

PRESS RELEASE**Dos and Don'ts for the location surcharge**

The 32nd bpv Huegel-Breakfast Briefing dealt with the location surcharge for indicative rent.

13 June 2019. Dr Michaela Pelinka, Partner at bpv Huegel, and Frieder Tim Heissenberger of Heissenberger & Rainer Immobilien GmbH, gave a talk at the 32nd bpv Huegel-Breakfast Briefing about the review of the location surcharge and new criteria for its calculation in the recent jurisprudence.

Landlords are often confronted with complicated rent regimes. Particularly with respect to apartments in old buildings, complex legal regulations on recommended rent values restrict the landlords in many aspects. The recent decision of the Austrian Supreme Court has been therefore all the more controversial since it overturned the existing system of location surcharges for indicative rents. The consequences of this ruling are manifold and should not be underestimated, as often these surcharges are of economic importance in case of renting.

The thorn in the side of the Austrian Supreme Court was the previous, exclusive emphasis on a higher proportion of basic costs compared to a standard apartment. According to the Supreme Court, it is not sufficient to justify the "above-average situation" demanded on reference values. Rather, it has to be examined on a case-by-case basis whether, according to life experience, a residential environment is better than an average location in terms of criteria such as public transport, educational facilities, green space and medical care.

The uncertainties that have arisen since this decision make it necessary to prepare comprehensive documentation of the circumstances at the time of the conclusion of the contract. Much in this area is also still in progress, as current decisions will show.

Also, the location surcharge map of the Department of Urban Renewal and Inspection Centre for Residential Houses in Vienna (MA 25) was jointly discussed and tested for its practicability. The effects on the rental market, as well as the derived effects on the property market, were presented and discussed on the basis of case studies.

About Dr Michaela Pelinka

Michaela Pelinka specialises in M & A, corporate and commercial law, real estate and tenancy law. She has been a lawyer at bpv Huegel since 2009 and a partner since 2015. She is a lecturer at the bfi Vienna and gives lectures on real estate law. Dr Pelinka is an author of numerous publications and articles in professional journals.

About Frieder Tim Heissenberger

Frieder Tim Heissenberger is Managing Director at Heissenberger & Rainer Immobilien GmbH and was previously Head of Transactions at IMMOFINANZ AG.

About bpv Huegel

As one of Austria's leading law firms, bpv Huegel advises national and international clients in all sectors. It is regarded as the first address for highly complex mandates, the handling of which requires specialised tax and legal knowledge, many years of experience and economic understanding.

With its Brussels office, bpv Huegel has a competence centre for general EU law, European merger and antitrust law as well as regulatory and public procurement law located directly at the European institutions.

bpv Huegel is a member of the "bpv LEGAL" alliance with offices in Bratislava, Bucharest, Budapest and Prague and thus offers tailor-made solutions throughout CEE. In addition, the firm has long-standing cooperation agreements with leading international law firms worldwide.

The full-service law firm was founded in 1979 and is represented in Austria by offices in Vienna, Moedling and Baden, where it employs around 100 staff, including around 50 lawyers.

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