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 11/23

ROBERT SHAW & DEIRDRE SHAW – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr A Tough FRICS and Ms N McCartan

DECISION ON REVIEW

The unanimous decision of the tribunal is that there are no proper grounds made out by the appellants to enable the tribunal to review the decision of the tribunal promulgated on 29 August 2024 and accordingly the tribunal's decision is affirmed and the appellants' application for review is dismissed.

REASONS

Introduction

1. This matter relates to an application for a review of the tribunal's decision ("the decision") in respect of a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The decision was issued to the parties by the Secretary of the Northern Ireland Valuation Tribunal ("the Secretary") on 29 August 2024. The Secretary received a document indicating an application for a review from the appellants dated 9 September 2024 ("the review request") which was taken to constitute a request to the tribunal to review the decision under the statutory power in that regard. The appellants raised issues that shall be referred to further below, in the context of any necessary qualification and clarification afforded in the course of further communications between the appellants and the tribunal and also at hearing. In the review request the appellants had sought to make reference to alleged misconduct by LPS government officials and alleged failure to disclose matters to the tribunal concerning an allegation relating to the stated alteration to maps. These allegations encompassed a stated failure to disclose important information in a fraudulent manner and also concerned an alleged abuse of position and alleged misconduct. The review request was followed by a considerable number of subsequent communications from the appellants seeking to put forward additional submissions and bundles of evidence which the appellants apparently considered to be relevant to the matter. It is evident to the tribunal that the appellants have devoted considerable industry to this task.

2. The review request was copied to the respondent and the respondent thereby was duly notified of the appellants' request for a review and it was indicated that the respondent did not wish to attend at any review hearing.

3. An oral hearing of the review application was arranged and took place on 11 June 2025. The appellants were personally in attendance; there was no representation for or on behalf of the respondent, it having been indicated that the respondent did not wish to make any oral submissions at hearing. The chair of the tribunal attended remotely by WebEx (due to circumstances preventing any attendance in person) and the two other panel members were personally in attendance.

THE APPLICABLE LAW

4. The Valuation Tribunal Rules (Northern Ireland) 2007 ("the Rules"), as amended, provide at Rule 21 as follows in respect of the review of any decision of the tribunal:-

> "21.—(1) If, on the application of a party or on its own initiative, the Valuation Tribunal is satisfied that—
>
> (a) its decision was wrong because of an error on the part of the Valuation Tribunal or its staff; or
>
> (b) a party, who was entitled to be heard at a hearing but failed to be present or represented, had a good reason for failing to be present or represented; or
>
> (c) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then; or
>
> (d) otherwise the interests of justice require,
>
> the Valuation Tribunal may review the relevant decision."

BACKGROUND MATTERS

5. It is perhaps worth mentioning that, prior to and in the course of the hearing at first instance, the appellants had sought to introduce a very substantial bundle of documentation consisting of and including legal case reports, maps, copy correspondence from various parties, extracts from press reports, documents representing the definition of certain legal concepts and other documentation. In the process of case management of the first instance appeal, the tribunal had issued comprehensive Directions to the appellants seeking to limit the number of documents that might be adduced (nonetheless affording a considerable number) and emphasising in clear and certain terms the fact that anything placed before the tribunal had to be relevant and had to take specific account of the Valuation Tribunal's statutory remit. The tribunal had entered into correspondence with the appellants on a number of occasions seeking to draw the attention of the appellants to the specific statutory function of the Valuation Tribunal and to explain that the ambit of the tribunal's functions was not equivalent to that of the County Court or the High Court in Northern Ireland. It was emphasised that the tribunal was a creature of statute and was circumscribed by the statutory provisions as to what it could and could not do. There was an exhortation communicated that the appellants were to pay proper

heed to the tribunal's Directions in that regard. The first instance hearing therefore proceeded in the light of these Directions. At various times during the course of the oral hearing, the chair of sought again to reiterate these points for the avoidance of any doubt as far as the appellants were concerned.

