

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

by

DAZZLE WITH INKSPOT

for

APPEAL IN RESPECT OF

SHOP, 44-46 Castle Street, Hamilton

This appeal which was in respect of the 2010 Revaluation was called for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 7 September 2011. Mr Martin Super appeared for the Appellants. Mr Stuart presented the case for the Assessor.

Mr Stuart moved that the appeal be dismissed under Regulation 10(3) of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) 1995 (S.I. 1995 No 572) on the basis that the Appellant did not comply with the terms of Regulation 10(1)(b) and 10(2)(b) of the said Regulations.

Regulation 10(1)(b) and 10(2)(b) provide that:-

- (1) An Appellant shall, not later than 35 days before the date set for the hearing, furnish to the Assessor a written statement specifying – ... (b) if the appeal relates to the valuation entered in the Valuation Roll, the valuation which the Appellant considers should be entered into the Roll and the grounds on which that valuation is arrived at.
- (2) Within 14 days of receipt of such a statement, the Assessor, -(b) may serve a notice on the Appellant requiring him, by a date specified in the notice (being a date not less than 10 days after the service of the notice), to provide written confirmation to the Assessor that he intends to proceed with the appeal.

Regulation 10(3) provides that:-

If an appellant fails timeously to-

- (a) furnish the statement required in paragraph (1); or

(b) provide, in response to a notice served under sub-paragraph (b) of paragraph (2), the written confirmation referred to in that sub-paragraph;

the assessor may apply to the Committee to have the appeal dismissed and the Committee may grant that application if it thinks fit.

The Assessor explained that the requirement for grounds of appeal and the Appellants' alternative valuation to be lodged was so that the Assessor had fair notice of the Appellants' case, and that the requirement that the Appellants' should give notice of their intention to appear was to ensure that the Assessor was aware of which cases would proceed.

No alternative valuation had been lodged by the Appellants. The Assessor sent a letter to the Appellants dated 4th August 2011 advising them of this and of his intention to seek dismissal of the appeal on this ground. He also required the Appellants in terms of Regulation 10(2)(b) to provide written confirmation by 24th August 2011 of their intention to proceed with the appeal, which they failed to do.

However the Committee heard that the appeal had been adjourned from 18th May 2011. No alternative valuation had been lodged then and the Assessor had not taken exception to this. The Appellants had intimated their intention to appear then.

On 29th July 2011, the Appellants had received an e-mail from the Assessor stating " I am aware that you have already supplied me with information in writing prior to the last hearing however if you wish to expand or add to this then please do so before Wed 3 August." The Appellants had immediately sent in their grounds of appeal by fax and e-mail.

The Committee took the view in the circumstances that whilst the Appellants had failed to comply with the Regulations and ought to have done so there was reasonable excuse for their failure to do so in circumstances where they had been asked if they wished to expand or add to the grounds lodged previously which they had done and their failure to lodge an alternative valuation had not been challenged at the previous hearing at which they had also intimated their intention to appear.

The Committee accordingly decided that whilst the Appellant was in breach of Regulation 10(1)(b) and 10 (2)(b), their was reasonable excuse for their failure and refused the Assessor's application to the Committee under Regulation 10(3) to have the appeal dismissed. The appeal would be recited for hearing and it would then be incumbent on the Appellants to comply fully with the procedural requirements laid down in the Regulations.

12 September 2011