

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

By

D T SHANKS SOILS

relative to

OFFICE, BRACKENHIRST FARM, GLENMAVIS,  
AIRDRIE ML6 0PP

This appeal was called for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 4 April 2013. Mr David Shanks and Mr Jamie Shanks appeared for the Appellants. Mr Iain Newton presented the case for the Assessor.

Mr Newton 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) of the said Regulations. He made a very full legal submission in support of his motion. He also referred to the decision of a committee of this Panel in the case KMS-Kiosk Ltd where an appeal had recently been dismissed on the same grounds.

He stated that a citation had been issued in the present appeal on 9 January 2013. This provided guidance at paragraph 4 which directs appellants to the Scottish Government's website which provides information on the correspondence to be exchanged. On 16 January 2013, the Assessor had issued his curtailment letter. The Appellants had however failed to provide grounds of appeal, an alternative valuation and the grounds on which this had been arrived at. The Assessor thus had no fair notice of the Appellants' case.

The Appellants had appealed against the valuation notice by letters dated 19 July 2012 and 30 August 2012, which they produced. Mr Newton very fairly acknowledged that those letters if they had been lodged during the appeal process would have been treated as grounds of appeal. He contended however that it was clear from the Regulations that an Appellant must lodge his grounds during the course of the appeal process, and that in any event the Appellants had not provided an alternative valuation nor an explanation of how this had been arrived at. The Appellants' contention was that the subjects were used for the purposes of agriculture and that no valuation was appropriate. The Committee acknowledged that this contention was apparent from the letter of 19 July 2012.

The Committee having adjourned to consider the submissions made, took the view that the Appellants were bound to comply with the terms of Regulation 10(1) by providing a statement of grounds for the appeal, and that this ought to have been provided during the course of the appeal process within the timescale laid down in the Regulations. Having said that, this case was quite different from the KMS-Kiosk appeal where there had been a complete failure to engage. The Appellants had lodged a reasoned appeal in which they had contended the subjects should not be rated, and had met with the Assessor at an early stage to discuss this. However as party litigants they had not realised that the grounds they had lodged required to be lodged again during the course of the appeal process within the timescale laid down within the Regulations. In the circumstances, the Committee considered it was reasonable to show indulgence for the failure on the part of the Appellants to lodge their grounds during the course of process and rather than dismiss the appeal they decided in the exercise of their discretion that the appeal should instead be recited for hearing at a later date. It would be in the interests of the Appellants to take such steps as they considered necessary to ensure they were then in a position to comply fully with the procedural requirements laid down in the Regulations.

8 April 2013