



## **CAN THE TRIBUNAL DETERMINE RATEABLE VALUE (RV) AT A FIGURE BELOW THAT SUGGESTED IN THE PROPOSAL?**

1. There is a widespread belief that the Tribunal cannot determine a RV below that proposed by the appellant in the VOA's proposal form.
2. I have carefully examined the legislation and the case law and have found nothing to support this view.
3. The relevant legislation is regs. 4 and 6 of the NDR (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No. 2268).
4. Reg. 4 sets out the circumstances in which proposals may be made and reg. 4 (1)(a) establishes the principal ground, namely, that the RV in the list "was inaccurate on the day the list was compiled".
5. Reg. 6 then sets out what must be included in the proposal. The two elements relevant for present purposes are those contained in reg. 6(1)(d) and (e)(i) and (ii), which require the notice to –
  - "identify the respects in which it is proposed that the list be altered;" and include
  - "(i) a statement of the grounds for making the proposal"; and
  - "(ii) in the case of a proposal made on any of the grounds set out in reg. 4(1)(a) [see para. 4 above] ..., a statement of the reasons for believing that the grounds exist".
6. It will be noted that there is no express (or even implied) requirements for the appellant to specify the RV which he believes to be correct, still less any provision to the effect that the Tribunal is precluded from determining a RV below that proposed by the appellant.
7. The VOA's proposal form does require the appellant to provide a figure, but that form and this particular question derive no support from the legislation. The failure of the form to adhere to and reflect the statutory scheme has been the subject of criticism by the Lands Tribunal/Chamber.

8. Professional representatives, mindful of the belief referred to above, circumvent any difficulties by proposing a RV of £1. Unrepresented appellants will be unaware of this stratagem, which shows the irrelevance of the question on the form.
9. While there is case law limiting the Tribunal's powers and jurisdiction to the grounds specified in the proposal, there is none which supports the proposition that an appellant is required to give a figure or that, if he does, there is no power to determine a RV at a lower figure.<sup>1</sup> Moreover, nothing in reg. 13 of the NDR (Alteration of Lists) Regulations or reg. 38 of the Procedure Regulations calls my conclusion into question.
10. Indeed, were the belief correct, it would inhibit appellants from proposing a figure they regard as sensible and in fact gives rise to the nonsense of proposed RVs of £1.
11. Once the Tribunal is properly seized of an issue, it would take clear and explicit legislative provisions to tie the Tribunal's hands in determining the correct RV.
12. Following informal advice from leading counsel, I therefore unhesitatingly advise clerks and members that there is no reason why panels should feel inhibited from determining a RV at a figure below that given by the appellant in the proposal form/notice if the evidence and argument lead the panel to believe that such a lower figure is the correct one.
13. This note was considered in draft by the Valuation Tribunal Users' Group (which includes representatives of all the relevant professional bodies and of the VOA) and unanimously endorsed.
14. If the respondent argues explicitly that the Tribunal has no power to determine a RV below the figure given by the appellant in the proposal, a copy of this Guidance should be brought to his or her attention. If he/she nevertheless wishes to argue the point fully, the hearing should be adjourned and the Registrar informed in accordance with Practice Statement A10.

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<sup>1</sup>I am aware of the following statement which appears in a recent judgment of the Lands Chamber of the Upper Tribunal: "... Mr David Park QC, who appeared for the appellant, accepted that the Tribunal did not have power to reduce the assessment below that contended for in the proposal ..." (*Cheale Meats Ltd v Ray (VO)* [2012] UKUT 16 ((LC), para.4; [2012] RA145, 154). However, although this statement is found in the judgment and it may be inferred that its correctness was implicitly accepted, the fact is that the concession was not subject to argument and the Tribunal did not find it necessary to rule on it. It is not therefore binding.

15. This note deals only with the specific issue of determining a RV below that proposed by the appellant.

A handwritten signature in black ink, appearing to read 'Jon Bestow', written in a cursive style.

3 July 2013

Jon Bestow  
Registrar and Chief Clerk