

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

ASSESSOR & ERO

26 MAR 2013

LANARKSHIRE

by

KMS-Kiosk Ltd

relative to

Workshop, 84 Cambuslang Road, Rutherglen,
Glasgow G73 1BQ

This appeal was called for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 20 March 2013. Mr Jim Dalziel, Director, appeared for the Appellants. Mr Brian Gill, Advocate, presented the case for the Assessor.

Mr Gill 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) of the 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 into the Roll and the grounds on which that valuation is arrived at.

Regulation 10(3) provides that :-

If an appellant fails timeously to-

- (a) furnish the statement required in paragraph (1); or

the assessor may apply to the Committee to have the appeal dismissed and the Committee may grant that application if it thinks fit.

Mr Gill explained the background to the case as follows. The appeal had been lodged by letter dated 10th November 2010. A citation had been issued on 26th November 2012. The Assessor had issued his curtailment letter and had

called the Appellant to say that in his opinion the valuation was correct. There had been no correspondence at all from the Appellant. On 5th March 2013, the Assessor had written to the Appellant informing him that he intended to ask for the appeal to be dismissed on grounds of non-compliance. The Appellant had then responded by e-mail indicating he had been travelling on business but intended to go forward with the appeal.

The purpose of the requirements within the Regulations was so that the appeals process could be appropriately managed and so that the Assessor did not have to prepare cases for hearing for appeals which were not proceeding with the resulting cost to the public purse. This was of particular importance in times of austerity.

The issue of failure to comply had come to the attention of the Lands Valuation Appeal Court. It had been the subject of comment by Lord Hardie in *Tesco Stores Ltd v Assessor for Fife* [2010] CSIH 95, and by the Lord President in *Assessor for Lanarkshire Valuation Joint Board v Jane Norman Ltd & Ors* [2012] CSIH 50. The Lord President had gone out of his way to emphasize for the benefit of committees the consequences of failure to comply with the Regulations. Where this necessitated an adjournment, it may cause expense and inconvenience to the other party, and to the committee itself. He had gone on to say that a committee might justifiably show indulgence to a party litigant who had an imperfect understanding of the Regulations, but in counsel's submission this was a long way from a complete failure to engage, as had happened in the present case. If continuations were to be granted in cases like this, the appeals process would grind to a halt and the statutory deadlines for disposal of appeals would not be met.

Mr Dalziel apologised for the failure to comply, explaining that when the Assessor's representative had come out to meet him he had assumed he would have been able to pass on details of his case. The valuer had taken some measurements but was not interested in what he had to say. He accepted he had done nothing on receipt of the citation. It had come in over the Christmas period. He had put it on an action list to go and look at other properties but then he had just missed it completely.

The Committee having adjourned to consider the submissions made, took the view that the Appellants were obliged to comply with the terms of Regulation 10(1) by providing a statement of grounds for the appeal, an alternative valuation and the grounds on which this had been arrived at. Although these were party litigants, they had not done so, and there had been a complete failure to engage. This was a clear case of non-compliance, and in the circumstances, there was no reasonable excuse for the failure to comply.

The Committee accordingly granted the Assessor's motion and dismissed the appeal.

25 March 2013