

# Lanarkshire Valuation Appeal Panel

Secretary to Panel: Stewart Graham, LL.B. (Hons)

The Assessor  
Lanarkshire Valuation Joint Board  
North Stand  
Cadzow Avenue  
Hamilton ML3 0LU

Our ref: SG/MM

13 December 2011

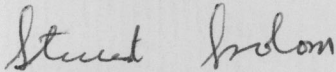
Dear Sirs

**Valuation Appeal Hearing: 7 December 2011**  
**Dalziel Workspace – 71 appeals**

The Committee has now reached a decision on these appeals. The Committee has dismissed the appeals.

I enclose a Statement of Reasons for the Committee's decision.

Yours faithfully



Stewart Graham  
Secretary

ASSESSOR & ERO

14 DEC 2011

LANARKSHIRE

LANARKSHIRE VALUATION APPEAL  
PANEL

STATEMENT OF REASONS RELATIVE TO  
APPEAL

by

NORTH LANARKSHIRE PROPERTY  
SERVICES

in respect of

Office, G2 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G3 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G4 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G5 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G6 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G8 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G9 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G10 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G11 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G12 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, G13 Dalziel Workspace, Mason Street,  
Motherwell ML1 1YE

Office, Seminar Room Dalziel W/S, Mason Street,  
Motherwell ML 1YE

Office, Management Suite, Dalziel W/S Mason Street, Motherwell ML1 1YE

Office, Interview Room, Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, G15 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/1 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/2 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/3 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/4 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/5 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

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Office, Unit 1/24 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 1/25 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 2/1 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

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Street, Motherwell ML1 1YE

Office, Unit 2/26 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 2/27 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 2/28 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Unit 2/29 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, Conference Room, Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Office, G16 Dalziel Workspace, Mason Street, Motherwell ML1 1YE

Counsel for the Assessor made a general submission in support of a motion for dismissal of the appeals. The particular ground upon which dismissal was sought was failure to comply with Regulation 10(2)(b). The Committee accordingly required to consider whether there had been a failure on the part of the Appellants to comply with Regulation 10(2)(b).

There were two parts to the Assessor's argument.

He argued firstly that the letter of intent sent by the Appellants on 16<sup>th</sup> November 2011 cross referred to the several letters dated 2<sup>nd</sup> November 2011 sent by the Appellants with their grounds of appeal for various subjects with the result that the Assessor did not know which of the appeals the letter of intent related to.

Secondly, he argued that the e-mail of 23<sup>rd</sup> November 2011, in which the Appellants specifically confirmed their intention to proceed with the appeals for the subjects at Dalziel Workspace, should be disregarded as it had been sent to the wrong e-mail address.

The Committee did not agree that the Appellants had failed to comply with Regulation 10(2)(b).

The Committee acknowledged that the Assessor may have been left in some doubt following receipt of the Appellants' letter of 16<sup>th</sup> November 2011. That doubt would however have been resolved by the e-mail of 23<sup>rd</sup> November 2011, which the Assessor acknowledged he had received. Counsel submitted with reference to the Assessor's letter of 21<sup>st</sup> September 2011 drawing attention to the procedures that his staff would follow in respect of appeals, that the e-mail had not been submitted to the Assessor's dedicated e-mail address, but the Committee noted that whilst an e-mail address had been set up to assist in the effective management of the exchange of grounds and comparisons there was no such

address for notices of intent. What was required under Regulation 10(2)(b) was for an Appellant to provide written confirmation to the Assessor that he intended to proceed with his appeal. The Committee acknowledged that the Appellants had been careless in dealing with the matter but felt they had done what was required to comply and the Assessor had been left in no real doubt concerning the Appellants' intentions.

This meant that the Committee were then able to go on and hear the appeal on its merits

Both parties acknowledged that what was before the Committee was the revaluation appeal lodged by the Appellants.

