

STATEMENT OF REASONS

Relative to an appeal at the instance of

Caleb Projects Ltd

In respect of

office,

55/57 Kirk Street,

Strathaven ML10 6LB

This appeal which was a Running Roll appeal, called for hearing at a meeting of a committee of the Lanarkshire Valuation Appeal Panel on 6th March, 2013.

Mr Peacock appeared on behalf of the Appellants and Mr Stuart, appeared on behalf of the Assessor.

Mr Stuart for the Assessor moved that the appeal be dismissed on the basis that the appeal was not competent. He submitted that as this was a Running Roll appeal there were three possible bases on which a competent appeal could be brought; firstly, that there was a new proprietor, tenant or occupier of the subjects; secondly that there had a material change of circumstances affecting value or thirdly that an error had been made. It was clear from the appeal which had been lodged by the Appellants, a copy of which was produced to the hearing, that they sought to proceed on the basis that there had been a material change of circumstances. The grounds of appeal were stated as follows, "The property has been unoccupied since the last valuation and has deteriorated due to exposure to the elements. The building is inhabitable in current condition and structurally unsafe." Further the appeal stated that proposed reduction in the net annual value of the subjects should have effect from 7th October, 2011 which was the date on which the Appellants acquired the subjects. The appeal was lodged on 6th August, 2012 and the subjects were subsequently demolished on 14th January 2013.

Mr Stuart, for the Assessor, submitted that for the appeal to be competent there had to be a specific event or occurrence since the making of the entry in the Roll which had affected value. In support of his submission, he referred to the case of *The Assessor for Glasgow v Schuh Ltd and others* [2012] CSIH 40 XA129/11 and in particular to the comments of now Lord President, Lord Gill in paragraphs 30 onwards. This was a case which concerned running roll appeals which proceeded on alleged material change of circumstances arising out of the economic downturn and a new shopping mall. His Lordship noted that there was constant change in the retail world which was part of the ebb and flow of the dynamic of that industry. Changes in rental values as a consequence of such changes did not constitute in his view a material change of circumstances. What was required and had been recognised by the court in considering such

cases was the occurrence of a specific event of, “such significance and impact as to constitute a material change of circumstances”. The Appellants’ grounds of appeal did not disclose any such event or occurrence since the making of the entry in the Roll in respect of the subjects. The Appellants’ had produced an engineer’s report in respect of the subjects but the terms of this report did not assist in identifying a material change of circumstances and even if the terms of the report were accepted as correct this did not amount to a material change of circumstances as defined in the above case.

Mr Peacock, on behalf of the Appellants, submitted that the subjects had been acquired by them on 7th October 2011 for £190,000 at which time the main building was in a habitable condition but the outbuildings were in a poor condition. The Appellants had never occupied the subjects. Subsequently at some indeterminable point, due to continued exposure to the elements, the subjects had become uninhabitable. Mr Peacock accepted that the condition of the property as described in the engineer’s report would have occurred over a period of time. He stated that no report was commissioned by the Appellants at the point of purchase of the subjects as the intention had been to develop and upgrade them. Since the purchase of them there had been further structural damage which had rendered them uninhabitable. He stated that although the subjects were habitable at the point they were purchased by the Appellants, he was seeking to have any have any reduction in the net annual value take effect from that date because the Appellants felt that notwithstanding any material change that the net annual value was excessive.

The Committee, after giving careful consideration to all of the submissions made and having particular regard to the comments of Lord Gill in the case of *The Assessor for Glasgow v Schuh Ltd and others* [2012] CSIH 40 XA129/11, was satisfied that for the appeal to be stateable the Appellants would have to demonstrate that there had been, since the making of the entry in the roll in respect of the subjects, an event of significance and impact for it to constitute a material change of circumstances. The Committee was of the view that deterioration in the condition of the subjects over time for want of maintenance was not sufficient to constitute such a change. The Committee therefore granted the Assessor’s motion and dismissed the appeal.