently and the state should grant listening ears to the local authorities officers on site for effective development as against their individual/personal interest of fear to lose election. In the long run people will appraise the government better in terms of basic facility and service provisions and could as well be sources of employment and means of livelihood, and by extension more popularity to government without jeopardizing the operations of the Law.

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