

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
LANDS TRIBUNAL RULES (NORTHERN IRELAND) 1976

RATES (NORTHERN IRELAND) ORDER 1977

IN THE MATTER OF AN APPLICATION TO APPEAL

VT/1/2023

BETWEEN

COMMISSIONER OF VALUATION – APPLICANT

AND

CEIRE BROWN – RESPONDENT

Re: 104 Glenavy Road, Lisburn

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

Introduction

1. The subject reference concerns the Commissioner of Valuation’s (“the applicant”) request for leave to appeal a decision of the Northern Ireland Valuation Tribunal (“NIVT”) regarding the Capital Value rates assessment on a dwelling house at 104 Glenavy Road, Lisburn (“the reference property”).
2. The applicant has lodged its appeal pursuant to Article 54A of the Rates (Northern Ireland) Order 1977 (“the Order”) and Rule A1 of the Lands Tribunal Rules (Northern Ireland) 1976 (“the Rules”).
3. The original decision of the NIVT was dated 15th November 2022 and leave to appeal to the Lands Tribunal was refused by the President of the NIVT on 21st December 2022.

Background Chronology

4. On 16th May 2019 the reference property, being a new build, was entered into the Valuation List by the District Valuer with a Capital Value rates assessment of £350,000.
5. On 4th June 2019 Ms Ceire Brown (“the respondent”) issued an appeal to the applicant in respect of the rates assessment.
6. On 26th June 2019 the applicant issued a Valuation Certificate confirming that there would be no change to the rates assessment.
7. On 3rd July 2019 the respondent submitted an appeal to the NIVT.
8. On 21st September 2021 the NIVT issued its decision granting the respondent’s appeal and ordering that the matter be remitted back to the applicant for further consideration and a revised valuation, in light of the NIVT’s “finding on the garage, which is not part of the dwelling house”.
9. On 22nd September 2021 Mr Steven Jeffrey, representing the applicant, wrote to the President of the NIVT expressing concerns in relation to the decision of 21st September 2021.
10. On 1st October 2021 the President of the NIVT suggested that the applicant could apply for a review of the decision which was requested on the same date.
11. On 22nd October the NIVT held a review hearing and issued its decision on 15th November 2022 confirming:

- (i) The Capital Value rates assessment at £300,000 instead of remitting the matter back to the applicant.
- (ii) A refusal to change, vary or alter any other part of its original decision.

Procedural Matters

12. The applicant was represented by Ms Maria Mulholland BL, instructed by the Departmental Solicitor's Office. The Tribunal received a written submission from Ms Ceire Brown, respondent and litigant in person. The Tribunal is grateful to both parties for their helpful submissions.

The Key Issue

13. Ms Mulholland BL submitted that the key issue in the subject reference was whether an area contained within Block 3 of the reference property was a part of the "dwelling house" or was a "garage" or "private storage premises", for the purposes of Article 39 of the Order. The question of what category it fell into was important because it was relevant to determining the Capital Value rates assessment of the reference property.

14. The respondent argued before NIVT that Block 3 was a garage or private storage area. The applicant contended that Block 3 was part of the dwelling house for the purposes of the Order. The NIVT decided that Block 3 was a "private storage area".

The Statute

15. Article 54A of the Order provides:

"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 13(3) or 54(2) may, with the leave of-

(a) the Lands Tribunal

(b) the President of the Valuation Tribunal

appeal to the Lands Tribunal.

(2) For the purposes of paragraph (1), the Commissioner shall be treated as a person aggrieved by a decision or direction of the Valuation Tribunal under Article 13(3) relating to a determination made by the Department.

(3) On an appeal under this Article the Lands Tribunal may -

(a) make any decision that the Valuation Tribunal might have made;

(b) if any alteration in a valuation list is necessary to give effect to the decision, direct that the list be altered accordingly;

(c) remit the appeal or any matter arising on it to the Valuation Tribunal with such declarations or directions as the Lands Tribunal thinks proper.

(4) The Valuation Tribunal shall have regard to any declarations and obey any directions under paragraph (3)(c).

(5) On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.”

16. Rule A1 of the Rules provides:

“Instituting of proceedings under the Rates Order

A1.-(1) An appeal against a determination of the Department under Article 13(3) of the Rates Order shall be instituted by serving on the registrar a notice of appeal in accordance with Form AA within 21 days from the date of issue by the Department of the notice of determination.

(2) ...

(3) ...”

Ms Mulholland's Submissions

17. On the issue of whether the Lands Tribunal should grant the applicant leave to appeal the decision of the NIVT, Ms Mulholland BL submitted:
- (i) The subject reference concerns a general point of law in relation to the correct approach to be taken when considering whether a part of a hereditament (a property which is liable to be rated) should be considered a “dwelling house” or “garage” or “private storage premises”. This is an issue of general significance and wide importance which is not specific to this particular case.
 - (ii) The NIVT’s statutory interpretation of the Schedule 12 assumptions is a general point of law that ought to be considered on appeal.
18. Ms Mulholland BL concluded that the subject appeal raised arguable points of law which were of general importance and accordingly she invited the Lands Tribunal to grant the applicant leave to appeal.

Ms Brown's Submissions

19. At this stage the Tribunal is not concerned with the detail of the reference. Solely in relation to the applicant’s request for leave to appeal Ms Brown submitted:
- (i) A protracted and costly leave to appeal is not reasonable nor is it required considering public finances and resources.
 - (ii) Leave to appeal should not be intended to be a second bite at the cherry for a party who feels it has not submitted its best case to the NIVT. To therefore have another go with the Lands Tribunal is fiscally irresponsible.
 - (iii) The President of the NIVT, Mr James Leonard, refused leave to appeal to the Lands Tribunal on multiple grounds, by a decision dated 21st December 2022. Among other

things Mr Leonard stated: “I do not discern any valid basis upon which to grant leave to appeal”.

20. Ms Brown concluded that the applicant has had two failed hearings and a categorical refusal to grant leave to appeal from the NIVT and there is no case to further appeal. All evidence has been previously reviewed.

Decision

21. The Tribunal recognises the extensive deliberations of the NIVT with regard to the subject reference and the substantial costs to the applicant.
22. With regard to granting leave to appeal, the overriding issue, however, for the Tribunal is that, as per Ms Mulholland’s submissions, the subject reference raises points of law which are of general public importance. The Tribunal has been advised by the applicant that the “knock-on” effects of these points of law could have consequences for the rating assessments of a significant number of similar properties in the Capital Valuation List.

Conclusion

23. On that basis the Lands Tribunal grants the applicant leave to appeal.

11th May 2023

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