Issue 28

April 2013

VALUATION TRIBUNAL SERVICE

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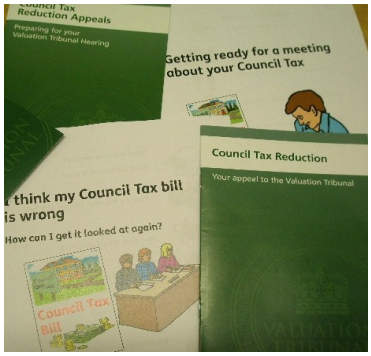
Valuation in Practice

News in Brief

Council Tax Reduction

On 1 April 2013, a new work stream in the form of council tax reduction (CTR) appeals was introduced in accordance with Section 16 of the Local Government Finance Act 1992. We have already begun to receive appeals.

Preparing for this new jurisdiction in a short time was a challenge for the VTS in terms of IT enhancements, communications with billing authorities, training staff and VTE members and producing guidance material, but every aspect of the project required to administer the appeals was in place for 1 April. CTR guidance is now available on our website, including downloadable booklets, with easy-read and audio versions.



The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) (Amendment) Regulations 2013 set out new features for dealing with these appeals. The VTE President is currently drafting a Practice Statement to develop this. Legislation now permits the President to call upon First-tier Tribunal (Social Entitlement Chamber) judges to assist in hearing these cases, sitting with a VTE Chairman. This ensures that the existing skill base in the Social Entitlement Chamber regarding benefit appeals can be utilised by the VTE, given the expectations that CTR appeals can be made challenging issues such as assessment of capital, assessment of income and residency – issues that these judges are more familiar with. At present, the volume of appeals likely to be received against CTR remains difficult to estimate.

New Practice Statement

A10 Points of Law and Principles of Valuation - effective from 1 March 2013. This explains that where an appeal is flagged up early as featuring a novel, important or difficult question of law, it will be listed for hearing before either the VTE President or a Vice-President.

Revisions to Practice Statements, effective from 1 March 2013:

- A3 Complex Cases: Case management
- B4 Hearings in Private and Extraordinary Venue
- C2 Applications for Reinstatement following striking out and withdrawal and lifting of a bar
- C3 Publication of Decisions

The VTE President is currently consulting with the Valuation Tribunal User Group on revisions to PS A7.1 – Exchange and Disclosure.

Inside this issue:

VTE Practice Statements

All VTE Practice Statements are available to download from our website.

Get ahead of the game: sign up to our email alerts for the latest Practice Statement news.

http://www.valuationtribunal.gov.uk/email/pract-state.asp?mail=5

News in Brief (continued)

VTS workload statistics

In 2012-13 the VTS listed 148,000 appeals, almost 30,000 more than the previous year, and held 200 fewer hearings (1,175). Of these listed appeals, 35% were settled and 34% struck out. Almost 34,000 Statements of Case were received in the year.

The number of determined appeals was 3,146; reasoned decisions were issued within one month of the hearing date in 90% of cases, exceeding our KPI.

New legislation

Council Tax and Non-Domestic Rating (Demand Notices) (England) (Amendment) Regulations 2013 SI 694.
Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013 SI 501.
The ValuationTribunal for England (Council Tax and Rating Appeals) (Procedure) (Amendment) Regulations 2013 SI 465.
Council Tax Reduction Schemes (Transitional Provision) (England) Regulations 2013 SI 215.
The Council Tax (Exempt Dwellings) (England) (Amendment) Order 2012 SI 2965.
The Council Tax (Prescribed Classes of Dwellings)(England) (Amendment) Order 2012 SI 2964.

