

**NORTHERN IRELAND VALUATION TRIBUNAL  
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE  
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007  
CASE REFERENCE NUMBER: NIVT 20/17**

**ANDREW RICHARDSON AND SANDRA RICHARDSON APPELLANTS  
AND  
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr. Alan Reid LL.B  
Members: David McKinney FRICS and Robert McCann**

**Belfast, 29<sup>th</sup> August 2018**

## **DECISION**

The unanimous decision of the Tribunal is that the Capital Value of the property at 4 Derrycaw Lane, Derrycaw, Portadown, Craigavon, BT62 1TW as determined in a Notice of Decision dated 27<sup>th</sup> October 2017 is confirmed and the Appellant's Appeal is dismissed.

### **REASONS**

**1. Introduction**

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal dated 22<sup>nd</sup> November 2017 and received by the Tribunal on 24<sup>th</sup> November 2017 the Appellants appealed to the Northern Ireland Valuation Tribunal against the Notice of Decision issued by the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 27<sup>th</sup> October 2017 in respect of the valuation of a hereditament situated at 4 Derrycaw Lane, Derrycaw, Portadown, Craigavon, BT62 1TW ("the Subject Property").
- 1.3 In the Appellants' Notice of Appeal they had initially indicated that they requested an oral Hearing. In email correspondence between the Tribunal and the Appellants shortly before the Hearing and ultimately in email correspondence on 28<sup>th</sup> August 2018 the Appellants by Mrs Sandra Richardson confirmed that they wished the Appeal to proceed in their absence and were informed that it was likely that their Appeal would be disposed of by written representations submitted by the parties. The Respondent similarly confirmed that he had no objection to the Appeal being dealt with on the basis of the parties' written submissions.

- 1.4 The Appellants' Notice of Appeal did not expressly indicate whether the matter being appealed was a Certificate of Alteration, a Notice of Decision or a Notice of Dismissal. However, the grounds of Appeal stated as follows –

***“bought shell of house in July 2016. No mention of Rates. Received Rates Bill May 2017 with the name Allister Richardson instead of Andrew. On time of purchase there was no electric in situ, water or flooring/insulation. House was not habitable. It was passed by Building Control in July 2017 and that’s when we moved in and occupied it. We are not disputing the valuation of house. This is the route Donal Bell and Gerard McGennity had informed us to take!! We are disputing the fact that we have to pay Rates from July 2016 – July 2017 when we didn’t live in it”***

- 1.5 It was accordingly apparent from the Appellants' Notice of Appeal that the capital valuation of the property was not being challenged by the Appellants. So far as could be determined, the Appellants were purporting to challenge the entry in the Valuation List of the subject property during the period July 2016 to July 2017 on the basis that it was not habitable.

## 2. The Law

- 2.1 The law relating to the entry into the Valuation List of newly constructed buildings or of buildings nearing the completion of construction is set out in Schedule 8b to the 1977 Order. The relevant extracts from Schedule 8b are as follows

*1.—(1) If it appears to the Department that the work remaining to be done on a new building is such that the building can reasonably be expected to be completed within three months, the Department may serve a completion notice on the person entitled to possession of the building.*

*(2) If it appears to the Department that a new building has been completed the Department may serve a completion notice on the person entitled to possession of the building.*

*2.—(1) A completion notice shall—*

*(a) specify the building to which it relates; and*

*(b) state the day which the Department proposes as the completion day in relation to the building.*

*(2) Where at the time a completion notice is served it appears to the Department that the building to which the notice relates is not completed, the Department shall propose as the completion day such day, not later than 3 months from the day on which the notice is served, as the Department considers is a day by which the building can reasonably be expected to be completed.*

*(3) Where at the time a completion notice is served it appears to the Department that the building to which the notice relates has been completed,*

*the Department shall propose as the completion day the day on which the notice is served.*

*Determination of completion day*

**3.—(1)** *If the person on whom a completion notice is served agrees in writing with the Department that a day specified by the agreement shall be the completion day in relation to the building, that day shall be the completion day in relation to it.*

*(2) Where such an agreement as is mentioned in sub-paragraph (1) is made, the completion notice relating to the building shall be deemed to have been withdrawn.*

**4.—(1)** *A person on whom a completion notice is served may, not later than twenty-eight days from the date of service on him of the notice, appeal to the Commissioner against the notice on the ground that the building to which the notice relates has not been or, as the case may be, cannot reasonably be expected to be completed by the day stated in the notice.*

*(2) Where a person appeals against a completion notice and the appeal is not abandoned or dismissed, the completion day shall be such day as the Commissioner shall determine.*

**5.** *Where a completion notice is not withdrawn and no appeal under paragraph 4 is brought against the notice or any appeal under that paragraph is abandoned or dismissed, the day stated in the notice shall be the completion day in relation to the building.*

2.2 By virtue of Article 54 of the 1977 Order any person who is aggrieved by a decision of the Commissioner may appeal to the Northern Ireland Valuation Tribunal.

