

STATEMENT OF REASONS

Relative to appeal

By

DOUGLAS PARK (PROPERTIES) LTD

In connection with retail warehouse

479 Windmillhill Street, Motherwell.

The Appellants reference to the percentage increase in the net annual value at revaluation from the previous net annual value was felt by the Committee to be irrelevant. The process of revaluation involved a completely fresh start and the Assessor is not bound by the levels, methods or schemes of valuation used in this connection with previous Valuation Rolls. See *Armour on Valuation for Rating*, Fifth Edition, paragraph 2-06 and the cases referred to therein; particularly, *The Assessor for Lanarkshire –v- McKenzie* 1958 SC 565 and *The Assessor for Edinburgh –v- Wallis* 1973 SLT 50 at page 52. In the view of the Committee, it was not proper for them to have regard to previous valuations or to the amount of the percentage increase which had taken place.

There was dispute between the parties as to the Gross Internal Area of the appeal subjects. The Appellants contended that the appeal subjects extended to 1399 square metres. Mr Chalmers who presented the appeal on behalf acknowledged that he had not measured the appeal subjects himself but was relying on measurements which he had obtained from Speirs Gumley. The Assessor contended for a Gross Internal Area of 1404.49 square metres; the Assessor's witness, Mr Lander had personally measured the appeal subjects. The committee considered that as Mr Lander had personally affected a measurement of the appeal subjects and Mr Chalmers had not, Mr Lander's evidence in this regard was to be preferred and the Committee accepted the Gross Internal Area of the appeal subjects as calculated by the Assessor at 1404.49 square metres.

There was dispute between the parties as to the rate to be applied to the Gross Internal Area. The Appellants contended for a rate of £95; the Assessor contended for a rate of £120. The Appellants had arrived at their rate of £95 from an analysis of one rental; that of the property at 349/361 Windmillhill Street, Motherwell. The passing rental of that property was £78,000 struck on 1st March, 2003. The Appellants had taken the gross internal area of this property at 814 square metres (this measurement had been supplied to them by Speirs Gumley). Accordingly, the rent rate of this property was £95.82 per square metre. The Appellants contended that the passing rent for the appeal subjects was anomalous and should be disregarded from any rental analysis. They argued that having regard to the rental history of the appeal subjects, it could be seen that the passing rent of £140,000 which had been struck in March, 2003 was not sustainable. The appeal subjects had originally been let in 1983 at a rental of £45,000 per annum. In May, 1994 a rent review increased the rental to £65,000 per annum with effect from May, 1993. In May,

1998 the rent was again reviewed and increased to £85,000. In 2003, there was an assignation of the lease by the original tenants, R Terley Limited and their administrator which incorporated a rent review increasing the rent to £140,000. The new tenants had gone into receivership and thereafter the appeal subjects had been occupied under a short term licence from November, 2005 to November, 2006. The licence fee was £100,000. This was extended to February, 2007 and a payment of £25,000 was made. This represented pro rata a continuation of the same licence fee of £100,000. At the time of the hearing the appeal subjects were vacant and were being marketed at a starting rental of £97,500; this was not attracting any interest.

The Assessor contended for a rate of £120. The Assessor arrived at this figure from an analysis of the rental evidence of six properties including the appeal subjects. The other five properties were located in close proximity to the appeal subjects. The appeal subjects had a rental of £140,000 struck on 28th May, 2003. The Assessor adjusted this rental to take account of the restriction in the access to the subjects and had arrived at an adjusted rent rate of £125. The Assessor also had regard to the property at 349/361 Windmillhill Street, Motherwell. However, the Assessor submitted that this property's gross internal area was 762.05 square metres and not 812 square metres as stated by the Appellants. The Assessor adjusted the passing rental of this property of £78,000 to take account of the fact that the property was not purpose built and produced an adjusted rent rate of £117. The Assessor also had regard to a property at unit 2 Manse Road, Motherwell. This property had a passing rental of £53,384 struck on 15th April, 2002; a gross internal area of 476 square metres. The Assessor had adjusted the rental to take account of shading which affected the property and produced an adjusted rent rate of £118. The Assessor had regard to three properties at units 1, 2 and 3, 126 Airbles Road, Motherwell. Unit 1 had a passing rental of £22,000 struck on 16th November, 2001. It had a gross internal area of 181 square metres which produced a rent rate of £122. Unit 2 had a passing rental of £31,500 struck again on 16th November, 2001. It had a gross internal area of 278 square metres which produced a rent rate of £113. Unit 3 had a passing rental of £42,000 struck again on 16th November, 2001. It had a gross internal area of 371 square metres which produced a rent rate of £113. The Assessor stated that a property at Unit 1 Manse Road, Motherwell which was occupied by the proprietor had had a rate of £120 applied to it. This property had been the subject of an appeal which had subsequently been withdrawn. The Assessor stated that having regard to the analysis of the rental evidence available to him in respect of these properly comparable properties a rate of £120 was appropriate.

The Committee were of the view that the properties referred to by the Assessor were comparable to the appeal subjects and that the Assessor had effected an appropriate analysis of the rental evidence in respect of them and that a rate of £120 per square metre was indeed appropriate. The Appellant had arrived at their rate on the basis of the analysis of one rental which appeared to the Committee to be flawed as it proceeded on the basis of a gross internal area supplied by a third party and which was at odds with the gross internal area measured by the Assessor's witness, Mr Lander. The Committee again preferred Mr Lander's evidence with regard to the area of this property and the consequence of this was that it produced a rent rate of £102 and not the £95 contended by the Appellants.

There was a dispute between the parties with regard to the application to the appeal subjects of a fit out rate. Mr Chalmers on behalf of the Appellants accepted that the scheme for Fit Out set out in the Scottish Assessors Association's Practice Note 6 for the Valuation of Retail Warehouses had universal acceptance by agents throughout Scotland. However, the Appellants had not applied any fit out rate in their proposed valuation stating that looking at the best information available they considered that it was preferable to use a stand alone retail warehouse at the tone date. However, the Appellants then somewhat confusingly took issue with the application by the Assessor of the top fit out rate as set out in the said Practice Note stating that the mid fit out rate was more appropriate. The Committee accepted that the application of a fit out rate was only appropriate if the rents analysed were shell rents. The Committee were satisfied that this was the case and that having regard to the terms of the said Practice Note that the application of the Full Fit Out rate duly depreciated in terms of the Scottish Assessors Association Practice Note 1 was appropriate and that the Assessor had properly calculated and applied this to the appeal subjects.

There was a dispute between the parties as to the allowance to be given to the appeal subjects. Both parties agreed that an allowance ought to be given for the restricted access to the appeal subjects. However, the Appellants contended that an allowance ought also to be given to account for the age and condition of the appeal subjects. The Appellants contended for a total allowance of 25% and the Assessor contended for an allowance of 20%. The Committee preferred the evidence of the Assessor with regard to the end allowance to be given.

Accordingly, the Committee upheld the proposed valuation of the Assessor spoken to at the hearing and which had been properly explained to the Committee and dismissed the appeal.