

LANARKSHIRE VALUATION
APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO REQUEST

by

Mr C Adams

for

APPEAL CITATION IN RESPECT
OF

Hardies Bar, 25 Chapel Street
Hamilton

This was a request under Regulation 8(7) of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) Regulations 1995 for an appeal to be heard.

The terms of Regulation 8(7) are:-

“If an appellant considers that his appeal has not been or is not to be heard within a reasonable period of lodging it, he may request the Committee to hear the appeal within such period as he may specify, being a period not less than 70 days from the date of his request and if the Committee declines to hear the appeal within such a period –

- (a) it shall state its reasons for so declining; and
- (b) the Secretary shall notify both parties accordingly.”

The request was made by letter dated 17th October 2011 which along with a previous letter dated 19th September 2011 were placed before the Committee on 26th October 2011. Mr Adams was represented by Mrs Lynn Adams who dealt with the administration of her husband's business. Mr Jim Neason appeared for the Assessor.

Mrs Adams explained that she had been in detailed discussions with a member of the Assessor's staff, had produced up to date turnover figures and had formed the view that they were close to settlement. She had then received a letter from the Assessor advising that he was giving priority to disposing of revaluation appeals prior to dealing with running roll appeals. She could not understand where the

breakdown had come from. She accepted that hardship was not a ground for an appeal and that it was not normal practice for appeals to be settled outwith the revaluation but there was a precedent for this in that they also operated the George public house and agreement had already been reached for this. She wanted to know why the matter was now to be put on the back burner possibly until 31 December 2013.

Mr Neason explained that the Appellant had become a tenant on 12th June 2010 and had lodged an appeal as a new occupier on 8th December 2010. In terms of the Valuation Timetable (Scotland) Order 1995 the last date for dealing with revaluation appeals was 31st December 2013. As at 31st September 2010, 7506 revaluation appeals had been lodged. By the end of August 2011 some 2500 appeals had been dealt with, leaving 4973 outstanding.

The issue here was what was reasonable. The timetable set by the Scottish Parliament for disposal of revaluation appeals by 31st December 2013 had to be accepted as reasonable. In addition to this, there were now 5736 running roll appeals. The Assessor planned to deal with 4000 appeals each year.

It was the Assessor's practice to group appeals with common features together for hearing. All revaluation appeals for public houses in Hamilton town centre would be cited together. This was considered good practice and allowed ratepayers to pool information and resources. The tone rate would be set in this way and running roll appeals would then be dealt with. It was not possible to settle individual appeals in isolation.

It was not uncommon for there to be instances of hardship but there was a statutory mechanism for this under Section 25A of the Local Government (Scotland) Act 1966.

The Assessor was bound to give consideration to the volume of appeals and the number of appeals which had been lodged before this appeal. To deal with this appeal first would be to the prejudice of other appeals lodged before this and would be against the statutory timetable. It was reasonable for this appeal to be dealt with in the manner proposed by the Assessor.

The purpose of Regulation 8(7) was to deal with exceptional circumstances such as where an assessor through oversight had omitted to cite a particular appeal, or had failed to cite without good reason for doing so, for example because of the revaluation workload. This was not the case here. The system adopted by the Assessor for citation of appeals was measured and reasonable and the timetable set down for this was a matter for the legislature.

The entry for the other public house referred to had been altered by the Assessor under his statutory powers of redress and this had not set a precedent.

As regards the negotiations referred to, he explained that if a member of staff had time, he would look into an appeal. However the Assessor had an issue over the valuation in this case and the gap could not be bridged. Mr Neason apologised for any confusion caused by the actions of the member of staff involved.

Mr Neason also referred to the recent decisions of the Committee in relation to requests under Regulation 8 (7) by Monarch Retail Ltd t/a Textile World and Kidstore Childcare Ltd on similar grounds which had been refused.

The Committee after careful consideration of the request decided that this should be refused. They could understand the reason why the request had been made: the Appellant's hopes had been raised but the appeal had not been settled. The Appellant naturally wished to obtain a decision on his appeal. The purpose of Regulation 8(7) was however to deal with exceptional circumstances such as where there had been an omission to cite or a failure to cite without good reason. The Assessor had explained that he intended to deal firstly with revaluation appeals then running roll appeals such as this. There were a large number of appeals and the Assessor had to have an effective system for dealing with these. The Assessor's practice was to group together appeals with common features. Public houses would be dealt with as a group. The committee agreed that this was a proper and reasonable approach for the Assessor to take. The revaluation appeals required to be dealt with first in order to set the tone. The period within which appeals had to be dealt with had been laid down in the Valuation Timetable (Scotland) Order 1995. The last date for dealing with revaluation appeals was 31st December 2013. The present appeal also required to be dealt with within the same timescale. The issue was that the appeal should be heard within a reasonable time of it being lodged. These timescales had been set by the legislature. The Assessor had explained the method he proposed to follow to work within these timescales. The present appeal was to be dealt with in accordance with that method. The Committee accepted that for the reasons explained by the Assessor the present appeal could not be dealt with in isolation. For the reasons given the Committee declined to grant the Appellant's request that the appeal should be cited for hearing at the present time.