



LEGAL BRIEFING

Ratings war

Metropole (Folkestone) Ltd v Revenue and Customs Commissioners (VADT19917)

V&DT, Charles Hellier, Miss S Wong Chong

The Facts

Metropole (Folkestone) Ltd (“Metropole”) appealed against a decision of the commissioners that the supply of works to replace the balcony of a listed building was standard rated for VAT purposes. Metropole was a company representing the flat owners who had purchased the freehold to a listed building. Once Metropole purchased the freehold the company set out to restore the building.

On the third floor of the building was a balcony. The balcony had been inspected by a surveyor who advised to demolish it as an emergency measure as it had become unsafe. Metropole did so. Metropole were then required to replace the demolished balcony by the local council architect. Metropole did so using modern materials and incorporated some additional features to ensure the structural integrity of the balcony. However, visually the new balcony was identical to the original balcony that had been demolished.

The Issue

Was the replacement of the balcony zero-rated or standard-rated for the purposes of VAT?

The Decision

The works to replace the balcony constituted works of repair and maintenance to a listed building and fell outside the scope of the exemptions in the Act. Therefore, the supply of these works was standard-rated. The relevant works in question was the replacement of the balcony (rather than the demolition and replacement) as the relevant consent had not been obtained for the demolition of the balcony. Although the replacement effected a radical change to one face of the building, the change to the building as a whole was not radical or fundamental.

Comment

In the context of the VAT legislation, supply, in the course of an approved alteration of a protected building, of any services other than the services of an architect or any person acting as a consultant or in a supervisory capacity is zero-rated. However, this does not include any repairs or maintenance. Alteration to a listed building incorporates any alteration and not just a structural alteration. A fundamental and radical alteration to the building will not be repairs or maintenance. People carrying out works to listed buildings should consider whether the works are subject to VAT prior to carrying out the works.

Charlene Linneman
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