

**MINUTE OF THE SCOTTISH  
RATEPAYERS' FORUM  
HELD AT St ANDREW'S HOUSE,  
EDINBURGH  
on 28<sup>th</sup> July 2011**

**Present:** Garry Clark (Scottish Chambers of Commerce); Marianne Cook (Scottish Government); Ian Davidson (Scottish Government); Kevin Fraser (IRRV); Douglas Gillespie (Past President SAA); Joan Hewton (Vice President SAA); Stuart Mackinnon (Federation of Small Businesses); Alasdair MacTaggart (Secretary SAA); Ken McCormack (RICS & CBI); Ian Shearer (British Retail Consortium); David Thomson **Chairman** (President SAA)

#### **1.0 Welcome & Introductions**

The Chairman extended a warm welcome to all and invited members to introduce themselves.

#### **2.0 Apologies**

Philip Glenwright; Roger Littlewood; David Lonsdale; David Melhuish; Fiona Moriarty; Johanna Yates.

#### **3.0 Minutes of the Meeting of 16th December 2010**

The minute was approved. Forum minutes are posted on the Assessors' Portal which can be accessed using: <http://www.saa.gov.uk>

#### **4.0 Matters arising from the Minute of the Meeting of 16th December 2010**

It was agreed to cover matters as they arose in the Minute.

## **5.0 2005 Revaluation**

### **5.1 Lands Tribunal**

It was noted that there had been little movement towards hearing of the appeals currently with the Lands Tribunal. The majority of such appeals relate to mobile telephony mast entries and the availability of expert witnesses precluded a hearing before the Spring of 2012

### **5.2 Running Roll Appeals**

It was noted that the majority of such Running Roll Appeals had been settled. There had been some reductions in value – mainly in retail subjects with some reductions seen in office properties.

## **6.0 2010 Revaluation**

### **6.1 Appeals Volume and Issues**

It was noted that a figure in excess of 20% of the appeals lodged had been settled by 30<sup>th</sup> June 2011; the majority of the settlements were without adjustment to value. D. Thomson expressed a view that this indicated at least a tacit acceptance that the 1<sup>st</sup> April 2008 “Tone” was at appropriate levels of value and that the main issue will be Material Change of Circumstance (MCC) Appeals covering the period after the Tone Date.

The December 2010 Minute included an expectation that significant numbers of MCC Appeals would be lodged by 31<sup>st</sup> March 2011. This proved to be the case with some 38,000 such appeals having been lodged. The vast majority of these appeals make a claim that the Economic Recession has had a marked effect on the rental values of various classes of property. D Thomson indicated that the legal position was far from clear and will almost certainly need to be decided by Lands Tribunal or Lands Valuation Appeal Court.

D Thomson indicated that a significant workload lay ahead in determining facts and that the first case likely to proceed is the “Mercat” Shopping Centre in Fife. This will test many of the principles and, whatever the outcome, the decision is likely to be appealed to LVAC although it is unlikely that it will be heard prior to the diet in May 2012.

K McCormack saw the fundamental issue as whether or not rental information between April 2008 and March 2010 can be reviewed and, if so, the reductions could be significant. He accepted that the 2008 “tone” had to be set as it would provide a ceiling for values until 2015.

K McCormack also foresaw potential for anomalies if 2009-10 adjustments on appeal could be carried into 2010. This would arise if adjacent properties had appealed/not appealed.

D Thomson indicated that the position post 1<sup>st</sup> April 2010 was more clear-cut in that evidence of a general downturn in rents after that date may be a Material Change of Circumstances. Each set of circumstances would have to be looked at on its own merits.

D Thomson reminded members that Assessors had the power to alter values by their own hand where there had been a relevant decision and thus extend adjustments in value to subjects not under appeal.

K McCormack indicated that he saw no immediate end to the need to lodge MCC appeals on the grounds that there had been a general downturn in rents as, in his view, values continue to fall. He anticipated that a further 40,000 appeals would be lodged before 31<sup>st</sup> March 2012.

Members were reminded that all appeals lodged against the 2010 Revaluation Roll whether Revaluation or Running Roll must be disposed of by Valuation Appeal Committees by 31<sup>st</sup> December 2013.

## 6.2 Appeal Scheduling

All Assessors have completed their first round of appeals hearings and significant inroads have been made in disposal of appeals for retail, office and industrial subjects. Some licensed properties have also been settled.

The immediate future will see continued negotiations on retail, office and industrial subjects with more licensed properties and hotels being cited.

