

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

by

Frank Watters

In connection with

Public house, 134 Main Street, Salsburgh, Shotts
ML7 4LR

This appeal was called for hearing at a meeting of a Committee of the Lanarkshire Valuation Appeal Panel on 26 June 2013. Frank Watters, the Appellant, attended the hearing. Mr Iain Newton presented the case for the Assessor.

This was an appeal lodged on 8th October 2012 on the grounds that there had been a material change of circumstances affecting the value of the property. At the 2010 Revaluation, the appeal subjects had been valued at a NAV/RV of £12,000. The Assessor agreed that a nominal value of NAV/RV £100 was now appropriate, with a description change to "Premises". The dispute related to the effective date of change. The Assessor argued that the effective date should be 1 April 2011, whereas the Appellant argued for an earlier date, the subjects having been empty since 3 September 2006.

There was no material dispute over the salient facts. The subjects were a former public house which had been unoccupied since the tenant had moved out on 3 September 2006. The Appellant had provided North Lanarkshire Council with letters to this effect dated 8 March 2008 for the purpose of claiming empty property relief. The power and water had been cut off on 16 May 2008. The licence had expired in September 2009. The condition of the property had gradually deteriorated over time, mostly due to vandalism. As a result of complaints concerning anti-social behaviour, the outbuildings were demolished and the site fenced off. Mr Watters suggested this had taken place in 2009, but the Assessor's information was that this had taken place after November 2010. Mr Watters had applied for a warrant to demolish on 27 May 2010, but this had not been granted until 2013. In line with normal practice, the Assessor was not informed of the warrant until it was granted. When the Assessor visited the subjects on 15 May 2013, they were nearly fully demolished and by June 2013 they were completely demolished.

No appeals were lodged for the subjects at the 2005 Revaluation, 2005 Running Roll or the 2010 Revaluation. The Appellant was issued with Licensed Property Questionnaires on 5 November 2008, 7 February 2011 and 23 March 2012. No returns were made by the Appellant. At the 2010 Revaluation the subjects were valued using the SAA Commercial Properties Committee Practice Note 17 – Valuation of Licensed Premises at a NAV/RV of £12,000. On 14 October 2011, the Assessor received from North Lanarkshire Council a copy of an undated letter from the

Appellant in which he stated that he was asked by Strathclyde Police to demolish part of the property and asked that the property be reassessed. According to the Appellant he had received a telephone call from the Assessor in November 2009 saying that he had passed by the property and could see no change of circumstances. The Assessor maintained that call had been made in January 2012 following upon the letter received on 14 October 2011. No change was made to the Valuation Roll at that time and the Appellant then lodged the present appeal on 8 October 2012.

Mr Newton referred the Committee to S3(4) of the Local Government (Scotland) Act 1975 which stated that an appeal on grounds of a material change of circumstances could only be made on the basis that there had been a material change of circumstances "since the entry was made". He submitted that there had to be a specific event or occurrence since the making of the valuation roll which has affected value, and consequently that any events occurring before 15th March 2010, when the Assessor requires to deliver copies of the new roll to the rating authority and the entry is assumed to be made, cannot be considered in this appeal.

He also referred the Committee to various other provisions set out in the 1975 Act as follows:-

S2(1) Subject to subsection (2) below, the assessor for any valuation area shall, as respects that area, at any time while the valuation roll is in force, alter the roll –

(d) to give effect to any alteration in value of any lands and heritages which is due to a material change of circumstances;

S(2) Any alteration to the roll –

(c) made under subsection (1)(d) above, shall have effect only as from the date of the event by reason of which a reduction in the value of the lands and heritages is made or as from the beginning of the year in which the alteration is made, whichever is the later:

Provided that if the proprietor, tenant or occupier of the lands and heritages has intimated in writing to the assessor the event by reason of which a reduction in value of the lands and heritages is made, the alteration in the roll shall have effect as from the date of the event or as from the beginning of the year in which intimation of the event is made, whichever is the later;

S37(1): "year" means the financial year of a local authority.

The Committee agreed that the Assessor was correct in his analysis of the law. The material change appeal was not lodged until 8 October 2012, however the letter from the Appellant informing the Assessor of the partial demolition was received by the Assessor on 14 October 2011. Although the appeal was received in the year beginning 1 April 2012, the letter from the Appellant was received in the year beginning 1 April 2011. As such, the effective date of the change in terms of the legislation is the earlier of the dates, 1 April 2011. There is however no provision in the legislation for the effective date to be earlier than this in circumstances where the letter received by the Assessor was

the first written intimation which the Assessor had of the change. It was for an appellant to bring the event on which he was seeking to found to the attention of the Assessor as soon as possible.

The Committee also considered the terms of the 1975 Act S2(1A) which provides that the Assessor shall alter the Roll to give effect to any decision following an appeal to a valuation appeal committee and such alteration shall have effect from such date as shall be determined by the committee. It took the view however that this did not mean the Committee could select any date which it considered to be suitable. S2(2)(c) was clear in its terms. The earliest you could go back was the beginning of the rating year in which the Appellant had given written intimation of the event to the Assessor. The Act made similar provision where the ground of appeal was error rather than material change of circumstances.

The Committee therefore upheld the position taken by the Assessor, namely that the description be amended to Premises and the value to NAV/RV £100 with effect from 1 April 2011 and dismissed the appeal.

1 July 2013