

Case Name: *Thorntons Plc & Anor, (Rating - Alteration of Rating List - validity of proposal challenging)* [2018] UKUT 109 (LC) (27 April 2018)

Topic: Procedural: VTE strike out for abuse of process was rejected by the Upper Tribunal and the cases remitted to the VTE for further consideration.

Full case: [click here](#)

Summary: Two ratepayers had made second proposals following alterations made by the Valuation Officer giving effect to agreements as to revised rateable values, but on different grounds and in respect of different events. The VTE rejected the appeals, saying they amounted to abuse of process. The Upper Tribunal found that the VTE had exceeded its powers by dismissing the appeals as abuse of process and that this provided no basis for finding the second proposals invalid.

Commentary: This consolidated Upper Tribunal decision relates to challenges made by two ratepayers in respect of alterations made by the Valuation Officer to give effect to agreements reached as to the adjusted rateable values (following appeals to the VTE in respect of the 2010 compiled list entries, which were treated as withdrawn on the agreements having been reached and the list altered). Following the original agreements the ratepayers made further proposals, on the ground (in each case) that the alterations made to the list were inaccurate and those proposals were referred to the VTE as appeals.

The clerk to the VTE advised that the second proposals were invalid and (following a brief period for submissions to the contrary) the tribunal dismissed the appeals as an abuse of process (the VO remained neutral and had not objected to the second proposals, neither was the VO party to the appeal to the UT as the dismissal was a matter for the VTE). The context is that the relevant regulations provide that no proposal may be made to the extent that an alteration to the list was made as a result of a previous proposal.

The appellants argued that the second proposals had been made on a different ground and a separate event, in that the first proposals related to the compiled list and the second to alterations made by the VO. The UT accepted this argument, stating that the VTE had exceeded its powers by dismissing the appeals for abuse of process and that this provided no basis for finding the second proposals invalid. There is no reference to abuse of process in the regulations governing the VTE's procedures, although had it chosen to do so the VTE could have stated that the proceedings were being struck out (which would have been within its powers). It could also have served an invalidity notice following receipt of the second proposals.

The Upper Tribunal therefore directed that the proceedings be remitted to the VTE for reconsideration. The expectation was that the VTE would strike out the appeals, on the grounds of abuse of process (if applicable, after further consideration) or on the grounds that the RVs in the 2010 list were *res judicata* and barred from further challenge in view of the settlement of the original appeals and the second appeals therefore have no reasonable chance of succeeding.