

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

Case Reference: NIVT5/18

Robert Patton – Appellant
and
Commissioner of Valuation for Northern Ireland – Respondent

Chairman - Mr Michael Flanigan
Members – Mr Chris Kenton and Mr Peter Somerville

Application for Review

Background

The appellant appealed to the Northern Ireland Valuation Tribunal (“the Tribunal”) against the Completion Notice issued in respect of premises at 1 Patten’s Road Strabane BT82 8NJ “the property”).

The appeal had been dealt with on the papers and a decision was issued on 28th November 2018. The Tribunal confirmed that the Completion Notice was valid and dismissed the appeal.

By email of 10th December 2018 the appellant requested a review of the Tribunal Decision. The grounds for the review were later set out by Mark Hegarty, representing the appellant, in an email of 22nd January 2019; which grounds were later expanded upon by a written submission together with accompanying photographs from Mr Hegarty received on 19th March 2019.

Mr Hegarty gave further details concerning the appellant’s financial position and argued the case that in the interests of justice the Tribunal should take the financial position of the appellant into account because financial restrictions were “the very

core of the problem that Mr Patton faced”. In short the appellant had suffered from the financial crash in the past and was not in position to pay for the premises to be completed. Mr Hegarty set out the appellant’s problems in some detail, and fairly conceded that were it not for the financial problems of the appellant, the premises could be finished within the three months period given by the Completion Notice. The panel considered the review on the 19th March 2019.

The Law

Article 21 of the Valuation Tribunal Rules (Northern Ireland) 2007 (“the Rules”) allows a Tribunal to review a decision on a written application with reasons being made by one of the parties. Such application must be made to the Tribunal within 14 days from receipt of the decision.

Article 21 (1) provides that the Tribunal may review its decision if it 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 foreseen before then; or
- (d) the interests of justice so require.

Decision

The Tribunal examined the submissions of Mr Hegarty to see if it contained new evidence not available at the original hearing. The case made by the appellant in his original appeal was that the “economic climate and financial restrictions had severely hampered any work being undertaken”. Mr Hegarty in his review submission had provided more information about the financial difficulties of the appellant and photographs showing the nature of the works carried out. The Tribunal did not consider that this review submission contained new evidence which had become

available since the 7th November 2018 and accordingly a review under Article 21(1) (c) could not be granted.

Mr Hegarty's main argument was that the decision should be reviewed under Article 21(1) (d), i.e. that it was in the interests of justice to do so. Ground (d) is a stand-alone ground for review and is designed to provide for a review where some review ground is being argued for, or some facts have arisen, which do not easily fit within the confines of the grounds set out in Art. 21(1) (a) (b) and (c), but it is in the interests of justice to provide a review. The appellant did not submit that the Tribunal had made an error in applying the law but rather that the law was unfair to this appellant and that the Tribunal should look for some way to ameliorate its effects given the appellants circumstances.

The Tribunal has some sympathy for the appellant but it has no discretion but to apply the law as set out in the Rates (Northern Ireland) Order 1977. It is well established law, which the Tribunal set out in its decision, that for the purposes of a Completion Notice, individual circumstances are not relevant and should not be taken into account. The appeal taken by the appellant based on his financial circumstances failed, and no other new grounds had been canvassed in this review application. The Tribunal is grateful to Mr Hegarty for his submissions, but the case being made for review did not come within any of the grounds for review set out in Article 21 (1).

Accordingly the appellant's application for a review of the decision of 28th November 2018 is refused.

Signed: Mr Michael Flanigan – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 2nd April 2019.