THE VALUATION TRIBUNAL FOR ENGLAND

*2017 Rating List Appeals – Price per m² to be adopted – rental evidence – analysis of rental evidence – measurement of comparable properties – appeals allowed*

Re: Suite 5B, 5th floor, 61 Oxford Street, Manchester, M1 6EQ and

Suite 1, 2nd floor, 61 Oxford Street, Manchester, M1 6EQ

APPEAL NUMBERS: CHG100154030 and CHG100154073

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| BETWEEN: | Influential Agency Ltd and<br>Masai Clothing Company UK Ltd | Appellant |
| | and | |
| | Valuation Officer | Respondent |

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| PANEL; | Miss L Sharkey (Senior Member) |
| | Dr P Thomson |
| CLERK: | Mr A Jolly |
| REMOTE HEARING: | Monday 23 August 2021 |
| APPEARANCE: | Mr A Fowke of Altus Group representing the occupiers Influential Agency Ltd and Masai Clothing Company UK Ltd (appellants) |
| | Mr C Ogbuagu representing Valuation Officer (respondent) |

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## Summary of decision

1. Appeals allowed. Rateable Value (RV) £14,500 determined for Suite 5B, 5th floor, 61 Oxford Street, Manchester, M1 6EQ and RV £10,250 for Suite 1, 2nd floor, 61 Oxford Street, Manchester, M1 6EQ based on a price of £130 per m² with effect from 1 April 2017.

## Introduction

2. These appeals have been brought in respect of the following: Appeals were lodged on the 16 April 2021 against the Valuation Officer's Challenge Decision Notices dated 30 December 2020. As the evidence submitted for the appeals was the same and as the properties were within the same building both parties agreed that the appeals should be heard together.

3. 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.

4. 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.

5. 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.

6. Mr Fowke appeared on behalf of the appellant as both Advocate and expert witness. In view of the Upper Tribunal’s judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC), Mr Fowke’s declaration of truth included a statement that he was instructed under a conditional fee arrangement.

7. Mr Fowke declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and he would comply with this as well as the requirements of his professional body regardless of whether or not the evidence supported the client’s case.

8. The panel accepted this expert witness evidence on the above basis as the appeal was not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Procedure regulations and was allowable due to the Tribunal’s rules on admissibility of evidence (regulation 17(2)(a) where the Tribunal can admit evidence whether or not it would be admissible in a civil trial).

9. The panel therefore considered the “expert” evidence and attached such weight to it as it saw fit.

**Issues**

10. The issue before the panel concerned the price per m² to be adopted having regards to the rental evidence available.

11. The appeal hereditaments were offices in a five storey traditional built 1900s building in a prime location of Manchester. It comprised offices with a lift service from ground floor to the fourth floor. Suite 5B was entered into the 2017 Rating List at RV £16,500 and Suite 1 at RV £11,500 based on a price per m² of £145.

**Evidence and submissions**

12. Mr Fowke advised that the two properties were held on leases from February 2019 for Suite 5B and January 2017 for Suite 1. The rent payable per annum was £26,853 for Suite 5B and £16,298 for Suite 1. He considered that both rents were too remote from the antecedent valuation date (AVD) which was 1 April 2015.

13. He stated that the properties had been valued within a Scheme with 15 other properties covering the whole of 61 Oxford Street with values within a range of £144 per m² to £145 per m². The appeal properties had been valued based on a price of £145 per m².

14. In support of his contention that a price of £130 per m² should be adopted Mr Fowke provided details of five new lettings close to the AVD within 61 Oxford Street. These leases commenced between October 2013 and January 2015 and he had analysed the rents to between £121.16 per m² and £135.15 per m².

15. Mr Fowke stated that the Valuation Officer had analysed two of the rents differently due to using different measurements. He explained that he had analysed the rent on the measurements initially provided for Suite 2 and Suite 1FO1 but the Valuation Officer had since amended the measurements taken from information from the letting agent. He stated that the same agent had provided measurements for a number of properties that were different to that originally held by the Valuation Officer, including one of the appeal hereditaments, but the Valuation Officer had only changed his records for two of the properties.