Legislation can be found on www.legislation.gov.uk

Business rates information letters

BRIL 1/2013 – Small Business Rate Relief Order 2013 and information about Business Rates Retention (adjustment for future losses on appeal).
BRIL 2/2013 alerts billing authorities to ways that the NNDR Demand Notices regulations will be amended.
BRIL 3/2013 – confirms the NNDR multiplier for 2013-14.
BRIL 4/2013 – confirms the interest rate for 2013-14; announces amended NNDR Demand Notices regulations

Available on https//www.gov.uk/business-rates-information-letters

Decision from the Upper Tribunal (Lands Chamber)

Burvill v Jones (VO) UTLC case number RA/23/2012

Warehouse and premises with a 2010 list entry of £27,500 RV, used as an MOT test centre. The appeal challenged the VTE's determination of £20,300 RV, based on comparable rental evidence from the same industrial estate. The VTE had found the VO's adjustments for age and size of the different buildings to be "quite arbitrary", and made adjustments to reflect the fact that the appeal property was smaller and younger than many on the estate (+25%) but had no heating (-2.5%), poor access (-10%) and no drinking water (-2.5%). The VTE did not find that adjustments were warranted for the proximity of a refuse company or alleged competition arising from businesses relocated from the Olympic site.

At the Upper Tribunal, the appellant contended for an RV of £4,451. As payments on his interest-only mortgage were £8,902 he argued that this amounted to the rental value; all the disadvantages he cited warranted a reduction of 50% on this figure to arrive at the RV. In addition to the factors addressed above, the appellant said his business had been affected by the introduction of a Low Emission Zone (LEZ) from January 2012, where older vehicles like those driven by his clientele were subject to a £100 daily charge, and by the vehicle scrappage scheme, as fewer owners were having their older cars MOT-ed.

AJ Trott FRICS accepted that only minor works would be needed to make the property suitable for an alternative use, but noted that the MOT test centre use was a *sui generis* use

(continued page 3)

Decision from the Upper Tribunal (cont'd)

for planning purposes, so it had to be valued in line with its existing use. The rental evidence from other units on the estate was relevant but difficult to analyse because of the variable features. Mr Trott agreed with the valuation adopted by the VTE, except for the 10% allowance for poor access, which he raised to 15%. He agreed with the VO that any likely effect of the relocation of businesses from the Olympic site would have been reflected in rents at the antecedent valuation date and found that the appellant had not demonstrated any loss of trade due to the introduction of the LEZ or the scrappage scheme (which had ended by the material day) that would have reduced a hypothetical rental bid.

AJ Trott disagreed with the VTE's conclusion about the refuse company nuisance, namely that the measures that the actual landlord took (action under the lease) could be assumed to be those a hypothetical landlord would take. This was an error because the hypothetical landlord of the appeal property may well have had no control over the use of the other unit as it could not be assumed he was also the landlord of that unit. Mr Trott concluded that the tenant would either not take on the tenancy or expect a substantial rent reduction. He determined that this should be reflected in a reduction of 20%. The appeal was allowed in part and the RV reduced to £14,550.

ViP issue dates

Our newsletter is published quarterly in January, April, July and October.

You can sign up for an email alert telling you when a new issue has been published, at

www.valuationtribunal.gov.uk/vip_newsletter.aspx.

Decisions from the High Court

R (on the application of the Listing Officer) v Callear [2012] EWHC 3697 (Admin)

A VTE panel had allowed an appeal seeking to delete an entry from the valuation list on the basis that it was not self-contained. The appeal property was one of ten units in a house in multiple occupation, and whilst the appellant was able to sleep, cook and eat in the unit, there was a shared WC and communal laundry facilities. The VTE had determined that the degree of communal living, the shared facilities and the "restricted living space" meant that this property could not reasonably be considered a self-contained unit; it was more akin to a small bedsit.

The listing officer (LO) appealed this decision to the High Court on the point of law that the VTE had not first considered whether the premises constituted 'a dwelling' within the meaning of the legislation, as amplified by case law.