The appeal subjects comprised 71 offices at Dalziel Workspace, Mason Street, Motherwell. The Appellants were seeking to have all the entries in the Valuation Roll deleted with effect from 1<sup>st</sup> April 2010 and one entry maintained to be described as premises and valued at a net annual value of £1.

In considering its approach to the matter, the Committee had regard particularly to the commentary contained in *Armour on Valuation for Rating* (5<sup>th</sup> Edition) ("Armour"), paragraphs 18-01 to 18-26 inclusive and to the cases and legislation referred to therein.

The Committee carefully considered the evidence and submissions presented by the parties.

As at 1<sup>st</sup> January 2010 the physical circumstances of the appeal subjects were that these were unoccupied and had been subject to vandalism. Whilst externally the damage was relatively superficial and consisted principally of cracked and broken windows, the internal damage was significant comprising damage to fixtures and fittings caused as a result of the removal of electrical cabling, copper pipework and other plumbing apparatus for their scrap value, damage to the central heating boiler by flooding of the basement and to the fire and intruder alarm systems. There had also been a fire in the entrance hall. The cost of the necessary remedial works had been assessed for insurance purposes at £703,920. The eventual settlement was £500,000. Warrants to demolish the building had been obtained on 22<sup>nd</sup> September 2008 and then on 24<sup>th</sup> November 2009. The Appellants had taken the decision to demolish the building on 23<sup>rd</sup> February 2010. On 18<sup>th</sup> January 2011, the Appellants informed the Assessor that demolition was under way and a premises entry was made with effect from that date. The Appellants had not afforded the Assessor an opportunity to visit the appeal subjects at an earlier stage and had not seen fit to make contact with the Assessor until demolition works had begun.

As this was a revaluation appeal, it was for the Assessor to explain his valuation. He had valued the subjects as at the tone date of 1<sup>st</sup> April 2008 in accordance with the physical circumstances as at 1<sup>st</sup> January 2010. The Assessor had valued the offices at £80psm, which was the figure which had been adopted and agreed for the purposes of the 2005 Revaluation. He considered there had been some

evidence of uplift in rentals prevailing for subjects similar in size, character and location to the subjects of appeal but had decided to maintain the existing level of value. The appeal subjects had been occupied as at the tone date for the 2005 Revaluation and the rate fixed then had been based on the available rental evidence.

The Appellants rehearsed the case law referred to in *Armour* which they submitted supported the proposition that where as in the case of the appeal subjects premises were incapable of beneficial occupation, it was erroneous that there should be separate entries; there should be a single premises entry with a value of £1.

The Assessor did not accept that the appeal subjects were incapable of beneficial occupation. They were not necessarily unoccupied. The damage was internal not structural. The subjects could have been repaired before they were demolished. The decision to demolish had been taken for economic reasons rather than of necessity. The Assessor had explained his valuations which should be allowed to stand. The premises entry had been made at the appropriate time, when the demolition works began.

The Committee agreed with the Assessor that the evidence presented did not lead to the conclusion that the appeal subjects were incapable of beneficial ownership as at the relevant date. The building was not the subject of a demolition order. The demolition warrant obtained on 24<sup>th</sup> November 2009 was of no particular significance, though it ought perhaps to have served to draw the Assessor's attention to the appeal subjects. The structure of the building was still intact and the necessary repairs could have been carried out and the building brought back into use at any time before it was demolished. The Appellants decided not to do so for reasons of expediency. The building was surplus to the Appellants' requirements. They wished to mitigate the ongoing revenue expenditure. They did not wish to fund the balance of the repair costs.

The Appellants did not seek to argue before the Committee that if the subjects were still capable of beneficial occupation then the rental values had been reduced as a result of the repairs which were necessary nor did they lead evidence to support any alternative valuation.

The Committee concluded that the appeal subjects were capable of beneficial occupation as at the relevant date namely 1<sup>st</sup> January 2010, and that the Assessor had adequately explained his approach to the valuations which should be allowed to stand. They accordingly refused the appeals.

13 December 2011