

**LANARKSHIRE
APPEAL PANEL**

VALUATION

**STATEMENT OF REASONS RELATIVE
TO APPEAL**

by

**BELHAVEN BREWERY COMPANY
LIMITED**

in respect of

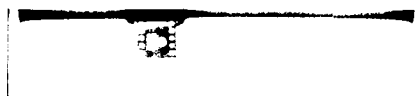
**PUBLIC HOUSE, THE TOWN
TAVERN, 47 GLASGOW ROAD,
RUTHERGLEN**

This is an appeal arising out of the year 2005 Revaluation.

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.

The agent for the Appellant had valued the subjects on a turnover basis estimating the turnover as at 1st April, 2003 by projecting the turnover figures contained in the draft accounts to 31st May, 2002. This produced a proposed value of £5,800. For the reasons set out below, he contended for a net annual value of £10,000. The Assessor had valued the subjects on the comparative method and was defending a figure of net annual value £17,800.

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.”. The difficulty here was the assurance of reliable information as to drawings of the appeal subjects at the time date.

The only evidence of turnover available was contained within a draft uncertified profit and loss account for the year ended 31st May 2002. These were supported by a letter from the firm of chartered accountants who had acted for the then tenant of the appeal subjects confirming the turnover of the appeal subjects to be £81,112 net of VAT for the same year. This did not entirely coincide with the figure for sales contained within the draft accounts and there was no explanation for the discrepancy although it was likely that some of the discrepancy was explained by entertainment costs. The agent for the Appellants had carried out valuation based on these turnover figures projected to 31st March, 2003 using the retail prices index. This produced a figure of £5,800. The agent for the Appellants however did not contend for this, acknowledging that it was too low and suggesting a figure of £10,000 which was the figure agreed, after negotiation, at the year 2000 revaluation.

The Committee rejected completely any suggestion that the figure agreed at the year 2000 revaluation was relevant to the valuation of the appeal subjects in the year 2005 revaluation. The Committee referred to Armour on Valuation for Rating (Fifth Edition) at para 2-06:- “The process of revaluation involves a completely fresh start, ideally a completely fresh survey of all the lands and heritages in the area and a new assessment of valuation. A complete re-survey is not practicable or necessary, since most of the critical information on size and character of the various subjects will remain unchanged and the Assessor will probably have been able to discover from returns by the ratepayers or grants of building warrant what changes in properties have been made. So far as is practicable, however, he will visually survey all subjects and will measure anything of which he has no sufficient record. In the preparation of his valuation he is in no way bound or fettered by the levels, methods or schemes of valuation which he used for the previous roll. He may follow similar systems of classification or he may introduce entirely new ones. Thus comparison with what has gone before is not a relevant ground of appeal nor is the complaint, so often heard from ratepayers, which is levelled at the extent to which a valuation has “increased.”

There was no dispute between the parties that the appeal subjects fell to be valued in terms of the Scottish Assessors’ Association Practice Note for valuation of licensed premises, public houses and licensed restaurants for the 2005 Revaluation. This required the assessment of a hypothetical achievable turnover. This is defined in the practice note as being subject to the assumption that the premises will be operated by a competent publican seeking to maximise profits by responding to normal trading practices and the effects of local competition. In this case the takings of the appeal subjects were not reflective of hypothetical



achievable turnover. They were reflective of the inappropriate way in which the business of the appeal subjects had previously been operated. The better way of approaching the valuation, in the difficult circumstances here, was the comparative method used by the Assessor. The Assessor had available to him several very satisfactory comparisons particularly in relation both to size and location. The Assessor has explained satisfactorily how he had arrived at his proposed value rate per square metre of £1,600 and demonstrated that he had carried out the valuation in accordance with the scheme of valuation. The Committee preferred his approach to that of the Appellants and accordingly approved the Assessor's figure of £17,800 and dismissed the appeal.

The Committee did have regard to the rent passing for the appeal subjects as referred to by the appellants' agent. However, the passing rent is only one factor to be taken into account and is not determinative of value. The fact that the rents were lower than anticipated was indicative to the Committee of the fact that the turnover was not the hypothetical achievable turnover. In addition, the exact rental figures were not known in respect of two of the rents as the rent passing included a percentage of machine income.