His Honour Judge Spencer QC agreed there was an error of law evident in the VTE decision in not first considering whether the property was a dwelling. However, he did not think it would serve any useful purpose for him to address the issue of whether the appeal flat was a dwelling within the meaning of section 3 of the Act, because his view was the appeal property was "quite plainly a self-contained unit within the meaning of the Order", and the panel's decision was an unreasonable one. His reasoning included particular reference to *Beasley (LO) v The National Council of YMCAs*. The only facility that could be considered as missing from the appeal property was a WC and that did not prevent the designation of a self-contained unit. The VTE panel's finding was therefore quashed and the appeal allowed.

Following the release of the judgment, counsel for the LO requested that the appeal be re-determined by the VTE, as his contemporaneous notes had recorded that HHJ Spencer's intention was to remit the appeal to the VTE for further re-consideration. The President accepted this and the matter is due to be re-heard by the VTE.

R (on the application of Tameside Metropolitan Borough Council) v Grace (VO) [2013] EWHC 450 (Admin)

The billing authority (BA) brought judicial review proceedings against the VO for "refusing to amend the 2005 rating list to rectify inadvertent deletion of [a] hereditament from the rating list". The facts were that the VO had altered the rating list with effect from 1 April 2005 to delete two separate properties and show them as one merged property. However, the merger took place on 18 February 2008. The VO then mistakenly altered the list to show a merger from 1 August 2009, the date the previous alteration had been notified to the BA, but did not deal with the erroneous deletion of the two properties on 1 April 2005.

In January 2012, the BA received a claim from agents CBS purportedly representing the interested party for a refund of rates paid between 1 April 2005 and 1 August 2009. The BA made a complaint to the VOA, however, by that date, the VO was unable to make retrospective alterations to the 2005 list and was therefore not acting unlawfully.

The subsequent claim for judicial review was not made within the time limits (the relevant start date for which should have been the date the grounds arose rather than the date the BA became aware) but the BA asked for an extension. Permission was refused because the BA did not demonstrate a good reason to extend the time limit. It was held that the BA, in updating its records from the VO's schedule, should have noted the second errors. The agents had discovered the error from publicly available information that was therefore available to the BA. It later transpired that the interested party had not instructed the agents to claim a refund.

Sycamore J noted that judicial review was considered a remedy of last resort and the correct procedure for the BA, had it noted the error at the time, would have been to make a proposal to the VOA to alter the list. There was no public interest in allowing the BA to bring such a late claim and permission was refused.

Court of Appeal

Woolway (VO) v Mazars LLP [2013] EWCA Civ 368 (Case C3/2012/2320)

This appeal was against a decision of the Upper Tribunal (Lands Chamber) dated 11 June 2012 (reported in Issue 25 of Valuation in Practice) in which the Chamber President held that the rateable value of the hereditament was £1,205,000 and that the premises should be entered in the 2005 rating list as a single hereditament with effect from 26 November 2007. However, the 5% end allowance that the VTE had granted for the floors being separated was excluded.

The VO contended that each floor was a separate unit of property and should be entered as a separate hereditament. Permission to appeal was granted by the President as "the question of the identification of hereditaments in a modern office block is of wide importance".

Pill LJ upheld the reasoning and conclusion of the President in that his decision did not appear to involve any departure from established principles; he had applied the physical test to floors within a single building and had not relied on the functional connection between the parts.

He quoted Morris LJ in *Gilbert (VO) v S Hickinbottom & Sons Ltd* [1956]: "*It is better to employ a common-sense assessment of the features of the case than to seek to have recourse to some standard formula*."

Pill LJ did not consider that, to be a single hereditament, the floors must constitute a physical cube as advocated by the appellant's counsel. The appellant had accepted that floors 3, 4 and 5, occupied by another firm in the same building, were a single hereditament. Access between all floors at Tower Bridge House

was possible only through the building's common parts (with a lift between floors 2 and 6 as there was between floors, 3, 4 and 5). Application of the physical or geographical test could be flexible; it did not allow a distinction to be drawn, on physical grounds, between floors 3 and 4 and floors 2 and 6, in these circumstances.
The appeal was dismissed.

