

**Case Name:** *Ludgate House Limited v Andrew Ricketts (VO) and LB Southwark* [2019] UKUT 0278 (LC) (18 September 2019)

**Topic:** Building subject to a guardian scheme – whether a single composite hereditament or a dwelling

**Full Case:** [click here](#)

**Summary:** This case concerned the occupation for residential purposes by various guardians as part of a rates mitigation scheme. The Upper Tribunal held that the building as a whole did not comprise a composite hereditament (partly domestic and partly non-domestic), because there was no single rateable occupier of the domestic and non-domestic space. At the material day, four licensees occupied their rooms on an exclusive basis and council tax therefore applied to those rooms. As a result, the tribunal ordered that the rating list be amended to the state it was in before the Valuation Officer's unilateral notices, namely making no reference at all to Ludgate House. The individual floors of the building would, therefore, be shown in the council tax valuation list as separate dwellings.

**Commentary:** Ludgate House was occupied by property guardians as their residence under licences granted by VPS (UK) Limited, a specialist in such arrangements. Ludgate House Limited (LHL) entered into a contract to permit VPS to grant licences of this nature, pending redevelopment of the building (which became vacant in 2015). The advantages of such a scheme include some protection to the building owner against squatters and a potential mitigation of liability for rates by removing the relevant premises from the rating list and including them in the valuation list for council tax purposes. To be liable for council tax (rather than rates) a property must be used wholly for the purposes of living accommodation (section 66(1) Local Government Finance Act 1988).

The VTE had decided against the ratepayer by ruling that the degree of control vested in LHL was such that the building comprised a single hereditament occupied by LHL and it remained liable for rates despite the grant of the VPS licences to a number of residents.

Ludgate House was originally shown in the 2010 rating list as entirely non-domestic, in two assessments (due to the previous use). On September 2015 LHL submitted proposals to delete these entries on the ground that the whole building was now domestic (by 17 August 2015 there had been at least one licensee on each floor). Following an inspection, the VO deleted the two hereditaments and each floor of Ludgate House was entered in the valuation list for council tax purposes.

When LB Southwark became aware of the deletions it made two proposals of its own (on 29 February 2016), challenging the alterations made by the VO and seeking reinstatement of the entries in the rating list, or alternatively the creation of a new entry covering the whole building and recording it as a composite hereditament.

No agreement could be reached between the parties and the matter was referred to the VTE as part of a consolidated appeal. The VO then decided to enter part of Ludgate House (all but the first and second floors) in the rating list, by a unilateral notice dated 31 May 2017 ("VON1"). This was followed by a second such notice ("VON2") on 16 August 2017,

entering the building as a composite hereditament but with the first and second floors being recorded as domestic property.

On 24 August 2017 LHL's agents made two proposals against VON1. The first sought deletion, or reduction of the RV to £1, on the basis that the whole building was domestic. The second challenged the effective date of the alteration and proposed that it be 24 May 2017. The VO agreed to neither proposal and adopted the same approach to a further LHL proposal dated 27 September 2017, which proposed that Ludgate House should be shown in the list as more than one entry.

The parties to the appeal had agreed that if (contrary to the VTE's conclusions) there had been more than one hereditament on the material day VON2 (effectively an amendment to VON1, entering the whole building as a single composite hereditament) was erroneous and the entry should be deleted. Further, the effective date argued for by LHL (24 May 2017) was after the closure of the 2010 list and, if correct, would result in the VO's entry being invalid and the building consequently remaining outside the list (following the VO's original deletion of the entry, in response to LHL's original proposal).

The Upper Tribunal weighed the evidence as to the occupation by four of the residents and found (applying *Woolway v Mazars* and *John Laing & Sons Ltd v Kingswood Assessment Committee*) that each of the four (lockable) rooms occupied at the material day (1 July 2015) constituted a separate hereditament. By application of the test in section 66(1) of the 1988 Act, each hereditament was a dwelling and, therefore, liable to council tax. The control of the overall building (excluding the four rooms) was irrelevant to that conclusion, as the question must be addressed from the perspective of the room occupier (each of whom was in paramount occupation of the "dwelling"). It follows that Ludgate House was not a composite hereditament, because there was no single rateable occupier of the domestic and non-domestic space.

The Tribunal ordered (consistent with the agreement between the parties) that VON1 and VON2 could not be supported and LHL's appeal was allowed. Accordingly, Ludgate House was removed altogether from the 2010 list with effect from 25 June 2015. LHL's original proposals to delete the hereditament on the ground that the whole of the building was domestic, having been accepted by the VO as well-founded, prevailed. Southwark's proposals were dismissed.