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# HEALTHY PLANET PRESENTATION

By David Connick

I am David Connick. I am head of Real Estate here at Fasken Martineau. I am a real world commercial lawyer. I am also a solutions man. It is therefore been a perfect synergy for me to have teamed up with Shaylesh at Healthy Planet to produce a solution to an almost universal problem. That problem is rates for unoccupied properties. For many years, landlords or commercial occupiers enjoyed discounted or even zero rates in respect of unoccupied premises. This meant that the burden of unoccupied premises was reduced. In recent times you will know that the rate concession is no more. Whilst there are a number of organisations, the British Property Federation prominent amongst them, petitioning the Prime Minister to restore the rates holiday, a plea that has so far fallen on deaf ears, we are offering a potential alternative in the interim.

And that is why we are here: to tell you about a scheme that will save you a significant percentage of the rates that would otherwise be payable and simultaneously give you an opportunity to increase your participation in charitable causes.

## So who would benefit from this scheme?

Landlords with empty premises, tenants with units they can no longer occupy but which they are struggling to pass to somebody else (maybe the unit is over rented or there is only a short period left on their lease or they are having difficulty finding an assignee). May be you are a developer putting a site together and buying in units piecemeal, or you have already bought the units and you are waiting to start on site. In each of these cases, and many others, the additional burden of rates will be irritating at the least and prohibitive at its worst. Perhaps you are looking to sell an unoccupied commercial unit as an investment and the cash outflow burden is significantly impacting the valuation or the number of interested parties.

There are systems that mitigate this expense: you hear of landlords taking the roofs off buildings or removing the internal floors or staircases to make the premises un-occupiable or letting at a peppercorn rental just to pass on the rates liability. These methods probably work but they are drastic and long term. It would be handy if there were a scheme that could be implemented swiftly and dismantled just as quickly at little or no cost.

So what is the Scheme? Put simply, it effects a letting of a vacant unit to Healthy Planet to utilise the rates concession available to charities for the benefit of both the rate payer and the charity. Local authorities are required to give 80% rates relief on any property which is occupied by a charity and is wholly or mainly used for charitable purposes [*Local Government Act 1988*, section 43.] The authority has the discretion to extend rates relief for charities to 100% under section 47 of the 1988 Act. But since most of the discretionary 'top up' has to be funded by the authority itself it would be something of a win bonus to secure this extra relief so our figures don't rely on this.

In order to qualify for rates relief, a charity shop must fulfil two conditions:-

first, it must be wholly or mainly used for the sale of goods donated to a charity; and

secondly the proceeds of sale of the goods (after any deduction of expenses) must be applied for the purpose of a charity.

[1988 Act, section 64(10)]

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The second element is self-explanatory and unarguably satisfied by Healthy Planet. Healthy Planet is a registered, recognised charity with a charity number. The first element, that it must be used wholly or mainly for the sale of goods donated to a charity, is also satisfied. Healthy Planet's Adopt Land initiative about which you will hear more shortly, is only possible because of the donations of data and technology for use by Google and the UN's environments teams designed to connect people to the world in which we live.

So by letting a unit to Healthy Planet the rates liability would pass to Healthy Planet and reduce that liability by 80 per cent. So Healthy Planet would pay just 20% of the rates currently borne by the landlord or unoccupying tenant.

There are, theoretically, planning and rating considerations but they are treated separately and will be dealt with by different departments. Our enquiries have shown that the rating departments of the various Councils have a simple 'charity rates relief' application and will process the application for the 80% mandatory relief as a minimum. For example, we have seen Healthy Planet's representatives' correspondence with the Enforcement Officer of Lambeth Council who advised that "the Council's only obligation is to charge and collect Business Rates on an assessment as set by the rating list. It would therefore not be for the Council to allow or deny such a proposal but would be at the discretion of the owner of the retail unit".

The planning department will also be unlikely to have any issue. Healthy Planet can arguably satisfy either a retail or an office test - in fact the office test is easier to satisfy than the retail one as there is no question about donated goods for the office test, - and it is unlikely that over the period of the contemplated tenancy, any planner will be motivated to initiate enforcement proceedings to stop the operation. In the unlikely event of objection, the tenancy can simply be brought to an end and no litigation costs or fines or penalties of any sort will have been incurred.

So why Healthy Planet and not one of the many well known names that adorn every high street and shopping mall up and down the country? Well, a number of reasons. The first is this is different and looks different. It will look fresh and attractive and will not immediately strike you as just another charity shop. Also, Healthy Planet will not be competing with any of the existing retailers who are stuck with paying wholesale prices for their goods and paying full rates. So you are not undermining one of your other tenants by parachuting in a competing offer. And, perhaps, most importantly, this requires minimal lead in time and almost no exit time so is completely fluid and flexible. There's no major fit-out, no goods or racking to remove at the end, just some bright, tailored posters to take down.

Shaylesh will talk you through some examples of the financial permutations in due course. At this stage suffice it to say that the letting we are talking about will be a tenancy at will, determinable by either party at any time without notice. (The documentation actually precludes the charity from determining within the first six weeks since the upfront costs take about five weeks to recoup). This means that, whilst negotiations are being conducted for a new tenancy or an assignment or underletting this tenancy can be slotted into place. Tenants will obviously need to obtain the consent of the Landlord to this arrangement but, given the nature of the occupation, which is intended to be temporary and will not attract security of tenure, and the nature of the occupants, most landlords will be happy with the proposal.

We have prepared the documentation on an "honest broker" basis, so it has been designed to be fair to both parties. I would not expect any of the provisions to cause any difficulty. You would be welcome to complete and sign up the documentation as it stands, in which event we at Fasken Martineau would facilitate the completion arrangements, but you would be equally welcome to take the pack to your regular solicitors and let them talk you through it. Either way, once you are resolved to proceed, you merely need to identify an appropriate unit, provide details of the rates and the measurements of the windows and send the information to Healthy Planet and away you go.

So there it is. Properties occupied for charitable purposes attract minimally 80% discount on the rates they pay – they pay 20% of the rates that the regular owner or occupier would pay. So by letting the unit to a charity the rates obligation passes to the charity and the rate bill immediately drops. And it works most effectively and efficiently if the charity is flexible enough to work with you rather than opposite you.

So let me now hand you over to Shaylesh Patel, the founder of Healthy Planet. We became aware of Healthy Planet when they were invited to speak as the chosen charity at the New Energy Awards dinner. We were impressed by the story the charity had to tell and were happy to support their initiative and to be associated with them. Their website and, in particular, their "Us in 60 Seconds" video gives a far better introduction than I could so, technology permitting, thank you for listening to me and please have a look at this.