Interesting VT Decisions — council tax liability

Backdating disability reduction

The dispute concerned whether the disability reduction could be applied back to 1993, the start of council tax, as the criteria were met during that time but an application was not made until 2011 because the appellant was unaware of the entitlement.

The VTE President noted the variation in billing authorities' practices regarding backdating, with many – as in this case – backdating only to the start of the financial year in which the application was made.

Counsel for the appellant argued that there was no ambiguity in the wording of the Council Tax (Reductions for Disabilities) Regulations 1992 reg 3(1)(b) as it did not preclude backdating, unlike other regulations relating, for example, to council tax benefit.

The President, examining the drafting of the regulation, concluded that applications may go back to 1993 but that the Limitation Act 1980 Section 9 would override that result. His view was this applied to tribunal proceedings and that this case did fall within the scope of s9 as "an action to recover any sum recoverable". An appeal was to the VTE under s16 of the Local Government Finance Act 1992 on "any calculation made by such an authority of an amount which he is liable to pay to the authority in respect of council tax"; this would include a sum overpaid by the appellant. The reduction was therefore backdated to six years before the date of the appellant's claim to the billing authority.

This decision is not on our website.

Interesting VT Decisions — council tax liability

Backdating Class U exemption

The appeal, made by a daughter on behalf of her father, concerned backdated exemption for his severe mental impairment prior to the date Attendance Allowance was awarded on 29 November 2010, on the basis of his doctor's letter. In the doctor's opinion, Mr Y had been severely mentally impaired since November 2007. The billing authority (BA) rejected the claim as it had no evidence that Mr Y was entitled to a qualifying benefit prior to 29 November 2010.

An approach to the Department of Work and Pensions, to establish whether an earlier application for Attendance Allowance would have been successful, resulted in advice that the law does not permit it to consider entitlement to the Allowance prior to the date on which a claim is made and that in any case entitlement is based on need rather than diagnosis.

It was subsequently established that Ms X had been living at the appeal address from 2007 to 25 February 2011 providing care for her father, however Mr Y had been in receipt of the single person's discount since 1995. As such, when the application for SMI reduction was received and assessed, the decision to grant the exemption from 29 November 2010 was made on the assumption that Mr Y had been the sole occupant at the property at that time, as required in the criteria for full exemption under Class U.

Ms X was informed that this would affect the account and her appeal; full exemption would not be due but there was scope for considering a backdated carer's disregard for the time she was residing in the property. However, under the Council Tax (Additional Provisions for Discount Disregards) Regulations 1992, for the Carer's Allowance to be awarded, the person being cared for must be in receipt of the higher rate of benefit.

Between 2007 and November 2010 Mr Y was working in a store as a cleaner. Given this, and Ms X's own advice that prior to her father's accident in December 2010, he had been in control of his own paperwork and affairs, the BA did not feel that it had been demonstrated that he would have been entitled to Attendance Allowance, especially not at the higher rate, before 29 November 2010.

The BA had therefore withdrawn the single person's discount from Mr Y from 30 July 2007 and the full SMI exemption from 29 November 2010 until 24 February 2011, awarding instead 25% SMI disregard and a 25% carer's disregard for Ms X. The full exemption remained in effect from 25 February 2011 onwards.

The panel agreed with the BA that Ms X had not been able to provide any substantive evidence to show that her father would have been entitled to an Attendance Allowance from an earlier date than 29 November 2010. Furthermore, during the period from 2007 until November 2010 Mr Y was working and in control of his own affairs. The panel found that the SMI exemption could not be backdated beyond 29 November 2010, the earliest date that he met both sets of criteria to qualify for the exemption. It determined that the BA had correctly applied the legislation and dismissed the appeal.

