

Statement of Reasons

Relative to appeals by

VP plc

In respect of

Yard, 4 Hornock Road, Coatbridge.

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 20th June, 2012.

Mr Dalton appeared on behalf of the Appellants and Mr Neason, appeared on behalf of the Assessor.

Mr Dalton submitted that the assessor had failed to comply with Regulation 10(2) (a) of the Valuation Appeal Committee, etc (Scotland) Regulations 1995 and that the alternative valuation contended for by the appellants should be adopted. Mr Neason for the assessor opposed the appellants' motion and moved that the appeal be dismissed in terms of Regulation 10 (3) of the said Regulations on the basis that the appellants had failed to comply with the terms of Regulation 10 (1) 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.

Regulation 10(2) (b) provides that;

- (2) Within 14 days of the receipt of such a statement, the assessor-
 - (a) shall furnish to the appellant a written statement of the grounds on which the entry in the valuation roll is arrived at.

Mr Dalton explained that the appellants had originally instructed other agents in connection with this appeal. These agents had lodged the appeal and had then instructed James Barr to conduct on their behalf all appeals which they had lodged for clients in Scotland. The appeal had been cited for hearing on 8th February, 2012 along with other subjects with the classification of "yard." However, the appeal subjects also had a workshop on site and it was agreed that the appeal should be continued to the same date as the hearing of the appeals in respect of other subjects on Hornock Road. Mr Dalton on behalf of the appellants had lodged a statement in terms of Regulation 10(1) by letter dated 15th May, 2012 and a list of comparisons in terms of Regulation 10(5) by letter dated 28th May, 2012. These letters had been sent to the assessor by email and were part of a larger attachment to that email. The email did not specify the individual appeal subjects for which statements were attached but rather made reference to the date of the hearing; i.e. 20th June, 2012. The assessor had failed to respond to these as required in terms of Regulation 10(2) (a).

Mr Neason stated that the Assessor had not received either letter. Mr Dalton produced copies of these at the hearing. Mr Neason contended that having regard to the letter dated 15th May, 2012, it did not comply with the requirement in terms of Regulation 10(1). The letter stated an alternative valuation for the appeal subjects of £30,000, and stated grounds of appeal, videlicet;

"We are also of the opinion that the issued Rateable Value effective from 1 April, 2010 is excessive in light of the following:-

1. Rental analysis of industrials and yards within the immediate area supports a lower rate.
2. The calculation of the floor areas to the workshop is incorrect.
3. The calculation of the yard area is incorrect.

Should our outline grounds be deemed by the Committee to be inadequate, we hereby serve notice of our detailed grounds, which are:-

1. The industrial and yard rate on this property is excessive in light of the rental evidence by comparison to the valuations of comparable subjects within the immediate area.
2. Under the Valuation Timetable (Scotland) Order 1995, there has been a change having regard to the physical nature of the property and its location as at 1 January 2010.
3. The Assessor has failed to alter the Roll under Section 2 (1) (d) of the Local Government (Scotland) Act 1975 to give effect to an alteration in the value of the lands and heritages which is due to a material change of circumstances."

Mr Neason contended that this statement did not provide sufficient detail of the grounds on which the alternative valuation was arrived at and therefore did not comply with the

Regulations. In the Assessor's view, even if he had received the statement, it failed to provide him with fair notice of the appellants' case. He further submitted that it was clear from Regulation 10(1) that the grounds for the appeal mentioned in Regulation 10(1) (a) is separate and distinct from the grounds on which the alternative valuation is arrived at which is required in terms of Regulation 10(1) (b).

He stated that Mr Dalton had attended at the assessor's office on two occasions in relation to other cases and had failed to mention his involvement with the present appeal.

The Committee, after giving careful consideration to all of the submissions made, were of the view that, even if the letter of 15th May, 2012 had been received by the Assessor (the Committee did not require to determine whether it had or had not been received), it did not comply with Regulation 10 (1). The Committee was satisfied that the statement referred to in that Regulation required to be in writing and to set out firstly the grounds of appeal, an alternative valuation and grounds on which that alternative valuation is arrived at. The letter lodged contained grounds of appeal which detailed the ways in which the appellants considered the Assessor's valuation to be flawed and stated an alternative valuation. However, it did not provide the necessary grounds on which this valuation had been arrived at. The grounds of appeal were clearly distinct from the grounds founding the alternative values and it was in this regard that the statements were deficient. As the appellants had not complied with Regulation 10(1), there was no requirement on the Assessor to comply with the terms of Regulation 10(2) (a). The Committee in determining this appeal were conscious of the postscript to the case of *The Assessor for Lanarkshire Valuation Joint Board -v- Jane Norman Ltd and others* [2012] CSIH 50, where their Lordships in that case noted that the Committee which had heard the original appeal had found that the ratepayers had failed to comply with Regulation 10(1). However, the Committee had refused the Assessor's motion to dismiss and had continued the appeals and ordained the ratepayers to comply with the said Regulation. Their Lordships opined that a failure to comply with the Regulations should not be "readily excused." Latitude might be afforded to a party litigant but not to a professional practitioner.

The Committee refused the motion of the appellants and grant the assessor's motion.

The appeal has accordingly been dismissed.