

TRIBIWNLYS PRISIO CYMRU - VALUATION TRIBUNAL FOR WALES

Appeal No.: 682529027495/537NV10/17

Appellant: Geo Hallam & Sons agent for Fresenius Medical Care Renal Services Ltd

Appellant's Address: Fresenius Renal Care Unit, Glangwili Hospital, Glangwili, Carmarthen SA31 2AF

The Matter Appealed against: 2010 Rating List

Date of Hearing: 11 September 2019

Appearances: Mr R Davies of Geo Hallam & Sons (Agent)
Mr M Seward for the respondent Valuation Officer (VO)

Date of Decision: 12 February 2020

Decision of Tribunal: Appeal allowed in part

Members of the Tribunal: Mr H Patrick (Chair), Mrs M Jones & Mr W D Weeks

Tribunal Clerk: Mrs S J Gwilliam

Introduction:

1. The Agent contended, in a proposal to alter an entry in the 2010 Rating List (the List) received by the VO on 24 March 2017, that the Rateable Value (RV) of the appeal hereditament was inaccurate and should be reduced from £61,500 RV to £1 RV with effect from the 1 October 2014, for the following reasons:
2. *"The rateable value shown in the list by reason of an alteration made by the valuation officer on 01-OCT-14 is inaccurate....The proposed alteration on the 1st October 2014 was illegal, excessive and bad in law and should be reduced to £1 rateable value".*
3. This is a summary of the case and is not intended to be an exhaustive record of the proceedings. However, the parties can be assured that all the evidence was fully considered by the Tribunal when it arrived at its decision. Consequently, the absence of reference to any statement, or evidence, should not be construed as being overlooked.

Summary of the VO's Case

4. Mr Seward explained that the main issue before the Tribunal was the £/m² to be applied to the cost of the property. The Appellant believed that the cost should be £1,001/m² whereas the VO believed that the current level

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of £1,601/m² was correct. He confirmed that the areas were agreed between the parties at 1,038.1m².

5. The VO informed the Members that the appeal property was valued using the contractor's test method and briefly explained the valuation method by referring to a summary from the VOA Rating Manual:

"this method of valuation (originally known as the Contractor's Test) is that employed in the case of hereditaments which are normally never let, which by their nature do not lend themselves to valuation by comparison with other classes where rental evidence does exist and which are not of the type where a valuation by reference to the accounts of the undertaking (Receipts and Expenditure Method) would be appropriate.

6. *The basic philosophy underlying the contractor's basis is set out in the case of Dawkins (VO) v Leamington Spa Corp and Warwickshire CC (1961) 1 RVR 291:- The hypothetical tenant has an alternative to leasing and paying rent because he can build similar premises, the "tenant's alternative".*
7. *The hypothetical tenant would not pay more in rent, and may well pay somewhat less, than interest charged or foregone on the capital sum employed in providing the "tenant's alternative".*
8. He reiterated that the tenant would not pay more in rent than they would in interest on constructing the property themselves. Since 1990 this interest rate, known as the decapitalisation rate/decap rate, has been set by the Government. For health properties in Wales the rate for the 2010 Rating List was set at 2.97%.
9. Mr Seward outlined the background of the appeal property as a modern purpose-built medical facility located on the Glangwili Hospital site in Carmarthen. The property was designed and built by the local health board in 2007 using a Welsh Government grant and subsequently opened in 2008.
10. The building was constructed using a main steel frame with a structural section framing system with blue engineering bricks and a white curved insulated rendered band running along the west elevation.
11. Upon completion, the Trust leased the ground floor of the property to Renal Network Wales who then contracted the service to Fresenius. The Trust occupied the first floor of the property as a cardiac respiratory unit along with the second floor which consisted of plant rooms.
12. The VO informed the Tribunal that the property was nominated for several awards and featured as a case study for good design by the Design Commission for Wales. It was also shortlisted for a RIBA award in 2009, winner of a LABC award and received a Carmarthenshire Civic Society Award in 2009. In the profile the Appellant states: *"Fresenius (the Renal*

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Dialysis Company running the dialysis unit) have stated that the facility at Carmarthen sets a benchmark for a new renal dialysis in the UK and it is used as a showcase for dialysis treatment in the UK.”

