THE VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Rating Appeal; dispute over effective date of increase in rateable value; appeal allowed.

RE: Scuderia House, Newcombe Drive, Hawksworth Trading Estate, Swindon SN2 1EG

APPEAL NUMBER: CHG100833706

BETWEEN:	R E T/A Re-performance	Appellant
	and	
	Ms A Morley (Valuation Officer)	Respondent

PANEL: Mr R Patel (Senior Member)
Mr M Bhatti

CLERK: Mr R Gath IRRV Hons

REMOTE HEARING 3 on 18 May 2023

APPEARANCES: R E (Director of Appellant company);
Mr K Jones (Valuation Officer's representative)

Summary of decision

1. Appeal allowed. The effective date of the Rateable Value (RV) is changed to 13 July 2021.

Introduction

2. The appellant had made a challenge against the effective date of the RV in the 2017 Rating List, by way of a proposal that he served on the Valuation Officer (VO) on 28 July 2022. After considering the proposal and evidence submitted during the challenge period, the VO decided that the proposal was not well founded. A decision notice to that effect was served on the appellant on 16 September 2022. He appealed the VO's decision to the tribunal on 16 November 2022.

3. The appeal property was a warehouse and premises with an agreed Gross Internal Area (GIA) of 442.25m². It had a 5% allowance for a split unit.

4. This document is not and does not purport to be a full verbatim record of proceedings.

Issue

5. The issue in dispute before the panel was the correct effective date to be applied to the RV. The appellant sought the revised entry of £20,250 RV effective from 23 June 2021. On behalf of the respondent, Mr Jones initially defended the VO's effective date of 1 January 2018 for the effect date of the increase to the RV. But, following a short adjournment he conceded that the revised RV should be effective from 13 July 2021.

Evidence and submissions

6. The evidence bundle before the panel comprised all of the evidence disclosed and exchanged during challenge which included both parties' skeleton arguments.

Decision and reasons

7. In the case under consideration, the appellant argued that the VO had initially measured the appeal property incorrectly. It was only when the landlord of the entire building disputed his assessment did the VO realise its error and increased the RV of the appeal property and backdated the RV effective from 1 January 2018.

8. Whilst the appellant accepted the increase in the RV, he argued that the backdating of the RV had caused some hardship as he could have been granted additional Covid 19 hardship relief.

9. As the appellant had introduced a new argument, that the VO had initially incorrectly measured the appeal property, the panel adjourned for the VO representative to confirm to the panel if the appellant's argument was correct and not to disadvantage the VO.

10. After the adjournment, Mr Jones accepted the VO had made an error when it initially measured the appeal property.

11. Mr Jones also conceded that the regulations do not allow an increase in the RV to be backdated if it was not caused by the ratepayer. As Mr Jones was satisfied that the error was not caused by the appellant, he confirmed that the increase in the RV should only be effective from the date of the schedule which was 13 July 2021 and confirmed that this was the correct effective date.

12. Regulation 14 of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009 as amended (where relevant to this appeal) states:

    (1B) Subject to paragraphs (3) to (7), for a list compiled on or after 1 April 2017, where an alteration is made to correct any inaccuracy in the list on or after the day on which it is compiled, the alteration shall have effect from the day on which the circumstances giving rise to the alteration first occurred".

(3) …;
(4) …;
(5) …;
(6) …;
(7) An alteration made to correct an inaccuracy (other than one which has arisen by reason of an error or default on the part of the ratepayer)-
(a) in the list on the day it was compiled; or
(b) which arose in the course of making a previous alteration in connection with a matter mentioned in any of paragraphs (2) to (5)
which increases the rateable value shown in the list for the hereditament to which the inaccuracy relates, shall have effect from the day on which the alteration is made.

13. As Mr Jones conceded that the alteration was made when the valuation list was amended and a schedule issued on 13 July 2021, he confirmed that current effective date of 1 January 2018 was incorrect and asked the panel to amend the RV to £20,250 effective from 13 July 2021.

14. The panel would like to thank Mr Jones in confirming the VO had made an error in the effective date and for conceding the appeal.

Order

15. Under the provisions of regulation 38(4) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, the Valuation Tribunal for England orders the Valuation Officer to amend the effective date in the rating list to rateable value £20,250 with effect from 13 July 2021.

16. Under regulation 38(9), the Valuation Officer must comply with this order within two weeks of the date of its making.

Refund of appeal fees

17. As the grounds of the appeal have been made out, a refund of the paid fee 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: 7 June 2023

Appeal number: CHG100833706

Right of 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.