Appeal no: 3935M72750/212C

We understand that this decision has been appealed.

Backdating liability

An appeal against the decision of the billing authority (BA) to backdate the liability for council tax at the appeal property to 1 August 2006.

Referring to Section 6 of the Local Government Finance Act 1992, the BA provided evidence in support of the contention that the appellants had lived at the appeal property since then; therefore it was correct in backdating the charge to that date.

The appellants explained that they had bought the appeal property and adjacent farm house with the intention of renovating it as a dwelling. However planning permission had twice been refused and they had to live in the appeal dwelling for more than four years and then apply for a Certificate of Lawfulness, which was granted in September 2011. They contended that, as they had no official address, had not used any services and had paid council tax on the farm house, the charge should not be backdated.

The panel determined that the BA had been legally correct in requesting an entry in the valuation list for the appeal property and making the appellants liable from 1 August 2006, as it was a dwelling and the appellants' sole or main residence from that date. In dismissing the appeal, the VTE panel noted that the appellants had admitted that they had lived in the appeal property since 1 August 2006.

Appeal no: 1355M99093/254C

Where we show an appeal number, this can be used to see the full decision on our website, valuationtribunal.gov.uk.

Interesting VT Decisions—non-domestic rating

Service of completion notices

The appeal properties were unoccupied newly-built high-quality office buildings and the appeals sought the deletion of the entries from the rating list. The valuation officer had entered the appeal properties into the list because no appeal had been made against the completion notices. Therefore the completion day had been set, which in turn set the effective date for the entry in the list.

In cases heard by the President, the appellants argued that completion notices served on their two buildings were invalid as in the case of one the correct owner was not named and, in both cases, service of a separate notice for each floor was unlawful.

The billing authority (BA) had obtained the owner's name and address from the letting agent and this information had not then been questioned or confirmed. The information provided was incorrect as the owner was not Standard Life Investments Ltd but Standard Life Funds Ltd and at a different address. The BA argued that the former was the agent of the latter, but the President found that the BA had no basis for supposing this and that service on an agent would in any case constitute a significant departure from the statutory requirements.

The BA also argued that the appellants were estopped from asserting invalidity or had waived their right to do so because they had paid the rates bill(s) and had not alerted the BA to the defects in the notices, which meant that fresh notices were not issued.

The President did not accept either point. Penalties could have been imposed had the rates not been paid and, in normal circumstances, there was no legal duty on the recipient of a notice to point out errors in the notice.

The President also concluded that the service of multiple notices was unlawful in this case, even though the BA had some discretion in the matter. The BA's officer had said that he issued separate notices for each floor in this case as it was realistic that each floor could be completed within three months, whereas the whole building may not have been. The President found this was an abuse of the discretion as it was intended to defeat the object and purpose of the legislation and was to the detriment of the appellants. Accordingly, all the notices were invalid and the entries were ordered to be deleted from the 2005 and 2010 Rating List.

Appeal no: 431016405449/134N05

Petrol filling station, Thetford

The appellant was granted a lease by his Self Invested Pension Plan (SIPP) in 1999; it was a requirement of HMRC that an independent rent assessment was used to determine the rental value of the premises.

The appellant contended that, as a beneficiary of the pension fund, he was not allowed to pay over-inflated rents into his SIPP to avoid paying tax.

In 1999 the rent was assessed as £12,000 a year and the rateable value (RV) at that time was £7,500. For the 2000 list the RV increased to £12,250 and in the 2005 list it increased to £15,300, which the appellant suggested more or less reflected the rent of £16,000, which had been assessed to be the appropriate rent payable into his pension fund from 2005. In the 2010 list, the RV was £40,000 and the VO contended that, as petrol filling stations fell to be valued under the national scheme (discussed at length with professionals), the RV of £40,000 was correct.

