

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
RATES (NORTHERN IRELAND) ORDER 1977
IN THE MATTER OF AN APPLICATION TO APPEAL
VT/1/2022

BY

DAVID FREW – APPELLANT

Re: 191 Church Road, Holywood

Lands Tribunal – Henry M Spence MRICS Dip Rating IRRV (Hons)

Background

1. Mr David Frew (“the appellant”) had appealed to the Northern Ireland Valuation Tribunal (“NIVT”) against a Completion Notice issued by the Commissioner of Valuation in respect of a dwelling house located at 191 Church Road, Holywood.

2. By a decision dated 7th March 2022, the panel of the NIVT unanimously dismissed the appeal. The appellant then sought leave to further appeal to the Lands Tribunal for Northern Ireland. This, however, was refused by the President of the NIVT, Mr James Leonard.

3. The appellant now seeks leave from the Lands Tribunal to appeal and this is the issue to be decided.

Procedural Matters

4. The Lands Tribunal has received written submissions from the appellant and the President of the NIVT. The Tribunal is grateful to both for their submissions.

The Law

5. The statutory provisions are found in the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”) and in the Lands Tribunal (Amendment) Rules (Northern Ireland) 2007 (“the Lands Tribunal Rules 2007”).

6. In respect of the 2006 Order the relevant provisions are:

“Appeal from decision or direction of Valuation Tribunal

54A.-(1) Any person who is aggrieved by any decision or direction of the Valuation Tribunal under Article 54(2) may, with leave of –

- (a) the Lands Tribunal; or
- (b) the President of the Valuation Tribunal

appeal to the Lands Tribunal.”

7. In respect of the Lands Tribunal Rules 2007:

“4. In rule A1 –

- (a) ...
- (b) at the end there shall be added the following paragraphs –

‘(4) ... an appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal shall be instituted by serving on the registrar a notice of appeal in accordance with Form AC within 28 days from the date of the grant of leave of appeal by the President of the Valuation Tribunal.

- (5) A notice of appeal under paragraph (4) shall be accompanied by –
- (a) a copy of the decision or direction of the Valuation Tribunal against which the appeal is made; and
 - (b) a copy of the decision of the President of the Valuation Tribunal granting leave to appeal.
- (6) An application for leave to appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal may be made to the Lands Tribunal only where the applicant has been refused leave to appeal by the President of the Valuation Tribunal.”

The Appellant’s Submissions

8. The appellant’s grounds of appeal are summarised:

(a) On a number of matters material to the outcome that were obviously wrong:

(i) Schedule 8B(1)(i) of the Rates (Northern Ireland) Order 1977 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 3 months, the Department may serve a completion notice.”

Mr Frew’s opinion was that the NIVT was wrong to conclude that the works remaining could reasonably be expected to have been completed within 3 months.

(ii) Obstacles encountered as a result of the Coronavirus pandemic had not been afforded due consideration by the NIVT resulting in a wrong decision.

(iii) The NIVT noted at paragraph 10 of its decision:

“Part of the statutory purpose of this is to avoid the potential for endeavours to be made by individuals to exclude these properties from rating by not completing the final stages.”

The appellant advised that he was progressing as a sole builder to the best of his ability and had no intention of avoiding rates.

(b) In the interest of justice:

The appellant respectfully invited consideration of how the pandemic has negatively impacted most industries, including the construction industry, in some way or another and in the interests of justice he sought remedy within the Lands Tribunal's statutory powers.

The Submissions of the President of the NIVT

9. Having considered the appellant's letter of 14th March 2022 requesting the right to appeal, the President considered the following issues to be relevant:
 - (i) There is now new evidence being sought to be placed before the Lands Tribunal, without any explanation being advanced as to why such evidence was not presented prior to the time the NIVT made its decision.
 - (ii) There is no express criticism made by the appellant concerning the NIVT decision making, as such. Accordingly, the appellant does not seek to argue any unfairness in the procedure or process adopted by the NIVT. He does not seek to argue that the NIVT has failed to take proper account of any evidence or argument advanced by him, nor that the NIVT has unfairly or improperly taken into account irrelevant matters. He does not seek to argue bias or other such unfairness. The appellant, indeed, seeks to make no criticism of the process leading up to the making of the decision.
 - (iii) Further to the foregoing, the appellant seeks to reiterate arguments which are similar to those which he has already advanced at hearing. Any such arguments have been fully considered by the NIVT in reaching its decision.
10. Taking everything into account the President concluded that there was no proper and material issue upon which to grant leave to appeal to the Lands Tribunal.

The Lands Tribunal

11. The appellant's main grounds of appeal are:

- (i) The NIVT has simply reached the wrong conclusion. Due to sequencing and other factors, the works required could not reasonably be completed within 3 months as stipulated in the Statute. The Tribunal considers these issues to be worthy of further examination.
- (ii) The effect of the Coronavirus pandemic had not been properly considered. The impact of the pandemic was clearly a unique set of circumstances and the Tribunal also considers this issue to be worthy of further examination.

12. In conclusion, the Lands Tribunal grants the appellant leave to appeal to the Lands Tribunal. The Tribunal has made the appellant aware that the Lands Tribunal is a Court of Record and has cautioned the appellant that, should he be unsuccessful in his appeal, there may be cost liabilities.

29th July 2022

**Henry M Spence MRICS Dip.Rating IRRV (Hons)
Lands Tribunal for Northern Ireland**