13. The property was assessed as part of the general hospital assessment from 2007-2014 until a formal lease was undertaken by Fresenius at a peppercorn rent on the 1 October 2014. As a consequence, the renal unit was split from the hospital assessment effective the 1 October 2014.
14. As part of the 2010 agreement, Mr Seward stated that the £/m² for the appeal property was agreed with Deloitte at £1,601/m². The first floor and plant rooms retained by the hospital were also agreed at £1,601/m².
15. In relation to the cost of constructing the building, the VO informed the Tribunal that the Design Commission for Wales listed the building costs at £4.9million, which based upon the VO's area of 2,371.6m² for the building, equated to £2,066/m².
16. In addition, Mr Seward contacted the Estates Department at the local health board who were unable to locate the precise details, however, the District Valuer Services possessed limited information including a return completed by the former NHS Trust listing the expected costs at £4.46 million which equated to £1,881/m², a value significantly above the cost applied in the current valuation of £1,601/m². Mr Seward clarified that he had adopted the lower cost of £1,881/m², a figure which was above the cost applied in the subject valuation of £1,601/m².
17. During his investigations, the VO also considered cost information pertaining to a Dialysis Unit, Arlington Street, Hull. He explained that the costs provided were received after the 2010 settlement had been agreed and as such were not available as part of that settlement. The costs provided were £2,501,756.24 with the completion date being the 30 June 2010. He explained that in order to adjust the costs to the Antecedent Valuation Date (AVD), a number of adjustments were required. This figure was divided by the area, equating to £1,812.20/m², a value Mr Seward contended, was very similar to the estimated costs provided by the Trust in relation to the appeal property. He also sent the costs to the VO Policy Team who analysed these costs and calculated a similar figure.
18. The VO also referred to an appeal made by Montagu Evans in relation to Maidstone Renal Facility at Maidstone Hospital, Maidstone, Kent. This unit was built in 2007 and was valued on the actual costs at £2,587/m². The appeal was subsequently withdrawn.
19. Based upon the cost evidence available and in the absence of the Agent providing cost evidence with the exception of the Renal Dialysis Unit in Hull, Mr Seward considered that the cost evidence did not support a reduction and that the current £/m² ascribed to the appeal property was not excessive, and, in all likelihood was too low.

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20. In relation to the Agent's case regarding settlements of cited comparable premises, the VO informed the Tribunal that he had considered each of them in some detail and found some important facts which differed to the Agent's interpretation:

- Walsall Dialysis Unit in Walsall was a purpose-built dialysis unit constructed in 1998 by Total Renal Care UK (previous trading name of Fresenius) on land leased by the Dorothy Pattinson Hospital. The case was dealt with by one of Mr Seward's colleagues, whom he believed unwittingly attached considerable weight to the rent passing of £19,950, which related to a ground lease for the site only. The assessment was agreed at £25,500 RV, only £5,500 above the rent for the land alone, a value, Mr Seward believed was not truly reflective of that property and he opined that the rental value for the Walsall property was circa £44,500. The VO reiterated that there was no suggestion whatsoever that Mr Davis sought to mislead his colleague.
- Dialysis Unit, Arlington Street, Hull was a purpose-built dialysis unit built by Fresenius on land leased from Hull University Teaching Hospitals NHS Trust at a rent of £18,096. The VO informed the Tribunal that cost evidence provided by the Agent showed, despite the settlement to the contrary that this property was clearly under assessed. He explained that given that the actual costs were far in excess of the agreed RV of £66,500 and that these costs were not known to the VO caseworker at that time. Mr Seward believed that had the caseworker known the actual facts, the appeal would not have been agreed at £66,500 when the actual costs supported the valuation in the List of £106,000.
- Unit 1 Mill Court, Goat Mill Road, Dowlais, Merthyr Tydfil was converted from a 2001 purpose built industrial property to a satellite renal dialysis unit. In July 2013, Fresenius undertook a lease of the premises at a rent of £60,833, in line with local tone, and the conversion works were undertaken at a reported cost of over £2 million. A settlement was agreed with a VO caseworker at £66,500 which added just £11.48/m² to the warehouse tone to reflect those improvements. Mr Seward considered that this would suggest that of the £2 million reported expenditure, the rateable costs were only circa £130,000. Therefore, he believed that his colleague did not have regard to the conversion costs or to comparables of other converted units in South Wales.

