Amended decision in accordance with Regulation 39 of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 due to a clerical error. The order is amended to show the correct rateable value in paragraph 21 of £437,500 for 12th Floor Aviva Building, St Helens, 1 Undershaft, London EC3A 8EE.

THE VALUATION TRIBUNAL FOR ENGLAND

2017 Rating list appeal; challenge to entry in the compiled rating list; rental analysis; allowed in part

Re: 12th Floor Aviva Building, St Helens, 1 Undershaft, London EC3A 8EE

Pt 13th Floor Front, Aviva Building, St Helens, 1 Undershaft, London EC3A 8EE

Pt 13th Floor South West, Aviva building, St Helens, 1 Undershaft, London EC3A 8EE

APPEAL NUMBERS: CHG100031223, CHG100030891, CHG100036326

BETWEEN: Munich Re UK Services Limited (represented by Savills UK Limited) — Appellant

and

David Jackson (Valuation Officer) — Respondent

PANEL; Ms N E Talbot-Hadley
Mrs L M Stuart

CLERK: Mrs A Sloan

REMOTE HEARING: 19 October 2020

ATTENDEES: Mr W Illingworth (representative for the Appellant)
Mr R Shaw (representative for the Valuation Officer)

Introduction

1. The President of the Valuation Tribunal for England (VTE) is required to make sure arrangements are in place and make such statements and Directions so as to ensure that business before the Tribunal is conducted in accordance

with The Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009. By virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers) the VTE may determine the form of any hearing.

2. Therefore, in pursuance of Regulation (6)(3)(g) the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this. This hearing was conducted via video conference using Microsoft Teams and the panel was satisfied that both parties were fully able to participate in the hearing. The parties had consented to the appeals being consolidated into one hearing as the issue was the same on each appeal.

3. The Appellant's representative confirmed that his firm will receive a conditional fee or some other success related arrangement if the rateable value (RV) is reduced as a result of the panel's decision. The panel accepted the evidence on the basis that the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and is allowable due to the Tribunal's rules on admissibility of evidence (reg 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial). The panel heard the evidence and assessed what weight it should give to it in the context of the matters in issue before it.

4. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or evidence, should not be construed as it having been overlooked.

Background

5. The subject property is a multi-storey building located in the heart of London's financial district. The Appellant is a tenant of assessments on the 12th and 13th floors and proposals were made to challenge the entries in the compiled 2017 rating list. Following the challenge, the Respondent agreed to reduce the price per square metre from £500/m^2 to £460/m^2 and the entries in the rating list were altered from 1 April 2017 as follows.

   12th Floor - £462,500
   13th Floor Front - £158,000
   13th Floor South West - £70,000

6. The Appellant lodged appeals with the Tribunal against the decision at Challenge stage, seeking a reduction to £425/m^2.

Issue

7. The issue for the panel to determine was the correct £/m^2 rate to be applied to the valuations of the subject assessments.

Evidence

8. The parties presented evidence of rents agreed within the subject building and explained their respective approaches in analysing those rents to reflect the statutory definition of rateable value. Evidence was also presented on market movements around the antecedent valuation date (AVD), 1 April 2015, and details provided on the rate per m^2 applied to assessments in other City towers.

Decision and Reasons

9. The Appellant's representative had argued that the subject building should not be valued at £500/m^2 in line with other more modern and prominent buildings in the locality such as 30 St Mary Axe (the Gherkin) and 110 Bishopsgate (Salesforce Tower) amongst others. However, the panel notes that the Respondent had reduced the unit price to £460/m^2 at challenge stage so the current assessments were valued at lower rate than these buildings.

10. Comparisons had also been made by the Appellant's representative with the unit price used in the 2010 rating list. The panel understands that this comparison was included to illustrate the comparative values between the tone used on nearby buildings rather than to directly compare the valuations in the respective lists. The panel was of the opinion that, as the subject building is located in the heart of the financial district, comparison with nearby buildings is fair. However, it was mindful that the starting point for any 2017 rating list entry must be evidence which relates to the AVD, 1 April 2015, rather than from the previous rating list, as this was sourced from an entirely different pool of rental information. The rents passing were considered afresh at a revaluation when the VO sought to establish a tone of values. The panel attached no weight to the comparisons between lists.

11. Mr Illingworth presented details on the valuation of 125 Old Broad Street, which was assessed at £450/m^2, £10/m^2 less than the revised valuations on the subject assessments. In his opinion 125 Broad Street is a superior tower but is of a similar age to the subject property and was refurbished in 2008. Mr Shaw contended that 125 Broad Street is not in the same locality as the subject property, being outside the cluster of towers that forms the financial district. After considering the evidence, the panel decided that comparisons with other City towers did not carry as much weight as rents agreed close to the AVD in the subject building, in line with the findings in *Lotus & Delta Ltd v Culverwell (VO) & Leicester City Council* (1976 RA 141).

