

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS
RELATIVE TO APPEAL

by

POSTA LTD

in respect of

SHOP 23/25 CADZOW STREET, HAMILTON

This was an appeal arising out of the 2010 Revaluation.

The appeal subjects were shop premises at 23/25 Cadzow Street, Hamilton.

The parties had agreed that the appeal subjects fell to be valued on the comparative principle using the zoning method. They had agreed the size and measurement of the appeal subjects. The issue in dispute was the Zone A rate to be applied to the appeal subjects. The Assessor contended for a Zone A rate of £240. The Appellants contended for a figure of £200.

In considering its approach to the matter, the Committee had regard particularly to:-

- the commentary contained in *Armour on Valuation for Rating* (5th Edition) ("Armour"), paragraphs 19-01 to 19-37 inclusive and to the cases and legislation referred to therein: the best method of arriving at an estimate of annual value will be by a study of actual rents passing both in respect of the subjects being valued and subjects comparable with them in size, character and location (*Armour*, paragraph 19-02); the categories of heritage for the purposes of the application of the comparative principal are of a general nature and are not to be minutely subdivided: exceptions are only carved out of general categories if it is shown that the heritage of the alleged exceptional kind commands rents of a different order from heritage belonging to the general category (*Armour*, paragraph 19-21);
- the commentary contained in *Armour*, paragraph 20-35 and to the cases referred to therein: a distinction may be drawn between shops and offices where it is shown there is a difference in level between values, but this may not be easy in the case of offices at street level; in practice, offices which have the physical characteristics of shops, and are located among shops, tend to command the same level of rent as neighbouring shops (*Armour*, paragraph 20-35);

- the definition of net annual value contained in Section 6(8) of the Valuation and Rating (Scotland) Act 1956
- the commentary contained in Armour, paragraphs 2-05 to 2-06 and to the cases and legislation referred to therein: the process of revaluation involved a completely fresh start and the Assessor is not bound by the levels, methods or schemes of valuation used for the previous roll.
- the commentary contained in Armour, paragraphs 5-25 to 5-26 and to the cases referred to therein: an appellant must initially show that there was a case to try; once that had been done, there was no presumption in favour of the Assessor's proposed valuation; the onus is on the assessor to justify a proposed valuation when that valuation is challenged by a ratepayer, particularly in a revaluation year (Armour, paragraph 5-25).

The issue was the correct value as at the tone date, 1st April 2008.

Mr Thomson appeared for the Appellants and Mr Cleland, Advocate, for the Assessor. At the outset, Mr Thomson moved that the Assessor be ordained to lead as the Assessor had proposed a radical increase in the Zone A rate at revaluation. The Committee adjourned to consider this. It decided that it was for the Appellants in the usual way to show that there was a case to try, whilst recognizing that once that had been done, there was no presumption in favour of the Assessor's proposed valuation, the onus then being on the Assessor to justify his proposed valuation, particularly in a revaluation year. The Appellants should therefore be asked to present their case first.

Mr Thomson then introduced as a witness for the Appellants Mr James McNally, formerly town centre manager *inter alia* for Hamilton. Mr Cleland expressed a concern that the evidence which Mr McNally would give may not have been foreshadowed in the grounds of appeal. He asked for and was given a short adjournment to consult with his client. He then indicated he was content that the Committee should hear from Mr McNally though he may ask for a further short adjournment before proceeding with his cross-examination. Mr Thomson indicated he was content to proceed on this basis. Mr Cleland then asked for a further short adjournment at that stage, which the Committee allowed. The hearing then proceeded without further adjournment until it concluded.

There were two strands to the Appellants' argument, which was in essence that there was no new rental evidence for the shops numbers 1-23 (odd numbers), the rental evidence at tone and the passing rents for this stretch being as a result of nil increase rent reviews, which meant that the proposed rate of £240 psm was supported by new rentals for 29-43 but not for 1-23. The Appellants argued firstly on the basis of a distinction in rental levels between shops with planning use class 1 for retail sale such as the appeal subjects and offices with planning use class 2, financial, professional and other services, such as for estate agents. Secondly, they argued that there was a natural break after the appeal subjects and that there were therefore in effect two separate parades of shops.

As regards the first argument, this did not appear to the Committee to be supported by the evidence. There was no clear pattern to this effect. The Committee agreed with the analysis of the Assessor's witness, Mr Knox, that there

appeared to be no added value for having class 2 planning permission. The Committee could see that where, as the Appellants were suggesting, there had been a concentration of estate agents in Cadzow Street, then the increased demand would have an upward effect on the rents, but there was no evidence to show that this was due to the particular use category.

As regards the second argument, the Committee could see no merit in this. They accepted that the mere fact that numbers 1-43 had been treated before as a single parade of shops and offices did not mean that it should be treated as such for present purposes. It was clear from the evidence however that the close which was said to create the division within a continuous parade was within a single tenement, the top floor of which comprised a single set of premises which straddled the close. The Committee agreed with Mr Cleland that this was simply a convenient way to justify the split. They did not consider that this accorded with the reality of the situation. The position in Cadzow Street was different from that in Quarry Street where there was a vennel between numbers 18 and 26 giving access to Campbell Lane.

It was for the Assessor to justify his valuation. The Assessor had valued the appeal subjects in accordance with their actual use, on the comparative basis, employing the zoning principle. He had looked at all the passing rental evidence within the stretch from numbers 1-43 Cadzow Street, Hamilton, which was fully let apart from one vacant unit and had arrived at a basic rate of £240 psm. This rate had been accepted by other professional agents when discussing valuation appeals. The Committee considered this to be the correct approach and the rate selected to be justified on the evidence. To achieve the figure of £29,000 contended for, the Assessor had applied the Zone A rate of £240 psm to reduced area of 126.86 producing a value of £30,442. A 4% quantum allowance had been applied and the resultant figure of £29,224 rounded down to £29,000.

Having carefully considered the evidence led and the submissions made, the Committee reached the view that the Assessor had discharged the onus upon him to explain his approach and justify his valuation. There was no persuasive challenge to the Assessor's approach.

The Committee were therefore satisfied that the Assessor had adequately explained his proposed valuation which should as a result be upheld.

The Committee accordingly dismissed the appeal.

12 September 2012