

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

by

Leo McGunnigal

relative to

Public House, Swan Inn, Main Street, Chapelhall,
Airdrie

This appeal which was in respect of the 2010 Revaluation was cited for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 13 June 2012. Mr Leo McGunnigal attended in person. Mr Steven L Stuart QC 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 Appellants had not complied with the terms of Regulation 10(1) (a) and (b) of the said Regulations.

Regulation 10(1) (a) and (b) provides 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 – (a) the grounds of his appeal; and (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.

Regulation 10(3) provides that:-

- (3) If an appellant fails timeously to-(a) furnish the statement required in paragraph (1); or (b)...the assessor may apply to the Committee to have the appeal dismissed and the Committee may grant that application if it thinks fit.

Mr Stuart informed the Committee that no grounds or alternative valuation had been lodged and the accounts for the relevant year had not been provided. He had already referred the Committee to the postscript to the opinion of the Lord Justice Clerk in the recent decision of the Lands Valuation Appeal Court in the Centre West appeal (The Assessor for Lanarkshire Valuation Joint Board v Jane Norman Limited and others [2012] CSIH 50). He submitted that committees had been directed that they must deal rigorously with cases of non-compliance. A failure to comply

with the Regulations should not readily be excused. The present case concerned a party litigant, but any adjournment would cause substantial prejudice to the Assessor and to other parties whose cases were yet to be heard.

Mr McGunnigal wanted to know why this had only been raised with him in a phone call 10 days ago when he had been asked to produce accounts for the year 2007/08. This had been the day before the Jubilee celebrations. He had phoned the assessor yesterday and his call had been returned at 5pm. He had been told to phone the Secretary to the Panel which he had done this morning. The suggestion had been that the Secretary could grant an extension. Things had not been explained very well and he realised now that he should have seen a lawyer.

The Committee asked when the Assessor would normally expect to receive accounts and were informed that questionnaires were issued every year. In response to the questionnaire issued in March 2011, accounts for the year to 2010 had been provided. Mr McGunnigal explained that previous requests had been going to the owner of the building, whose wife had been the licence holder. When he realized this, he went to the accountant who had provided the accounts. When asked, he informed the Committee that he had taken over the business 5 years ago.

The Committee carefully considered the submissions made to it. It also took into consideration the statement by the Lord Justice Clerk in the postscript to Centre West decision that a Committee might justifiably show indulgence to a party litigant who had an imperfect understanding of the Regulations. A citation had been issued 84 days prior to the hearing. The citation made reference to the Regulations. The appellant had taken no action on receiving this. There appeared to be no reasonable excuse for the failure to comply. The Committee took the view that it was bound in the light of the recent decision referred to and the postscript to this to accede to the Assessor's motion to dismiss the appeal on grounds of non-compliance.

14 June 2012