

# DOUG STEVENS SEMINAR

- ▶ MONDAY 23<sup>RD</sup> NOVEMBER 2015
  - ▶ 08.00HRS TO 09.00HRS

VENUE : **CBRE**  
`C-BAR`  
Henrietta House  
Henrietta Place  
W1G 0NB

- ▶ SUBJECT

*HOW TO GET THE BEST OUT OF THIRD PARTY REFERRALS*

*SEMINAR BY DOUG STEVENS TO 1<sup>st</sup> & 2<sup>nd</sup> YEAR GRADUATES*

*DELIVERED AS A POWERPOINT PRESENTATION*

# HOW TO GET THE BEST OUT OF THIRD PARTY REFERRALS

- ▶ ARBITRATOR or INDEPENDENT EXPERT
- ▶ WHAT ARE THE DIFFERENCES ?
- ▶ ARBITRATOR - ARBITRATION ACT 1996
- ▶ EXPERT - NO STATUTES
- ▶ EXPERT - TERMS OF THE (CONTRACT) LEASE
  
- ▶ LEASE SPECIFIES CAPACITY OF 3<sup>rd</sup> PARTY
- ▶ ARBITRATOR MAKES AN AWARD
- ▶ EXPERT MAKES A DETERMINATION
- ▶ ARBITRATOR HAS POWERS UNDER THE 96 ACT
- ▶ EXPERT HAS NONE
- ▶ OTHER DIFFERENCES IN SEPARATE SEMINAR

# THE GOOD THE BAD AND THE UGLY

- ▶ 30% OF EXPERT REPORTS MISS THE MAIN POINT
- ▶ WITTINGLY OR UNWITTINGLY
- ▶ MOST 3<sup>RD</sup> PARTIES WON`T FILL IN BLANKS
- ▶ IT`S DOWN TO YOU
- ▶ 10 TIPS TO BETTER RESULTS

# ROLES OF THE PARTIES

1. WHAT IS THE EXPERT WITNESS ROLE - NOT ADVOCACY
2. WHAT IS YOUR ROLE AS THE EXPERT WITNESS ?
3. FOR THE LANDLORD or FOR THE TENANT - SHOULD BE SAME ROLE
4. DUTY IS TO THE ARBITRATOR
5. HONEST & FAIR OPINION OF VALUE AS CHARTERED SURVEYOR
6. IN REALITY YOU ARE BEING PAID TO WIN - CONFLICT WITH RICS GUIDELINES
7. HOW DOES THE ARBITRATOR OR EXPERT MAKE DECISION

THE ARBITRATOR

QUAISI-JUDICIAL CAPACITY

TERMS OF LEASE & ARBITRATION ACT



# ARBITRATOR SORTS, SIFTS & WEIGHS EACH OF THE PARTIES CASES

**SORTS INFORMATION INTO CATEGORY ORDER:-**

**DESCRIPTION, LOCATION, FLOOR AREAS, LEASE TERMS,  
LEGAL ISSUES, VALUATION ISSUES, COMPARABLES,  
VALUATIONS**

**SIFTS INFORMATION IDENTIFYING MAIN ISSUES :-**

**WHAT ARE MOST THE IMPORTANT /RELEVANT MATTERS  
WHICH EVDIENCE ATTRACTS MOST WEIGHT**

**DO THE ARBITRATOR'S JOB**

# THE EXPERT ?



# EXPERT

VERY DIFFERENT ROLE

NO ARBITRATING BETWEEN PARTIES

USES EXPERT OPINION / KNOWLEDGE

VACANT AND TO LET

MARKETING EXERCISE NOT VALUATION  
EXERCISE

AKIN TO LETTING AGENT - NOT A VALUER

ABOVE OR BELOW ESTABLISHED ZONE

SO - IN RISING MARKET FOCUS ON THE  
MARKET NOT THE EVIDENCE

TENANT DEMAND VERY IMPORTANT

TREAT EXPERT DIFFERENTLY TO ARBITRATOR



Roles of Arbitrator and Expert  
established

Role as Expert Witness established

What is best approach to adopt

# ROCKY BILBAO



# PUGILISTIC APPROACH

It is not a contest - boxing match

Stop negotiating (fighting)

