VALUATION TRIBUNAL FOR ENGLAND

2017 rating list appeal; Local Government Finance Act 1988; offices; comfort cooling and air conditioning distinction; lack of evidence to support the expert opinion; appeal dismissed.

APPEAL NUMBER:	CHG101070655
RE:	3rd Floor, Black Bull Yard, 18A, Hatton Wall, London, EC1N 8JH (the "appeal property")
BETWEEN:	Momentum The Growth Consultancy Ltd — Appellant
	and
	Mr A Ricketts (Valuation Officer) — Respondent
SITTING:	*remotely using Microsoft Teams*
ON:	15/01/2025
PANEL:	Mr I Lonsdale, Presiding Senior Member Mrs F Cortese, Senior Member
CLERK:	Mr D Mulgrew
APPEARANCES:	Mr P Barney (Altus Group) (Appellant's representative) Mr C Cates (Respondent's representative)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed. No change was made to the rateable value of the property.

Introduction

2. The appeal property was entered in the 2017 rating list as "offices and premises" at rateable value £230,000 effective from 23 April 2019. This was the date of the respondent's notice which had increased the original rateable value of £151,000 which had been effective from 1 April 2017.

3. In accordance with regulation 13A of the Non-Domestic Rating (Alteration of Lists and Appeals) (England) Regulations 2009, an appeal to this Tribunal had been made because the respondent had decided not to alter the 2017 rating list following the appellant's proposal to alter the entry to £217,500 with effect from 23 April 2019.

4. The appeal to this Tribunal has been made on the grounds that the valuation for the appeal property is not reasonable. The appellant sought rateable value £218,000 from 23 April 2019.

5. Mr Barney, as appellant's representative, 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. The dual role is allowable in this Tribunal's proceedings having regard to procedure regulations[1] and rules regarding admissibility of evidence[2]. 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.

6. Mr Cates had not been involved in the respondent's decision notice and appeared before the Tribunal in the capacity as advocate only.

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

Relevant Law

8. 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).

[1] Regulation 3 (Discharge of VTE functions – general) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.
[2] Regulation 17(2)(a) (Evidence and submissions) of the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

Discussion

9. The appeal property, a third-floor office, was in a period building that had been refurbished between 2014 and 2017 to a good quality specification.

10. The appeal property had been assessed by the respondent at £500/m^2. The appellant wanted a 5% allowance, which reduced this to £475/m^2. The allowance was sought on the basis that the property had comfort cooling and not a full air conditioning system.

11. Mr Barney argued that the appeal property was in a valuation scheme for modern offices which assumed that those offices had air conditioning and raised floors. The comfort cooling system was not as good as a full air conditioning system because it simply heated and cooled the air within the building and did not use fresh air from outside, nor could it control humidity. In his professional opinion, it was customary to allow a 5% reduction in respect of comfort cooling systems.

12. Mr Cates argued that one would not expect air conditioning in a period building and that such as system would add value to a property. He contended that the existing price of £500/m^2 reflected all of the characteristics of the appeal property. He stated that he was not aware of other cases which had had allowances.

13. The appeal property's rent devalued to £649.03/m^2. It was a new letting from 1 July 2017. The only other rental evidence was in respect of the first floor of the same building. This was also a new letting from 1 August 2017. The rent analysed to £597.13/m^2. Both rents were therefore well over £500/m^2. However, the panel recognised that its decision should not exclusively be based on the rental evidence as the rents had been agreed more than two years after the AVD. Nonetheless, the available rental evidence did not suggest the appeal property's rateable value was unreasonable.

14. The photographic evidence provided showed that the comfort cooling equipment was a sophisticated system spread over the office floor. However, the panel also recognised the distinction between this system and air conditioning.

15. After careful consideration, the panel reached the conclusion that the case for a reduction had not been proved. The panel appreciated Mr Barney was an expert but was of the view that his expert opinion should have been supported with evidence. On this occasion there was no evidence to show that it was well established practice to make a 5% allowance. No comparable evidence had been provided to support an allowance. The only comparable evidence provided was from the respondent to show two offices in the locality that had not received any comfort cooling allowances.

Disposal

16. In view of the above findings and conclusions, the panel dismissed the appeal.

Date issued to parties: 4 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.