6. In similar terms, when the appellants had indicated an intention to seek to review the tribunal's decision, the chair had issued correspondence to the appellants seeking to set forth the statutory review provisions and to explain how the review function worked, in terms of scope and the adherent powers of the tribunal upon review. In terms of case management, the chair had not sought to limit the documentation that the appellants might adduce at the review stage, but had nonetheless sought to direct the attention of the appellants to the essentially restricted focus of any statutory review. The chair had encouraged the appellants to ensure that any evidence to be adduced or any submissions made, would closely follow the specific remit of the tribunal, taking that into account, as had been carefully explained to the appellants. In the lead up to the review hearing, the appellants had, again (as had occurred at first instance) sought to introduce a considerable number of documents all or most of which appeared to have already been introduced at the first instance hearing below. In summary, the tribunal had taken reasonable steps in advance of the review hearing to seek to direct the attention of the appellants towards the specific nature and function of the Valuation Tribunal review process and concerning the inherent powers of the tribunal in that regard, and materially, concerning the matter of relevancy, within that specific framework.

THE APPELLANTS' ARGUMENTS

7. The tribunal, at the outset of the oral hearing, sought to clarify with the appellants, in the light of everything that had been explained to them by the tribunal in advance of the hearing and in the light of the statutory review provisions, why such a substantial volume of documentation had been produced by the appellants for consideration by the tribunal at review, especially so as the documentation very evidently contained material which had previously been placed before the tribunal for consideration and so it was not in any manner "new". Further, the tribunal sought an explanation from the appellants concerning why the documentation had been introduced without being placed in any type of a paginated or numbered form, not following any date or chronological sequence, not in any apparent logical order, in terms of any arguments that would be made and, effectively, was seemingly in a disorganised and random state. When the tribunal, at the outset, endeavoured to obtain clarification from the appellants as to why any of this had occurred, it was unable to obtain any clear and cogent explanation, save for the assertion that this was all relevant material to the review application, as far as the appellants were concerned.

8. The tribunal also referred the appellants back to the explanatory correspondence emanating from the tribunal at the outset of the review process and sought to seek clarification from the appellants, at the outset and also upon a number of occasions throughout the hearing, as to which statutory grounds were being argued as applicable to the review.

9. After taking the appellants carefully through the four available statutory grounds under Rule 21 (1) (and it has to be said not without some difficulty) the tribunal eventually established with the appellants that they sought to advance the review case on foot of statutory grounds: (c) "*new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then*" and (d) *otherwise the interests of justice re*quire (a review). For the avoidance of doubt, the appellants expressly conceded to the tribunal that the first two statutory grounds were inapplicable and thus the tribunal concentrated only upon the third and fourth ground. The tribunal took some care to do all of this in the course of the oral hearing and to seek clarification from the appellants and to establish clearly that the appellants had been made fully conversant with the statutory regime and with any relevant aspects of the applicable review process.

10. The tribunal then proceeded to seek clarification from the appellants concerning the specifics of these two grounds, in sequence. The tribunal first dealt with the "new evidence" ground. It has to be said that it took the tribunal some time and a measure of effort to establish with the appellants the precise nature of their case concerning this "new evidence" ground. It must be said that the tribunal found many of the answers emanating from the appellants to questions posed by the tribunal, in seeking such clarification, to be equivocal and imprecise, this occurring over a material period of the review hearing. Eventually, after some time, the appellant, Mr Shaw, stated to the tribunal that, as he put it, "99%" of the material which the appellants sought to introduce was indeed not "new evidence". What then was the remaining 1%? The tribunal carefully explored with the appellants what this might consist of. Mr Shaw stated to the tribunal that upon the day prior to the review hearing being held, a person had attended at his property, identified as being a female. Mr Shaw steadfastly refused, notwithstanding requests on the tribunal's part, to identify such person, either by name or by any other means. However he sought to assert that he had been informed by this person that the property was "landlocked" and thus that it had no value whatsoever. He stated that, in effect, a lot of information then "came together" at that point, which had not been entirely obvious to him prior to that and, therefore, that he fully and finally understood the issue, however this occurring only on the day previous to the listed review hearing. This was his explanation for the "new evidence".

11. The tribunal enquired whether the appellants had brought this (unidentified) person to give evidence to the tribunal or if the appellants could in any way go further in seeking to explain to the tribunal who the person might be and in what way such person might be in a position to afford expert or other evidence to the

tribunal, to assist. However, it was clear, upon this being further explored and upon being pressed upon the issue, that Mr Shaw was entirely unwilling to provide anything further, for whatever reason. This left the tribunal in position where the only "new evidence", and this on foot of the express concession made on the part of the appellants, consisted of something in the manner of hearsay: an alleged conversation occurring the previous day between some unidentified identified individual and Mr Shaw.

