

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: NIVT 39/14

MAIREAD MHIC IOMHAIR– APPELLANT

AND

COMMISSIONER OF VALUATION FOR NI - RESPONDENT

Northern Ireland Valuation Tribunal

Date of hearing: 6 July 2015

Chair: Sarah Ramsey

Members: Philip Murphy (Valuer) and Noreen Wright (Lay)

DECISION AND REASONS

The Facts of the Case

1. This is a reference under Article 25B and schedule 8B of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). By a Notice of Appeal dated 11 November 2014 the appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) in respect of a decision letter of 8 October 2014 in relation to the issue of a completion certificate dated 25 April 2013 regarding the building situate at 20c Cherryville Road, Breagh Portadown BT62 1RW (“the subject property”) as £245 000. The appellant, Ms. Mairead Mhic Iomhair was not present at the tribunal having indicated she was content for the case to be dealt with on written representations, and so the Tribunal considered the case on the papers.

2. The Respondent’s Presentation of Evidence describes the subject property as a privately built concrete block and two-story house with red brick enhancements. It has a total floor area of 225m² excluding a detached garage. The property is a self build project commenced in 1988. The property became wind and water tight circa 1991. At the date of the LPS inspection on 2 October 2014 access to the property had not been afforded. However the representative from LPS believes the property was occupied.

The Department issued a Notice of Completion to the appellant on 25 April 2013. The completion day given in this notice was 24 July 2013. The Appellant appealed

the Completion Notice by letter dated 19 May 2013 to the Commissioner of Valuation. The appeal challenged the completion day because the “amount of work required and the cost involved render it impossible to complete within the time frame.” The Commissioner issued his decision dated 8 October 2014 determining the completion day was valid.

3. The appellant in her Notice of Appeal stated that the property was still under construction and nowhere near completion. The Appellant contended a huge amount of work requires to be done including wiring, plumbing plastering inside and out, installation of kitchen bathroom and services. The appellant explained that due to financial constraints the work was being undertaken personally and was progressing at a very slow rate.

The Evidence

4. The following documents were before the tribunal:

- Appellant’s Notice of Appeal to the Tribunal dated 11 November 2014;
- Completion Notice Commissioner’s certificate dated 8 October 2014 indicating the property was capable of being complete on 24 July 2013
- Respondent’s written Presentation of Evidence dated 23 April 2015;
- Completion Notice appeal – Report to commissioner of Valuation dated 9 June 2014 in the case of **Robert Dickson –v- Commissioner of Valuation 31 March 2015**

Some confusion had arisen in relation to the description of the property in the appellant’s Notice of appeal as 22c Cherryville Road. However on contacting the appellant by telephone on the morning of hearing she confirmed to the clerk of the Tribunal the property was situate at 20c Cherryville Road. The respondent also confirmed by email to the clerk that the property to be considered was 20c Cherryville Road.

5. This notice communicates the tribunal’s decision and contains the reasons for the decision in accordance with Rule 19 of the Valuation Tribunal (NI) Rules 2007.

The Law

6. The statutory provisions material to the issue of Completion Notices are to be found in the 1977 Order. Article 25B and Schedule 8B to the 1977 Order are the relevant provisions. Article 25B of the 1977 Order provides, in respect of new buildings and Completion days and Completion Notices, as follows: -

25B.—(1) Schedule 8B (which makes provision with respect to the determination of a day as the Completion day in relation to a new building) shall have effect.

(2) Where—

(a) a Completion Notice is served under Schedule 8B; and

(b) the building to which the Notice relates is not completed on or before the relevant day,

then for the purposes of this Order the building shall be deemed to be completed on that day.

(3) For the purposes of paragraph (2) the relevant day in relation to a Completion Notice is—

(a) where an appeal against the Notice is brought under paragraph 4 of Schedule 8B, the day determined under that Schedule as the Completion day in relation to the building to which the Notice relates; and

(b) where no appeal against the Notice is brought under that paragraph, the day stated in the Notice.

(4) Where—

(a) a day is determined under Schedule 8B as the Completion day in relation to a new building, and

(b) the building is not occupied on that day,

it shall be deemed for the purposes of Article 25A to become unoccupied on that day.

(5) Where—

(a) a day is determined under Schedule 8B as the Completion day in relation to a new building, and

(b) the building is one produced by the structural alteration of an existing building,

with the hereditament which comprised the existing building shall be deemed for the purposes of Article 25A to have ceased to exist, and to have been omitted from the list, on that day.

(6) In this Article—

(a) “building” includes part of a building; and

(b) references to a new building include references to a building produced by the structural alteration of an existing building where the existing building is comprised in a hereditament which, by virtue of the alteration, becomes, or becomes part of, a different hereditament or different hereditaments.

