

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: 39/21

DAVID FREW - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

**DECISION OF PRESIDENT OF THE NORTHERN IRELAND
VALUATION TRIBUNAL ON APPLICATION FOR LEAVE TO
APPEAL TO THE LANDS TRIBUNAL**

I do not grant leave to the appellant to appeal to the Lands Tribunal upon the issues and for the reasons that are set out below.

REASONS

Introduction

1. The appellant, by Notice of Appeal dated 22 October 2021 appealed to the tribunal against a Completion Notice issued in accordance with statutory provisions in respect of a hereditament situated at number 191 Church Road, Holywood, County Down BT18 9RN ("the subject property"). A "hybrid" oral hearing of this appeal took place on 22 February 2022 and by Decision with reasons promulgated by the Tribunal on 7 March 2022 ("the Decision") the tribunal's determination as set forth in the Decision was that the appeal should be dismissed, for the reasons stated.
2. By letter dated 14 March 2022 sent by the appellant to the Valuation Tribunal President, the appellant requested leave to appeal, upon the stated grounds. These grounds, as expressed by the appellant, are stated as follows:-

"I perhaps did not make it clear to yourself and the panel that this will be an eco friendly house with the following extras going in after it was erected.

Warm roof (insulation on the outside and inside the roof rafters)

Solar panels

Heating recovery system

Central vac

The above extras alongside all the normal inside work carried out mostly by myself and only calling in tradesmen when required to financial save.

As stated before I am a small developer and given the standard and size of house I feel am on track and working as quickly as possible to finish but with rates applied at an early stage of the build it is a huge financial burden on me.

I should have enquired at the meeting if all small builders have a three month period applied to complete.”

3. Examining the 14 March 2022 letter, I draw from the content of that letter the following issues raised by the appellant which are material to my determination as to whether or not leave ought properly to be granted in this instance to the appellant to appeal to the Lands Tribunal:-

3.1 There is new evidence now being sought to be placed before the tribunal, without any explanation being advanced as to why such evidence was not presented prior to the time the tribunal made its Decision.

3.2 There is no express criticism made by the appellant concerning the tribunal's decision-making, as such. Accordingly, the appellant does not seek to argue any unfairness in the procedure or process adopted by the tribunal. He does not seek to argue that the tribunal has failed to take proper account of any evidence or argument advanced by him, nor that the tribunal has unfairly or improperly taken into account irrelevant matters. He does not seek to argue bias or other such unfairness. The appellant, indeed, appears to make no criticism whatsoever of the process leading up to the making of the Decision.

3.3 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 tribunal in reaching the Decision.

The appeal letter, upon the foregoing basis, indicates a request to the President of the Valuation Tribunal to grant leave to appeal to the Lands Tribunal, under the statutory provisions which are mentioned below.

The Applicable Law

4. The statutory provisions relevant to my determination in the matter are to be 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”). These are as follows (in respect of the 2006 Order): -

“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 the leave of—

(a) the Lands Tribunal; or

(b) the President of the Valuation Tribunal,

appeal to the Lands Tribunal. “

These are as follows (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. “

5. Dealing with the first matter raised by the appellant, that there is new evidence to be placed before the tribunal, no explanation has been advanced by the appellant as to why such evidence was not (or could not have been) available at the time of the hearing and thus could have been presented in order to be considered by the tribunal in the course of making the Decision. Having been afforded (which matter appears to be accepted by the appellant) a fair and proper opportunity to prepare for the hearing and to advance his case at hearing, there seems to be no proper basis upon which to grant leave to appeal upon this particular ground.
6. Dealing with the second point, in short, the appellant has not made any express or implied criticism concerning the process and the tribunal's decision-making. There is no argument or contention concerning unfairness in procedure or process, nor any case made that the tribunal has not taken proper account of any evidence or argument. There is no other argument concerning unfairness or criticism made of the process leading up to the making of the Decision. Accordingly, there is no proper basis upon which to grant leave to appeal upon this particular ground.
7. Dealing with the third point, the appellant seeks to reiterate arguments which are similar to those which he has already made. However, such arguments have already

been taken into account by the tribunal in reaching the Decision. There is no proper basis upon which to grant leave to appeal on this particular ground.

Taking everything into account, I do not conclude that there is a proper and material issue upon which to grant leave to appeal to the Lands Tribunal. For these reasons and upon the specific grounds and issues which are stated above, I do not grant leave to the appellant to appeal to the Lands Tribunal. The appellant may seek leave from the Lands Tribunal under the foregoing statutory procedure.

Dated this 28th day of March 2022

James Leonard

**James V Leonard, President
Northern Ireland Valuation Tribunal**