VALUATION TRIBUNAL FOR ENGLAND

2017 Rating List Appeal: Local Government Finance Act 1988; offices and premises; rental evidence close to the valuation date; appeal against the accuracy of the rateable value for the hereditament; appeal dismissed.

APPEAL NUMBER:	CHG100787657	
RE:	Ground Floor Rear 11, Hill Street, London, W1J 5LG (the "subject property")	
BETWEEN:	Zaoui & Co Ltd	Appellant
	and	
	Ms L Dyer (Valuation Officer)	Respondent
SITTING:	*remotely using Microsoft Teams*	
ON:	27 January 2025	
PANEL:	Ms T M Blades, Presiding Senior Member Ms J Gittens, Senior Member	
CLERK:	Mrs K Edhouse-Thomas	
APPEARANCES:	Mr D Semple (Ryan Property Tax Services UK Ltd), representative for the appellant. Mr C Cates, representative for the respondent	

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. The panel made no change to the rating list entry in respect of the subject property.

Introduction

2. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeal has been made to this Tribunal on the grounds that the rateable value (RV) for the appeal property was not reasonable.

3. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Background

4. The subject property is on the ground floor of a six-floor Grade II listed office building at 11 Hill Street. The building is in Mayfair, Central London, close to Green Park and Bond Street stations. The property was built in 1789 and according to the valuation officer's records was last renovated in 2007.

5. The RV for the hereditament with effect from 1 April 2017 was £75,000 which was based on an unadjusted rate of £725/m^2, adjusted to £761.21/m^2 for air conditioning.

6. The appellant's representative was seeking a reduction to £62,000 based on an unadjusted rate of £600/m^2, adjusted to £630/m^2.

7. The evidence submission before the panel comprised all the evidence disclosed and exchanged during challenge which included rental evidence and its analysis, and comparable assessment evidence. Prior to the hearing, Mr Cates requested that photographs of two of the appellant's comparable properties be admitted. Mr Semple confirmed that he had no objection to their inclusion.

8. Mr Semple, as representative for the appellant, appeared in a dual role of advocate and expert witness. He stated that he was being paid on a contingency fee basis but was aware that in giving expert evidence his responsibility was to the Tribunal.

9. The dual role is allowable in this Tribunal's proceedings having regard to the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009) (regulation 3 (Discharge of VTE functions – general) and rules regarding admissibility of evidence (regulation 17(2)(a)). However, it was necessary to consider the "expert" evidence and assess what weight, if any, to give it in the context of the matters in issue.

10. Mr Cates for the valuation officer, appeared in the role of advocate.

Relevant Law

11. The term "rateable value" was defined in Schedule 6 to the Local Government Finance Act 1988 (as amended). The value was required to reflect an annual rent on the property, assuming a new letting with the tenant being responsible for all rates, taxes, repairs and insurance. In respect of all entries in the 2017 rating list, the Rating Lists (Valuation Date) (England) Order 2014 requires the rental levels to be taken on 1 April 2015, the antecedent valuation date (AVD).

Discussion

12. In the case under consideration, the panel analysed the competing evidence having regard to the authoritative guidance in *Lotus & Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141.

13. The starting point for consideration was the actual rent passing on the appeal hereditament. According to the valuation officer's records, the rent passing was £79,125 effective from 21 December 2018. However, Mr Cates stated that according to CoStar data, the rent appeared to have been agreed in December 2014, but no copy of the lease was available. The appellant's representative stated that he was in possession of a lease with an annual rent of £73,850 effective from 4 September 2018, however the panel placed little weight on this lease because it was unsigned and undated. The panel noted that the lease dated 21 December 2018 was signed over three years post AVD and therefore placed less weight on the subject property's rent as it had been set too far removed from the AVD.

14. In terms of indirect rental evidence, Mr Semple referred to 1 Hill Street and 3 Hill Street. The first two properties were connected buildings with the same occupier. Mr Semple had analysed these properties together, because he stated they had been agreed on the same terms from 25 July 2014. The in terms of main space (ITMS) area was 741.40m^2 and the combined rent on these properties was £465,247. Mr Semple had removed the reverse quantum uplift and uplift for comfort cooling to reach a revised price of £596.14/m^2. He argued that the leases had been agreed eight months prior to AVD for a figure below £725/m^2 and contended that the price per m^2 for the subject property was too high.

15. The panel noted that 1/3 Hill Street was considerably larger than the subject property, which had an ITMS area of 103.74m^2. The panel considered that this size difference made the properties less comparable. There were also several adjustments required to bring it back in line with the statutory definition, which made this evidence less reliable. The panel considered that the calculations did not stand up to close scrutiny.

16. Mr Semple stated that the best evidence within the same building was in respect of 2nd Flr Rear, as the subject hereditament was also at the rear of the building. There had been a lease renewal on 12 November 2014, which he argued adjusted to £618.50 and demonstrated what was happening in the market at this time. The panel noted that this renewal took place within five months of the AVD but would need adjustment as it was not a new lease.

17. Mr Cates relied on rental evidence in respect of 51-52 Charles Street. There were two new 5-year leases from 1 November 2015, in respect of the first and fourth floors. He contended that the lease for the fourth floor was the best rental evidence because the property was similar in size, measuring 93.81m^2. This had an unadjusted rate of £725/m^2. The panel considered that this was a good comparable property and found that it was not unreasonable for the subject property to be assessed at £725/m^2.

18. At the hearing, Mr Cates contended that Mr Semple's argument was flawed. The RV for the subject hereditament in the 2010 rating list was £74,000, which had been agreed with Mr Semple's company. Whilst each rating list should be considered separately, he argued that to justify a 13% reduction between the two lists, Mr Semple was suggesting that the market had declined sometime between 2005 and 2013. Mr Cates referred to the rent in respect of 1st Flr, 11 Hill Street which was also occupied by Mr Semple's client. The rent was agreed on 5 September 2013 for £194,905. He argued that there had been a steady increase between this date and 21 December 2018 when the lease for the first floor had been agreed at £259,876. On the basis that the rent on this hereditament within the same building had increased between 2013 and 2018, the panel considered that it was difficult to see how the value would have reduced between 2013 and 1 April 2015.

19. Mr Semple argued that there had been reductions in the locality on other comparable offices at 52 Berkeley Square and 51-52 Mount Street. Whilst they were in inferior locations, he contended that they demonstrated a tone in the locality. The panel considered that the best evidence was within the same building, due to the value sensitivity in this locality. The unadjusted rate in respect of the assessments for the ground, first, second and third floors was £725/m^2, and the panel considered that this was not unreasonable.

20. Overall, the panel was satisfied that the subject property's assessment was reasonable having regard to the rental evidence of 51/52 Charles Street which was a new lease close to the AVD and the comparable assessment evidence within the same building.

Disposal

21. In view of the above findings and conclusions, the Tribunal panel was not satisfied that any reduction in the rating list entry was warranted. The appeal was therefore dismissed.

Date issued to parties: 21 February 2025

Right of further appeal

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.
