

## STATEMENT OF REASONS

Relative to appeal

By

2001/2002 EUROPOINT NO. 2 SYNDICATE  
&  
BRS DEVELOPMENTS LTD

In connection with Offices

Ground Floor, Precision House, McNeil Drive, Bellshill  
Ground & First Floor, Excel House, 1 Renshaw Place, Motherwell  
First Floor, Pioneer House, 2 Renshaw Place, Motherwell  
Ground, First & Second Floors, Elite House, 4 Renshaw Place,  
Motherwell.

The appeals in respect of the above four subjects were heard together and are Running Roll appeals.

The valuation of the Appeal Subjects was not in dispute. The dispute related to whether or not the Appeal Subjects fell to be entered in the Valuation Roll. The Appellants contended that the Assessor had made an error in entering the Appeal Subjects in the Valuation Roll because they were not completed as they were not ready for occupation. The Assessor contended that the Appeal Subjects were ready for occupation in their present condition and that he was correct to enter them in the Valuation Roll.

The physical condition of the Appeal Subjects was not in dispute. It was agreed that the Appeal Subjects consisted of open floor plates of varying sizes and layouts. They had suspended ceilings, raised floors consisting of metal tiles under which tenants could place power cables, heating, lighting, air-conditioning and four electrical sockets. They did not have sprinkler systems, smoke extractors, distribution of small power under the raised floors, IT cabling, plumbing and partitioning. The base services of power and plumbing and WCs existed in the cores of each of the Appeal Subjects.

The Appellants contended that the Appeal Subjects could not be occupied in their present condition because any likely tenant of them would require to carry out further extensive works before occupying them. In particular, they would require to install full height partitioning which would mean interfering with the suspended ceilings and flooring, install small power throughout the floor plates and re-configure the lighting and air-conditioning to their particular needs. They sought to support this contention by reference to an agreement procured by their agents from the Valuation Office of England & Wales

not to enter subjects in a similar condition in the Valuation Roll for England & Wales; to the fact that subjects known as Trilogy House located in close proximity to the Appeal Subjects were in a similar condition to them in December, 2007 but were not entered in the Valuation Roll by the Assessor until September, 2008; to photographic evidence showing the extent of additional work being effected to similar subjects in England; to a License for Works Agreement between 2001/2002 Europoint No. 2 Syndicate and tenants in relation to subjects adjoining some of the Appeal Subjects again showing the extent of the work intended to be effected before the subjects were occupied; the cost of these works relative to the rental was significant; 60 and 65%. They further contended that in the absence of guidance from the Scottish Assessors' Association in relation to determining when subjects are capable of occupation, regard should be had to the guidance issued by the Valuation Officer for England and Wales which stated that each case should be determined on its merits; if having regard to the size of the subjects and the local market requirements, a likely occupier would require full height partitioning then this should be regarded as necessary before the subjects could be said to be capable of occupation.

The Appellants made reference to four cases; *Watford Borough Council v Parcourt Property Investment Company Limited* 1971 (RA) QB 97; *Ravenseft Properties v Newham LBC* (CA), 1971 1 QB 465; *French Keir Property v Grice* (Valuation Officer) and *Liverpool City Council* 1982 and *London Merchant Securities plc v Islington London Borough Council* 1987 which they asserted supported the view that the test as set out in the guidance issued by the Valuation Officer for England & Wales was the correct test. The Appellants asserted that as the subjects were not completed, they could only be entered in the Valuation Roll following the issue of Completion Notice in terms of section 24 of the Local Government (Scotland) Act, 1966. This had not been done in respect of the Appeal Subjects.

The Assessor contended that the Appeal Subjects were capable of occupation in their present condition. They did not require to be partitioned in order to be occupied. The layout of the floor plates were designed to be flexible, lent themselves to modern working practices and assisted in creating distinct areas which could be divided using low or mid level partitioning. He made reference to subjects in East Kilbride which extended over two floors and which had no partitioning. These subjects were occupied as a call centre. The existing supply of electricity in the Appeal Subjects was sufficient to allow occupation; there was power and telecommunication fibres capped at the riser at each floor within the core of the Appeal Subjects and the cost of the work which might be undertaken by a likely occupier of the Appeal Subjects relative to the cost of erecting a building to the specification of a Category "B" as defined by the British Council of Offices guide was minimal; around 6%. He stated that the delay in entering the Trilogy House subjects in the Valuation Roll was due to an oversight on the part of the Assessor. The Assessor argued that to satisfy the test of whether the subjects were ready for occupation, it was not necessary to show that they were capable of profitable occupation and the fact that subjects were not occupied and were not yielding a profit would not be a reason to omit them from the Valuation Roll. The Assessor made reference to three cases; *Thomas Lucas Paterson* 1878, *Schulze v The Assessor for Edinburgh* 1910 and *French Keir Property v Grice* (Valuation Officer) and *Liverpool City Council* 1982.

The Committee were of the view that there was in fact no dispute between the parties with regard to the test to be applied in determining when new subjects should be entered in the Valuation Roll. Both parties asserted and the Committee accepted that the correct test is whether the subjects are ready for or capable of occupation.

The Committee, having carefully considered all of the evidence and in particular the evidence given by Mr Jordan on behalf of the Appellants, preferred the evidence of the Assessor that having regard to the particular physical circumstances of the Appeal Subjects, they were capable of occupation in their condition when entered by the Assessor in the Valuation Roll. They could be occupied without partitioning as was the case with a call centre in East Kilbride which was occupied over two floors without partitioning. The electricity supply, whilst not ideal, was sufficient to allow occupation of the Appeal Subjects for the purpose intended. In arriving at this view, the Committee considered the cases referred to by the parties. However, the Committee's view was that whether subjects were capable of occupation was a question of fact relative to the particular case; each case had to be considered on its merits. All the cases referred to were distinguishable from the present appeals in relation to the facts of each of them.

As the Committee were of the view that the Appeal subjects were capable of occupation in their condition when entered in the Valuation Roll, it was therefore correct for the Assessor to enter them in the Valuation Roll as he had done. Accordingly, the Committee dismissed the appeals.