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Dear Gill

## MARKETING OF CUSTOM AND SELF BUILD OPPORTUNITIES

I refer to our recent discussion concerning the above and in particular the requirement placed upon Local Authorities to adhere to **S123 of the Local Govt Act 1972** which seeks to ensure that public assets, ie residential building plots, are disposed of at best price ( Market Value) to safeguard the tax payers interests and prevent any possible Judicial Challenge.

The RICS '**Red Book**' definition of Market Value is as follows:

**"The estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and willing seller in an arm's length transaction after proper marketing when the parties have acted knowledgeably prudently and without compulsion".**

The relevant section from S123 of the Local Government Act appears below:

" Disposal of land by principal councils".

(1) Subject to the following provisions of this section, a principal council may dispose of land held by them in any manner they wish.

(2) Except with the consent of the Secretary of State, a council **shall not dispose of land** under this section, otherwise than by way of a short tenancy, **for a consideration less than the best that can reasonably be obtained**

The legislation has been reinforced in recent years through the publication of HM Treasury guidelines: "**Managing Public Money**" published in July 2013.

The foreword from the Chief Secretary to the Treasury specifically states that:

**" Integrity is the common thread. Transparency and value for public money are the essential results".**

Within the guidance the relevant and pertinent section is contained within **Annex 4.15 - Asset management:**

"Paragraph - A4.15.14 Public sector organisations should take professional advice when disposing of land and property assets.- Protocol for disposal of land, property and other assets:

- **Value assets at market prices** using Royal Institute of Chartered Surveyors' Red Book ([www.rics.org](http://www.rics.org)).
- Dispose of surplus land property within three years.
- Dispose of surplus residential property within six months.
- Sell plant, machinery, office equipment, furniture and consumable stores by public auction as seen; or by open tender. Obtain payment before releasing the goods.
- If an asset is sold or leased at a loss, the proceeds forgone (compared to market value) should be treated as a gift, and the routine in annex 4.12 should be followed."

I hope it is apparent therefore that it is incumbent upon Local Authorities to take professional advice when dealing with the sale of public assets but moreover that in order to demonstrate 'Market Value' appropriate and transparent marketing needs to have taken place, notwithstanding that a Local Authority list of interested parties may exist.

Its purpose is two fold in that the 'Market' will then determine the appropriate value of an asset, against which to adjudge any offers and equally the ability of any disgruntled party to frustrate the process of sale through a Judicial challenge is mitigated for accordingly.

I hope the above is helpful in clarifying your obligations, which I am sure your own Treasury and Accountancy teams will be familiar with.

Yours sincerely



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