Points not scored

Focus on Third Party not your opponent

Don't knock yourself out

# WILLIAM SHAKESPEARE



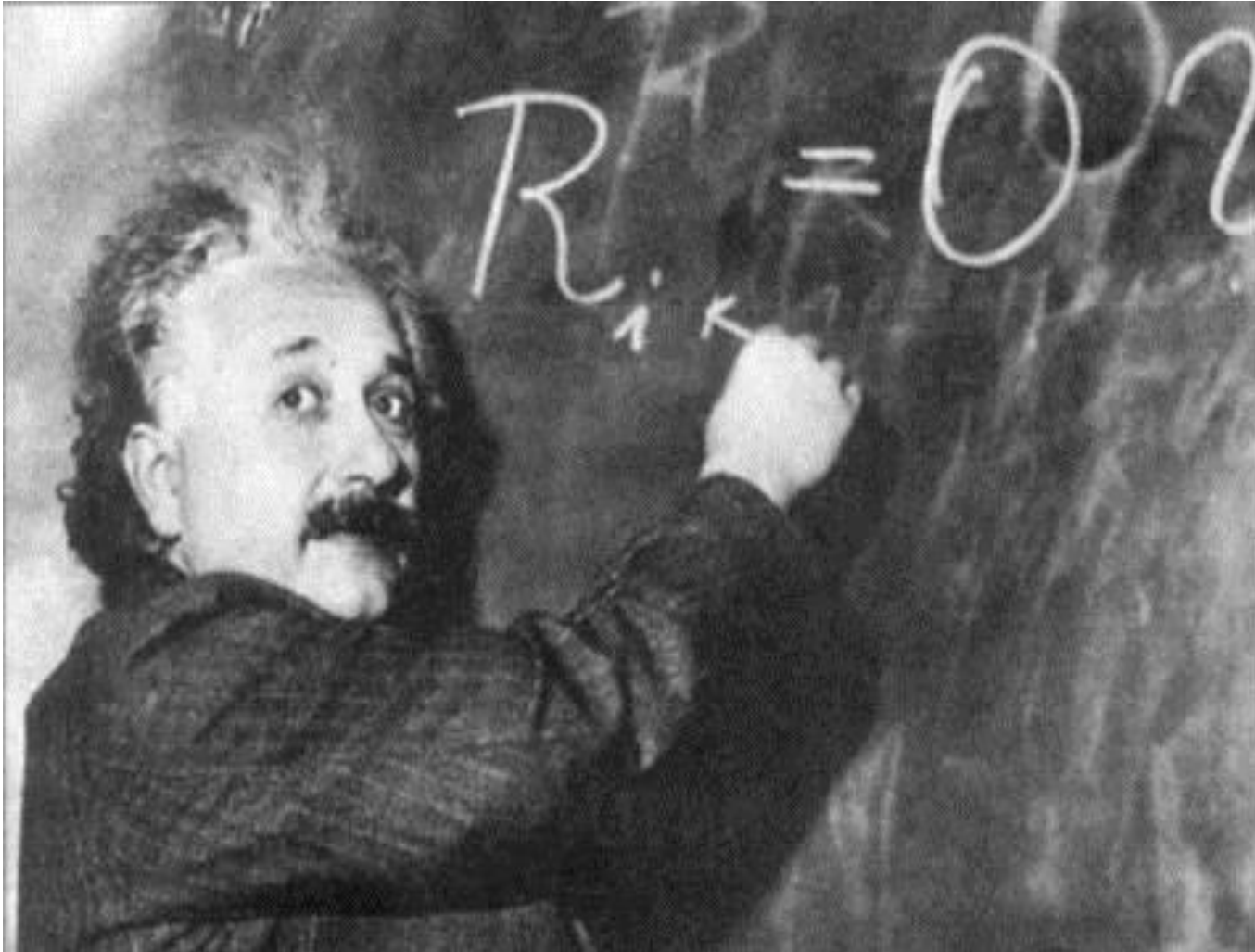
# POETIC APPROACH

Words will not win the day

Place for eloquence and wit

Substance will triumph over style

# ALBERT EINSTEIN



VALUATION - IS AN ART NOT A SCIENCE

IS THE EINSTEIN APPROACH A GOOD ONE ?

