

Lanarkshire Valuation Appeal Panel

Secretary to Panel
W. Grant Wood, L.L.B.

My Ref: WGW/SMcL

Your Ref:

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24 April 2006

Wallace Property Consultants Ltd.,
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Dear Sirs,

Valuation Appeal Hearing: 19th April 2006
Shop, 350/346 Kings Park Avenue, Rutherglen
Shop, 344 Kings Park Avenue, Rutherglen (2 Appeals)

I refer to the calling of these two appeals before a Committee of the Panel on 19th April.

The Assessor moved for dismissal of all three appeals on the grounds of failure to comply with various provisions of Regulation 10 of the Valuation Appeal Committee etc. (Scotland) Regulations 1995. The Assessor founded on the alleged failure to comply with Regulation 10 (1) (a) and (b) i.e. a failure to furnish the Assessor with a written statement specifying the grounds of appeal and the valuation which the appellant considers should be entered in the Roll and the grounds on which that valuation is arrived at. Separately the Assessor founded on an alleged breach of Regulation 10 (2) (b) i.e. a failure to provide written confirmation to the Assessor that the appellant intends to proceed with the appeal.

Mr. Wallace said that there had been compliance with Regulation 10 (1) by way of the initial letters of appeal dated 24/5/2005. These supplied the grounds of appeal and the alternative valuation. The grounds on which the valuation was arrived at had been provided separately making it clear that the valuation was carried out on a comparative basis by reference to rental evidence which had been made available to the Assessor. Separately Mr. Wallace advised that he had told the Assessor of his intention to attend if the appeals could not be resolved.

The Committee were of the view that the structure of the Regulations makes it clear that the provisions of Regulation 10 arise once a hearing date has been fixed and intimation of that hearing date has been sent to the parties. This is clear from the chronological structure of the Regulations.

The Committee has to acknowledge, however, that the Scottish Executive leaflet "Non Domestic Rates Revaluation 2005, Appeal Procedure" at page 8 under "grounds of appeal" states "if you do not include the information when you write to lodge your appeal, you must send the Assessor a written statement of your grounds of appeal at least 35 days before the hearing. You must state clearly why you think the valuation is wrong. You must also give the alternative valuation which you think should be substituted." This would indicate that a reliance on the original grounds of appeal, if sufficiently detailed, could suffice. In these circumstances, however, the Panel would prefer to see the appellant or his agents stating in specific terms that the original appeal is being adopted as satisfying the terms of Regulation 10 (1).

In these appeals, the Committee felt that although there had not been strict compliance with the requirement to lodge grounds of appeal and an alternative valuation, the information had nonetheless been before the Assessor in the original letter of appeal and it would be unfair to penalise a ratepayer by denying the ratepayer a right of appeal, because the ratepayer had, in effect, provided the information too soon.

However, the original letters of appeal had clearly not provided the grounds on which the alternative valuation was arrived at. Although some information had subsequently been provided there was a lack of clarity as to the exact extent of this.

The Committee accordingly felt that the appropriate course was to direct that Mr. Wallace should in relation to all three appeals submit within 14 days of 19th April one document, in relation to each appeal, setting out clearly the grounds for the appeal, the alternative valuation and, particularly, full details of the grounds on which the alternative valuation was arrived at. This will have the effect of making it clear to both parties, and for the benefit of the Committee, exactly how these matters stand, before evidence is led.

As well as this information being lodged with the Assessor, a copy should be sent to me on behalf of the Committee. On satisfaction of this, it would be anticipated that the appeals can then proceed to a hearing in the normal way. The Committee has power to relax time limits in terms of Regulation 19 of the Regulations.

The Committee did not feel that a case had been made out for dismissal in terms of Regulation 10 (2) (b). It appeared that Mr. Wallace had made it clear that he would attend if the appeals were not resolved by negotiation. As this was apparently contained within a without prejudice offer letter it would not have been appropriate for the Committee to have insisted on seeing this.

The Committee were satisfied that there was no substantial prejudice to either party by proceeding in this way.

I look forward to receiving a copy of the statement complying with Regulation 10 (1) within the 14 day period.

Yours faithfully,

W. Grant Wood
Secretary