THE VALUATION TRIBUNAL FOR ENGLAND

*Non-domestic rating appeal; 2017 rating list; accuracy of the rateable value in the list as at 1 April 2017; club and premises; rental evidence; comparable assessments; appeal dismissed.*

RE: 52, Lower Sloane Street, London SW1W 8BP

APPEAL NUMBER: CHG100331096

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| BETWEEN: | Sloane Club Management Ltd | Appellant |
| | and | |
| | Mr A Ricketts<br>(Valuation Officer) | Respondent |

PANEL: Mr J Rockliff (Senior Member)
Mr K Richardson

CLERK: Mrs H Beresford

REMOTE HEARING ON: 11 July 2022

APPEARANCES: Mr J McCarthy of Altus Group (Expert Witness for the Appellant)
Mr S Carter of Altus Group (Advocate for the Appellant)
Mr K Davidson (for the Valuation Officer)

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**Summary of decision**

1. The appeal was dismissed, the assessment was confirmed at rateable value (RV) £790,000 with effect from 1 April 2017.

**Introduction**

2. This appeal has been brought in respect of the following: 52, Lower Sloane Street, London SW1W 8BP (the ‘appeal property’), which was entered in the 2017 rating list as ‘club and premises’ at RV £422,500, effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, Altus Group made an appeal to the Valuation Tribunal for England (VTE) on behalf of Sloane Club Management Ltd. The appeal was made against the Valuation Officer's challenge decision to alter the 2017 rating list entry to RV £790,000. The appellant sought a reduction to RV £690,000 with effect from 1 April 2017.

4. The appeal to the VTE was made on the grounds that the valuation for the appeal property was not reasonable, as the Valuation Officer had not made an appropriate alteration to the rating list in his challenge decision notice.

5. The subject hereditament is comprises of a mixed use, period building arranged over seven floors. The property is a large private members club with private rooms, members bar and lounge areas. The subject property is located on Lower Sloane Street with the nearest tube station being Sloane Square.

6. The appellant's representative, Mr McCarthy, when appearing as expert witness, stated that he was on a conditional fee arrangement. However, he also stated that he understood and accepted that his first duty was to the VTE in giving his evidence, whether or not the evidence supported his client's case.

7. The panel has accepted this expert witness evidence on the above basis as the appeal is not complex and to do otherwise would be contrary to regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and is 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).

8. It was therefore appropriate for the panel hearing the evidence to consider the 'expert' evidence and assess what weight, if any, to give it in the context of the matters in issue before it.

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

**Issue**

10. The main space value adopted for the appeal property was not agreed. The Valuation Officer has adopted £425/m$^2$ in respect of the appeal property, but the appellant sought a reduction to £350/m$^2$. A price of £3,800/double bed unit (DBU) had been agreed

**Evidence and submissions**

11. The bundle comprised all of the documents exchanged between the parties as part of the challenge process: Valuation Officer's challenge case decision notice; rental evidence summaries; appellant's challenge submission; photographs and location plans of the appeal property; and comparable assessments.

12. Mr Carter argued that the appeal property is located on Lower Sloane Street which is a far less prestigious area than St James's or Mayfair, he submitted that the location of the club is

not comparable to the clubs which have been agreed at £425/m$^2$. He also argued that the appeal property is located above retail premises which detracts from its value.

13. Mr McCarthy referred to four comparable properties which had been provided by the valuation officer and argued that the rental evidence referred to was flawed. He submitted that the evidence of three comparable properties, in particular, the Special Services Club, 8 Herbert Crescent, London, submitted by Altus Group was more useful as it identified properties situated outside of the prestigious area of Mayfair and St James's and supported his contention that a rate of £350/m$^2$ should be adopted for the subject property.

14. Mr McCarthy also submitted that the subject property was located on Lower Sloane Street which is a far less prestigious than St James's or Mayfair and is directly opposite large un-attractive purpose built residential blocks. The parade opposite also contains low end off-licenses and dry cleaners. He argued that the location of the club is not comparable to the clubs which have been agreed at £425/m$^2$, it is located above retail premises which detracts from its value. He also contended that the room rate at the subject property had been agreed in line with  three star hotels. It had been agreed that area 1, which included Mayfair and St James was more valuable than area 2, which included Knightsbridge and Lower Sloane Street. He submitted that it would therefore follow that the bar areas in the respective clubs would have a price per square metre reflective of their location.

