

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

ESTEPHAN and LINDA PARSEGHIAN t/a
Hamilton Town Barber

in respect of

SHOP, 80 QUARRY STREET, HAMILTON ML3 7AU

The Appellants were represented by Estephan Parseghian. The appeal proceeded on the basis of an alleged material change of circumstances, namely a drop in foot fall in Quarry Street. The effective date of the alleged material change was 1 April 2009.

In considering its approach to the matter the Committee had regard particularly to the commentary contained in Armour on Valuation for Rating (5th Edition) at paragraph 3-12 to 3-31 inclusive and to the cases and legislation referred to therein including the provisions of Section 3(4) of the Local Government (Scotland) Act 1975 and the definition of material change of circumstances contained in Section 37(1) of that Act. To be a material change of circumstance the change must be one which affects the value of the appeal subjects, though this may include movements in rents or the general level of valuations since the date of the last revaluation.

The rateable value entered in the roll for the appeal subjects at the 2005 revaluation was £15,700. The Appellants were seeking a 20 per cent reduction.

The background to this particular case was that as a result of a number of appeals which had been lodged the Assessor had carried out a review of the rateable values in the whole of Quarry Street based on rents which had been struck since the 2005 revaluation and had reduced the zone A rate for parts of the street with effect from 1 April 2008. The rate for that part of the street where the appeal subjects was situated had been reduced from £440 to £325 per square metre. The Appellants had taken entry to the premises on 28 March 2009 at a rental of £269 per month.

The Appellants' case was based on the argument that since they had taken entry the foot fall was tremendously down. They argued that the foot fall was 25% of what it used to be and was increasingly dropping. There were 7 or 8 empty

shop units in the vicinity which had been empty for 2 of 3 years and this showed that the rates were too high as people were not willing to pay these.

They also argued that they had reduced the floor area of the retail unit by installing a partition wall, however the Committee accepted the Assessor's evidence that installation of a partition wall did not affect the floor area for valuation purposes.

The Assessor's evidence was based on his productions 2 and 3 which were in map and tabular form respectively. They showed in green the rents struck between the period from 2005 to 2008 which had formed the basis of the zone A rate set with effect from 1 April 2008. The rate for the shops numbers 30 to 82 had been reduced from £440 to £325. In relation to the properties on the odd side of this part of Quarry Street, the Zone A rent rate had been reduced from £470 to £325. These reductions had been informed by new rents struck during the period from 2005 to 2008. There were six new rental figures for the shops numbers 30-82 and they were all above the new zone A rate of £325. A review had also been carried out of rentals struck in 2009 and 2010. For the even side of Quarry Street there were two rentals, which were shown in blue. One of these was for the subject of appeal the rental rate for which was £269. The other was for the shop at 50 Quarry Street, the rent for which had gone up from £269 to £475. On the odd side of Quarry Street a rental rate of £195 had been struck for the shop at number 47. This had however been discounted because it was a month to month licence agreement which was not on the statutory terms. The Assessor concluded that the rental evidence did not show a general reduction in rental levels below the reduced rate of £325 which had been set with effect from 1 April 2008.

In his submissions, Counsel took the view that whilst the rental for the appeal subjects had been struck at a level which was below the Zone A rate, this was not in itself sufficient. Whilst it was part of the evidence, a reduction in rental of the appeal subjects was never determinative of the annual value of the subjects. It was necessary to look at comparables. He cited Armour paragraph 19-07 as an authority for this proposition, with which the Committee agreed. He argued there was no evidence for a general fall after 1 April 2008. Of the two figures available, the rental rate of £475 for number 50 was considerably above the Zone A rate of £325 and taking the evidence as a whole this was insufficient to establish a general reduction in rental values. The Committee accepted Counsel's submission and agreed for the reasons given that there was insufficient evidence to support the argument that there had been a change affecting value.

The Committee accordingly dismissed the appeal.

29th December, 2010