TECHNICAL KNOWLEDGE V MARKET KNOWLEDGE

E = MC2 @ A/10 = £ PAX

ADD 5% RETURN FRONTAGE

LESS 10% QUANTUM

LESS 5% LEASE LENGTH

LESS 2.5% COLUMNS

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ADD 5% SUNNY WEATHER

LESS 10% BAD HAIR DAY

£ WHO KNOWS ?



# THE SCIENTIFIC APPROACH

COMPLICATED VALUATIONS  
ALLOWANCES (ADDITIONS/DEDUCTIONS )  
FOR SHAPE, SIZE, LEASE TERMS, ETC  
PROBLEMS WITH MULTIPLE ALLOWANCES

1. JUSTIFICATION - OFTEN DIFFERENT CIRCUMSTANCES
2. EASILY COUNTERED
3. APPROACH NOT ATTRACTIVE TO THIRD PARTY
4. COVER THE GROUND IN SUBMISSIONS BUT
5. DON` T LIST EVERY ALLOWANCE IN VALUATION

COMBINE SEVERAL ALLOWANCES IN ONE OVERALL ALLOWANCE

ie, A COMPOSITE ALLOWANCE  
SAY 5% NET (ADDITION /DEDUCTION )

# BOMBER HARRIS



## THE INCENDIARY APPROACH

CARPET BOMBING - THROWING KITCHEN SINK IN

EXPERT WITNESS REQUIREMENT TO COVER GROUND  
BUT REPETITION - COUNTER PRODUCTIVE  
SO IS COVERING EVERY POSSIBLE ANGLE ?  
COUNTERING EVERY CONTESTED POINT ?

SHOWS NO FOCUS - NO CLARITY

FOCUS ON THE KEY ISSUES  
LEAD THIRD PARTY TO KEY ISSUES

SO WHICH ROLE SHOULD YOU ADOPT ?

# STEPHEN HENDRY



# THE SNOOKER APPROACH

SNOOKER AND THIRD PARTY REFERRALS  
ANALOGY FOR BEST MIND SET  
DON` T FOCUS ON THE OPPONENT  
PLOTS AND POTS WAY THROUGH REDS  
SCORING POINTS ALONG THE WAY  
TAKES COLOURS IN CORRECT ORDER  
BLACK BALL (MOST IMPORTANT COMPARABLE ) TO FINISH  
ARBITRATOR SORTS FRAMEWORK (REDS)  
SIFTS AND ORDERS ISSUES (COLOURS)  
VALUES BLACK BALL  
LEAD THIRD PARTY THROUGH TO YOUR ANSWER  
(VALUATION)

EXPERT - GO FOR BLACK

# EVIDENCE

DECISION NORMALLY HINGES ON ONE MAIN  
PIECE OF EVIDENCE

HIERARCHY OF EVIDENCE:-

OPEN MARKET LETTINGS  
NEGOTIATED SETTLEMENTS  
EXPERT DETERMINATIONS  
ARBITRATOR'S AWARDS

AIN'T NECESSARILY SO ...  
HOW DOES THIRD PARTY DECIDE?

"BEST FIT" PRINCIPLE

# BEST FIT PRINCIPLE

WHICH IS THE BEST FIT ?









# BOTH LOOK GOOD

BUT WHICH ONE IS MORE SUBSTANTIAL ?

DRESS IS HELD TOGETHER WITH SAFETY PINS

IT IS NOT AS ROBUST / PERSUASIVE AS THE OTHER

THINK OF YOUR EVIDENCE IN THE SAME WAY

WHAT IS THE BEST FITTING COMPARABLE FOR YOUR CASE

# 10 DO`s & DON`T`s

# 1. DO ESTABLISH WHAT IS THE MAIN THRUST OF THE CASE

- ▶ DON'T GET CARRIED AWAY WITH DETAIL AND THEN MISS THE MAIN POINT OF THE CASE
- ▶ PRESENT YOUR CASE TO EMPHASISE THAT MAIN THRUST