12. The tribunal then explored the "interests of justice" ground with the appellants. The tribunal had earlier explained in the correspondence directed to the appellants and also explained at hearing, that this "interests of justice" ground was not an opportunity to hold what would have been in effect a second hearing of the case, a case had been fully argued at first instance (what has sometimes been referred to as "a second bite of the cherry"). The tribunal explained to the appellants that this specific statutory ground might encompass, for example, matters such as a party not being afforded a fair opportunity to present an aspect of their case at hearing or, perhaps, the impeding of the fair and proper adduction of essential witness evidence, which might have given rise to unfairness. This has been sometimes referred to as the occurrence of a "procedural mishap" in proceedings. The tribunal took the appellants through the earlier proceedings at first instance and queried whether there was anything in the manner in which the tribunal had conducted the proceedings, at that stage, which was unfair or which had not afforded to the appellants a fair and reasonable opportunity to articulate their case.

13. Mr Shaw was entirely clear when he confirmed that the tribunal had dealt with the appellants at the first instance hearing in a proper and fair manner. He further clarified that any unfairness arose not from the tribunal and its conduct of proceedings but, rather, from the attitude shown by LPS. Here he reiterated the generalised accusations against LPS which indeed have featured large in this case and in the various submissions. The tribunal sought to draw the attention of Mr Shaw to certain judgements of the Court of Appeal and the High Court in the matter, for example the judgement of Horner J (as he then was) in the case of *Patterson & Smyth v Shaw* 4 April 2017, at the conclusion of which case the learned judge had indeed not found any substance in the accusations levelled against various parties by the appellants and had made a finding entirely contrary to the appellants' case. Mr Shaw endeavoured to argue that this case represented some type of a victory as far as he was concerned, but this point was entirely lost upon the tribunal. In an effort to avoid becoming side-tracked by earlier proceedings heard before superior courts, the tribunal then endeavoured to direct the appellants' focus back to the question of how the interests of justice might have been infringed by the proceedings below and by the tribunal's decision, at first instance. The best that the tribunal could make of some quite vague testimony by Mr Shaw, which at times was a little difficult to comprehend, was that the interests of justice ground was entirely based on allegations of "false information" and other misdeeds placed at the door of LPS and other government agencies but, materially – and this is the point - not directly focused at the tribunal. In essence, the appellants' arguments seemed to be that these alleged misdeeds and untruths had allegedly been imported

into the evidence placed before the tribunal and that this had to be corrected "in the interests of justice", in the review process.

14. It is perhaps necessary to make one intervening observation at this point in order that this may be clarified. During the course of the endeavour on the part of the tribunal, made both by the chair and also by the Valuation Member, to seek particulars from the appellants concerning various dimensions of their claim (this being when the tribunal was endeavouring to seek clarification concerning answers afforded by the appellants that were vague or equivocal or unspecific) Mrs Shaw appeared to become somewhat distressed and sought to be excused from the tribunal proceedings, which request was immediately granted by the tribunal. The tribunal, for the avoidance of any doubt, immediately offered to Mr Shaw the opportunity to seek a recess. However, in response to the invitation, repeated on a number of occasions, Mr Shaw made it entirely clear that he wished the matter to continue, even in the absence of Mrs Shaw. Having made a further request for clarification and having further and carefully checked with Mr Shaw that that was what he wished, the proceedings continued. Mr Shaw indicated that he was entirely content with matters continuing on that basis and indeed pressed for the hearing to continue and to be concluded. The tribunal noted that Mr Shaw had effectively taken the lead in the hearing and that any input of Mrs Shaw had been only marginal and that there was comparatively little ground still to be covered at hearing. The hearing thus proceeded to a conclusion.

15. Reaching a conclusion of the hearing and taking matters as far as was reasonably feasible in terms of evidence and submissions from the appellants, the tribunal queried with Mr Shaw if it was felt that he and Mrs Shaw had been afforded a fair and reasonable opportunity by the tribunal at the review application to articulate their case or if they might wish to add anything further in terms of evidence or submissions. In response to this Mr Shaw stated that he did not wish to add anything further and that he regarded everything as being concluded, as far as the hearing was concerned. That brought the oral hearing to an end and the tribunal then turned to a deliberation upon the review application.