The national scheme takes account of four principle types of activity: fair maintainable throughput; fair maintainable trade of any forecourt shop; fair maintainable trade of any valeting services; and the value of other non forecourt income such as workshops. This scheme is designed to recognise the different nature of petrol filling stations, which range from urban supermarket stations to rural independent operators.

Details of the appellant's fair maintainable throughput and fair maintainable turnover were provided, together with details of agreed RV's for other broadly similar filling stations. The valuation of the subject hereditament had been based on figures provided by the appellant.

The VTE panel studied the evidence of the comparable filling stations and noted that all had been valued under the same national scheme and calculated in exactly the same way. It did not consider it appropriate to move from the national scheme and use a completely different method of valuation specifically for the subject hereditament.

Two reports commissioned for the purposes of the appellant's pension fund were also considered, neither of which was compiled at a date close to the antecedent valuation date (1 April 2008). These referred to allowances for "onerous lease terms" or "existing lease terms being ignored" and included the rent as part of the expenses. The panel found these reports to be at variance with the statutory basis of valuation for rating purposes and the appeal was dismissed.

Appeal no: 260519111196/036N10

Where we show an appeal number, this can be used to see the full decision on our website.

Interesting VT Decisions — non-domestic rating

Industrial Units, Oldham – repairing liability

Osborne Mill, a former textile mill comprising two main buildings, was constructed between 1873-1900. No single occupier occupied the whole site and it was split into a number of different industrial hereditaments of varying sizes.

The panel found that the landlord was liable for external repairs under the actual leases. This did not conform with the hypothetical tenancy, under the statutory definition of rateable value, where a tenant was assumed to be responsible for all repairs and insurance. The panel had therefore to determine what adjustment should be made to the actual rents to convert them into the statutory terms of rateable value.

In his rental analysis, the appellant sought an adjustment of 30%, which was substantially more the valuation officer's (VO's) standard adjustment of 5%. The VOA Rating Manual, Vol.4, S.5: Practice Note 1 (2010) provided the following at para 26:

> [In some cases] *"The landlord bears some or all of the liability for repair without directly seeking to recoup the cost. In such cases ... the rent might be higher than if the tenant were to bear in full the direct cost of maintaining the hereditament in a state of reasonable repair. Traditionally, surveyors have adjusted rents by 5% where the landlord has been responsible for external repairs and a further 5% if the landlord's liability also covered internal repairs …*
> *… The percentage adjustment may well vary according to the type, age, or construction of the building and VOs need to adequately reflect instances where abnormally high repair costs are likely to be incurred …*
> *… Therefore VOs need to examine all local evidence in order to determine the correct adjustment for external and internal repairs borne by the landlord."*

The appellant provided a schedule of costs for the last 16 years, which

had been accepted by HMRC as legitimate costs, to show the exceptionally high repairing obligations for Osborne Mill. The VO did not challenge any of the costs in the schedule, which represented 35% of the rental income.

The panel found that while the 5% standard adjustment might be suitable for modern industrial buildings, in the case of Osborne Mill the rents were significantly higher because of the landlord's greater repairing obligations. An actual tenant would pay a higher rent to avoid the risk of a potential extreme liability arising for the repair and maintenance of the old buildings. The panel held that the 30% adjustment to the rents, proposed by the appellant, to bring them in line with the statutory terms of rateable value (or the rating hypothesis) was therefore reasonable.

Appeal no: 422018465774/538N10

Amusement arcades - effects of legislation on rating assessments

Appeals on two owner-occupied amusement arcades on Cleethorpes promenade were upheld in part by a VTE panel who heard how repeated statutory interventions had affected established seaside businesses, leading to the closure of many.

The appellant sought significant reductions in rateable value (RV) because of the effects of the Disability Discrimination Act 1995, the Gambling Act 2005 and the

Health Act 2006.

Amusement arcades are generally assessed for rating on a standard retail basis with zoning for standard sized units and on an 'overall' based assessment where larger units are involved and zoning was not appropriate. The smaller arcade under appeal was zoned and the panel held that, vacant and to let, the property could be re-let on an alternative retail use.

