

VALUATION TRIBUNAL FOR ENGLAND



Accuracy of RV in list; The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 Statutory Instrument No. 2269; Restaurant and premises; rental evidence; tone; relativities; appeal allowed.

RE: Basement and Ground floors, 46 Grosvenor Place, London SW1X 7EQ
Existing entry £158,000 Rateable Value

APPEAL NUMBER: 599019938237/053N10

BETWEEN: Coca Restaurants (UK) Ltd t/a Mango Tree Appellant
and
Mr M J Dunlevey Respondent
(Valuation Officer)

PANEL: Mr A Craig (Chairman)
Ms M McGhie

SITTING AT: The Tribunal Offices, Black Lion House, London E1 1DU

ON: Thursday 20 March 2014

APPEARANCES: Mr D Ford of CVS representing the appellant
Mr Paul Chacksfield (Valuation Officer's representative)

Summary of Decision

1. The appeal was allowed and the entry was reduced to £134,000 Rateable Value with effect from 1 April 2010.

Introduction

2. The appeal was brought in respect of the following: CVS (Commercial Valuers and Surveyors) Ltd submitted a proposal dated 31 July 2012, on behalf of the appellant company, challenging the accuracy of the compiled list entry. On behalf of its client, CVS sought a reduced entry of £134,000 Rateable Value, whilst the Valuation Officer defended the existing assessment of £158,000 Rateable Value.
3. Before the hearing began, the Valuation Officer's representative clarified a matter with the clerk; his statement of case had included a page titled "Appendix 3 Notice of information to be used in evidence" but no schedule had been attached nor had any reference to Regulation 17 evidence, been made in the body of the statement. Regulation

17 related to evidence and submissions and was contained in The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 Statutory Instrument No. 2269. Mr Chacksfield confirmed that no rental evidence was to be relied on; the inclusion of that page was erroneous and ought to have been deleted.

4. The absence in this decision of a reference to any statement or item of evidence placed before it by the parties should not be construed as its being overlooked by the panel.

Issues in dispute:

5. The appeal property was a restaurant and premises, known as the Mango Tree, occupying the ground and basement floors of a six-storey office building, located on Grosvenor Place at the junction with Hobart Place and Grosvenor Gardens in Belgravia. Although measurements had been agreed, the main space price, relativities for lower ground storage and lower ground public toilets, and an allowance for hard frontage all remained in dispute.

Evidence and Submissions:

6. The appellant's representative provided an evidence bundle containing a street plan, his reasoned case, comparable and photographic evidence. He contended for a valuation based on a main space price of £400/m², with relativities of 0.25 for the lower ground floor storage area and 0.25 for lower ground floor public toilets, and a hard frontage allowance of 7.5 per cent. This amounted to a revised assessment of £134,000 rateable value, which he sought with effect from 1 April 2010.
7. The Valuation Officer's representative provided a bundle that contained his reasoned case, street plan and a photograph of the subject property. He had defended the current entry in the rating list of £158,000 rateable value, based on a main space price of £425/m², with the existing relativities for the lower ground floor public toilets and storage area, both at 0.5. He said his valuation supported by the 2000 rent shown on the proposal form, £188,160. He sought dismissal of the appeal.
8. During the presentation of the Valuation Officer's representative's evidence, the panel had to address an ancillary issue with regard to his intention to use detailed, analysed rental evidence, derived from forms of return for the subject property. As the Valuation Officer had failed to serve a Regulation 17 notice, either in accordance with the standard directions or at any later date, in accordance with Practice Statement A7-1, the clerk advised the panel that such rental evidence should be ruled inadmissible and excluded.
9. The Valuation Officer's representative challenged the clerk's advice. He was of the opinion that he was allowed to refer to the form of return in relation to the appeal property. Ultimately, after retiring to consider both the clerk's advice and Mr Chacksfield's representations, the panel accepted the clerk's advice and determined that the Valuation Officer's rental evidence had to be excluded as it was being submitted for the first time only at the hearing itself, in breach of both the requirements of Regulation 17 and the provisions of Practice Statement A7-1.
10. The Valuation Officer's representative asked that his objection to the exclusion of his rental evidence be noted. Mr Chacksfield declined the panel's invitation to continue and refused to present any further evidence to support his contentions or to counter the appellant's case. He suggested the panel had erred in law by not admitting his rental evidence and was unwilling to argue his case with that evidence excluded. The chairman invited him to respond to the specific elements of Mr Ford's case, including his different

relativities and his inclusion of a hard frontage end allowance of 7.5 per cent. Mr Chacksfield again declined to do so and, his request for an adjournment having been declined, he concluded his presentation and asked the panel to confirm the entry in the list.

Decision and Reasons

11. The panel found for the appellant and reduced the rateable value to £134,000 with effect from 1 April 2010.
12. From the evidence provided by the parties, the panel established that the subject restaurant, the Mango Tree, and Mr Ford's comparable restaurant were both parts of the same building; although the appeal property faced on to Grosvenor Place and the other restaurant faced on to Hobart Place.
13. The Valuation Officer's scheme reference 133120 contained only the subject restaurant at Grosvenor Place (total area 484.46m²) valued at a main space price of £425/m². Scheme reference 133106 contained only the restaurant at No. 16 Hobart Place (total area 452.44m²) and had been valued at a main space price of £400/m².
14. According to the copy proposal form provided by the Valuation Officer's representative, the rent passing was £188,160 per annum, first payable 1 January 2000. Although that rent was in excess of the current entry of £158,000 the panel disregarded it because it related to an agreement made more than eight years prior to the antecedent valuation date of 1 April 2008.
15. Since the Valuation Officer's representative had produced no evidence to support his adopted main space price of £425/m² the only evidence of tone put before the tribunal related to the comparable restaurant at No. 16 Hobart Place. In the absence of any other compelling evidence, the panel decided it had no option other than to adopt the same figure for the subject property, namely £400/m².
16. The appellant's representative had referred to a number of comparable restaurant properties within the locality, in particular at 2 Eccleston Place in the heart of Belgravia, where the Zone A space price was £480/m². At that hereditament, a public toilet on the ground floor was valued at 0.50 of the main space price whereas both the public toilets and storage area that were located in the basement had been assessed at 0.25 of the main space price.
17. Mr Ford's contention for a 7.5 per cent end allowance to reflect the hard frontage of the subject property was not without precedent; the tribunal found that the valuations of 23 Grosvenor Gardens and 2 Eccleston Place showed allowances of 5 per cent and 7.5 per cent respectively.
18. The Valuation Officer's representative had declined to offer any argument or defence of the adopted relativities, other than by reference to the 2000 rent. The corollary was that the appellant's representative's valuation approach was upheld by the tribunal.
19. In these circumstances, the appeal was allowed.

Order:

20. In accordance with Regulation 38 (4) and (9) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Officer is ordered to alter the appeal property's entry in the Rating List to £134,000 Rateable Value with effect from 1 April 2010. The Valuation Officer must comply with this Order within two weeks of its making.

Date: 22 April 2014

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