

**NORTHERN IRELAND VALUATION TRIBUNAL**

**The Rates (Northern Ireland) Order 1977 (as amended) and the Valuation Tribunal Rules (Northern Ireland) Rules 2007 (as amended)**

**Case Reference Number – 46/15**

**ERNEST RUTLEDGE - Appellant**

**and**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - Respondent**

**NORTHERN IRELAND VALUATION TRIBUNAL**

**Date of Hearing 24 October 2016**

**Chair – Garrett E. O’ Reilly**

**Members – Eric G. Spence and Angela Matthews**

**Background**

1. The Appellant appealed to the Northern Ireland Valuation Tribunal (NIVT) against the Capital Value of 215, Nutfield Road, Lisolvan, Brookborough, Enniskillen BT94 4EX (the Property).
2. On 01 September 2016 the NIVT dismissed the appeal and confirmed the Capital Value of the Property shown in the Valuation List.
3. The Appellant wrote to the NIVT to appeal against the decision of NIVT.

**Representation**

The Appellant attended and was represented by Tom Elliott MP, who had made written representations on behalf of the Appellant at the 1 September appeal but did not attend in person, the Appellant having advised the Tribunal that he was content to rely on written representations.

**Documents before the Tribunal**

1. The Decision of NIVT dated 8 September 2016 (the September Decision).
2. The Appellant’s letter to NIVT dated the 14 September 2016 (the Review Letter).
3. An email of William McFarland of 24 October 2016 (the McFarland email).

4. A copy of Article 21 of the Valuation Tribunal Rules (Northern Ireland) 2007 (the Rules).

### **The Law**

Article 21 of the Rules provides that the NIVT may review a decision on a written application with its reasons for such application made by an appellant to NIVT within 14 days from receipt of a NIVT decision.

Article 21(1) provides that the NIVT may review its decision if

- (a) its decision was wrong because of an error on the part of the Valuation Tribunal or its staff; or
- (b) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or
- (c) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then; or
- (c) otherwise the interests of justice require.

Article 21(4) also provides that the Appellant shall have the opportunity to be heard.

### **Considerations**

The Panel considered the Review Letter and noted that the Appellant did not actually ask for or specifically refer therein to a request for an Article 21 Review of the NIVT Decision. The Panel also noted that the Review Letter was received within the statutory time limits for the service of a request for review and that it stated that he wished “to appeal the decision” and that it might not have clearly identified any of the above specified four statutory reasons therein.

After discussion the Panel unanimously took the view that the Appellant and Mr. Elliott were not lawyers and would probably not be aware that any issue might arise by the use of the word appeal rather than review and that it would neither be in the interests of justice nor in line with the general informality of the NIVT proceedings to interpret the Review Letter as other than as a request for a review under Article 21 of the Rules. Further the Panel also decided that they could make and give a wide and generous interpretation to the wording of the review reasons used in the Review Letter.

Accordingly the Members accepted that the Appellant had complied with his statutory obligations to request a review of its September Decision and advised Mr Elliott that they were satisfied to hear him on any or all of the four statutory review grounds specified in Article 21(4)(a)(b)(c)and/or(d) which he believed might give the Panel cause to review the Decision.

## **SUBMISSIONS**

Mr Elliott made four submissions.

He submitted that the Property had only been used for agricultural use for nine years, that the reality of photographs shown at the September Appeal was that the Property was not a dwelling, that the proposed sale of the Property had not attracted any interest as a dwelling (as evidenced by the McFarland email) and finally that the properties provided as comparables were not suitable as comparables as they were in better condition than the Property.

Mr. Rutledge added that if this Review application had not been listed so quickly the Property would have been demolished.

## **DECISION**

Mr Elliott acknowledged that the Appellant's request for review was restricted to and was based solely on the provisions of Article 21(1)(c) (ie the new evidence criteria) and so the Members considered the review request only on that basis.

The Members of the Tribunal carefully considered the four submissions made by Mr Elliott and unanimously decided none of them could be considered as new evidence, which had become available since the conclusion of the September Appeal and its existence could not reasonably have been known or foreseen before the September Appeal.

The Members also considered Mr Rutledge's stated intention to demolish the Property and decided that regardless of whether the demolition had been completed before the review such demolition would not have changed their decision as the state of the Property for its consideration was the state on the day of the September Appeal.

Accordingly the unanimous decision of the Tribunal was that the criteria for review of its decision had not established and its September Decision would not be reviewed.

Garrett E. O' Reilly - Chairman

Date decision recorded in register and issued to parties: 3 November 2016