THE TRIBUNAL'S DETERMINATION

16 The tribunal notes the statutory power available under Rule 21 of the Rules. The appellants, as clarified at hearing, have endeavoured to make out a case on two available statutory grounds (the other grounds having been expressly discounted as inapplicable) to the intent that the tribunal is entitled to conduct a review of its decision upon the "new evidence" and "interests of justice" grounds, such as are provided for by Rule 21 (c) and (d) of the Rules.

17 Dealing first with the “interests of justice” ground, as clarified, the tribunal cannot see how the appellants have made out any sustainable or persuasive case for a possible review under that “interests of justice” ground. The appellants, in making the case, have indicated that they were afforded a fair and proper hearing both at first instance and also at the review stage and they have no grounds to argue any procedural unfairness. They have sought to make it clear that they feel this “interests of justice” ground to be engaged for the reason that they feel that the respondent’s side have improperly adduced evidence with which they disagree, in the light of their sustained and significant allegations of impropriety and dishonesty and they assert that this so-called “false evidence” has been factored into the determination of the tribunal. In other words, there is no allegation being faced by the tribunal itself, only that the evidence placed before the tribunal by the respondent and other impugned parties has been suspect and may be properly challenged. However the essential point here, as has been fully accepted by the appellants, is that they have been afforded at first instance a fair and proper opportunity to challenge any evidence sought to be adduced by the respondent and to make further comments or submissions, which they have done in the course of the first instance hearing. The appellants appear to accept that the tribunal has duly considered all evidence, information and submissions available in the matter, at the first instance hearing, in reaching a determination of the first instance appeal and that the tribunal’s decision has addressed the available evidence and submissions, has made relevant findings of fact and has applied the relevant law and has set matters forth in reasonably comprehensive form in the decision, as issued to the parties. However, they clearly disagree with the conclusion.

18. In considering this statutory “interests of justice” ground of review, it is clear that this case is advanced for the reason that the appellants are of the view that the outcome is unjust - that they disagree with the determination – but not upon any other substantive basis. Sitting behind all of this are the substantial allegations which they have made over a period of many years against various parties, which indeed has involved a process of dispute and litigation extending for nearly 30 years. The tribunal’s assessment is that, after affording a fair and proper hearing, the decision has recorded in summary form the essential findings of fact derived from all of the evidential material which was placed before it at the time of hearing. The tribunal has carefully considered and weighed all of the evidence, submissions and the arguments made in the course of the original hearing and the tribunal has dealt with and has disposed of these in the first instance decision.

19. In the absence of any identified authority within the tribunal’s own jurisdiction being drawn to the tribunal’s attention, the tribunal is of the view that the “interests of justice” ground ought properly to be construed fairly narrowly; that certainly appears to be the accepted practice in other statutory tribunal jurisdictions. Therefore the “interests of justice” ground might, for example, be

seen to apply to situations such as where there has been some type of procedural mishap. One illustration of this might be a situation where the tribunal had prevented a party from arguing an essential part of any case, or perhaps where there was some type of procedural imbalance or injustice applicable to the conduct of any hearing. In the course of the hearing process the tribunal has carefully explored all of the appellants' contentions in the light of all of the available admissible evidence. Nothing therefore appears to arise concerning the manner in which the original hearing was conducted by the tribunal. Generally, it is broadly recognised that the "interests of justice" in any case must properly encompass doing justice not just to the dissatisfied and unsuccessful party who is seeking a review but also to the party who is successful. Further, there is an important public interest in finality of litigation. The overriding objective contained within the tribunal's Rules also bears upon the matter.

20. The tribunal shall comment further about this in addressing the additional ground of review sought to be advanced but, in short, in respect of this specific ground it appears that the appellants have sought to re-argue in the review process certain issues. This is entirely evident from the effective "re-submission" of a considerable number of documents which had earlier been placed before the tribunal at first instance. Mere dissatisfaction with the outcome of the decision, without more, is insufficient. The tribunal harbours considerable difficulty in seeing how there are any available grounds to constitute the proper basis of a review of the tribunal's decision, in the "interests of justice". The matters raised at hearing are not sufficient to ground a successful review. Thus the tribunal's unanimous determination, in respect of this ground, is that nothing presented by the appellants affords any basis for the decision to be reviewed, in the interests of justice.

