

Statement of Reasons

Relative to appeal

By

P & R Howard (Music) Ltd

In respect of

Warehouse, 1B Young Place, East Kilbride, G75 0TD

At a meeting of a committee of the Lanarkshire Valuation Appeal Panel on 15<sup>th</sup> May, 2013, consideration was given to an application for re-instatement of the above appeal which had first called for hearing at a meeting of a committee of the Lanarkshire Valuation Appeal Panel on 6<sup>th</sup> March, 2013 and which, on the motion of the assessor, had been dismissed in terms of Regulation 10 (3) of the Valuation Appeal Committee, etc. (Scotland) Regulations 1995 on the basis that the appellants had failed to comply with the terms of Regulation 10 (1) of said Regulations and also in terms of Regulation 15 on the basis that the appellants had failed to attend at the appeal hearing.

On 7<sup>th</sup> March, 2013, a notice was issued to the appellants advising that the appeal had been dismissed on the above basis.

On 14<sup>th</sup> March 2013 an application for re-instatement of the appeal was received from professional agents, DTZ. Until this point, the appellants had dealt with the appeal themselves.

The basis of the application for re-instatement was that the appeal had suffered a number of complications throughout the appeal process in that the appellants, not being professional practitioners, did not have an understanding of what would amount to adequate grounds of appeal in terms of Regulation 10(1) of the above Regulations. The assessor had queried the grounds but their letter of 3<sup>rd</sup> January 2013 in this regard was never received by the appellants and request for a copy thereof had proved unsuccessful. In addition, it was stated on behalf of the appellants that their Mr Howard had had a number of conversations with the secretary to the Panel and that he had become confused with regard to the indication of an extension of the time for lodging grounds and a postponement of the appeal to a later date. The application

stated that the appellants had written to the Secretary by letter dated 28<sup>th</sup> February 2013 requesting a postponement of the appeal to a later date.

A copy of the appellants' application for re-instatement was intimated to the assessor. By letter dated 25<sup>th</sup> March 2013, the assessor intimated his opposition to the application. The basis of the opposition was that there had in fact been two appeals cited in respect of the subjects for hearing on 6<sup>th</sup> March, 2013. The present appeal was one in which the appellants represented themselves; in relation to the other professional advisers, Crawford Associates, had been instructed. However, on 21<sup>st</sup> December, 2012, Mr Howard intimated that the professional advisers were no longer instructed and that he intended to deal with the appeals for the appellants. On 6<sup>th</sup> February, 2013, Mr Howard then intimated that Crawford Associates had been re-instructed in connection with the appeals although they subsequently refused to accept the instruction. There had been several emails and telephone calls between Mr Howard and the Secretary to the Panel. It appeared that Mr Howard had been on holiday at the date when grounds of appeal required to be lodged and consequently this had not been done. Mr Howard's enquiry at that time related to a request for an extension of the time for the lodging of the grounds of appeal. On 31<sup>st</sup> January, 2013 the assessor intimated that in the event that Mr Howard requested an extension of time for lodging grounds of appeal, the assessor would not object to this request. The assessor understood that the Secretary had informed Mr Howard of his position should he make the request for an extension and asked Mr Howard to provide formal confirmation of this request. This was never received. The assessor was not aware of any further correspondence being received from Mr Howard. The assessor understood that the Secretary had sent an email to Mr Howard on 26<sup>th</sup> February 2013 asking him to confirm if he intended to make a motion to the committee and if so, the nature of the motion. The assessor was not aware of any response being received to that email. Approximately one week before the hearing, a member of the assessor's staff spoke to Mr Howard and provided him contact details for the Secretary. The impression gleaned by the assessor from that conversation was that Mr Howard intended to request a postponement of the appeal. The assessor understood that no such request was ever received by the Secretary. In light of the foregoing circumstances, the Assessor was of the view that the appellants had had sufficient opportunity to appear at the hearing and request either an extension of the time for lodging grounds of appeal or a postponement. The assessor had, at the time of his letter of objection, over 6,000 appeals to be disposed of within the statutory timetable of 31<sup>st</sup> December, 2013. There are around 700 appeals being cited for each appeal hearing. The assessor stated that the unnecessary re-instatement of appeal such as the present one impact adversely on the efficient administration of the appeal timetable.

The Committee gave careful consideration to the terms of the appellants' application and the assessor's letter of objection thereto. It was noted by the Committee that the Secretary had not

received Mr Howard's letter of 28<sup>th</sup> February 2013 requesting a postponement of the appeal hearing. A copy of this had been obtained from his agents, DTZ, by the assistant secretary who was involved in the administration of the present application for re-instatement. Mr Howard's letter of 28<sup>th</sup> February 2013 stated;

"After long consideration and advice I have decided to ask you for a postponement on the hearing. I am led to believe that the Assessor's office would have no objection to this as I have just spoken to them on the telephone."

The Committee were of the view that having regard to the foregoing facts as a whole, they were satisfied that the appellants had a reasonable excuse for their non attendance at the appeal hearing. Mr Howard was not a professional practitioner and accordingly the Committee felt able to afford him some latitude with regard to his failure to comply with both Regulation 10 and 15 of the said Regulations. Mr Howard had requested a postponement and it appeared from the terms of his letter that he understood that the assessor had no objection to this request. Unfortunately, this letter was never received by the Secretary and not therefore brought to the attention of the assessor or the Committee at the appeal hearing on 6<sup>th</sup> March, 2013. It is perhaps unfortunate that Mr Howard, having had email correspondence with the Secretary prior to 28<sup>th</sup> February, chose not to send his letter of 28<sup>th</sup> February 2013 by this method. However, having sent the letter, being under the impression that there was no objection to a postponement and not having heard anything to the contrary, it was reasonable for him as a party litigant to assume that there was no requirement for his attendance at the appeal hearing. With regard to the appellants' failure to comply with Regulation 10, again it was noted that at the point at which grounds of appeal ought to have been lodged, the appellants did not have professional advisers in relation to this appeal and Mr Howard who was dealing with it was on holiday. It was also noted that the assessor, during the period leading up to the appeal hearing, had indicated that he had no objection to an extension of the time for lodging grounds of appeal. The appellants have now engaged professional advisers and the appeal if re-instated would be cited for hearing at a later date and there would be a further opportunity for compliance with the requirements of Regulation 10.

The committee have accordingly granted the application for re-instatement of the appeal.