



LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

ROSSDHU HOMES LIMITED

in respect of

SHOWHOUSE, 9 CARTLAND MAINS,
CARTLAND ROAD, CARTLAND, LANARK
ML11 7RF

It was extremely difficult to know the exact grounds in law on which this appeal proceeded or the outcome sought by the Appellants. Mr Campbell, who appeared for the Appellants, did not suggest an alternative value, although requested to do so. At one point he suggested that the appeal subjects should be treated as domestic which the Committee took as a suggestion that they should be removed from the Valuation Roll altogether. However he later acknowledged that he accepted that the subjects were commercial. Overall, the Appellants' position appeared to be that the rates were too high and that by implication the value in the Valuation Roll should be reduced. The Appellants however gave no specific evidence nor put forward any clear legal argument on which this could be done.

The Assessor still had a responsibility to demonstrate that the appeal subjects had been properly valued. This required consideration by the Committee of, first, whether or not the subjects fell to be included in the Valuation Roll as a showhouse and, secondly, if that were the case, what the proper value of the appeal subjects was.

The Committee had no difficulty in holding that the appeal subjects were indeed a showhouse. They had been built originally as a house for sale in the normal course of events. However, at the request of the Appellants' bank, the appeal subjects had been furnished with a view to demonstrating to prospective purchasers, to enable them to, as Mr Campbell put it, "see what's on offer". The purpose was to promote sales. The house was available for open viewing on certain weekends and at all other times any prospective purchaser could view it by appointment. The appeal subjects were described on the Appellants' advertising boards as a show home (Assessor's production 7), again as a show home in the Appellants' letter to Lanarkshire Valuation Joint Board dated 8 February 2009 (Assessor's production 8) and contained very significant quantities of furniture as demonstrated in the sales brochure (Assessor's production 9).

There was no doubt that the use being made of the appeal subjects during the period in question was commercial. The Appellants were in rateable occupation of the subjects for the purpose of showing people round the subjects with a view to promoting the sale of the appeal subjects and other houses in the development. There is no specific Scottish

authority on the subject but the Committee was assisted by the decisions in the English cases of *Walker v Ideal Homes Central Limited (RA/4-1/1993)* and *RE Montgomery Homes unreported but dated 13 February 2009*

It was accepted that the appeal subjects did not have running water or drainage. However that did not alter the fact that the Appellants were in rateable occupation of the subjects and were using them as a showhouse for commercial purposes. The absence of running water and drainage did not detract from this use.

The Committee looked at the question of valuation. Showhouses fall to be valued in terms of the Scottish Assessor's Association Practice Note 27 in respect of the 2005 Revaluation. In terms of paragraph 2.0 showhouses are valued on the comparative basis at a percentage of their estimated open market capital value as at the tone date of 1 April 2003. A distinction is drawn between furnished and unfurnished showhouses in terms of paragraph 3 and there was no doubt that this was a furnished showhouse. In terms of paragraph 5.2 the capital value of the showhouse is to be ascertained reflecting the value of the subjects if placed on the open market as at 1 April 2003. Sales prices for similar subjects at or around this date should be analysed and a suitable capital rate per square metre applied. Paragraph 5.3 establishes the percentage to be applied as 5.5% of the estimated capital value of the showhouse.

The Assessor had followed these steps. This being a tone of the roll valuation the Assessor required to have regard to the valuation evidence available as at that date. Production 5 for the Assessor showed the rates per square metre of all showhouses for which evidence was available at that time. The Assessor had originally valued the appeal subjects using a rate of £1,100 per square metre being the figure derived from the showhouse rate for Lanark, which is the town physically closest to the appeal subjects. This had produced the figure of £13,600 shown in the Valuation Roll. On reflection the Assessor had replaced this with a figure of £1,000 per square metre derived from the valuation evidence for Kirkfieldbank, which is geographically also close to the appeal subjects and which is a village with fewer amenities than Lanark. This was done because the appeal subjects are situated in an area with few amenities, even fewer than Kirkfieldbank. This produced a figure of £12,400 which was the figure spoken to by the Assessor at the hearing. The Assessor considered this fairer to the appeal subjects. In reaching this figure the Assessor's witness had used her skill and judgment as a valuer. The Committee considered this aspect of the matter particularly carefully. The Committee would have preferred more detail of the sales detailed in Assessor's production 5 and which produced the values which were considered by the valuer when carrying out this exercise. This would have enabled the Committee better to gauge how accurately the Assessor's witness had exercised her skill and judgments. On the face of it, however, the whole valuation exercise had been carried out properly and the Assessor's method clearly explained and the Committee was prepared to accept that the figure of £1,000 selected by the Assessor's witness after careful consideration of the evidence was appropriate. The Assessor's figure did not appear flawed. The Appellants had produced no evidence from which it would have been possible for the Committee to conclude that the Assessor's figure was not correct. In the circumstances it was appropriate to support the Assessor's position.

14 December 2009