

Statement of Reasons

relative to appeal by

Iconic Gents Hair

in respect of

Shop, 8 Elizabeth Court, 4 Stuart Street, East Kilbride, G74 4NG

This appeal, which was in respect of the 2010 Re-valuation, called for hearing at a meeting of a committee of the Lanarkshire Valuation Appeal Panel on 16th November, 2011.

Mrs Janice Rodgers appeared on behalf of the Appellants and Mr Clelland, advocate on behalf of the Assessor.

Mr Clelland moved that the appeal be dismissed in terms of Regulation 10 (3) of the Valuation Appeal Committee, etc. (Scotland) Regulations 1995 on the basis that the appellants had failed to comply with the terms of Regulation 10 (1) of said Regulations.

Regulation 10 (1) provides that;

- (1) An appellant shall, not later than 35 days before the date set for the hearing, furnish to the assessor a written statement specifying -
 - (a) The grounds for his appeal; and
 - (b) if the appeal relates to the valuation entered in the valuation roll, the valuation which the appellant considers should be entered in the roll and the grounds on which that valuation is arrived at.

He submitted that the appellants' letter of appeal dated 1st April, 2010 although it challenged the valuation of the appeal subjects stating that it was too high having regard to the rates applied to other subjects in the same location, it did not state an alternative valuation.

On 29th September, 2011 Mrs Rodgers had attended at a meeting with a member of the assessor's staff, Mrs Cummings in order to discuss her appeal. Mr Clelland submitted that whilst the basis of the appeal was discussed, Mrs Rodgers had failed to state an alternative valuation stating only that she considered that the net annual value of the appeal subjects should be less

than £10,000. She did not state the basis for this and it was Mrs Cummings who calculated that this would mean a zone A rate of £300.

Mr Clelland contended that, whilst a degree of latitude might be afforded to appellants who are not professionally represented, nevertheless the purpose of the Regulations is to afford the assessor fair notice of the alternative valuation proposed by the appellants to allow for the proper administration of appeals generally. The assessor had many thousands of appeals to progress and if every appellant failed to observe the requirements of Regulation 10, this could potentially delay the efficacious disposal of appeals within the statutory timeframe set down which in turn could cause the system to breakdown.

Mrs Rodgers on behalf of the appellants firstly lodged a number of productions which comprised, inter alia, a copy of a letter sent by her to the Assessor dated 31st October, 2011; a copy of her original letter of appeal dated 1st April, 2010 and a copy of a spreadsheet which listed the details of 12 comparison properties including their respective areas, zone A rates and their rateable values. Mrs Rodgers contended that following upon the lodging of the appeal by letter dated 1st April, 2010, she had had innumerable telephone calls with members of the Assessor's staff and the meeting with Mrs Cummings which took place on 29th September, 2011. At that meeting, she had provided a copy of the spreadsheet now lodged by her. She insisted that she had suggested to Mrs Cummings a zone A rate of £300 was the correct rate to be applied to the appeal subjects. As a lay person, she had asked at that meeting if anything else was required of her. She was advised not. She then received a letter dated 21st October, 2011 from the Assessor asking her to confirm her intention to appear at the hearing. She duly provided this confirmation. She then received a further letter from the Assessor dated 26th October, 2011 in which the Assessor advised of his view that she had failed to comply with the terms of Regulation 10 and that he intended to move to have her appeal dismissed. This prompted her letter to the Assessor of 31st October, 2011, a copy of which she lodged at the hearing, and with which she produced a further copy of the spreadsheet which she stated she had already provided at the meeting on 29th September, 2011. She also re-iterated her position that the appropriate zone A rate for the appeal subjects was £300. She stated that she had provided all relevant information to the Assessor. As a lay person she sought some latitude from the committee with regard to strict compliance with the Regulations.

Mr Clelland on behalf of the Assessor, after hearing the submission by Mrs Rodgers, conceded that the Assessor was now satisfied that the appropriate information had been provided but this had not been provided timeously in terms of the Regulations. He advised that in the event that the motion to dismiss was refused, then the Assessor sought a continuation of the appeal to allow him an opportunity to fully prepare for the hearing.

The Committee, after giving careful consideration to all of the submissions made, were of the view that the original letter of appeal dated 1st April, 2010 did not comply with Regulation 10 (1). As the requirement in terms of the Regulation to lodge a “written statement” then they accepted the assessor’s contention that although the Appellants’ letter of 31st October, 2011 contained the requisite information, it was however late. However, the Committee were satisfied that the Assessor would have been in possession of this information following upon the meeting which took place at his offices on 29th September, 2011 and any prejudice to the assessor, by the failure to lodge a timely written statement containing this information, could be corrected by allowing the appeal to be continued. Whilst the Committee accepted the comments and concerns made by the assessor with regard to the volume of appeals to be disposed of by December, 2013 and the need for these to be dealt with efficiently in order for this to be achieved within the allotted time, the Committee considered that it would be perverse to dismiss this appeal where it was evident that the Assessor was seized of the facts in this appeal albeit not in written form by 29th September, 2011 and given that the Appellant was a lay person without professional representation, it was appropriate in the circumstances to afford her some latitude. The Committee accordingly refused the Assessor’s motion to dismiss the appeal but rather continued it to a later date for hearing.