

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: NIVT 39/15

JIM CRAWFORD APPELLANT

AND

COMMISSIONER OF VALUATION FOR NI - RESPONDENT

Northern Ireland Valuation Tribunal

Chair: Sarah Ramsey

Members: Tim Hopkins (Valuer) and Robert McCann (Lay)

REVIEW HEARING

1. On the 16th February 2017 this Tribunal issued a decision in respect of the Appellant's appeal against the assessment of the capital value of his property, following consideration of the appeal on the papers on the 11 January 2017. The appeal was dismissed and the Appellant notified of the decision. On the 21st February 2017 the Appellant applied for a review of the decision pursuant to Rule 21 of the Valuation Tribunal Rules (Northern Ireland) 2007. In accordance with Rule 21(4) the parties have an opportunity to be heard on any application for review pursuant to Rule 21.
2. The Appellant's application for review was heard on the 27 July 2017 by way of oral hearing. The Appellant represented himself and the Respondent did not attend, although they provided a written response to the Appellants letter of 21 February outlining their contention that as the initial appeal pertained to the District Valuer's decision issued on 30 September 2015, then any changes or alterations subsequent to this date were not relevant to this review .
3. In support of the Appellant's application for review, the Appellant submitted his reasoning in his letter of 21 February 2017. In addition, the Appellant made oral representations which added to the representations included in the written submissions. An email was received on 2 August 2017 from the Appellants solicitors attaching the appellant's mother's death certificate and Grant of Probate in relation to her estate.
4. The Appellant sought a review on the basis that:
 - (i) The Tribunal's description in its judgement that the electrical system was outdated whilst factually correct does not go far enough as the electrical

system is dangerous and under no circumstances would pass any H&S legislation to allow habitation of the property. The electrical system has now been disconnected because it was unsafe to allow for demolition.

- (ii) That the Tribunal contention that the Appellant had not made any assertions to the effect the repairs detailed would be economically unviable was incorrect
 - (iii) That the Tribunal described the bungalow as being built circa 1955 when it had been built prior to that
 - (iv) That the assertion that the Appellant chose not to challenge the comparables proposed by the Respondent was incorrect
 - (v) That the state of the property has deteriorated and that it had been sold with the new owner purchasing the site to demolish the old house and erect a new one.
5. The above is a summary of the points made by the Appellant. In addition to the written submissions above the Appellant disclosed the property had been demolished in April 2017 and raised another ground, namely that:
- (vi) The property had originally been owned by the Appellant's mother who died on the 8th day of November 2013. The Appellant was his mother's personal representative.
 - (vii) Grant of Probate in relation to the appellant's mother's estate issued on 29 January 2015.

THE LAW

6. Rule 21 provides;

Review

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.

7. The power or ability to request a review is different from the appeal to the Lands Tribunal, pursuant to Article 54(a) of the Rates (NI) Order 1977, as amended. Of the four grounds (a) to (d) referred to in Rule 21, the ground contained in paragraph (b) was acknowledged to be irrelevant. The Appellant in his notice seeking a review maintained that he was entitled to a review because;

- (i) The decision was wrong because of errors – *Quite a number of items have either changed or are inaccurate –(letter for Appellant of 21 February 2017)*
8. Despite the seeming restriction placed on the Appellant to just 1 of the 4 grounds available, the Tribunal considered the Appellant’s review in the context of Rule 21 as a whole.
 9. At this point it is worth indicating that the review procedure is not intended to supplant the appeal procedure to the Lands Tribunal and the review is not intended to be a second bite at the cherry, for an Appellant who feels he has not submitted his best case to the Tribunal to have another go.

Rule 21 (1)(a)

10. The review procedure under this head is designed to correct obvious and fundamental flaws which arose because of human error, errors which when pointed out, are self-evident, patent and objectively, clearly erroneous. It is impossible to conjure up an exhaustive list of the type and nature of errors which may be relevant, but if a Statement of Case failed to be included or dealt with at an appeal or if the body of one decision somehow became attached to the title of a different decision, such are the types of error which would entitle any party, or the NIVT of its own initiative, to seek a review.
11. Applying such a test to each of the grounds put forward by the Appellant seratim it is obvious that none of the grounds referred to above come within the heading of an obvious and manifest error.
12. Specifically the Appellant accepted as factually correct the fact the electrical system was outdated. The fact the supply was disconnected and the property had subsequently been demolished is not relevant to the assessment taken which led to the decision of 4 November 2015 which reviewed the District Valuers decision issued 30 September 2015.
13. With regard to the Appellant not having adduced any evidence to contend that the repair of the property was economically viable – the Tribunal had no evidence before it on 11 January when the matter was being considered as submitted by the Appellant to this effect.
14. The matter of the fact the property was built pre 1955 when the description in the judgement is of the property as being built “*circa*” 1955 is mere semantics and not a relevant consideration.
15. With regards to the Appellant not challenging the comparables, the Appellant was sent copies of the Respondent’s valuations and did not submit any documentation challenging them in any way.
16. In any event with reference to paragraphs 12-15 above, all this information was known to the Appellant and was not submitted at the Appeal on 11 January.

Rule 21 (1) (b)

17. The Appellant did not provide good reason as to why he had not been present at the original Appeal, save to say he indicated he was not familiar with legal process. Nonetheless he had previously indicated he was content for the original Appeal to be dealt with in his absence.

Rule 21 (1)(c)

18. The only item of information which could possibly pertain to Rule 21(1)(c) was the information which the Appellant provided that the property had previously been owned by his mother who had died in November 2013 and that the Appellant was the mother's personal representative. At the oral hearing he was unable to say when the grant of probate issued, however this information was subsequently provided by his solicitor. This aspect fails for a number of reasons including:

- i. The fact that it did not constitute new evidence,
- ii. It was available to the Appellant at the time,
- iii. The Appellant had not made any application or received an exemption from rates by dint of the fact that at the material time the empty home was in the possession of the Appellant as the personal representative of a deceased person,
- iv. That even if the evidence had been adduced to this Tribunal at the hearing in January, its relevance to the decision handed down on the 16 February was not made out by the Appellant. It is for the Appellant to have investigated any potential rating exemptions which may or not apply to his position, it is not a function of the Valuation Tribunal.

Rule 21(1)(d)

19. Whilst the discretion of the Tribunal to order a review in the interests of justice is wide, it cannot be boundless and must take into account a number of factors, which include not only the interests of the Appellant, but also the interests of the Respondent. In this particular instance, none of the reasons for a review put forward by the Appellant stand up to the interests of justice test.

20. Whilst the Appellant is aggrieved by the decision of this Tribunal, feels the decision of this Tribunal was wrong and that the Tribunal failed to properly take into account his grounds for appeal, those are not matters which the Tribunal considers constitute sufficient grounds to satisfy relief under the 'interests of justice' test.

CONCLUSION

21. Having reviewed its previous decision, the Appellant has not made out any of the grounds justifying relief pursuant to Rule 21 and this Tribunal's original decision remains unaffected.

Ms Sarah Ramsey – Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to all parties: 1 November 2017