

David Rutherford  
First Scotrail Estates Dept  
Atrium Court  
50 Waterloo Street  
Glasgow G2 6HQ

Our ref: SG/MM

01 July 2013

Dear Mr Rutherford

**Valuation Appeal Hearing: 8 May 2013**  
**Kiosk, Croy Station Kiosk, Constarry Road, Croy, Kilsyth G65**

Further to my letter of 17 June, a Committee of Lanarkshire Valuation Appeal Panel considered the application for recall of the dismissal of the above application on 26 June 2013.

As you know, the application was opposed by the Assessor.

After careful consideration, the Committee granted the application.

Regulation 8(4) provides that the Secretary shall give to each party not less than 70 days' notice of the date, time and place set for the hearing of the appeal. As the Assessor notes in his submission, in order for this to have happened, the citation would have had to have been received by the Appellants by 27 February 2013. It was re-issued by the Secretary on 28 February 2013. The Appellants accordingly did not receive the statutory period of notice. Whilst the Appellants made no issue of this at the time despite the matter being drawn to their attention in the Secretary's covering letter, and they also failed to raise the issue at the hearing on 8 May, the committee considered that it would be inequitable for the appeal to be dismissed on grounds of the Appellants' failure to comply with the time limit in Regulation 10(1) in circumstances where the Appellants had not been given the statutory period of notice under Regulation 8(4).

The Appellants had drawn the matter to the Secretary's attention in their application for recall, and the Committee were entitled to take cognizance of it. The Committee noted that the original citation had been issued on 13 February 2013. For reasons which were unclear to the Committee, this had been addressed to "David Alexander Rutherford, Estates Department, Atrium Court, 50 Waterloo Street, Glasgow G2 6HQ". The recorded delivery envelope had been returned by Royal Mail on 18 February 2013 marked "not Scottish Enterprise." Scottish Enterprise also had offices in the same building, and it appeared that the citation had been delivered to Scottish Enterprise rather than ScotRail.

The Secretary had drawn the matter to the attention of the Assessor by letter dated 18 February 2013 and the citation had been re-issued on 28 February 2013 at the request of the Assessor to the address provided by the Assessor in a letter dated 26 February 2013, namely, "David Rutherford, First Scotrail Estates Dept, Atrium Court, 50 Waterloo Street, Glasgow G2 6HQ". The Appellants had clearly not been given the statutory period of notice to which they were entitled under Regulation 8(4).

At the hearing on 8 May 2013, the Appellants had made no submission under Regulation 8(4) concerning the inadequate notice period and the Committee in the light of the submissions made by the parties on the

day had decided to grant the Assessor's motion to dismiss the appeal for the reasons already given. In his Submission, the Assessor did not seek to argue that by not doing so then, the Appellants were thereafter precluded from doing so. The matter having now been drawn to the attention of the Committee, the Committee considered that it was appropriate in the circumstances that a continuation be granted in the exercise of its discretion under Regulation 9(3), and it accordingly granted the application for recall and directed that the appeal be recited for hearing.

The appeal will accordingly be recited for hearing in due course.

Yours faithfully