

**ARTICLE FOR “WESTERN COUNCILLOR”
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DO LAWYERS GIVE VALUE FOR MONEY?

Lawyers and local governments have more in common than one might think. Both are concerned with compliance, both are necessary for a modern democratic society and both are easy targets for popular myths about value for money!

Furthermore, in law as in local government, it is often not the cost but the attitude to the cost that can cause friction.

The increasing complexity of the legal and operating environment for both lawyers and local government often make for subtleties that cannot easily be understood by members of the public.

Take for example the purchase of a property. If that property is a normal suburban residence, one would not need a lawyer at all. One could rely on the Real Estate Institute of Western Australia/Law Society standard form of contract – drawn up by lawyers of course.

However, boundary error, restrictive covenants or a Heritage Act listing would make an investment of \$1,000 in a lawyer’s services seem good value in relation to a \$400,000 property.

If the property were worth \$4 million instead, and the plan is to convert it into a \$10 million mixed-use development, then an investment in legal costs of the order of \$100,000 would seem even better value.

As a matter moves from routine to complex, the amount of professional time consumed by it increases.

Strangely, there is no direct correlation between the value of a transaction and the legal costs for processing it. Thus, legal complications surrounding a \$400,000 transaction can potentially blow legal costs out to half that amount yet on odd occasions, a major transaction can cost less than expected because the anticipated need to deal with complications such as appeals to the State Administrative Tribunal evaporates or economies of scale can be achieved for the proponent.

There are also parallels between rates set for legal services and rates levied on ratepayers because both are based on an organisation-wide budget setting process.

One major difference is that lawyers’ rates are set according to their level of experience in the area whereas local government rates are based on valuations. A first-year lawyer – full of theory and energy – might warrant an hourly rate 3 times lower than for a practitioner of 15 years standing. One might therefore expect that

the young lawyer would take at least 3 times as long to do the job as the experienced one. However, more quantity does not translate into better quality!

As they say, there is no substitute for experience. The senior practitioner will have actually seen the dozen things that can go wrong, including the five that would be fatal to the process, whereas the young one might fly blind, complete the task and still crash the transaction.

One might ask why it is that lawyers are so expensive in the first place. That is a question of supply and demand in a complex labour market. The demand for legal services increases every year, largely because Parliament is so prolific in creating new laws. However, the demographics of the country are changing. Combine an ageing population and the high drop-out rates of this demanding profession and you get only the few (relative to the general population) who can practise law in a viable and competent way.

In the end, whether legal practitioners provide good value for money will depend on the problems they are called upon to solve – and whether they are instrumental in solving them!

Disclaimer

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