

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

by

Martin and Mrs Isobel Ross

relative to

Brandon Bar, 396 Brandon Street, Motherwell

This appeal which was in respect of the 2010 Revaluation was cited for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 13 June 2012. Mr and Mrs Ross attended in person. Mr Steven L Stuart QC presented the case for the Assessor.

Mr Stuart moved that the appeal be dismissed under Regulation 10(3) of the Valuation Appeal Committee (Procedure in Appeals under the Valuation Acts) (Scotland) 1995 (S.I. 1995 No 572) on the basis that the Appellants had not complied with the terms of Regulation 10(1) (a) and (b) of the said Regulations.

Regulation 10(1) (a) and (b) 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 of 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 into the roll and the grounds on which that valuation is arrived at.

Regulation 10(3) provides that:-

- (3) If an appellant fails timeously to - (a) furnish the statement required in paragraph (1); *or* (b) ... the assessor may apply to the Committee to have the appeal dismissed and the Committee may grant that application if it thinks fit.

Mr Stuart informed the Committee that no grounds or alternative valuation had been lodged. Accounts for the relevant year had been provided and an offer had been made by the Assessor to reduce the rateable value to £19,400. The Appellants were not happy and wanted to think about it. There had been no contact since. Counsel had already referred the Committee to the postscript to the opinion of the Lord Justice Clerk in the recent decision of the Lands Valuation Appeal Court in the Centre West appeal (*The Assessor for Lanarkshire Valuation Joint Board v Jane Norman Limited and others* [2012] CSIH 50). He submitted that committees had been directed that they must deal

rigorously with cases of non-compliance. A failure to comply with the Regulations should not readily be excused. The present case concerned a party litigant, but any adjournment would cause substantial prejudice to the Assessor and to other parties whose cases were yet to be heard.

The Appellants informed the Committee that the offer had been made by telephone. They had appealed before and last time the Assessor had gone through the books and they had come to an agreement. Times were difficult and their turnover was going down every year. They still had to pay the rates. Many pubs were closing. They had 5 employees. Their rates had been £14,000 in 2005 and this time they had been asked to pay £24,000. They thought the value should be below £18,000.

The Committee carefully considered the submissions made to it. It also took into consideration the statement by the Lord Justice Clerk in the postscript to Centre West decision that a Committee might justifiably show indulgence to a party litigant who had an imperfect understanding of the Regulations. However the Appellants had not put forward any reasonable excuse for their failure to comply. The Committee took the view that it was bound in the light of the decision referred to and the postscript to this to accede to the Assessor's motion to dismiss the appeal on grounds of non-compliance.

14 June 2012