

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 11/20

EAMON FLANAGAN Esq – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Francis J Farrelly Esq

Members:

Garry McKenna Esq (Lay)

and

Brian Reid Esq (Valuer).

Date of hearing: 28th September 2021

DECISION

The unanimous decision of the tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal is dismissed.

REASONS

Introduction

1. Mr Flanagan has chosen to have his appeal decided in his absence. We do not see any unfairness proceeding in this way.
2. He owns 127 Knockmore Road, Knockmore, Derrygonnelly, County Fermanagh, BT93 6GA. He states this is an 80-acre farm which he bought in January 2014 for the land. He lives with his wife in Enniskillen.
3. On the farm is a dwelling house which he describes as derelict. On the 5 December 2013 the District Valuer had considered whether the dwelling house should remain in the valuation list because of its condition. The conclusion was it was capable of

beneficial occupation and so was to remain in the list, though the capital value was amended from £50,000 to £40,000 to reflect its poor state of repair. A certificate was issued on 17 April 2014 to reflect this.

4. On 20 March 2020 Mr Flanagan applied to have the property removed from the valuation list. Again, the District valuer concluded the property was capable of beneficial occupation and should remain in the list. A certificate to this effect was issued on 17 August 2020.
5. An appeal by Mr Flanagan on 7 September 2020 to the Commissioner of Valuation resulted in an acceptance the property was truly derelict on 1 April 2019. It was removed from the list as of then.
6. A bill for arrears of rates covering the period 2014 to 2019 totalling £1427.88 p. was issued on 19 October 2020. Mr Flanagan's appeal relates to those arrears. He feels he should not be liable given the condition of the property. He is also aggrieved that the arrears were allowed to accumulate in this way and states he was unaware the property was so liable. He said this meant he did not have the opportunity to contest the liability earlier.
7. In response, the Commissioner of Valuation contends there is no statutory authority to retrospectively remove a property from the valuation list. Consequently, the arrears remain due.

Consideration

8. Within the papers provided by the respondent regulation 13 of the Rates (Northern Ireland) Order 1977 is reproduced. This a complex regulation which does not make for easy reading. However, 13 (1) does indicate that where an alteration is made in the valuation list then for the purposes of rating the alteration is deemed to have effect on or after the date on which the list came into force. Applying that to the history, a valuation certificate was issued on 17 August 2020 whereby the District Valuer held the property was liable for rates.
9. This was appealed to the Commissioner of Valuation who concluded the property was truly derelict at the relevant date, namely 1 April 2019. The property was

therefore removed from the valuation list from then. The new valuation certificate was issued on 8 October 2020 reflecting this.

10. Applying the 1977 Order this alteration came into effect on or after the date on which the list came into force. The arrears sought cover an earlier period. In light of regulation 13. we do not see a power to make changes before the list was in force. We see no retrospective provision or other way to do this under the Order. Consequently, we find ourselves in agreement with the respondent.

11. The papers do not indicate why the rates were allowed to accumulate. Mr Flanagan complains he was therefore deprived of the opportunity to challenge the earlier valuations. However, this is not something within the jurisdiction of the Valuation Appeal Tribunal. Regulation 15 provides for a refund of overpayments. On the face of it none appear applicable. Mr Flanagan may take some comfort in that there was a challenge in December 2013, possibly before he became the owner which was unsuccessful. This of course does not take away from the valid point that a subsequent claim may have been successful. There may be other avenues of complaint open to the appellant about how he has been treated but this would be something he would have to investigate himself.

Chairman: FJ Farrelly Esq

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 14 February 2022