THE VALUATION TRIBUNAL FOR ENGLAND

Non-domestic rating; 2017 Rating List appeals; shop and premises; Zone A price per m^2 in dispute; rental evidence; recent Valuation Tribunal decision for a neighbouring property; appeals dismissed.

RE: 349 Roman Road, London E3 5QR

APPEAL NUMBERS:	CHG100885713 and CHG100885851
BETWEEN:	Look Property Services Limited Appellant
	and
	Mr A Ricketts, Valuation Officer Respondent
PANEL:	Mr C Derrick (Presiding Senior Member) Miss U Haque (Senior Member)
CLERK:	Mrs L Horne
REMOTE HEARING ON:	Monday 18 December 2023
APPEARANCES:	Mr S Carter (advocate) and Mr T Bosley (expert witness), from Altus Group, representing the appellant Mr T Bleasdale representing the Valuation Officer

Summary of decision

1 Appeals dismissed. The panel confirmed the Rateable Value (RV) of £17,000 with effect from 1 April 2017, and £16,000 with effect from 24 January 2022.

Introduction

2 These are 2017 rating list appeals. 349 Roman Road, London E3 5QR, (the ‘appeal property’) had been entered in the 2017 rating list as ‘shop and premises’ at a RV of £17,000 with effect from 1 April 2017. Following a Valuation Officer’s notice of alteration, the RV was altered to £16,000 with effect from 24 January 2022.

3 The challenge proposals were submitted by Altus Group on behalf of Look Property Services Limited and were received by the Valuation Officer on 6 and 7 December 2022. They had been made on the grounds that the RVs shown in the rating list on 1 April 2017 and 24 January 2022 were wrong.

4 The Valuation Officer issued challenge case decision notices on 4 April 2023, which stated that based upon the evidence and information available, the rating list entries were reasonable and there would be no change.

5 In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, the appeals to this Tribunal have been made on the grounds that the valuation for the hereditament is not reasonable. The appeals were received by the Tribunal on 28 June 2023.

6 As Mr Bosley appeared on behalf of the appellant as expert witness, the clerk asked if there was a success related fee involved and if so whether its existence was compatible with his obligations to the Tribunal as an expert. This question was raised in view of the Upper Tribunal's judgment in *Gardiner & Theobald LLP v David Jackson (VO)* [2018] UKUT 0253 (LC).

7 It was established that Mr Bosley's company would receive a conditional fee if the rateable value was reduced as a result of the panel's decision.

8 However, Mr Bosley declared that he understood and accepted that his duty was to the Tribunal in giving his evidence and that 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.

9 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).

10 The panel therefore considered the "expert" evidence and attached such weight to it as it saw fit.

11 The appeal property is a traditional shop, located on Roman Road in the east end of London between South Hackney and Globe Town. The property has a total area of 86.61 m^2, and is presently valued at a Zone A price of £450 per m^2, uplifted by 5% for return frontage, and one car parking space at £400.

12 This Tribunal decision document is not and does not purport to be a verbatim record of proceedings.

Issue

13 The issue in dispute is the Zone A price per m^2 to be adopted in the valuation of the appeal property.

Evidence and submissions

14 The bundle comprised all of the documents exchanged between the parties as part of the challenge process: initial response to the challenge; Valuation Officer's challenge case decision notice; and appellant's challenge submission.

15 In support of the appellant's case, Mr Carter relied upon a Valuation Tribunal decision in respect of 341-343 Roman Road, a property two doors away from the subject property in the same parade. He stated that the Zone A price per m^2 had been altered from £450 to £340, and as the most suitable comparable, he proposed the same for the subject property.

16 On behalf of the Valuation Officer, Mr Bleasdale defended the present Zone A price of £450 per m^2 with reference to rental evidence drawn from comparable properties on Roman Road. He disputed the relevance of 341-343 Roman Road as a suitable comparable, as it was a double unit of $129.51m^2$, and he contended that this was an isolated Valuation Tribunal decision. There had been no proposed price per m^2 in the decision or challenge submission. The tone had been changed to £340 per m^2 solely to achieve a revised RV of £25,500.

