

LANARKSHIRE VALUATION APPEAL PANEL

STATEMENT OF REASONS

RELATIVE TO APPEAL

By

YOUR SPACE ARCHITECTURE LTD

relative to

Plot 7 & 8 Bridgend Industrial Estate, Gartferry Road,  
Moodiesburn, Glasgow G69 OJD

This appeal was called for hearing at a meeting of the Committee of the Lanarkshire Valuation Appeal Panel on 3 April 2013. Mr Kevin Leask, Quantity Surveyor, appeared for the Appellants. Mr Iain Newton, presented the case for the Assessor.

Mr Newton 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.

The purpose of the requirement within the Regulations for certain information to be supplied was to give fair notice of the case to be taken, so as to ensure the Assessor was not taken by surprise and the general body of ratepayers were

not prejudiced as a result. The Assessor places his Practice Notes on the Scottish Assessor's Association website and provides summary valuations if requested. Appellants were given 84 days notice of appeal hearings, which ought to be more than enough time to prepare.

The importance of adhering to the Regulations had been emphasized by the Lands Valuation Appeal Court in two cases. In *Tesco Stores Ltd v Fife Assessor* 2011 SC 316, Lord Hardie had stated "Regulation 10 of the Procedure Rules imposes obligations upon both an appellant and an assessor to furnish to his opponent information specified in that regulation within a designated time scale. Failure by an appellant to provide the information timeously to the assessor may result in the assessor applying to the Valuation Appeal Committee to have the appeal dismissed, in which event the Committee may grant the application if it sees fit to do so." In *Assessor for Lanarkshire Valuation Joint Board v Jane Norman Ltd & Ors* [2012] CSIH 50, the Lord President had stated that "a Committee might justifiably show indulgence to a party litigant who had an imperfect understanding of the Regulations, but in the absence of a cogent justification I can see no reason why it should excuse professional practitioners for a failure to observe them. I remind Committees of their power under regulation 10(3) and of the comments of this court in *Tesco Stores v Fife Assessor* at paras [17]-[19], and [24]-[26]."

A citation had been issued in the present appeal on 9 January 2013. This provided guidance at paragraph 4 which directs appellants to the Scottish Government's website which provides information on the correspondence to be exchanged. On 16 January 2013, the Assessor had issued his curtailment letter advising the Appellants of the appeal procedure and legal requirements.

The Appellants had failed to provide grounds of appeal.

Mr Newton explained that there were over 4000 appeals to be dealt with and if cases of this nature were to be continued the appeals process would grind to a halt and the statutory timetable for disposal of appeals would not be met. He also referred the Committee to a previous decision of the Panel in the case of *KMS-Kiosk Ltd* on 20 March 2013 where there also had been a failure to lodge a statement of grounds for the appeal, an alternative valuation and the grounds on which this had been arrived at, and the Committee had dismissed the appeal. He argued that it was important that the Committee maintained this approach in such cases and that the present appeal should also be dismissed. He explained that the valuation appearing in the roll was £13,600. The Appellants were asking that the units be split, and he therefore asked the committee if it were minded to dismiss to do so on the basis that plot 7 be described as an office and valued at £11,200 with effect from 18 May 2012 and plot 8 as a yard with a value of £3,500 with effect from 18 May 2012.

Mr Leask explained that he was stepping in for someone who was on holiday and did not realise that the information required had not been produced. He was not in a position to comment on this.

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. Mr Leask had been unaware of the failure on the part of the

Appellants to do so and had not been able to offer any explanation. The Appellants had failed to comply and no justification had been offered for this. The Committee were accordingly minded to grant the Assessor's motion and dismiss the appeal. Mr Leask confirmed that the Appellants wished the entry to be split so that the units were rated individually and that the Appellants were aware of the alternative values put forward by the Assessor in place of the existing value. The Committee accordingly dismissed the appeal on the basis put forward by the Assessor namely, that Plot 7, be described as an office and valued at £11,200 with effect from 18 May 2012 and plot 8 as a yard with a value of £3,500 with effect from 18 May 2012.

5 April 2013