

CASE REFERENCE NUMBER: NIVT 24/15

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

MARTIN MCKAY – APPELLANT

AND

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

**Chairman: Michael Flanigan
Members: Philip Murphy, Valuer and
David Rose, Lay**

Date : 5 April 2017

DECISION & REASONS

1. The Tribunal heard evidence from both parties in support of their written submissions.
2. The subject property (“the property”) in this appeal is situate at 45 Friary Road Armoy.
3. The Tribunal considered all documents before it.

4. The Law

- 4.1 The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”)

5. The Evidence and Submissions

5.1 The Respondent had assessed the premises under Art 25b of the 1977 Order. The provision provides as follows;

5.2 “ where-

- a) completion notice is served under Schedule 8B and

b) the building to which the notice relates is not completed on or before the relevant day, then for the purposes of the Order the building shall be deemed to be completed on that day.

5.3 The Respondent had served a Completion Notice which deemed that the property could reasonably be completed on 21st October 2012. The appellant appealed that Notice, and The Commissioner for Valuation's Decision on Appeal determined that the Notice was valid and the completion date was affirmed. The appellant had the right to appeal the Commissioner's decision but did not proceed with any further appeal proceedings against the Completion Notice. The appellant then applied for a 12 month developer's exemption from rates which was granted.

5.4 The Respondent served a Valuation Certificate dated 13th April 2015 with a Capital Valuation £195,000. The appellant submitted an appeal in Form 9 dated 29th June 2015, being an appeal against a completion notice in respect of the property.

5.5 The appellant stated in his appeal grounds that "At the time of the Department's decision, I was in constant contact primarily because I did not then and do not now believe the property should be rated".

5.6 At the hearing of the appeal the appellant's evidence was that he had not carried any further work to the property since 2012 because he was unable to do so both physically and financially. He did not dispute the capital valuation placed upon the property. The appellant's appeal in essence was that he had never accepted that the original Completion Notice had given a reasonable time within which to finish the premises.

5.7 The appellant accepted that no further appeal had been taken against the decision of the Commissioner for Valuation in 2012.

6. The Tribunal's Decision

6.1 The Respondent had served a Completion Notice upon the appellant and in doing so exercised their powers under Art 25B of the 1977 Order. The effect of this article is that having served a Completion

Notice that the property was by law deemed to have been completed at the end of the three month notice period and capable of being assessed for rates. The legislation does not provide for personal circumstances such as the appellant's lack of capital to be taken into account.

6.2 The property was rated after the Respondent exercised their powers to serve a Completion Notice. The Completion Notice was served on 23rd July 2012 and provided for a Completion date of 21st October 2012. After an initial appeal to the Commissioner of Valuation, no further appeal proceedings were taken by the appellant against the Completion Notice.

6.3 The appellant has for various reasons been unable to complete works to his property at 45 Friary Road Armoy but he did not dispute the capital valuation of £195,000 itself. The Tribunal does not accept that the Form 9 dated 29th June 2015 was a valid appeal against the original Completion Notice in 2012. While it is clear that the appellant still does not accept that three months granted in 2012 was an adequate length of time to finish the property, this is no longer a matter that could be argued before the Tribunal.

6.4 The Tribunal's unanimous decision is that the appellants appeal be dismissed.

Michael Flanigan, Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 10th May 2017