

**LANARKSHIRE  
APPEAL PANEL**

**VALUATION**

**STATEMENT OF REASONS RELATIVE  
TO APPEAL**

by

**MRS JANET CRAIG**

in respect of

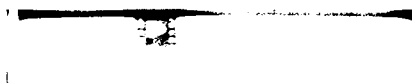
**PUBLIC HOUSE  
MONTGOMERIE ARMS  
1 MONTGOMERY STREET  
EAST KILBRIDE  
G74 4JS**

This was an appeal arising out of the year 2005 Revaluation.

The Assessor contended for a net annual value and rateable value of £57,500. The appellant contended for a figure of £50,000.

There was agreement between the parties that the subjects fell to be valued on the Comparative Principle. There was agreement that the valuation should follow the general principles set out in Haggart -v- Assessor for Leith 1912 S.C.784. There was also an acceptance that the subjects should be valued in conformity with the Scottish Assessors' Association Practice Note 17 in respect of the valuation of licensed premises, public houses and licensed restaurants.

The Assessor's valuation was straightforward, taking the agreed gross turnover of the subjects for the year ended 31<sup>st</sup> January 2003 of £640,280 to which had been applied a percentage of 9% which was the figure agreed as being appropriately derived from appendix 1 of the Practice Note. This produced a figure of £57,625 rounded down to £57,500.

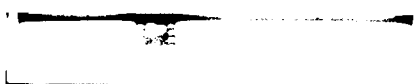


The appellant's valuation started in a similar way but sought to adjust the turnover figure to £559,799 by deducting £80,481 for what was regarded as an excess wages bill for the subjects. 9% of the resultant reduced turnover equated to £50,382, rounded down to £50,000. The figure of £80,481 had been derived by deducting from the actual wages bill of £195,731 for the year ended 31<sup>st</sup> January, 2003 an amount of £115,250 representing what was regarded by the appellant's agent as a typical wages bill of 18% of turnover, producing an excess figure of £80,481 for the appeal subjects.

The wages bill for the appeal subjects for the year ended 31<sup>st</sup> March 2003, £195,731, represented 30.57% of turnover. It was argued that this was excessive. The excessive wages bill was attributed to poor layout of the appeal subjects caused by the age of the subjects, its thick walls and the fact that it had been built originally as a coaching inn rather than a modern public house. This was stated to lead to additional staffing requirements with consequent increased costs. The appeal subjects had three bar areas over two floors, as detailed below, which also increased wages costs. It was argued that the "hypothetical achievable turnover" or "fair maintainable turnover" for the subjects in the circumstances, in terms of para 2.1 of the Practice Note, should not be the gross turnover disclosed in the accounts but gross turnover reduced to allow for the excess wage bill. This was appropriate on the basis that the figure of turnover adopted should represent the annual amount considered to be maintainable as at 1<sup>st</sup> April 2003 having regard to the physical nature of the property and its location as at 1<sup>st</sup> January 2005, and applying the assumption set out in para 2.1.

The Assessor maintained that the appropriate turnover figure to be adopted for the appeal subjects was that shown in the accounts, there was no reason to depart from it and the practice note made no provision for any adjustment in the turnover figure to allow for increased wage costs. The Assessor among other things pointed out that the evidence indicated that the wage bill for the appeal subjects was not directly proportionate to turnover.

The Committee agreed with the Assessor. While the Committee accepted that the wages bill for the appeal subjects in the year to 31<sup>st</sup> January 2003 was higher than normal, the Committee did not accept that this was directly attributable to a physical disability within the property. As the Assessor had argued, there were many possible reasons for the higher wage bill. The Committee felt that no adequate breakdown of the wages bill had been provided. The appellant's manager in her evidence had emphasised the health and safety aspects of the operation of the public house which made it necessary to have two members of staff in each bar or lounge with one always behind the bar and one available to pick up empty glasses and generally supervise the area. The Committee felt that this would be true to a large extent of any properly managed



public house. As part of the appellant's evidence, the manager of the appeal subjects on being asked if the extra staff were a reflection of the layout answered that they were a reflection "of society today". The Committee considered this an appropriate remark. The appeal subjects had three areas in which alcohol was served, the ground floor public bar, ground floor lounge, bar and upper floor lounge bar. The evidence showed that it was not uncommon for public houses in the East Kilbride area to have three separate bar areas, albeit there was a variation in use of these areas from premise to premise. The upper floor lounge was, no doubt, quiet on some evenings and it might have superficially been more economical to close it, but a management decision had been taken and was defended at the hearing that this would be harmful to the business in the longer term. This was a commercial decision, one of many such decisions taken by any public house as part of the operation of the premises by a competent publican seeking to maximise profits by responding to normal trading conditions and the effects of local competition. It was significant that the wages bill was not directly proportionate to turnover.

While all public houses, both physically and in terms of operation, vary one from the other, the Committee was not persuaded that the appeal subjects suffered from some unique disability justifying separate treatment and, specifically, justifying an adjustment of the turnover in terms of paragraph 2.1 of the Practice Note.

In any event, the Committee accepted the argument of the Assessor's counsel that it would not have been appropriate to make an adjustment in turnover in terms of para 2.1 of the Practice Note to allow for an excess wages bill. Paragraph 2.1 made no reference to an adjustment for wages. Paragraph 2.1 provided that the figure of turnover adopted should have regard to the physical nature of the property and its location. Even if the wages bill had been enhanced as a consequence of the physical nature of the property, para 2.1 could not be interpreted widely enough to permit a reduction in turnover on this ground.

The agent for the appellant also made reference to Note 2 of Appendix 1 of the Practice Note which provided for the appropriate percentage to be applied to turnover to be reduced by up to one half percent to account for unique elements associated with the particular property which were not reflected in the turnover. The agent for the appellant had not made or referred to such an adjustment in his valuation of the appeal subjects. He did, however, suggest that the Committee could, if it were so minded, substitute its own valuation based on an adjustment in terms of note 2 for that of the Assessor if it considered this to be appropriate. The Committee did not consider it appropriate, considering, as stated, that there were no unique elements associated with the property which would merit such a reduction.



In the course of the hearing, the appellant's agent argued that since the Practice Note provided for an adjustment of turnover to reflect increased running costs for food sales (5.4) and entertainment costs (5.7) an adjustment for increased wages for the appeal subjects should be allowed by analogy.

The Committee did not understand this to be contended for in submissions at the conclusion of the hearing. There was an acceptance that the valuation should be in terms of the Practice Note. For the avoidance of doubt, the Practice Note made no provision for an adjustment in respect of increased wages in the circumstances argued for in relation to the appeal subjects and no adjustment could be made within the terms of the Practice Note on this ground.

The agent for the appellant made reference in his submission to the deduction of 20% allowed where the cost of construction of part of an undertaking was unusually high because of wartime conditions affecting prices and labour and because of urgency in its completion – Assessor for Fife –v- Dunfermline District Committee 1929 SC304, Armour on Valuation for Rating, 5<sup>th</sup> Edition para 19-74. This appears in Armour under the heading of Modifications of the Revenue Principle and had no relevance to the valuation of the appeal subjects, which had been made on the Comparative Principle.

The Committee accordingly refused the appeal and upheld the Assessor's valuation.