21. The tribunal now turns to the other substantive ground upon which the appellants seek to have reviewed the decision. The relevant statutory provision in Rule 21 (1) (c) reads:

> *"(c) new evidence, to which the decision relates, has become available since the conclusion of the proceedings and its existence could not reasonably have been known or foreseen before then;"*

There are a number of key elements to that provision:

- new evidence
- relating to the decision
- has become available since the conclusion of the proceedings
- its existence could not reasonably have been known or foreseen before then (in other words since the conclusion of the proceedings).

22. Having carefully explored with the appellants the contentions sought to be advanced, they clearly seek to produce evidence by again submitting a considerable number of documents which were previously submitted. After some questioning by the tribunal and indeed the tribunal experienced some difficulty in getting a cogent answer to this but was eventually successful, Mr Shaw stated that "99%" of the evidence was not "new". This was somewhat of a startling concession to make, as in the period of time preceding the review hearing the tribunal had been at some pains clearly and carefully to explain the statutory remit to the appellants. Manifestly, the tribunal was not successful in that regard. It is entirely inexplicable how the appellants could have entirely disregarded the tribunal's best endeavours to assist, resulting in the review hearing reaching a point where the express concession was made that, in regard to the specific "new evidence" statutory ground, 99% of the evidence was indeed not new. It is entirely clear, thus, that the appellants were setting their face against everything which had been explained to them in advance of the hearing by the tribunal. As for the remaining "1%" it is equally inexplicable how the tribunal might have been persuaded by the appellants to attach any weight to hearsay evidence stated to have been emerging from an alleged conversation between Mr Shaw and some unidentified person, occurring as it did the day before the review hearing, in respect of a process which had been on-going for nearly 30 years. This, indeed, encapsulates in rather stark terms the fundamental weakness and manifest flaws in the review application. Not only does this review case have absolutely no merits nor any prospects of success, for the reasons above outlined, but also it depicts appellants who appear to have considerable difficulty in grasping the reality of things and, indeed, difficulty in taking heed of certain comments and observations which have been made by courts superior to this tribunal, to the effect that there is no substance in the allegations advanced.

23. Tribunals have been guided by superior courts in exercising considerable caution in facilitating what has been termed "a second bite of the cherry", in other words any endeavour to re-argue cases by an unsuccessful party via the statutory review system. Thus the process is "….*not intended to provide parties with the opportunity of a rehearing at which the same evidence can be rehearsed with different emphasis, or further evidence adduced which was available before*" (Lord McDonald in ***Stevenson v Golden Wonder Ltd 1977 IRLR 474***). The tribunal's broad discretion to decide whether a statutory review is appropriate must be exercised judicially "….*which means having regard not only to the interests of the party seeking the review or reconsideration, but also to the interests of the other party to the litigation and to the public interest requirement that there should, so far as possible, be finality of litigation*" (Her Honour Judge Eady QC in ***Outasight VB Ltd v Brown 2015 ICR D11***). In this case, having considered the nature of the additional evidence and the appellants' submissions in that regard, the tribunal unanimously determines that there is no proper and compelling basis for a statutory review of the tribunal's decision under the "new evidence" ground.

24. Accordingly the tribunal's decision is affirmed as promulgated and appellant's application for a review is dismissed by the tribunal, without further Order.

CONCLUDING REMARKS

25. This case, both at first instance, and also at review stage, represents what may perhaps be fairly described as being an example of the pursuit of legal processes by individuals in a manner somewhat towards the extreme end of things. It is clear that the appellants came to the Valuation Tribunal harbouring some expectation, in contrast to various outcomes emerging from various legal venues which they had tried before and in respect of which they had been manifestly unsuccessful, that this venue might afford them some measure of success. Clearly they have failed in that regard with the Valuation Tribunal. What they have done, nonetheless, is to have experienced another illustration of hopes dashed, the expenditure of considerable resources and time on their part and indeed on the part of the legal system, all manifestly to no avail. The tribunal can only hope that, having experienced failure in using the Valuation Tribunal system to achieve some manner of a resolution, from their own perspective, the appellants can now accept the reality of things. Certainly the Valuation Tribunal can provide no solution to them.

James Leonard

James Leonard, President

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 16th June 2025