Consequently, Mr Seward explained that in accordance with *rebus sic stantibus*, where a tenant has undertaken a great deal of works, the rent needs to be adjusted to reflect those improvements. The VO had asked the agent for the actual conversion costs but as he did not receive them, he used half of the reported costs in line with other costs of other converted units. He also assumed a six month rent free period for the fit out so adjusted the rent accordingly. After

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considering the necessary adjustments, Mr Seward calculated the analysed rent as £157,883 (£119.65/m²), a value he explained which is more than double that of the agreed assessment.

21. The VO also spoke to his colleagues within the Civics Team of the VOA to ascertain whether there was a settled basis of renal units and it was confirmed that there was not. It was also confirmed by the VOA policy team that there was no memorandum of agreement for renal units for the 2010 Rating List nor was it encompassed within any other of the VOA practice notes; they confirmed that renal units were valued on an individual basis, based upon the actual property concerned.

22. In addition, Mr Seward explained that he had analysed how the other renal units within Wales were assessed and found:

- 5 main units were included within the main acute hospital assessment and valued on an acute basis;
- 6 satellite units located on hospital sites were separately assessed with 2 valued on an acute basis and 4 on a community hospital basis;
- 4 other satellite units, 3 were within converted properties with 2 valued on an office tone and 1 on an industrial tone with an uplift.
 - i. One exception to this was Meddygfa Padarn Surgery, where the VO believed the renal unit was located within, and valued, with the health centre.
 - ii. Llantrisant Dialysis Unit, Llantrisant Business Park, Llantrisant was purpose built in 2003 and Fresenius leased the property on a 25-year term. At the AVD there was a rent passing of £103,368 which based on the area at the time, analysed at £229/m². The 2010 assessment was based on a local office tone plus 20%;
 - iii. Pentwyn Renal Unit, Croescadarn Close Avenue Ind Est, Cardiff was a purpose built converted industrial unit valued on a local office basis at £92.63/m² to reflect the degree of works undertaken; and
 - iv. Unit 1 Mill Court, Dowlais, Merthyr was valued on an industrial basis at £51.48/m² and was the lowest despite being the most recently converted.

23. Mr Seward then turned his attention to other clinics operated by Fresenius within the UK, 11 of which were occupied by the company in the 2010 List and were separately occupied. Of the 11 comparables, 7 were located on hospital sites and were assessed using the contractor's method (with 3 assessed as private hospitals), 2 were assessed as acute hospitals and 2 as health centres. Of the 4 based on non-hospital sites they were all valued in relation to either local office or warehouse tone. In his opinion, the best comparable was the Fresenius Renal Care Unit at Withybush General Hospital in Haverfordwest. This property was assessed on an acute basis and had not been appealed.

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24. The VO responded to the Agent's summary of £/m² applied to ten comparables whereby an average £/m² was calculated. Mr Seward considered that this analysis was fundamentally flawed as the Agent did not include all of the properties within this analysis and some of these properties were built in a different era with differing standards and as such were not on an equal footing to a modern building. In addition, the VO maintained that the Agent had omitted Withybush from these calculations, which in his opinion, was the most comparable. For completeness, the VO provided a list of the comparable properties detailing the age and £/m²:

CDB Address	Scheme	Age	£/m²
MEDDYGFA PADARN SURGERY, PENGLAIS ROAD, ABERYSTWYTH, SY23 3DU	Health Centre	2011	£1,001.71
RENAL UNIT AT CARDIFF ROYAL INFIRMARY, NEWPORT ROAD, CARDIFF, CF24 0SZ	Community Hospital	1935	£929.00
UNIVERSITY HOSPITAL OF WALES, HEATH PARK, CARDIFF, CF14 4XW	Acute Hospital	1992	£1,327.00
FRESENIUS RENAL CARE UNIT, GLANGWILI HOSPITAL, GLANGWILI, CARMARTHEN, SA31 2AF	Acute Hospital	2007	£1,601.00
YSBYTY GLAN CLWYD, BODELWYDDAN, RHYL, LL18 5UJ	Acute Hospital	2004	£1,327.00
FRESENIUS RENAL CARE UNIT, WITHYBUSH GENERAL HOSPITAL, FISHGUARD ROAD, HAVERFORDWEST, SA61 2PZ	Acute Hospital	2014	£1,676.00
RENAL UNIT AT WAR MEMORIAL HOSPITAL, TEMPLE STREET, LLANDRINDOD WELLS, LD1 5HF	Community Hospital	1923	£901.00
RENAL UNIT AT PRINCE CHARLES HOSPITAL, GURNOS, MERTHYR TYDFIL, CF47 9BY	Community Hospital	1989	£992.00
WEST GLAM HEALTH AUTHORITY, MORRISTON HOSPITAL, MORRISTON, SWANSEA, SA6 6NL	Acute Hospital	1995	£1,542.00
FRESENIUS MEDICAL CARE BASSETLAW DISTRICT HOSPITAL, KILTON HILL, WORKSOP, NOTTS, S81 0AR	Private Hospital	2009	£1,600.00
FRESENIUS, LEIGHTON HOSPITAL, MIDDLEWICH ROAD, LEIGHTON, CREWE, CW1 4QJ	Private Hospital	1991	£1,225.00
FRESENIUS SOUTHPORT & FORMBY DISTRICT GENERAL HOSPITAL, TOWN LANE, SOUTHPORT, MERSEYSIDE, PR8 6PN	Private Hospital	2009	£1,440.00
WALSALL DIALYSIS UNIT, ALUMWELL CLOSE, WALSALL, WS2 9XH	Health Centre	1998	£921.77
DIALYSIS UNIT, ARLINGTON STREET, HULL, HU3 2JZ	Health Centre	2010	£1,001.00
MAIDSTONE RENAL FACILITY, AT MAIDSTONE HOSPITAL, HERMITAGE LANE, MAIDSTONE, KENT, ME16 9QQ	Private Hospital	2008	£2,587.00

25. Mr Seward referred the Tribunal to an extract from the VOA's practice note for hospitals which detailed the building costs applied to the different age and types of medical facilities.

26. The VO explained that of the 24 comparables in considering whether a tone had been established, the VO found that the following methods of valuation had been adopted:

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Valuation Method	No of assessments
Contractors – Acute	7
Contractors – Community	4
Contractors – Health Centre	3
Contractors – Private Hospital	4
Rentals – Office	2
Rentals – Warehouse	4
TOTAL	24

27. In relation to separately assessed units, Mr Seward found:

Valuation Method	No of assessments
Contractors – Acute	2
Contractors – Community	4
Contractors – Health Centre	2
Contractors – Private Hospital	4
Rentals – Office	2
Rentals – Warehouse	4
TOTAL	18

28. From the above, the VO concluded that there was no settled basis or tone and that a variety of valuation types had been used depending upon the property concerned and its location.

29. In conclusion, Mr Seward stated that he had investigated the appeal in some detail and examined the cost and settlement evidence. The cost evidence clearly indicated that, if anything, the costs were too low and his opinion of value based upon cost evidence at £1,850/m² compared to £1,601/m² in the List.

30. Given that the cost evidence the VO had, including that of the actual building, Mr Seward maintained that no reduction was warranted. He believed that the tonal evidence needed to be compelling in order to override this element and he did not find that to be the case.

31. From the assessment and settlement evidence he reviewed, the VO concluded that there was no agreed basis nor settled tone for renal units. The variety of valuation approaches and £/m² used, demonstrated that there was no basis in place and confirmed his colleagues view that each unit should be valued on its own merits based on its own evidence. The assessment in Maidstone being a key example of this at £2,587/m² based upon cost evidence.

32. He added that it was worth noting again that the appeal property was designed and built by the Trust as a hospital building and the 1st floor was being used as a cardiac and respiratory unit. This property was discussed and agreed at £1,601/m² with Deloitte as part of the West Wales Hospital settlement. Upon the ground floor being split from the assessment, both the 1st floor and 2nd floor plant rooms were assessed at £1,601/m². Mr

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Seward stated that it would seem incongruous to him that the ground floor would be worth £600/m² less than a plant room in the same building.

33. Given the cost evidence and settlement evidence, the VO considered that the £1,601/m² was not excessive and was in fact quite conservative, based upon the higher cost evidence including the actual property. Consequently, Mr Seward asked the Tribunal to confirm his valuation of £57,500 with effect from 1st October 2014.

34. In response to questions from the Agent, Mr Seward stated:

- He accepted that no discussions took place in relation to the Walsall property; and
- Transplants are conducted at main units. Merthyr Tydfil is a satellite unit.

Summary of the Agent's Case

35. Mr Davis explained that Geo Hallam and Sons (GH&S) represented Fresenius in respect of property matters since 1990 but this did not include non-domestic rating. Due to the late appointment of GH&S it was not possible to review all properties prior to the closure of the 2010 Rating List hence the handful of appeals lodged. The subject appeal was lodged on the 27 March 2017.

36. The Agent outlined the background to the dispute. He explained that at the time of the compilation of the 2010 Rating List, the property formed part of the main hospital assessment.

37. On the 1 October 2014, the Appellant entered into a lease, at which point the Trust applied to split the assessment as under the terms of the lease, the Appellant was responsible for the payment of the non-domestic rates.

38. Mr Davis outlined the salient points of the lease as:

- 10 years from 01/10/2014;
- Rent peppercorn;
- Service charge payable for all utilities and common areas;
- Restricted hours of use are detailed within the lease;
- The authorised use is as a renal/dialysis unit;
- A restriction regarding external signage/branding which could conflict with the hospital;
- Restriction against any alienation of the lease; and
- No specific car parking spaces.

39. On the 14 November 2016, the VOA altered the List separately assessing the property at a RV of £61,500 effective 1 October 2014. However, the description of the property remained unchanged as hospital and premises, which Mr Davis considered to be incorrect. He considered that the description should be changed to either renal clinic or dialysis unit.

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40. The Agent explained that had the description been changed from the critical care category (hospital) to a doctors' surgery and health centre, on the basis that the VOA undertook a contractor's basis of valuation, he contended that the VOA would have valued accordingly and the rating assessment of £61,500RV would have been considerably lower.
41. He referred the Tribunal to a number of photographs and described the appeal hereditament as comprising the ground floor of a two-storey section towards the front of the Glangwili hospital site. There was a reception leading from the car park with access to consulting rooms, a dialysis area and to the rear a number of stores/plant room and water treatment area. The dialysis clinic had comfort cooling and the remainder was centrally heated.
42. Mr Davis stated that it should be noted that, unlike many clinics, due to the nature of the construction, the area was restrictive due to the supporting columns. In addition, the property was of an awkward shape.
43. In addition, unlike the majority of renal clinics operated by the Appellant, the property did not have the benefit of any dedicated car parking. The Agent explained that during his inspections of the property the hospital car park was continually full.
44. Mr Davis explained that the Appellant operated 58 renal dialysis clinics throughout the UK. He stressed that importantly they are a separate entity to the NHS and commercial leases are entered into where contracts are won. Of these clinics:
- 14% were within hospital sites, where there was no separate rating assessment;
 - The 50 remaining clinics, which did not form part of the hospital assessment, were located within either converted offices, old doctors' surgeries, purpose built adapted warehouse/industrial units; or
 - Purpose built brand new units adjacent to hospital sites but where there are independent landlords or where the NHS has sought to separately assess as was the case at Carmarthen.
45. Further, of the privately leased clinics, approximately 30% have a description of either a health centre or dialysis centre.
46. Mr Davis explained that no tone for independently operated renal clinics was adopted by the VOA in the 2010 List; this resulted in decisions being made at local levels which resulted in no co-ordination and an inconsistent method of valuation.
47. The Agent informed the Tribunal that Fresenius does not treat patients who are critically ill as they are treated within a hospital where 24/7 care

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can be provided. Fresenius treats non-critical patients who can either be dialysed at the clinic or via portable dialysis units at home.

48. The hours of trading at the subject premises are between 0630 to 1730 Monday to Saturday as opposed to a hospital.
49. Mr Davis referred the Members to two appeals submitted by GH&S in relation to Walsall Dialysis Unit and Dialysis Unit, Hull which both formed part of a hospital complex.
50. The Agent explained that the appeal in respect of Walsall Dialysis Unit, Dorothy Pattison Hospital, Alumwell Close, Walsall was relatively straightforward as without any specific negotiations with the VOA, an email was received in October 2017 which stated that the subject premises were incorrectly valued and was re-assessed under the property class 'surgeries, clinic and health centre (contractor's).
51. The base price under the Contractor's test, based on a GIA area of 731.2m² was £921.77 before adjustment. No negotiations took place with the VOA on rent but it was simply a realignment of the base cost which resulted in the RV being reduced from £39,000RV to £25,500RV, a percentage reduction of 24.6%. Mr Davis added that it was his understanding that internal discussions took place within the VOA before the aforementioned email was issued.
52. In relation to the appeal submitted on the Dialysis Unit, Arlington Street, Hull, Mr Davis stated that this property is very similar to the appeal property in that it is also located within a hospital complex and was a brand new constructed clinic in 2010. However, the same readjustment in the base tone was made to reflect that the premises were occupied as 'surgeries, clinics and health centre'. A 37.26% reduction was agreed which equated to a base cost of £1,001/m² and a reduction in RV from £106,000RV to £66,500RV.
53. The Agent reiterated that both the VOA valuers acknowledged that assessing the two properties as a hospital (critical care basis) was incorrect and the revised valuation produced substantial reductions in the RVs.
54. In relation to the VO adopting the contractor's basis of valuation where properties form part of a hospital complex, Mr Davis explained that this is based on the premise that these hereditaments are normally never let, but in over the last 10 years circumstances have changed. In this instance, an outside company agreed an arm's length transaction with the NHS and a separate assessment was created with the user more accurately defined.
55. On the acquisition of Unit 1 Mill Court, Goat Mill Road, Merthyr Tydfil, the Appellant converted the former factory to a high quality stand-alone modern renal dialysis unit with a gross internal area of 1375m² in January 2014. Mr Davis lodged an appeal against a VON issued by the VOA and a

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53% reduction from £125,000 to £66,500 was agreed. Mr Davis maintained that this property was substantially superior to the appeal hereditament in that it is a stand-alone, no service charge was payable whereas a service charge was applicable at the Carmarthen property. The Merthyr Tydfil property also benefited from 20 reserved car parking spaces with loading rights.

56. Taking into account the advantages of the Merthyr Tydfil property compared to the appeal hereditament, valuing on a traditional GIA basis, the Agent considered that a 10% end allowance was appropriate which reduced the base rate from £48/m² to £43.50/m².

57. Mr Davis explained that he believed that the VO should have changed the description of the premises in 2014 when the Trust let the property to a third party.

58. In relation to the current rate of £1,601/m², the Agent explained that if one accepted the Hull property as being an equivalent property, before any adjustments for location etc, the base tone agreed with adopting the primary care/health centre basis was £1,001/m². He added that the 60% uplift between primary care/health centre to an acute basis was simply not justified.

59. Further, the average of the clinics, with the exception of Maidstone, was £1,161/m², 27.4% lower than the rate adopted at Carmarthen.

60. Mr Davis proposed by using the surgeries, clinics and health centre tone of £1,001/m² and utilising the same method of valuation and relativities adopted, would result in a rate per m² on a GIA basis which compared favourably on an overall basis with the Hull property at £39.50/m² and Walsall at £34.80/m²:

1,038.1/m ² at £1,001/m ²	£1,039,138
Location factor 0.99	£1,028,746
External works addition, town centre 80%/90% plot ratio 5%	£1,080,184
Contract site allowance 2.5%	£1,107,188
Fees 9.5%	£1,212,371
Site area 2%	£1,236,619
Decapitalised 2.97%	£36,727
Say	£36,700
Rate per sq m on a GIA basis	£35.40

61. Whilst not necessarily agreed by the Appellant, the Agent stated that the mean average of 10 clinics, excluding Maidstone, produced a rate of £1,161/m². Undertaking the same valuation as detailed above using the VOA relativities, the RV equated to £42,600 say £42,500RV.

62. Mr Davis considered it useful, as a means of comparison, to look at Merthyr Tydfil which was agreed on the more traditional method of valuation. The agreed assessment under the 2010 Rating List equated to

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£66,500 RV and a rate of £48.00, after applying a 10% end allowance to reflect the advantages of the Merthyr Tydfil property over Carmarthen, produced a blended rate of £43.50/m².

63. In summary, he explained that if one looked at the two alternative valuations, one had the following:

Contractors Test basis where the property is correctly valued as a renal clinic as opposed to a hospital, i.e. using the Surgeries, Clinic and Health Centre basis (as agreed at Hull and Walsall):	£35.40/m ²
Adopting the Merthyr Tydfil settlement:	£43.20/m ²
Mean average:	£39.30/m ²

64. Therefore, Mr Davis considered that the correct valuation should be based upon the blended rate of £39.30/m² as follows:

Proposed floor area: 1,038.1 @ £39.30/m ²	£40,797
Say:	£40,800 RV

65. To conclude, the Agent informed the Tribunal that it was not the Appellant's intention to challenge the relativities adopted by the VO but to request that the basis of £/m² is adjusted to reflect the use of the premises and defined accordingly. Mr Davis requested that the Members consider the settlements reached at both the Walsall and Hull properties which were agreed using the contractor's basis, the agreement reached at the Merthyr Tydfil settlement agreed using the more traditional basis and the two alternative valuation approaches. Consequently, he requested the Tribunal allow the appeal and confirm the assessment at £40,800 RV.

66. At the conclusion of the hearing, the Tribunal decided to reserve its decision.

The Reasons for Decision

67. Having considered all the evidence placed before it, the Tribunal was persuaded by the Valuation Officer and decided to allow the appeal in part.

68. In arriving at the decision the Tribunal was aware that in accordance with the basis of valuation, as contained in Schedule 6 of the Local Government Finance Act 1988, as amended by Section 1(2) of the Rating (Valuation) Act 1999, it must assume that the subject property was "vacant and to let"; in a reasonable state of repair and cannot have regard to the actual trade of the occupier.

69. Statute further requires that the appeal hereditament must be valued by reference to rental values being achieved as at the Antecedent Valuation Date, whilst having regard to the physical state and its physical settings as at the Material Day.

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70. Accordingly in respect of the subject appeal, the rental value of the appeal hereditament was required to be assessed at rental levels that were in existence at the 1 April 2008, whilst having regard to the physical circumstances that affected the subject property as at the 1 October 2014, the date that the Valuation Officer split the renal unit from the hospital assessment.
71. The Tribunal accepted that in the absence of a settled basis, memorandum of agreement or VOA practice note in relation to renal units in the 2010 Rating List, it was accepted that any such assessments were valued on an individual basis with the value dependent upon the property concerned and its situation.
72. Accordingly, whilst being the method of last resort, the Contractor's basis of valuation adopted in determining the level of assessment in respect of the appeal hereditament was not disputed between the parties. Furthermore, it was noted that the Agent did not seek to challenge the relativities adopted by the Valuation Officer in respect of this valuation.
73. The Members were aware that that the overall area of the subject property was reduced from 1,117.2m² and agreed at 1,038.1m² between the parties. Therefore, the only issue of dispute was the rate per metre square to be applied in respect of the appeal hereditament. The Agent considered that a reduction to £1001/m² was warranted whereas the Valuation Officer maintained that the current rate of £1,601/m² was correct.
74. With regard to the description of the appeal hereditament, the Agent contended that the description should be amended to that of Renal Clinic or Dialysis Unit and valued accordingly, whereas the Valuation Officer sought confirmation of the existing assessment.
75. When considering the description, the Tribunal had regard to the fact that the appeal hereditament was constructed in 2007, then opening in 2008 to include a renal unit on the ground floor, a cardiac respiratory unit on the first floor along with plant rooms on the second floor, and for a period of 7 years leading up to the material day was assessed as part of the West Wales General Hospital assessment.
76. In accordance with relevant legislation, the Tribunal was mindful that the appeal hereditament must be valued as it stood along with its physical state at the material day. Vacant and to let, the Tribunal was of the opinion that whilst the Agent contended that the subject property was a clinic, lacking dedicated car parking, operating within restricted hours and not treating critically ill patients, these issues prevented the assessment as being described as hospital and premises.
77. It was noted that no evidence of cost was provided by the Agent in relation to the appeal property. The only cost evidence provided was supplied by the Valuation Officer using costs listed by the Design Commission of Wales and from a return supplied to the District Valuer Services completed

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by the NHS Trust in relation to the NHS Assets valuation in May 2007 detailing the expected costs. Mr Seward utilised these costs of £4.9 million and £4.46 million and calculated the costs to be £2,066/m² and £1,881/m² respectively.

78. The Valuation Officer had also considered other cost evidence in relation to a Dialysis Unit in Hull and Maidstone Renal Unit which equated to £1,812/m² and £2,587/m² respectively, which he believed supported his argument that the rate of £1,601/m² applied to the appeal property was not excessive and if anything appeared to be too low.
79. It was also noted that an appeal submitted by Deloitte in relation to the hospital settlement, was agreed at £1,601/m² with the cardiac and respiratory unit on the first floor and plant room on the second floor remaining assessed at £1,601/m².
80. In relation to the three settlements of comparable properties provided by the Agent, two of which were purpose built dialysis units located on hospital complexes and another which was a converted industrial stand alone unit, the Tribunal noted that the dialysis units in Walsall and Hull were both situated on land leased from hospitals and were purpose built. An agreement reached on the Walsall Dialysis Unit at £25,500 was just £5,550 above the rent passing for the land alone. The settlement reached in relation to the Dialysis Unit in Hull was agreed with the Valuation Officer caseworker prior to cost evidence being available so was not considered. The third comparable was a stand alone, converted industrial unit situated in Merthyr Tydfil. An agreement was reached with the Valuation Office caseworker which added just £11.48/m² for the reported £2 million conversion costs to the warehouse tone. Therefore, the Tribunal attached little weight to this information.
81. Accordingly, and without any evidence to persuade them otherwise, the Members concurred with the Valuation Officer's revised valuation and as a consequence, the appeal was allowed, in part.
82. The Tribunal **Ordered that the entry in the 2010 Rating List for Hospital and Premises, Fresenius Renal Care Unit, Glangwili Hospital, Glangwili, Carmarthen SA31 2AF should be altered to £57,500 RV, with effect from 1 October 2014.**

Certified a true copy on 12 February 2020