

**THE HIGHLAND & WESTERN ISLES
VALUATION APPEAL COMMITTEE**

Inverness, 5 February 2009



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| Subjects | Reference Number |
| Independent Generator, Farr | 06/21/800100/8 |
| The Appellant | The Respondent |
| Ruddle Merz Ltd, Oakham, Rutland | Assessor |

The Committee considered written representations from the parties in relation to an application on behalf of the Appellants to have recalled the Committee’s decision of 10 December 2008 to dismiss this Appeal for want of appearance by or representation on behalf of the Appellants at the Hearing set down for that date.

The Committee had before it:-

- (a) Letter of 12 January 2008 from Ruddle Merz applying for recall of the decision to dismiss the Appeal; and
- (b) Letter of response thereto from the Assessor dated 15 January 2009.

Firstly, the Committee required to determine whether to consider the Appellants’ application for recall of dismissal standing the fact that the application was submitted more than fourteen days after notification of the decision to dismiss. The time limit is imposed by Regulation 15(2) of the Valuation Appeal Committee Etc (Scotland) Regulations 1995. The decision to dismiss was intimated to the Appellants’ Agents by letter of 23 December 2008. The letter of application for recall of dismissal dated

12 January 2008 was intimated to the Panel Secretary by e-mail that same day. Regulation 15(2) confers upon the Committee a discretion to extend the fourteen day time limit for lodging an application for recall of dismissal "in special circumstances". Having given careful consideration to the timing of the application for recall, and the intervening festive holiday period, the Committee decided, with some hesitation, to exercise the discretion conferred upon it by the regulations in the Appellants' favour and so went on to consider the application for recall notwithstanding its late submission.

In order to grant such an application the Committee required to find that there was a reasonable excuse for the absence of the Appellants or representation on their behalf at the Hearing on 10 December 2008. The excuse proffered on their behalf was that their Agents, Ruddle Merz, had misunderstood the position regarding the need for representation at the Hearing on 10 December 2008. In view of the content of the exchange of correspondence between the Agents and the Committee's Secretary in advance of the Hearing on 10 December 2008, all as referred to in the Committee's decision of that date, the Committee took the view that the Agent could not reasonably have been left in doubt as to the need for representation at the Hearing. In any event, the Committee determined that if there had been a misunderstanding on the part of the Agent it was a misunderstanding of the law and such a misunderstanding by the Agent did not amount to a reasonable excuse. For these reasons the Committee refused the application to recall its decision of 10 December 2008 to dismiss the Appeal. The decision of 10 December 2008 therefore stands.