

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

by

Graymack Ltd

in respect of

Leisure Centre, EK Park at Playsport, 1 Stewartfield  
Way, East Kilbride, Glasgow G74 5LB

This was an appeal against a new entry in the valuation roll with effect from 1 August 2010. Mr Dalton of James Barr appeared for the Appellants and Mr Lander represented the Assessor. The Assessor moved for dismissal of the appeal.

The background to the matter was as follows. The appeal subjects were a skate park in a large industrial unit. The Assessor proposed a rateable value of £153,000. He had applied a basic rate of £40 per square meter, together with a 10% addition to reflect overall fit out costs. This had been derived from rental evidence of comparable subjects, but not other indoor skate parks, and was based on Lanarkshire Valuation Joint Board's own internal guidance note.

By letters dated 31 January 2013, the Appellants' agents made a freedom of information request to obtain a copy of the Board's guidance note, and they requested that the appeal be continued to allow sufficient time to receive the guidance note and allow further discussion between the parties. By letter dated 1 February 2013, the Assessor objected to the request for a continuation on the ground that this should have been made earlier. On 1 February 2013, Mr Dalton informed the Assessor he was recommending withdrawal of the appeal subject to discussion with his client whom he had not yet been able to contact. The Committee were unclear why he had done so when the freedom of information request was still outstanding. Based on this, the Assessor informed counsel retained for the hearing that his services were not required and did not prepare a case. In the event, Mr Dalton was unable to obtain instruction until 4 February as Keith Mackie, a director of Graymark Ltd, had been uncontactable as his wife had given birth in the early hours of 1 February 2013. Mr Mackie then instructed Mr Dalton on 4 February 2013 that he wished to proceed with the appeal and Mr Dalton advised the Panel Secretary of this by e-mail dated 5 February 2013.

The Assessor submitted that in circumstances where there had been discussions with a professional agent, who had then seen fit to recommend withdrawal of the appeal to his clients and had informed the Assessor accordingly, it was essential that the Assessor should be able to rely on this. The Assessor had already incurred costs in relation to counsel and neither the Assessor nor the Panel should require to be inconvenienced as a result of having to hear an appeal which was to have been withdrawn. He would object to any request for a continuation in circumstances where the Assessor was facing a significant workload and this would be impinged upon if a continuation were to be granted.

In his submission, Mr Dalton stated that he had informed the Assessor that he was recommending withdrawal subject to discussion with his clients, and this had been confirmed by e-mail. Mr Lander acknowledged that this was the case.

Mr Lander conceded that the Assessor was not treating the appeal as having been withdrawn under Regulation 3(4), that the Appellants had complied fully under Regulation 10, and that there was no other basis within the Regulations for the Assessor's motion for dismissal.

The Committee did not accept the submission put forward by the Assessor in support of his motion for dismissal arising from the inconvenience suffered by him. It was for Mr Dalton to advise his clients as he saw fit, but it was for the Appellants to decide whether they wished to proceed with his appeal. The Appellants felt strongly and decided they did wish to proceed with their appeal. The Assessor had not suggested that it was improper for Mr Dalton to continue to act on their behalf. In the Committee's view, there were no grounds for dismissal.

The Committee could understand why Mr Dalton had been unable to contact Mr Mackie to obtain instruction on behalf of the Appellants immediately after the birth of his child, and saw fit in the particular circumstances of the present case to exercise its discretion under Regulation 9(3) to grant a postponement of the hearing.

11 February 2013