

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

THYSSENKRUPP ELEVATOR UK LIMITED

relative to

OFFICE, GROUND FLOOR RIGHT, 7
BUCHANAN GATE, STEPPS, GLASGOW

By letter dated 17 January 2012 the Appellants had, through their agents, Rapleys, submitted an application for continuation of the hearing of the appeal by the Valuation Appeal Committee from 1 February 2012 until after the Lands Valuation Appeal Court gives its decision in the Overgate case, failing which for referral of the appeal to the Lands Tribunal for Scotland for determination in terms of Regulation 4 of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995 (“the Regulations”). The Assessor by his letter of 25 January 2012 opposed both the proposed continuation and proposed referral to the Lands Tribunal. The request for a continuation was subsequently withdrawn.

The application for referral of the appeal to the Lands Tribunal had been made solely on the basis that the appeal fell within category (c) of Regulation 5(1) namely that the law applicable to the case is uncertain or difficult to apply. The Appellants did not suggest that the appeal fell within category (d) namely that the case raised a fundamental or general issue likely to be used as a precedent in other cases. The Appellants listed the specific legislation which they considered was uncertain or difficult to apply. They made no detailed submission as to the reasons for this. The Assessor had addressed the ground put forward in his letter of 25 January 2012 and the Committee after consideration accepted the Assessor’s arguments. This was a revaluation appeal, not a material change of circumstances appeal. In the Overgate case, the Tayside Committee had reached its decision in circumstances where a material change of circumstances appeal had been lodged under section 2(1)(d) of the Local Government (Scotland) Act 1975 in relation to the level of values used to create the valuation roll for the 2005 Revaluation, the Assessor had acknowledged that a material change of circumstances had occurred which affected values and had accordingly reduced the valuations of the appealed units to reflect these changed circumstances. There had been no such prior appeal nor any such acknowledgement in relation to the appeal subjects in the present case. The Committee were not bound by a decision of the Dundee Valuation Appeal Committee and there were significant differences between the present appeal and the Overgate appeal. The issue in the Overgate appeal concerned the relevance of an acknowledged post tone date fall in rental value as a 2010 Revaluation issue. For this reason it did not follow that the law was uncertain or difficult to

apply in the present case as a result of the decision in the Overgate appeal. In so far as what the Appellants wished for was a change in the law, as the Assessor had submitted a wish for reconsideration of the law was not the same as uncertainty or difficulty applying it (*Edinburgh International Conference Centre v Assessor for Lothian Valuation Joint Board*, Lands Tribunal for Scotland, September 19, 2008).

The Committee accordingly refused the application for referral to the Lands Tribunal.

6 February 2012