K. McCormack expressed a view that the scheduling of appeals had reached “staggering levels” with some Assessors listing large volumes of appeals for any particular hearing. D. Gillespie asked if this indicated that the Private Sector was under-resourced to deal with the number of appeals lodged. K McCormack cited anecdotal evidence that staff in Assessors’ offices had also complained of an excessive workload.

D. Thomson indicated that Assessors had attempted to balance the scheduling and selection of subject types to avoid overloading any particular sector/agents. He also indicated that any attempt to extend the timetable would be counter-productive as, by Dec 2013, work will be well under way to prepare for the 2015 Revaluation.

J. Hewton reminded members that supply of complete and accurate rental information is a prerequisite for the settlement of appeals. Significant savings in both time and money could be made if this were to happen.

Discussion moved to a recent case in Lanarkshire which centred on the legal right of the appellant to make an appeal. J. Hewton highlighted as a myth the notion that appeals would be rejected if the Appellant's name provided was in some minor way different to the actual name of the party with a relevant interest; Assessors would resolve such minor differences by further enquiries. D Gillespie reminded the meeting that, under Rating Law, subsidiary companies are separate legal entities.

In the case in point, the appellant may not have had a legal interest in the property under appeal. This matter will be taken to LVAC.

## **7.0 Scottish Government Update**

M. Cook gave a brief update on Scottish Government policy: There were no major announcements currently planned regarding Rating and M. Cook reiterated the Government's manifesto commitments:

- The Small Business Bonus Scheme (SBBS) will be maintained,
- The rate poundage would be no more than the rate set in England and
- Four Enterprise Zones to be introduced, which may attract Business Rates Discounts

K. Fraser was not aware of any large upsurge in applications for SBBS Relief although there were some "hotspots". Updated statistics on number of properties awarded SBBS relief will be compiled by the Scottish Government in the near future.

It was noted that there was a significant number of appeals for properties where the Rateable Value was marginally above a relief threshold; this being a feature of any scheme with thresholds.

S. Mackinnon enquired if it would be possible to introduce automatic rates relief under SBBS or, at least, carry forward the grant from year to year. K. Fraser indicated that there was nothing in the legislation to facilitate that and, while it might be seen to be good practice, there would a need to balance against the requirement to ensure that the claimant remained eligible.

M. Cook noted that the proposed Large Retail Levy did not proceed earlier this year.

I. Shearer enquired if there was any timetable for future announcements on Rating Matters. M. Cook replied that there was not.

I. Shearer also asked if there is or was to be Transitional Relief in Scotland in 2011-12. M. Cook replied that there was not.

S. Mackinnon reminded the meeting of the matter at item 6.2 in the minute of the previous meeting – relating to provision of statistics on numbers of settled appeals. It was agreed that Assessors would investigate the publication of quarterly statistics showing the number of appeals settled by category of property. This would follow the quarterly submission of appeal statistics to the Scottish Government by Assessors. The information would be published at the SAA Portal. **(Action SAA)**

K. McCormack indicated that he was aware of a significant number of appeals where it had taken several months to process the change and issue revised bills. D. Thomson indicated that no significant delay should exist within Assessors' offices other than where an agreement was required to be ratified by the Appeal Committee. K Fraser indicated that he could see no reason why Finance Departments would delay the process of any changes as the process was automated in every council.

S. Mackinnon also reminded the meeting of his earlier request to introduce, to the Portal, information and guidance written in plainer English. He also indicated that the FSB was intending to introduce a Style Guide to assist designers of websites. D. Thomson indicated that the SAA would be also committed to simplifying the wording within the Portal but that the SAA had to be mindful of the need to balance readability with legal accuracy.

S. Mackinnon advised that the "Business Gateway Site" was undergoing a significant overhaul to provide a single point of access to and from business. There could be opportunities to exploit regarding exchange of information. Any enquiries should be directed to J. Brown.

D. Thomson provided an update on the use being made of the SAA Web Portal (add stats)

## 8.0 AOCB

K. McCormack referred to a letter to the RICS from A. Beattie, the Chairman of the Highland and Western Isles Valuation Appeal Panel. This sought to obtain the views of RICS members on a number of matters relating to the operation of

Appeal Panels. K. McCormack indicated that the RICS would be writing to members to obtain their views. K. McCormack indicated that there were concerns regarding consistency, uniformity and variability of verdicts.

D. Thomson indicated that a similar letter had been received by the SAA and a response would be made to A. Beattie.

S. Mackinnon raised the matter of refunds of Licensing Fees where the Rateable Value of Licensed Premises had been reduced. It was agreed that this was not the correct forum.

## **9.0 Date of Next Meeting**

To be agreed for a date in late November/early December.