



RA/45/2005

LANDS TRIBUNAL ACT 1949

*COSTS- rating appeal- £ 140,000 entry replaced by entry of £ nil by Valuation Tribunal -
appeal compromised at entry of £ 5,000- Valuation Officer's claim for costs*

**IN THE MATTER OF AN APPEAL AGAINST A DECISION OF THE ESSEX SOUTH
VALUATION TRIBUNAL**

BETWEEN KEITH HALLIDAY (Valuation Officer) Appellant

and

**WALTHAM ABBEY GUNPOWDER MILLS CHARITABLE
FOUNDATION LIMITED Respondent**

**Re: Waltham Abbey Gunpowder Mills,
Powdermill Lane,
Waltham Abbey,
EN9 1BN**

Before: His Honour Judge Gilbert QC

Decision made on written representations procedure

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DECISION

1. In this matter I am required to deal with the Appellant's application for an order for costs against the Respondent.
2. The appeal related to an entry made in the rating list for the Waltham Abbey Royal Gunpowder Mill Museum. Those premises contain many buildings in an historic complex used for gunpowder manufacture since 1560. It contains 21 listed buildings (1 at Grade 1 and 7 at Grade 2*) and two thirds of it is a scheduled ancient monument. On 21st June 2002 the Appellant Valuation Officer assessed the value as £ 140,000, and entered it on the rating list accordingly. The Respondent argued for a value of £ 1.
3. On 22nd July 2005, the Valuation Tribunal, in a reasoned decision, decided that the correct figure was nil. On 3rd August 2005 the Appellant appealed to the Lands Tribunal on the grounds that " the decision is incorrect, insufficient and bad in law." The Respondent filed a Notice of Intention to respond, on the grounds that the decision was correct " and on such further or other grounds as may be adduced."
4. After that date, the Appellant sought various extensions of time for the filing of his Statement of Case. Apparently he needed advice from a valuer. In December 2005 he stated that his valuer would have reported to him in time for his statement of case to be filed "in two months." Then on 26th January 2006 he stated that he needed to take Counsel's advice at two conferences, and have a view, and would then be able to state his case. A further extension was granted to 27th April. As at 12th April 2006 he was again seeking more time for his Counsel to consider the matter, and stating that his counsel required sight of another document from the Respondent. The Respondents consented to a further extension, which was granted until 21st July 2006.
5. After reminders from the Tribunal, and after the time for filing the Statement of Case had expired, the Appellant sought yet another extension. On this occasion it was to allow for a meeting to take place between experts, and to allow the Respondent's valuer time to consult the occupiers of other heritage sites. An extension was granted until 21st October 2006. It too expired. On 1st November 2006, after a further reminder from the Tribunal, the Appellant applied for a further extension.
6. The Appellant now wrote to the Tribunal setting out his efforts since receiving advice from Counsel in April 2006 (wrongly said to be 2005 in the letter) to get hold of a deed from the Respondent. It set out his efforts to obtain it, and the apparent inability of the Respondent and its advisers to understand his request. The time for filing the Statement was extended to 1st February 2007, but the Tribunal stated that it would not be extended again, save for exceptional circumstances.
7. On 22nd January 2007 the Appellant informed the Tribunal that the parties' valuers had reached agreement on the value to be given to the hereditament.
8. There was then further delay due to the illness of the Appellant and Respondent's respective solicitors and the movement between firms of the Respondent's surveyor. On 2nd April 2007 the Tribunal, pursuant to Rules 35 and 38, required the Appellant to apply to stay the proceedings or extend time. A stay was then granted by consent.

9. By 24th September 2007 the parties had agreed terms, whereby the entry was amended to one of £ 5,000. An order was made accordingly.

10. By letter of 19th October 2007, the Appellant seeks an award of costs against the Respondent limited to

- a. The costs of commencing the appeal and attending to interlocutory matters such as extensions of time;
- b. The costs of instructing an expert valuer as the result of counsel's advice, and of his negotiating and agreeing a rateable value with the Respondent's expert valuer;
- c. The costs of agreeing and obtaining the Order of 24th September 2007;
- d. The costs of making the application for costs.

11. There is no application for costs by the Respondent, nor any response to the application for costs.

12. In determining this application I have had regard to Rule 52 of the Lands Tribunal Rules, and to section 22 of the Lands Tribunal Practice Direction.

13. The striking feature of this case is that the valuation officer argued for an entry of no less than £140,000, and is now asserting that he is a successful appellant when the entry has been agreed at £5,000. That change of heart by the Appellant has occurred in large measure because the Appellant has now sought the advice of Counsel and obtained proper valuation evidence. He has also obtained details of documents relating to the premises. In my judgment all of that should have been done before the contest took place in the Valuation Tribunal. Further, it took from August 2005 to April 2006 to get Counsel's final advice. The conduct of the appeal was on any view dilatory until then. I am prepared to accept that the Respondent joined in the dilatoriness after that. The appeal entered in August 2005 was patently not based on any case of substance which has been pursued since. Had it been so, the grounds of appeal would not have been so generalised, and the Statement of Case filed on time. What has happened is that the Appellant has reassessed his whole approach in the light of advice from Counsel.

14. It follows that I consider this to be a wholly inappropriate case for an award of costs against the Respondent. For completeness I should add that I find the idea extraordinary that the Appellant should have his costs of the appeal before he had obtained proper advice, or that he should have his costs of obtaining a consent order settling the dispute.

HH Judge Gilbert QC

18th December 2007