The larger of the two arcades had been assessed on an overall basis (£42/m^2 main space). Together with the effects of the legislation, the appellant had cited a comparable on the promenade some half a mile away assessed on an overall basis of £19/m^2 main space; the VO introduced a nearer one at £50/m^2. The panel found it was able to sufficiently distinguish the subject property from the appellant's comparable and discounted it (notwithstanding it was one of the 200 seaside arcades that had closed). While large in comparison to other local arcades, the VO's comparable property was notably smaller than the appeal property and the adjustment for quantum to £42m^2, while unsupported in detail, was upheld.

The panel upheld the appellant's argument that the Gambling Act provisions had affected trade, particularly at the larger arcade. The Act's subordinate legislation had reduced the permitted number of the maximum £500 payout machines to just four in each establishment and, for the larger property, the reduction in machines was commercially significant as there had been 30 such machines there. Although the £70 payout machines continued to require a licence, there was no limit on the number that could be installed. The income these machines generated, however, was small in comparison.

The property did not have a lift and a large portion of its first floor (a soft toy play area) failed to meet the 1995 Act's requirements and was inaccessible to parents with young children.

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Interesting VT Decisions

(Continued from page 7)

The appellant argued that the smoking ban (introduced by the Health Act 2006) had also affected his trade. In contrast, the VO argued the impact of the legislation was known at the antecedent valuation date (1 April 2008) and no adjustment was justified.

The panel found the lack of audited trade data for the relevant period had undermined the appellant's case. However, it found there had been an obvious impact on the larger of the two arcades and, had it been subject to a rent, its value to the landlord would have been appreciably affected, particularly by the Gambling Act provisions. The panel determined a 15% adjustment on the larger arcade as a result.

The panel found no adjustment was appropriate as a result of the inability to use or let parts on the first floor – the area was already assessed at 50% of the main space price. The physical nature of the property was a matter of fact and the appellant had had some 17 years in which to install a lift so as to enable easy access to prams and buggies; the property's features reflected the appellant's chosen layout.

Appeal no: 200219663175/257N10

Invalidity/Material Change

The appeal properties had previously been the subject of compiled list appeals, which had been dismissed. Each appeal had queried the areas but the panel had confirmed it was adopting the valuation officer's (VO's) areas in each case. The appellant's representative had written to the VO prior to submitting new proposals contending that the areas were incorrect and enclosing a copy of his valuation. He contended that his proposal forms with attached valuations satisfied the requirements of the regulations, but the VO contended that they were invalid and so had issued invalidity notices. The four proposals sought rateable values of £1 with effect from 2 April 2012 on the grounds that, "*Circumstances affecting the rateable value of the property changed on 2 April 2010*". They all cited the following for believing the rating list to be inaccurate: "*The assessment is incorrect and excessive as a result of an MCC following the attached alterations which clarify the nature and date of the post compilation physical changes to the hereditament w/ e/f 2/4/10 in accordance with Statutory Instrument 2009 No 2269 Part 2 section 4(1)(b) & 4(2)(a) & section 6(1)(e)(iii)*."

The VO stated that although the proposal purported to identify a physical change to the state of the hereditament, as per paragraph 7(a) and the date on which it took place, regulation 6 (1)(e)(iii) requires the nature of the actual change to be identified. He believed the appellant's representative had failed to identify a change in any of the Schedule 6 matters but had merely highlighted survey differences, which was not a change to the physical state of the property. As such he contended that the proposals had not been validly made and asked the panel to dismiss the appeals.

The panel decided that the proposals had not been validly made and dismissed the appeals. It accepted that there was a requirement for the appellant's representative to specify the change and the date of the change and the simple submission of a different valuation did not meet that requirement.

Appeal no: 470519673649/539N10

VALUATION TRIBUNAL SERVICE

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