

**LANARKSHIRE
APPEAL PANEL**

VALUATION

**STATEMENT OF REASONS RELATIVE
TO APPEAL**

by

**BELHAVEN BREWERY COMPANY
LIMITED**

and

MARY HUTCHISON

in respect of

**PUBLIC HOUSE, MACILAN VAULTS,
8 MUIR STREET, LARKHALL**

This is an appeal arising out of the year 2005 Revaluation. The first appellants were the proprietors and the second appellant the tenant of the appeal subjects.

There was agreement that the preferred method of valuing these subjects, had the requisite evidence been available, would have been a valuation by the application of percentages of properly evidenced turnover of the appeal subjects as at the tone date of 1st April 2003. The Committee appreciated that both the Assessor and the agent for the Appellants had been faced with difficulties in carrying out a valuation of the appeal subjects given the absence of properly certificated turnover figures as at that date. It was a source of frustration to the Committee that the second appellant was the person responsible for this absence.

The agent for the appellants initially contended for a net annual value of £15,300, although at the end of the hearing, £14,700. The Assessor had valued the subjects on the comparative method and was defending a figure of net annual value of £18,200.

The Committee considered the passage from the judgement of Lord Salvesen in the case of Haggart -v- Assessor for Leith - 1912 S.C.784 at 787. This is the passage reproduced in Armour on Valuation for Rating, Fifth Edition, at para 20-28. The Committee took note of the passage in its entirety but particularly noted the last sentence:- "The Assessor here was of opinion, and the Valuation Committee have agreed with

him, that when he has reliable information as to the drawings of a particular shop, those drawings afford the very best basis upon which to estimate the rental which one year with another a tenant would pay for the premises." There was here no reliable information as to drawings of the appeal subjects at the tone date.

The turnover information available was to be found in the profit and loss account for the appeal subjects for the period 11 July 2003 to 31 March 2004. These accounts were for a part year after the tone date. They were not relevant and in any event were not remotely adequate to be used for assessment of turnover as at the tone date. The agent for the appellants also had regard to the rent passing at the tone date, of £14500. His figure of £15300 was loosely based on consideration of the turnover shown in the accounts and the rent.

The Committee bore in mind that the passing rent for a subject is only one factor to be taken into account and is not determinative of value.

The Committee agreed with the Assessor that the appellants' approach was unsatisfactory.

The Assessor was correct in these circumstances to seek to value the subjects using the comparative method considering the values of suitable comparison subjects. However, the Committee was not satisfied that the Assessor's valuer had carried out the comparative exercise adequately or explained his reason adequately to the Committee. He had concentrated on two comparisons, the Music Room at 3 Church Street and Allan's, at 12 McNeil Street, both Larkhall. He had selected a final value rate of £2,050 per square metre for the appeal subjects. The reduced area of the appeal subjects is 101.89 square metres. The Music Room with a reduced area of 86.83 square metres had a value of £2,120 per square metre and Allan's, with a reduced area of 92.82 square metres had a value rate of £1,985. The members of the Committee had heard evidence from the Assessor both in this case and in several others that there was generally a clear relationship between the area of a public house and the rate per square metre. The rate per square metre increased as the area of the public house decreased. The Committee regarded this relationship as being one which would apply in every case unless there was clear evidence justifying a conclusion to the contrary. Here the Assessor had chosen for the appeal subjects a rate which was slightly lower than that of the slightly smaller subject, the Music Room, but higher than that for Allen's, a subject also smaller than the appeal subjects. The Committee could see no reason why the value per square metre of the appeal subject should be higher than that of Allan's. Learned counsel for the Assessor sought in re-examination to find some support for this in the fact that the appeal subjects had some parking available to it, while the comparison subjects did not, but the Committee did not find in this any substantial support for the Assessor's position.

The Committee gave careful consideration to the correct approach to take in these circumstances. The Committee would have preferred to support in full either the value contended for by the Assessor or the value contended for by the Appellants rather than substitute a value of its own. However, the Committee, for the reasons stated, considered the Appellants' method of valuation to be unreliable. It considered the Assessor's method to be the correct one although flawed in its actual application. The Committee felt that it had adequate evidence available to it to select an appropriate value rate per square metre for the appeal subjects in substitution of that used by the Assessor. The Committee felt it preferable to do this rather than to adopt the Appellants' figure which in the view of the Committee had not been demonstrated to be soundly based.

In the circumstances, the Committee adopted a rate of £1,800 per square metre. In the view of the Committee this fitted well with all the comparison evidence it had available to it and reflected the differential it would have expected to find from its experience and local knowledge in relation to the appeal subjects and the comparison subjects, particularly having regard to the differential in rates applying between the two comparisons. Applying this to the appeal subjects produced an adjusted estimated turnover of £183,400. The appropriate percentage to apply in terms of the Scottish Assessors' Association Practice Note on valuation of licensed premises, public houses and licensed restaurants for the 2005 revaluation was 8.50% producing a figure of £15,589 rounded down to a net annual value of £15,500. The Committee fixed this as the net annual value of the appeal subjects.