16. Mr Fowke had requested that the areas were re-measured by the Valuation Officer but he was aware that this had not happened. As the new areas had not been confirmed as correct by the Valuation Officer he requested the panel accept the original measurements. He stated that he had been provided with floor plans of the two properties where the records had been changed but these did not provide actual measurements and therefore he was unable to confirm the new areas.

17. Mr Fowke stated that the rental evidence submitted by the Valuation Officer consisted of his five comparable properties together with the rental evidence of the appeal properties and others taken from rent reviews. He considered his rental evidence should be given the most weight as they were new lettings close to the AVD.

18. Mr Ogbuagu stated that the appeal hereditaments were located in a prime location within Manchester in an office block built around 1900s of traditional brick with tiled roof. The properties had been valued at £145 per m².

19. In support of his contention he stated that the rent for Suite 1 analysed to £198.84 and the rent for Suite 5B analysed to £141.80. He also provided rental evidence of other suites within 61 Oxford Street which he had analysed to between £121.16 per m² and £198.94. He confirmed that he was satisfied that the new measurements for Suite 2 and Suite 1FO1 were correct which had increased the initial analysed rents from £130.36 and £130.54 respectfully to £139.79 and £153.62.

20. He considered that having regards to all the rents available £145 per m² was correct and requested the appeals be dismissed.

21. In answer to questions, Mr Ogbuagu stated that as he and Mr Fowke held the same measurement for the appeal hereditaments he had not amended his records to the new areas provided by Knight Frank but where information between the parties was different he had accepted the new measurements for Suite 2 and Suite 1FO1.

**Decision and reasons**

22. The issue before the panel to be considered was the price per m² to be adopted for the appeal hereditaments. In support of their contentions both parties provided the panel with rental evidence and analysed rents. The panel accordingly weighted the evidence presented.

23. The panel, in weighting the evidence, had regards to the type of transaction i.e. new lettings or rent reviews and the date of the transaction. It agreed with the appellant's representative that the best evidence was new lettings close to the AVD.

24. The panel, having regards to the five lettings cited by the appellant's representative, had to consider the issue of the measurement of two of those properties. At the start of the process Suite 2 and Suite 1FO1 had measured 170.68 m² and 263 m² but following information relating to the areas from a third party the Valuation Officer amended his records and had now recorded the two properties at 156.30 m² and 221 m² which in turn had increased the Valuation Officer's analysed rents from £130.36 per m² and £130.54 per m² to £139.79 per m² and £153.62 per m².

25. The panel understood that the Valuation Officer had not personally remeasured the two properties themselves and had relied upon third party information without providing any supporting evidence to illustrate that the original areas recorded were incorrect. Prior to the amendment the analysed rent was similar to that of the other three hereditaments with new lettings close to the AVD but with the amendments the analysed rent was increased to above other analysed rent. The panel therefore considered without substantive evidence, that the original areas should be taken into account when analysing the rent of those two properties.

26. The panel considered the other rental evidence submitted. It considered that the rental evidence for the appeal hereditaments being from 2017 and 2019 were too remote from the AVD. It then considered the rent review evidence but considered that as there were five new lettings close to the AVD less weight was to be placed on the rent review evidence.

27. The panel having been persuaded by the appellant's representative that £145 per m² was excessive agreed that a price of £130 per m² was correct when considering the rental evidence. The panel therefore allows the appeals and determines RV £14,500 for Suite 5B and RV £10,250 for Suite 1 with effect from 1 April 2017.

**Order**

28. Under the provisions of Regulation 38 (4) and (9) of The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 the VTE orders the Valuation Officer to alter the List within two weeks of the date of this order to show, Suite 5B, 5th floor, 61 Oxford Street, Manchester, M1 6EQ at a Rateable Value of £14,500 and Suite 1, 2nd floor, 61 Oxford Street, Manchester, M1 6EQ at a Rateable Value of £10,250 with effect from 1 April 2017.

29. As the appeals were successful (either in part or full) a refund of the fees paid will now be arranged (Regulation 13E of the NDR Alteration of Lists & Appeals Regs) provided there is no review of the Tribunal's decision. The refund will take around six weeks to process.

**Date:** Wednesday 15 September 2021

**Appeal numbers:** CHG100154030 and CHG100154073