## 2. DON`T LET YOUR CLIENT INTERFERE

- ▶ IT IS DEAD OBVIOUS TO A 3<sup>RD</sup> PARTY
- ▶ OFTEN UNDERMINES A GOOD CASE

# 3. Statement of Agreed Facts

- ▶ WHAT IS A STATEMENT OF AGREED FACTS ?
- ▶ A JOINTLY SIGNED DOCUMENT RECORDING THE BASIC FACTS REGARDING THE PROPERTY & THE LEASE - ie
- ▶ FLOOR AREAS, SUMMARY OF LEASE TERMS, SCHEDULE OF COMPARABLE EVIDENCE (with proforma evidence sheets)
- ▶ DON`T AGREE WHAT YOU DON`T AGREE  
BECAUSE YOU CAN`T SUBSEQUENTLY `UN-AGREE` IT
- ▶ BUT DON`T LEAVE 3<sup>RD</sup> PARTY TO MEASURE

# 4. DON`T ASK ARBITRATOR TO INVESTIGATE

ARBITRATOR HAS THE POWERS TO DO SO

ARBITRATION ACT S.34 (2) (G)

- ▶ BUT - IT ELONGATES THE PROCESS
- ▶ FURTHER REPORTS & REPLIES TO RESPOND TO WHAT THE ARBITRATOR FINDS OUT AND PUTS BACK TO THE PARTIES
- ▶ PUSH THE OTHER SIDE GIVE THE INFO
- ▶ EXPERT - INSIST ON INVESTIGATION BY EXPERT

# 5. DISCLOSURE - WITNESS SUMMONS

- ▶ DO REQUEST ORDER FOR SPECIFIC DISCLOSURE IF THERE IS INFORMATION CRITICAL TO YOUR CASE WHICH IS COVERED BY A CONFIDENTIALITY AGREEMENT
- ▶ BUT DON`T ASK IF YOU DON`T KNOW WHAT IT IS/IS LIKELY TO BE
- ▶ DO YOU REALLY NEED IT
- ▶ IS IT FUNDAMENTALLY RELEVANT - SAVING OF TIME & COST
- ▶ ASK 3<sup>RD</sup> PARTY TO GET THE INFORMATION WITHOUT AN ORDER



## 6. DON`T FOCUS ON THE TENANT

### THE ACTUAL TENANT MAY NOT BE THE HYPOTHETICAL TENANT

- ▶ REMEMBER THE PROPERTY IS VACANT AND TO LET
- ▶ ANOTHER TENANT MAY PAY MORE RENT THAN THE ACTUAL TENANT

# 7. DO PROVE DEMAND (L/L) DO PROVE LIMITED DEMAND (T) (if you can) DEMAND IS FUNDAMENTAL

- ▶ REMEMBER THE PROPERTY IS VACANT AND TO LET
- ▶ WHO IS GOING TO TAKE A LEASE ON IT
- ▶ L/L OFTEN RELIES ON WILLING TENANT ASSUMPTION, ie the existing tenant will take it - but if you know of potential tenants then name them
- ▶ MOST TENANT CASES DON`T FOCUS ON DEMAND - but should do if they can demonstrate that demand would be limited
- ▶ PROVIDE RECENT ACQUISITION RECORD IF RELEVANT

## 8. DO COLLARS & CUFFS MATCH ?

- ▶ DOES YOUR CASE SUPPORT YOUR VALUATION ?

## 9. KNOW THINE 3<sup>rd</sup> PARTY

- ▶ IT SHOULDN`T BE A BLIND DATE
- ▶ READ PREVIOUS AWARDS / DETERMINATIONS
- ▶ KNOW WHAT TICKS THE 3<sup>rd</sup> PARTY`S BOXES

# 10. DON`T FOCUS ON YOU OR YOUR OPPONENT FOCUS ON THE 3<sup>rd</sup> PARTY SNOOKER ANALOGY

- ▶ PUT THE ARBITRATOR`S / EXPERT`S HAT ON
- ▶ STRUCTURE YOUR REPORT IN LOGICAL ORDERED FASHION
- ▶ TRY TO TAKE A HIGH SCORING COLOUR WITH EACH RED
- ▶ PRESENT THE BEST FITTING EVIDENCE LAST
- ▶ Ie FINISH ON THE BLACK BALL