

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: 29/18

WILLIAM MCCULLOUGH– APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Members: Mr Hugh McCormick and Ms Noreen Wright

Date of hearing: 23 August 2022, Belfast

DECISION

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

REASONS

Introduction

1. This is (subject to the observations made below) a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). This matter was listed for hearing on 23 August 2022.
2. The hearing proceeded by way of a hybrid hearing in which the Tribunal members and the tribunal clerk) were present in the tribunal room and the appellant appeared by video link. The Respondent was represented by Mr Steven Jeffrey and Mr McGennity by video link.
3. The hearing was conducted in accordance with the Northern Ireland Valuation Tribunal Remote Hearing Protocol dated 24 September 2020. All parties were content to proceed on this basis.
4. This appeal is in respect of the valuation of a property situated at 22 Corrinare Road Loughgilly, Drummilt, County Armagh, BT60 2DW (the subject property).

The Law

5. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). This provides as follows

New Buildings:
Article 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,

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.

Schedule 8B
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....”

The Evidence

6. The tribunal heard oral evidence. The tribunal had before it the following documents:

- a. The Commissioner’s Decision issued on 21 November 2018;

- b. The appellant's notice of appeal dated 28 November 2018;
- c. A document entitled Presentation of Evidence dated 9 April 2020, prepared on behalf of the respondent by Gerard McGennity, MRICS and submitted to the tribunal for the purposes of the hearing;
- d. An email from the Appellant dated 28 May 2020;
- e. Information from the Respondent including the decision in *Commissioner of Valuation v Patton*.
- f. Email from the Appellant dated 29 May 2022;
- g. Correspondence between the parties and the tribunal office.

The tribunal is grateful to both parties for the way in which their respective cases were set out both in written and submissions made orally at the hearing.

The appellant's submissions

- 7. The Appellant indicated that the subject property is his childhood home. He hopes to return to Northern Ireland from his current home in England. He is in the process of renovating this home and had hoped to sell his home in England to move back to the subject property. However due to his own illness and that of members of his family he has had to postpone the sale of his home and use his savings to renovate the subject property. He has now reached a point where all his savings have been exhausted and he has had to pause any further work on the subject property.
- 8. The appellant indicated that he had not received letters regarding the entry of the subject property into the valuation list and that he has been receiving rates bills.
- 9. The appellant has provided photographs of the subject property. As to the condition of the subject property, he states that the property is a concrete shell. It has no windows, no doors. There has been no progress on the renovation since 2017-2018. He admits that he underestimated the cost and time required to do the renovation. The appellant admitted that no work has been undertaken to the property since the property had been inspected by the respondent in February 2018.
- 10. The appellant referred to his personal circumstances and that he thought it unfair as the house was empty and due to his personal circumstances, he was unable to visit the property due to illness.

The respondent's submissions

- 11. The respondent indicated that the District Valuer had inspected the property on 17 January 2017 and the subject property was at wall plate level awaiting the roof structure. Photographs of the property has been taken at this stage. The property was further inspected from the roadway by the District Valuer in February 2018. It was confirmed by the representative of the respondent at the hearing that from this inspection it appeared at an advanced stage of construction and appeared secure and weathertight. A completion notice was then issued on 15 May 2018 stating that 13 August 2018 would be the completion date. This was appealed to the Commissioner for Valuation. The Respondent inspected the subject property on 5 September 2018. He stated that the property was wind and watertight. The dwelling required external render and was in a "block shell" condition internally as

per photographs submitted. Complete fit out was also required including the first and second fix plumbing, electrics, joinery, insulation, and plastering.

12. The respondent referred to previous decisions of the Valuation Tribunal including *Patton v Commissioner of Valuation* as the basis for stating that personal circumstances of the appellant cannot be taken into account in determining whether the building can be completed within three months. The Respondent also referred to a schedule of works which had been submitted by the Commissioner of Valuation in *Dickson v Commissioner of Valuation*.

The Tribunal's Decision

13. This case concerns the issue of a completion notice issued by the District Valuer and confirmed by the Commissioner of Valuation. This has now been appealed to this tribunal. The tribunal must therefore decide if the completion notice was validly issued.
14. The appellant during the hearing referred to his ability to pay the rating liability on foot of the property if it were decided that the completion notice is validly issued. He must take his own advice on that.
15. In deciding whether a completion notice has been validly issued, the tribunal must consider the terms of the legislation. Schedule 8B to the Rates (NI) Order states that 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.
16. The tribunal accepts that from the inspection in February 2018 the subject property appeared at an advanced stage of construction and appeared secure and weathertight. A completion notice was then issued on 15 May 2018 stating that 13 August 2018 would be the completion date.
17. The Respondent inspected the subject property on 5 September 2018. He stated that the property was wind and watertight. The dwelling required external render and was in a "block shell" condition internally as per photographs submitted. Complete fit out was also required including the first and second fix plumbing, electrics, joinery, insulation, and plastering.
18. Previous decisions of the Valuation Tribunal including *Patton v Commissioner of Valuation* and *Moffett v Commissioner of Valuation* it was held 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.
19. That being the case, the tribunal is satisfied that the decision to issue a completion notice in this case was a valid one on the basis that it could be

assumed that the work remaining to be done on the subject property could reasonably be expected to be completed within three months.

20. Examining all the material facts to be derived from the evidence, the tribunal's considered and concluded view and determination is that the completion notice is a valid one and the appeal of the appellant is therefore dismissed.

Signed Mr Charles O'Neill

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties