

NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007 (AS
AMENDED)

CASE REFERENCE NUMBER: NIVT 4/24E

TADHG HEANEY– APPELLANT

AND

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND –
RESPONDENT**

Northern Ireland Valuation Tribunal

Chairman: Michael Flanigan

Members: Max Steele and Noreen Wright

Date of hearing: 30th October 2024

Subject: 107A Ardglass Road, Ballyhornan, Ardglass BT30 7PR

1. The subject property (“the property”) in this appeal is situate at 107A Ardglass Road, Ballyhornan, Ardglass. The property is owned by the Appellant.
2. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”)

Background:

3. The Respondent served a Completion Notice on 18th October 2023 under Article 25(b) Schedule 8 of 1977 Order.

The above Provision provides as follows:

“Where a completion notice is served under Schedule 8 and the building to which the notice relates is not completed on or before the relevant day, then for the purposes of the Order the building shall be deemed to be completed on that day.”

The Respondent by the Completion Notice deemed that the building would reasonably be completed on 24th January 2024.

The Appellant appealed that Notice and by the Commissioner's Decision on Appeal dated 1st February 2024 the Commissioner determined that the Completion Notice was valid.

The Appellant has appealed that decision to the Tribunal by Notice of Appeal dated 19th February 2024.

The Appellant did not attend, and both the Appellant and the Respondent relied upon their written submissions.

The Appellant on his Appeal Form listed a range of difficulties that had arisen during the course of the build, which has impacted upon his ability to comply with the Completion Notice. Those may be summarised as follows: inflationary pressures had increased the costs of materials, there was a general shortage of labour and in addition an increase in finance costs had forced him to work away from home in order to accrue sufficient funds to complete the property. The Appellant submitted that the three-month period provided for completion could only be considered reasonable "If there was an unlimited budget and unrestricted access to resources".

4. The Decision:

The right of Appeal against a Completion Notice is contained in Schedule 8B Article (4) of the 1977 Order and states as follows: "A person on whom a completion notice is served may, not later than 28 days from the date of service on him of the notice, appeal to the Commissioner against the notice on the ground that the building to which the notice relates has not been or as the case may be, cannot reasonably be expected to be completed by the day stated in the notice".

The legislation states that a Completion Notice can be served "if it appears to the Department that the work remaining to be done on a new building is such that the building can be reasonably be expected to be completed within three months".

The Appellant's right of appeal is by law therefore confined to one ground only, whether the three months provided for completion by the Notice to Complete was reasonable.

The first issue for the Tribunal to decide is what matters can be taken into account when deciding whether a property can reasonably be expected to be completed in three months. The case law in this area is now well-established starting with the decision in Neil Moffett v COV (NIVT 15/12). The decision was followed by a number of other similar decisions which in

one form or another all state that the personal circumstances of an appellant should not be taken into account when determining whether a building can be completed within three months. In effect the circumstances of the appellant, be they economic or personal, have to be set aside.

The Appellant submitted that the three-month period for completion could only be reasonable if he had “an unlimited budget and unrestricted access to resources”. This submission was unsupported by any independent expert evidence. The Respondent provided both an example of a typical self-build programme of works (Appendix 2) and a specific programme of works in the case of Robert Dickson V COV (2015) (Appendix 1) which demonstrated that three months was a reasonable period in which to bring a house to completion.

Having regard to the case law the Tribunal is required to set aside the personal and economic circumstances of the Appellant. Once personal and economic circumstances are set aside the only remaining issue is, given the state of completion that the property had reached, whether the three-month period provided for completion by the Completion Notice is a reasonable one. The evidence before the Tribunal was that the property was structurally completed, roofed and weather tight at the time that the Completion Notice was issued. In the absence of evidence to the contrary, the Tribunal accepted the Respondent submission that the outstanding works could reasonably be completed within three months of service of the Completion Notice. The Tribunal decided that the Completion Notice was therefore valid and dismissed the Appeal.

Michael Flanigan

Chairman.

**Date decision recorded in register and issued to the parties: 13th
January 2025**