15. Mr Davidson for the Valuation Office contended that the Special Services Club, 8 Herbert Crescent was not a good comparable property as it was a private members' club founded for a different type of clientele, including current and ex-service members of the special forces and more recently the police. It does not offer luxury facilities and is a far smaller building with small internal rooms and has no sense of grandeur. He submitted that 9 Halkin Street was a better comparable property as it was a private members' club which had been settled on agreement at £425/m$^2$ for the 2017 rating list. Furthermore 116-118 Pall Mall, was a private members' club which had been settled on agreement with a rating representative at £425/m$^2$.

16. Mr Davidson did not agree with the appellant's representative that the property was situated directly opposite a parade of shops; he believed that looking straight across there was Sloane gardens and a tree lined avenue and the shops were a little further down the street.

17. Mr Davidson requested that the appeal be dismissed.

**Decision and reasons**

18. The panel had to determine the rateable value for the appeal property, which represented a rent that a hypothetical landlord and tenant would agree, as at the AVD,1 April 2015.  The common date was used to ensure that every property was treated in a consistent way.

19. The term 'rateable value' is defined in 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 Lands Tribunal judgment in *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141 provided authoritative guidance on the weight to be attached to rental and assessment evidence. The rent on the subject property was considered to be the correct starting point but, where available, rents on similar properties were also to be taken into account. The assessments on other comparable properties may also be relevant. All of the evidence could then be weighted.

21. In applying the *Lotus & Delta* principles the panel found that there was a market rent. The circumstances of the rent were not close to the statutory requirements it being a long leasehold interest which had been agreed in 1984. It clearly would not reflect the rent that would have been agreed at the AVD.

22. The panel was not persuaded by the evidence provided by Mr McCarthy, he had argued that the evidence of three comparable properties, in particular, the Special Services Club, 8 Herbert Crescent, London, submitted by Altus Group was the better comparable evidence. These properties were situated outside of the more prestigious Mayfair and St James area.

23. In particular, the panel found that the Special Services Club was considerably smaller than the subject property and not of the same quality, it had ten bedrooms and was split over two buildings, it was priced at £350/m$^2$; likewise, Rooms 4$^{th}$ Floor 78 Whitehall Court was considerably smaller than the appeal property with only three and a half DBU's as compared to over 120 at the appeal property, and a bar, this was also £350/m$^2$. The panel found that the appellant's representative had not compared like with like it could therefore only attach little weight to this evidence.

24. On questioning it was conceded that the two properties on Whitehall Court had been added to the evidence simply because they were situated outside of the most prestigious area and therefore supported £350/m$^2$ for the appeal property. Consequently, the panel was unable to attach significant weight to this evidence.

25. The panel noted that Mr McCarthy had stated that the subject property was situated in an inferior location and was disadvantaged by a shopping parade opposite containing low end off-licenses and dry cleaners and it is located above retail premises which he had submitted detracts from its value. This had been disputed by Mr Davidson who, on questioning, had stated that the property looked across to Sloane gardens and was on a tree lined avenue, he submitted that the shops were a little further down the street. The panel noted that the subject property was situated in Chelsea and close to Sloane Square it did not find the property to be disadvantaged by its location.

26. The panel found the Valuation Officer’s evidence to be the more persuasive. In particular, Mr Davidson had referred to 9 Halkin Street, a private members’ club which had been settled on agreement at £425/$m^2$ for the 2017 rating list and was situated outside of the main ‘clubland’ area. This property had an area of 1,285$m^2$ as compared to 1,279$m^2$ for the appeal property. The panel found this to be the more compelling evidence which supported £425/$m^2$ for the subject property.

27. The panel found that in cases of this nature the burden of proof is on the appellant to satisfy the Tribunal that the appeal should be allowed. In this case the panel found that insufficient evidence and arguments had been put forward by the appellant’s representative to convince it that RV £790,000 was unreasonable. Therefore, the appeal was dismissed.

**Date:** 25 July 2022

**Appeal number:** CHG100331096

Any party who is aggrieved by the Tribunal’s decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.