

# The Phenomenon of Goodwill (aeras) on Cyprus Commercial Properties

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Cyprus has experienced over the last years the phenomenon of locational goodwill payment (locally known as "aeras") which refers to the payment made by incoming tenants (in addition to the rent) to sitting tenants, in order to induce the sitting tenant to vacate and thus the new tenant securing commercial accommodation.

This new "business activity" appears mainly within the towns' commercial centres and in touristic areas, where there is a high demand for commercial accommodation with limited supply of vacant shops. This rather sudden and sharp increase in the demand for commercial property has come about due to the following main reasons:

- (a) The Turkish invasion has displaced 200.000 people who have settled mainly around and within the towns, increasing the towns' population by approximately 30% (but without an analogous increase in the towns' commercial centre).
- (b) The sudden and sharp increase of tourists in the touristic areas, especially at Ayia Napa and Paphos, has caused a shortage of commercial accommodation.
- (c) The prevailing Rent Control system, which limits eviction of tenants and as such newcomers cannot find easily empty property.
- (d) New trends in business, such as the creation of fast food chains, cafe, bars, new fashion brands etc, require central localities and specific locations.
- (e) The change of commercial uses of central areas with high return activities (see for example Makarios Avenue in Nicosia-cafes) has placed an added pressure for central localities.
- (f) The shortage of commercial building sites/new developments which came about with the new town planning zoning limitations. The new 1990 zones have restricted commercial development to very few localities, creating thus a shortage of new accommodation in the market.

Although commercial development takes place also within the towns' periphery, a number of commercial uses cannot locate successfully other than the towns' centre. As such high fashion shops, luxury goods, entertainment for locals, trendy cafes, bars etc need to be within the town.

For the reasons described and in order for newcomers to induce an existing tenant to vacate his shop, for him to take over, the newcomer offers to the existing tenant a substantial amount of money, not for his business goodwill, but for the locational goodwill. Perhaps the word goodwill in this context is misleading and it is with some good reason why it is locally called "aeras" (i.e. payment for nothing) and it has nothing to do with the business goodwill.

The property market has established over the years that the level of the goodwill payment, is the capitalized profit rent, (that is the difference between the market rent and the rent passing). As such if a shop is let for £1000 p.m. and the market rent is £5.000 p.m., then the existing tenant has a gain (profit rent) of £4.000 p.m. This figure is then capitalized by a number of years (usually 15) in order to reach the goodwill figure. The larger the difference between the two rental levels the higher the goodwill element. As it was stated, this circumstance has come about because the landlord cannot evict the existing tenant who has rights under the Rent Control Laws. As such, in most cases, in order for the landlord to accept the new tenant, he might want a slice of this goodwill payment.

The goodwill payments have reached considerable amounts of money and as an example, a recent shop tenant has received a £1.100.000 goodwill payment at Makarios Avenue (Nicosia) whereas an existing cafe has paid his neighbor £250.000 and another fashion shop CYP330.000 in order to expand (payable to the tenant). Goodwill payments were up to recently considered as not being taxable. However recent Court decisions stipulated that locational goodwill (aeras) payments are taxable.

During the last 3-4 years (after the CSE crash), the level of goodwill has been reduced considerably and this is a trend which we expect it will continue. This form of payment is also a reflection of the prevailing circumstances of the trade, because the retail trade is not what it used to be, whereas to an extent the new brands and high street seekers have been satisfied.

The goodwill payment is not a local phenomenon, but it is more of an international one, a circumstance which is a projection of the tenant protection system (regarding Cyprus). It is unfair for an existing tenant to obtain this valuable payment, whereas the landlord to receive only a very low rent, but until the law changes (not expected to be soon) this state of affairs will continue, to the frustration of the landlords and the newcomers (tenants), to the damage of local trade (and the landlords) and of course, to the delight of the statutory tenants.