THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 list appeal; Warehouse and Premises; Removal of the hereditament from the list; Local Government Finance Act 1988; Statutory Assumptions; Fire damage; Economic Repair; Material Day; The Rating (Material Day for List Alterations) Regulations 1992 (S.I. 1992 No. 556); The Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 (S.I. 2009 No. 2268); Appeal dismissed.

Re: Warehouse and Premises, 4 Rangemoor Road, Haringey, London N15 4NA

APPEAL NUMBER: CHG100075512

BETWEEN:	Yumi's Dry Cleaners Ltd	Appellant
	and	
	The Valuation Officer	Respondent

PANEL:	Mr Raveen Patel	(Chair)
	Ms Naomi Chesterman	(Member)

CLERK:	Mr Duncan Adamson IRRV (Hons)	
REMOTE HEARING 3:	23 November 2021	
PARTIES PRESENT:	Mr Jacob Eljon	Appellant's representative
	Mr Christopher Cates	Respondent's representative

Summary of decision

1. The appeal was dismissed.

Introduction

2. This appeal was brought in respect of Yumi's Dry Cleaners located at 4 Rangemoor Road, London. The property was a warehouse and premises with a rateable value of £31,000 with effect from 1 April 2017.

3. On 23 May 2017 a major fire broke out at the property which completely gutted the building. The appellant sought for the hereditament to be removed from the rating list and for the material date for consideration to be the date of the fire.

4. The Valuation Officer (VO) stated that the property was in a state of economic repair and the material date was the date of the “Check” and not the fire.

5. The property was repaired and effectively reinstated by the end of July 2018.

6. 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 and 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.

7. 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.

8. 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 a decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issues

9. Whether the property should be removed from the rating list and the material date of the change.

Evidence and submissions

10. The evidence bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer’s challenge case decision notice; appellant’s challenge submission; photographs and location plans of the appeal property; London Fire Brigade report of the incident; Owners payment certificate for the reinstatement works; Land Registry Title deed and an Insurance cover certificate.

11. The appellant stated that the fire completely gutted the appeal property destroying a large part of the roof and rendering the building dangerous and not fit for occupation.

12. After the fire the landlord took possession of the property giving one month’s notice to Yumi’s to vacate. Reinstatement works were carried out by the landlord to repair the damage and these works were completed by the end of July 2018. The cost of the works was £253,522.
13. The appellant sought deletion of the property from the rating list for the period 23 May 2017 to 31 July 2018 on the grounds that the property was destroyed and not in a state of economic repair. He argued that the material date was the date of the fire.

14. The respondent stated that the material day, as in all Check, Challenge and Appeal submissions, is the date on which considerations are taken into account for valuation purposes when reviewing an alteration to the list. This date is the date when the VO receives confirmation from the ratepayer that the information provided by the VO is correct i.e. the

date on which the check is completed. The date in this instance was therefore the 12 November 2018, the date the ratepayer's check was completed. As the works were completed by the end of July 2018 the VO contended that there was no material change of circumstances at the material day.

15. The respondent also stated that, as the landlord had completed the reinstatement works, the property had been considered economic to repair.

Decisions and reasons

16. In accordance with The Rating (Material Day for List Alterations) Regulations and 4c of the Non-Domestic Rating (Alteration of Lists and Appeals) Regulations, the material day is the date on which the ratepayer confirms the accuracy of the information included in the check.

17. For this appeal the panel found that the material day, the day on which the VO is required to assess matters involving an alteration to the list, was 12 November 2018.

18. The panel found that there was no material change of circumstances at the material day as the reinstatement works had been completed nearly four months earlier.

19. The panel then referred to the LGFA 1988. The term 'rateable value' being defined in paragraph 2(1), Schedule 6 to the Local Government Finance Act 1988 (as amended):

> "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".

20. The panel found that the landlord had arranged for works to be carried out on the property and these were completed by the end of July 2018. Clearly, it had been considered economic to repair.

21. The appeal on both counts was dismissed.

Date: 21 December 2021

Appeal number: CHG100075512