12. Schedule 6 of the Local Government Finance Act 1988 provides the assumptions to be made when considering rents as follows –

1) The rateable value of a non-domestic hereditament [none of which consists of domestic property and none of which is exempt from local non-domestic rating] shall be taken to be an amount equal to the rent at which it is estimated the hereditament might reasonably be expected to let from year to year on these three assumptions—

(a) the first assumption is that the tenancy begins on the day by reference to which the determination is to be made;

(b) the second assumption is that immediately before the tenancy begins the hereditament is in a state of reasonable repair, but excluding from this assumption any repairs which a reasonable landlord would consider uneconomic;

(c) the third assumption is that the tenant undertakes to pay all usual tenant's rates and taxes and to bear the cost of the repairs and insurance and the other expenses (if any) necessary to maintain the hereditament in a state to command the rent mentioned above.

13. At the hearing, the parties provided a summary of the rents in the subject building that they had placed most weight on and details of the adjustments they had made to account for aspects of each lease that differs from the statutory assumptions. The parties had been unable to agree on the correct rate per m^2 to apply to the subject assessments after rental analysis.

14. The parties had concentrated on four rents, two of which concerned the Appellant company, Munich Re UK Services Limited. The 12th floor lease was renewed on 1 October 2014 for a term of 9.58 years with a five year review. Part of the 13th Floor had a new lease agreed between the landlord and the Appellant company from 13 November 2015 for a term of 8.42 years with a five year review. Both of these leases were agreed on a full repairing and insuring basis but both benefitted from very long rent free periods (21 months for the 12th floor and 24 months for the 13th).

15. The parties also referred to a rent agreed on the 4th floor from 5 February 2016 for a term of 3.83 years with a 10 month rent free period. Mr Shaw stated that this lease was contracted out of the Landlord and Tenant Act and he believed this may be the case with other leases in the building. Also referred to by the parties was the lease for part of the 3rd floor South, which was renewed on 1 May 2014 for a term of 4.83 years. In addition, Mr Illingworth drew the panel's attention to the fact that the lease on the part 3rd floor South was assigned to the tenant of the 4th floor on 5 February 2016 with a 10 month rent free period. He explained that the tenant of the part 3rd floor South had paid a premium in 2014 for the renewed lease to include a break option after less than three years and the lease was assigned on more favourable terms to the occupiers of the 4th floor in 2016.

16. After considering the rental evidence, the panel found that more weight should be placed on new lettings than renewals as the rent should be assumed as

negotiated by a new tenant fresh to the scene. Therefore, of the two leases relating to the Appellant company, more weight was placed on the new lease on the 13th floor from 13 November 2015 (seven months after the AVD). However, it also notes that this rent was negotiated by a tenant who already occupied space on the floor below and the desire to secure space nearby may have influenced the price that the company was prepared to pay.

17. Less weight is placed on the renewal lease from 1 May 2014 on the 3rd floor for the reasons stated above and no weight placed on the subsequent assignment of that lease to the tenant taking occupation of the 4th floor. Therefore, the panel concluded that the best evidence was the rent negotiated as a new letting from 5 February 2016 on the 4th floor. Although this lease was agreed some 10 months after the AVD, it concerns a tenant who had no prior occupation of the building and is a shorter term than both of the leases for the Appellant company on the 12th and 13th floors.

18. As none of the leases were in line with the statutory assumptions, all required adjustment. The panel found that the Respondent's approach of amortising the long rent free periods for the 12th and 13th floors over the full term of the lease to be correct, rather than to the five year review point. As demonstrated by the graph provided by Mr Shaw, using the review point for these long rent free periods produced very low analysed rents which appeared out of line with others.

19. Having decided that the Respondent's approach to rental analysis was correct, the panel considered the results of Mr Shaw's adjustments. This produced rates between £427/m^2 and £487/m^2 and the valuations for the assessments under appeal had been amended to use £460/m^2 in the challenge decision. Mr Illingworth sought a rate of £425/m^2 based on his analysis of the new lease negotiated by the Appellant company on the 13th floor at £426.48/m^2. Mr Shaw's analysis produced a rate on the same lease of £427/m^2 but he contended that the lease carried less weight as the Appellant was taking on additional space rather than negotiating a fresh occupation. He felt that the rate used of £460/m^2 sat within the range of rents close to the AVD and was fair and reasonable.

20. The panel was of the opinion that more weight should be placed on the new letting on the 4th floor. The panel must consider the physical situation as at the Material Day, 1 April 2017, by which time the subject building's reception area had been refurbished in 2016. After considering all of the factors presented by the parties, the panel concluded that the subject building occupies a prime location in the heart of the financial district and £425/m^2 would be low to reflect the quality of the building and its location. However, it felt that the Respondent's valuation at £460/m^2 was too high. The panel considered that the Respondent's analysis of the new rent on the 4th floor (£431/m^2) provided the best evidence. Therefore, it finds that the correct rate should be £435/m^2 and the appeals are allowed in part.

21. 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 amend the entry for the subject properties in the 2017 rating list as shown below, effective from 1 April 2017. The Valuation Officer must comply with this Order within two weeks of its making.

12th Floor Aviva Building, St Helens, 1 Undershaft, London EC3A 8EE	£437,500
Pt 13th Floor Front, Aviva Building, St Helens, 1 Undershaft, London EC3A 8EE	£149,000
Pt 13th Floor South West, Aviva building, St Helens, 1 Undershaft, London EC3A 8EE	£66,500

The fees paid for each appeal will be refunded to the Appellant.

Date: 12 November 2020
Appeal numbers: CHG100031223, CHG100030891, CHG100036326