

**LANARKSHIRE VALUATION
APPEAL PANEL**

VAC 17/10/07

re

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

CLYDESDALE BANK PLC

In respect of

**BANK
313 MAIN STREET,
BELLSHILL
ML4 1AW**

This was an appeal arising out of the year 2005 Revaluation. The Assessor advised that he was contending for a net annual value and rateable value of £25,250.00 with effect from 1st April, 2005.

The Assessor had valued the appeal subjects on the comparative principle. The comparative principle of valuation is based on the proposition that a figure of rent which has received wide acceptance on the open market is the best indication of the annual value of the subject to which it relates. The proper application of the principle requires the existence of subjects which in size, character and location are sufficiently comparable with the subjects to be valued, and which are let on the statutory terms or at rents which can properly be adjusted so as to represent the rents of those subjects on the statutory terms. If these conditions are satisfied, the annual value of the subjects to be valued may be arrived at by a consideration of the rents payable for the comparable subjects. This involves making an analysis of the rents to enable a judgement to be made as to the rent at which the subjects being valued could have been expected to be let in the open market. Where this method of valuation is possible, it will generally provide the most accurate guide to annual value – Armour on Valuation for Rating, Fifth Edition, para 19-19.

The net annual value of subjects is defined in Section 6(8) of the Valuation and Rating (Scotland) Act 1956, as 'the rent at which the lands and heritages might reasonably be expected to let from year to year if no grassum or consideration other than the rent were payable in respect of the lease and if the tenant undertook to pay all rates and to bear the cost of the repairs and insurance and the other expenses, if any, necessary to maintain the lands and heritages in a state to command that rent.'

The appeal subjects are a two-storey building, occupied as a Bank, situated at the end of a parade of shops in Main Street, Bellshill. The subjects had been valued in the same way as a shop. There was agreement between the parties with regard to the general approach taken by the Assessor. There was agreement as to the description and general characteristics of the appeal subjects. There was a slight, but not material, difference with regard to the reduced area, the Assessor measuring it as 175.02 sq.m and the Appellants as 175.42 sq.m. There was agreement on the method of zoning the appeal subjects. There was agreement that the Zone A rate of £160 per square metre applied by the Assessor was correct. The difference between the parties related to two adjustments contended for by the Surveyor for the Appellants. These were an allowance for frontage/depth and quantum of 20% and an adjustment for rental growth for the period 1st April, 2003 to 1st September, 2004 of £637.00. This produced a proposed value of £22,000.00. The Assessor, on the other hand, had applied an allowance of 9.5% for quantum. Had it not been for these differences, there would have been agreement between the parties.

The Appellants' evidence in support of their approach to the valuation was given by their Surveyor, Mr Smith. In relation to the proposed allowance of 20%, his argument was based on the rent passing for the appeal subjects. This was £22,500 and had been struck with effect from 1st September, 2004. It was on full repairing and insuring

terms. The rent had been reviewed to open market value assuming vacant possession. Mr Smith considered this to afford the best evidence of value when considered in light of the rents passing for the other shops in the parade. Analysis of this rent showed a rent rate of £128.26 per sq.m, compared with £171.40 per sq.m for 305 Main Street, Bellshill and £152.56 per sq.m for 309 Main Street, Bellshill, both of which were properly regarded as standard sized shops within the development. The difference in Mr Smith's view could be attributed only to the greater size of the appeal subjects and (possibly) their comparatively wide frontage, compared with their depth. It could simply not be the case that the appeal subjects with a rent struck on 1st September, 2004, approximately a year and a half after the "tone date" of 1st April, 2003, of £22,500.00 should properly be valued at £25,250.00.

The Assessor's analysis of No. 305 Main Street produced a figure of £163 per sq. m. The difference was that the Assessor believed the rent to be £10,000 per annum, whereas the Appellants believed it to be £10,500. Both parties however agreed that this was not significant.

No breakdown was given to the committee as to what proportion of the proposed allowance of 20% represented quantum and what proportion represented a possible allowance for the shape of the appeal subjects. Mr Smith did not give any evidence from comparable properties or otherwise to show that an allowance of 20% was appropriate, he relied simply on the rental analysis. He felt that outcome of the rental analysis could not be explained in any other way.

The Assessor's figure of 9.5% had been derived from his scheme for quantum allowances, applicable within the valuation area of Lanarkshire Valuation Joint Board. This was, to all intents and purposes, the same scheme as had been used in the year 2000 Revaluation. The figure of 9.5% was appropriate to properties 2.9 x the

standard unit size, which there was no dispute the appeal subjects were. The quantum scheme had received a substantial measure of approval from ratepayers and their professional agents at the 2005 Revaluation. Most appeals for this type of subject arising from the year 2005 Revaluation had now been settled.

Mr Smith attacked the Assessor's scheme for being too inflexible, both in the sense that it had not changed since the year 2000 Revaluation and that it was applied across the whole valuation area without allowing for the individual circumstances of the appeal subjects. The Assessor's position was that the scheme would be departed from if he had persuasive evidence that this was appropriate, but such evidence was not forthcoming in this instance.

The Committee by a majority of 5/1 supported the Assessor's approach.

It is well settled that the actual rent passing under a lease is not conclusive or determinative of the annual value for the subject. Although such a rent may be an adminicle of relevant evidence in deciding the question, it cannot properly be the sole basis and starting point. The actual rent is now no more than an element to be taken into consideration in arriving at the valuation, the precise weight to be given to which will depend upon the circumstances of the particular case. (Armour 19-07 and 19-10). While the Appellants' Surveyor had relied on one rent in relation only to his end allowance, the Committee felt that the general principles set out above applied. The Committee accepted that the rent in question had been struck after negotiation by professional Surveyors for both landlord and tenant. In essence, however, what the Appellants' Surveyor had done in assessing the amount of his proposed allowance, was to focus on the one rent passing for the appeal subjects and to make the assumption that the difference in the rate per square metre for this rent and the rate per square metre for other shops in the same parade must be attributed only to

the difference in frontage/depth ratio and quantum. It therefore followed that an allowance must be made. The amount of the allowance must be a direct reflection of the differential between the rent for the appeal subjects and the other two rents, so as to equate the net annual value with the rent passing. The Committee felt that there had been an over emphasis on the evidential value to be attached to the rent for the appeal subjects and the assumption that this must equate to the net annual value. His figure of 20% had been chosen because this was the figure necessary to produce a result which equated with the rent passing.

The Assessor's approach was more broadly based. The Assessor's scheme was based on a widespread analysis of the relationship between rent rates and reduced area. This was more in accordance with the comparative principle. There had been wide acceptance of the Assessor's approach in the 2005 Revaluation. In this regard, it did not matter that the Assessor's scheme had not varied significantly between the 2000 Revaluation and the 2005 Revaluation. What was of significance was the degree of acceptance of its use within the 2005 Revaluation.

The Committee gave particularly careful consideration to Mr Smith's arguments that the Assessor's scheme was too inflexible. However, the majority of the Committee felt that there was no evidence other than Mr Smith's rental analysis to show that the scheme should not apply to the appeal subjects as it did to other subjects. Mr Smith's analysis was flawed, in that it assumed that there could be no cause for the difference in rent rates other than the factors for which he sought his allowance.

The dissenting member of the Committee agreed with Mr Smith on the points set out in the paragraph above, feeling that the Assessor had not taken proper account of the specifics of the appeal subjects and that an allowance of 20% was appropriate.

There was no significant evidence on the proposed reduction to reflect rental growth. No member of the Committee supported this allowance. If, as was the case, the Zone A rate of £160.00 per sq. m was accepted, there was no ground for further adjustment.