

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

CNC INVESTMENTS LIMITED

in respect of

OFFICES Numbers 1, 3, 11, 13, 15, 17, 19, 21, 23,
25, 27, 29, 31, 33, 35, 34, 32, 30, 28, 26, 24, 22, 20,
18, 16, 14, 12, 10, 8, 6 and 4 Avon House, Avon
Walk, Cumbernauld

The 31 appeals in respect of the above subjects were heard together.

All the appeals proceeded on the basis of an alleged material change of circumstances, being the evaporation of hope value based on the assumption that if rents of a more commercial nature were offered for the offices this would attract tenants. For this reason, the decision was taken in August 2007 to vacate the offices and redevelop these for residential use. There was no physical alteration to the subjects, the alteration was to market conditions. The date of the alleged change was August 2007, but the effective date was 1st April 2008.

In considering its approach to the matter the Committee had regard particularly to the commentary contained in *Armour on Valuation for Rating* (5th Edition), paragraphs 3-12 to 3-31 inclusive and to the cases and legislation referred to therein including the definition of material change of circumstances contained in Section 20 of the *Rating and Valuation (Amendment) (Scotland) Act 1984* (para 3-27) and the provisions of Section 3(4) of the *Local Government (Scotland) Act 1975*. To be a material change of circumstances the change must be one which affects the value of the appeal subjects.

The burden of proof was on the Appellants to satisfy the Committee that a material change of circumstances had occurred (*Armour*, paragraph 3-19). Having given careful consideration to all of the evidence and submissions, the Committee concluded that no material change of circumstances in terms of the legislation had taken place and the Committee refused the appeals.

Various annual values were entered in the Roll at the year 2005 revaluation for the appeal subjects after resolution of appeals. The values sought by the Appellants were either a collective entry as premises under reconstruction with a rateable value of £100 or individual entries for each as premises under reconstruction of nil.

The Committee took the view that the initial questions to be determined were whether there had been a change of circumstances and, if so, whether the change had been material in the sense of affecting the value of the subjects. The onus was on the Appellants to identify the change of circumstances and the date when this was alleged to have taken place. The Appellants argued that there had been a gradual change of circumstances which had been established as at August 2007. In April 2003, the subjects had hope value based on the assumption that if rents of a more commercial nature were offered for the offices this would attract tenants. This had been lost by August 2007 with the realization that the subjects were obsolete for their current use as offices and when the decision was taken to recover vacant possession and redevelop these for residential use. The Appellants conceded however that the effective date of the change would have been 1 April 2008 being the beginning of the rating year in which the appeal was lodged. The Committee took the view however that the loss of hope value in the minds of the Appellants did not amount to a change of circumstances. There was no evidence of a drop in rental values for those offices which were let.

The Committee agreed with the Assessor that on the basis of the Appellants' own evidence the offices had always been difficult to let. The general intention to redevelop was not novel. The Appellants had withdrawn in October 2007 their appeal against the 2005 revaluation and the figures agreed then were those which were the subjects of the present appeal. Those figures had been agreed in the knowledge that the offices were difficult to let, and there was no evidence that the offices had become any more difficult to let in the period from 1st April 2003 to August 2007. The Appellants had simply taken a management decision in their own interest to recover vacant possession, which they secured by June 2008, and to commit to redevelopment of the subjects for residential use, though as yet no works had taken place beyond intrusive investigation works in 3 flats.

The Committee accordingly concluded that there had been no change of circumstances and therefore the question of whether there had been a change affecting value did not arise.