Schedule 8B of the 1977 Order provides, in respect of Completion Notices, as follows: -.

Completion Notices

1.—(1) If it appears to the Department that the work remaining to be done on a new building is such that the building can reasonably be expected to be completed within three months, the Department may serve a Completion Notice on the person entitled to possession of the building.

(2) If it appears to the Department that a new building has been completed the Department may serve a Completion Notice on the person entitled to possession of the building.

(3) The Department may withdraw a Completion Notice by serving on the person entitled to possession of the building a subsequent Completion Notice.

(4) Where an appeal under paragraph 4 has been brought against a Completion Notice, the power conferred by sub-paragraph (3) shall only be exercisable with the consent in writing of the person entitled to possession of the building to which the Notice relates.

(5) The power conferred by sub-paragraph (3) shall cease to be exercisable in relation to a Completion Notice once a day has been determined under this Schedule as the Completion day in relation to the building to which the Notice relates.

(6) Except as provided by an order made by the Department, the Department shall not serve a Completion Notice if it appears to the Department that the building is, or when next in use will be, used wholly for the purposes of a private dwelling.

(7) The Department shall not make an order under sub-paragraph (6) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.

(8) An order under sub-paragraph (6) may contain such incidental, supplemental and transitional provisions as the Department considers necessary or expedient, including provisions modifying this Schedule.

(9) The Department shall not serve a Completion Notice in relation to a building of a prescribed class.

It is, in the view of the tribunal, not necessary in this decision to refer in other than summary detail to the statutory provisions which bear upon the rating of empty homes which are included in the Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 (“the 2011 Regulations”). The effect of the 2011 Regulations is that from 1 October 2011 domestic buildings and parts of buildings (as well as non-domestic buildings or parts of buildings) for the purposes of Article 25A of the 1977 Order became subject to rating, subject to certain statutory exceptions which exceptions do not apply in this

case. Accordingly, rates are payable on an unoccupied domestic property at the same level as if the property were to be occupied.

The Tribunal's Findings

7. The issue before the tribunal in this appeal is whether the decision of the Commissioner for Valuation to issue a Completion Notice that the home could reasonably be completed on 24 July 2013 was an appropriate decision.

8. The respondent provided in his presentation of the evidence detail of attempts made to meet with the appellant and inspect the property. Telephone contact was made with the Appellant, however a site visit could not be completed. When the LPS representative attempted a site visit on 2 October 2014 no access was afforded to the property. The respondent provided a photograph of the property in 2006 and described the property on the date of inspection as having curtains hanging in most of the windows, the ground floor curtains being drawn and the patio door being blacked out. From the photographs it was clear the property was wind and watertight and was secure as the LPS representative was unable to gain entry.

9. Despite engaging in conversation with the appellant no complete list of works still to be done over and above the required works as set out by the appellant in her Notice of Appeal was provided to the LPS representative.

10. The Respondent in his written submission referred to the case of **Robert Dickson –v- Commissioner for Valuation (31 March 2015)** In this case it had been accepted by the appellant that at the date of the Completion Notice the subject property was more or less in a wholly shell state, with all internal work still to be completed. In that case it was determined that three months was sufficient time to complete the following works: floor screeds, internal stud work and partition walls, first fix plumbing, first fix electrics, sheeting of ceiling and first floor, insulation, all internal plasterwork, second fix plumbing including bathroom and ensuite, second fix electrics, kitchen fitting and utility, second fix joinery including fitting staircase, guttering and downpipes, external drainage, and permanent connection to water supply, erection of the garage, external ground work including external steps and ramps and painting and decorating. The report submitted on behalf of LPS in this case was provided to this Tribunal and described on a week by week basis over a three-month period, the various works requiring to be completed and identifying in this “timeline” the stages by which these were deemed as capable of being completed.

11. The appellant did not afford an internal inspection of the property, which may have provided greater detail as to the further works required, nor did she provide any detailed schedule of outstanding works with a timescale as to likely completion. The appellant indicated lack of finances had prevented the build progressing.

Decision

12. Given that the proposed works in that case were significantly greater, even on external inspection of the appellant's home, it was wholly reasonable to expect that the appellant might complete the works to her home within a three-month period. The fact that the appellant had not completed the work due to financial constraints was not a relevant consideration for the Tribunal.

13. The Completion Notice issued on 25 April 2013 is valid and the property could reasonably be complete by 24 July 2013. Accordingly the unanimous decision of the tribunal is that the appeal is dismissed.

A handwritten signature in cursive script that reads "Sarah Ramsey".

**Ms. Sarah Ramsey, Chair
Northern Ireland Valuation Tribunal**

20th August 2015