

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO REQUEST

by

ARCTIC SCOTLAND LIMITED

for

APPEAL CITATION

in respect of

638 Merry Street, Motherwell

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 9th February 2012 which was placed before the Committee on 21st March 2012. Mr Ricardo Napolitano represented the Appellants. Mr Steven Stuart QC appeared for the Assessor.

Mr Napolitano explained that the Appellants had moved in around November 2010. He had not been present when the premises had been assessed. They had lodged an appeal in January 2011. They were not getting anywhere with dates. This was having a detrimental affect on the business, which comprised a car wash on the site of a former petrol station. He understood the situation concerning the large number of appeals but was needing a bit of help to have the appeal heard.

Mr Stuart informed the Committee that the Assessor was opposing the request. He explained that this was a running roll appeal. The Appellants had lodged an appeal as new occupiers on 11th January 2011. In terms of the Valuation Timetable (Scotland) Order 1995 the last date for dealing with the appeal was 31st December 2013. As at 31st September 2010, approximately 7500 revaluation appeals had been lodged. Some 4,662 appeals had been disposed of,

leaving 2,838 outstanding. In addition, over 5,000 running roll appeals including this one had been lodged to date and the number was rising.

The efficient disposal of appeals required a plan for disposal of 4000 appeals each year.

It was the Assessor's practice to group appeals with common features together for hearing. Appeals concerning car washes had not yet been heard. Revaluation appeals would be heard first, then running roll appeals. 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.

Whether the appeal would be heard within a reasonable time had to be measured against the timetable set by the Scottish Parliament for disposal of appeals, that is, by 31st December 2013. The Assessor was bound to give consideration to the number of appeals. It was reasonable for this appeal to be dealt with in the manner proposed by the Assessor.

The Appellants had argued that the rates burden was detrimental to their business. This was not a matter which the Committee could address under the valuation appeals system.

Early citing of this appeal would prejudice the effective disposal of appeals. 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. This was not the case here. The Assessor had adopted a proper system for citation of appeals and the timetable set down by the legislature had to be taken to be reasonable. It was in the interests of all parties that the timetable should be adhered to.

Mr Stuart also referred to various recent decisions of the Committee in relation to requests under Regulation 8 (7) on similar grounds which had been refused.

The Committee after careful consideration of the request decided that this should be refused. The Appellants naturally wished to obtain an early decision on their appeal. However 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. Car washes 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. 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.

4 April 2012