Decision and reasons

17 In accordance with paragraph 2(1) of Schedule 6 of the Local Government Finance Act 1988, the appeal property must be viewed vacant and to let and valued for the purpose of non-domestic rating on the basis of the rent at which it might reasonably be expected to let from year to year on a number of assumptions. The date of the hypothetical rent is 1 April 2015, the antecedent valuation date (AVD) for the 2017 rating list.

18 The material day (the date by which physical factors have to be taken into account) was provided by the Non-Domestic Rating (Material Day for List Alterations) Regulations 1992 (SI 1992 No. 556) as amended. In respect of the subject appeals, the material day for CHG100885851 is 1 April 2017 and 24 January 2022 for CHG100885713.

19 Both parties had referred to the leading judgment of *Lotus and Delta v Culverwell (VO) and Leicester City Council* [1976] RA 141, which set out six propositions to be followed when considering the weighting of 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. The appeal property was held freehold and therefore there was no rent passing.

20 In support of a revised Zone A price of £340 per m^2, the appellant's representatives had cited the Valuation Tribunal decision in respect of 341-343 Roman Road.

21 The panel found that there had been no reference made to an alteration of the Zone A price per m^2 in the decision. As stated by Mr Bleasdale, the tone had been changed to £340 per m^2 solely to achieve a revised RV of £25,500. As such, the panel was not persuaded that a reduction in the Zone A price per m^2 had been specifically determined in the 341-343 Roman Road decision.

22 While previous decisions of the Tribunal are not binding, they can be persuasive if circumstances are considered to be relevant. While close in location, the panel found that 341-343 Roman Road was a double unit and therefore not directly comparable with the subject property. It was also significant that the reduction to £25,500 RV had been based solely upon the post AVD rent of 341-343 Roman Road, due to a lack of sufficient rental information to allow analysis and verification of the Valuation Officer's comparable properties.

23 The panel turned to the rental evidence scheduled by the Valuation Officer in support of the present tone of £450 per m^2. In contrast to the evidence provided for 341-343 Roman Road, there was sufficient detail to enable analysis of the rental transactions. The analysis of the rents ranged from £434.07 in June 2014 (409 Roman Road) to £824.30 in August 2015 (397 Roman Road).

24 It was a point conceded in the appellant's submission that the rents for 355, 363 and 409 Roman Road supported a tone of £450 per m^2 for those parades. However, it was contended that the subject parade could be distinguished from other parades on Roman Road. Reference was made to a point made in the 341-343 Roman Road decision that it was located in an "unusual and isolated location, being the last shop before the church and with no shops opposite".

25 With reference to the photographs and location plans, the panel found that the subject parade was in close proximity to the other parades, and the only breaks were due to narrow side roads. The panel was not satisfied that there were any compelling reasons to demonstrate that the subject parade was either unusual or isolated. It was significant that all of the rental comparable properties were valued within the same scheme at £450 per m^2. Those properties included 347 Roman Road in the subject parade, and the next four parades: numbers 355, 363, 379, 397 and 409.

26 Having determined that there appeared to be no value specific difference in the subject parade and those nearby, it therefore followed that a tone of £450 per m^2 for the appeal property was consistent with the surrounding parades.

27 In the proposed alteration of the Zone A price from £450 to £340 per m^2, the appellant's representatives had relied solely upon the decision of the Tribunal

to reduce the RV of 341-343 Roman Road. Ultimately, the guidance from *Lotus and Delta* required consideration of all of the available evidence. In doing so, the panel held that the weight of the evidence presented demonstrated that the Zone A price of £450 per m^2 for the appeal property was not unreasonable.

28 For the reasons outlined above, the appeals failed and were dismissed.

Date: 16 January 2024

Appeal Numbers: CHG100885713 and CHG100885851

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.