### **3. The Evidence**

3.1 The Tribunal had before it the Appellant's Notice of Appeal dated 22<sup>nd</sup> November 2017 received by the Tribunal on 24<sup>th</sup> November 2017 and copies of the following documents –

- A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Mr Gerard McGennity MRICS of Land and Property Services and received by the Tribunal on 10<sup>th</sup> May 2018.
- Email correspondence between the Tribunal and Mrs Richardson on 20<sup>th</sup>, 21<sup>st</sup>, 22<sup>nd</sup>, 23<sup>rd</sup> and 28<sup>th</sup> August 2018.

### **4. The Facts**

On the basis of the information as was before it the Tribunal determined upon the balance of probabilities the following facts so far as was necessary to determine the Appeal –

4.1 The Subject Property is a privately built detached bungalow constructed in approximately 2012.

4.2 On 18<sup>th</sup> April 2013 a Completion Notice was issued to Mr George Trouton the previous owner of the Subject Property specifying a completion date of 17<sup>th</sup> July 2013. That Completion Notice was not appealed by Mr Trouton. The Subject Property was entered onto the Valuation List on 15<sup>th</sup> October 2013

with an effective date of 17<sup>th</sup> July 2013 and with an assessed capital value of £225,000.

- 4.3 The Appellants purchased the Subject Property in July 2016. At that time, construction had not been fully completed and the Appellants did not occupy the property immediately upon completion of its purchase by them.

5. **The Appellants' Submissions**

In summary, the Appellants made the following submissions as identified in their Notice of Appeal dated 22<sup>nd</sup> November 2017 and their email correspondence with the Tribunal between 20<sup>th</sup> and 28<sup>th</sup> August 2018 –

- 5.1 They had purchased the Subject Property in July 2016. They described its state at that time as a “shell of house”. They contended that at that time there was no electricity supply, water or flooring or insulation and that the house was not habitable. They further contended that a Building Control Completion Certificate was not issued until July 2017 at which point the Appellants took up occupation.
- 5.2 They contended that they should not have to pay Rates for the period from July 2016 to July 2017 when they were not living in the property.
- 5.3 The Appellants made it clear that they were not disputing the capital valuation placed upon the property.
- 5.4 The Appellants did not consider that they should have to pay Rates on a property that had “no water or electric connection, no insulation, no floors and sewage etc. on a newly built house”.
- 5.5 Mrs Richardson in her email of 22<sup>nd</sup> August 2018 to the Tribunal stated “in my opinion this decision has already been made”.
- 5.6 In her email of 28<sup>th</sup> August 2018 Mrs Richardson further stated “I believe that our Hearing should be taken seriously even though we are not present and in my opinion, we should be considered some sort of rebate....”

6. **The Respondent's Submissions**

In summary the following submissions were made on behalf of the Respondent –

- 6.1 A Completion Notice had been issued in respect of the Subject Property to the then owner of the property, Mr George Trouton, on 18<sup>th</sup> April 2013. That Completion Notice had specified a completion date of 17<sup>th</sup> July 2013. The Completion Notice was not appealed.
- 6.2 The Completion Notice not having been appealed, the Subject Property was deemed to be complete and entered onto the Valuation List with an effective date of 17<sup>th</sup> July 2013 and a capital value was assessed at £225,000.
- 6.3 On 10<sup>th</sup> April 2014 Mr Trouton had submitted an application to the District Valuer stating that the property was uninhabitable as it was a new build dwelling and unfinished. On 11<sup>th</sup> June 2014 the District Valuer issued a decision making no change with regard to the entry on the Valuation List.
- 6.4 On 12<sup>th</sup> June 2017 a further application was submitted to the District Valuer by Solicitors acting for the Appellants. The District Valuer made a further decision not to change the capital value and issued a Certificate of Valuation

on 7<sup>th</sup> September 2017. The evidence of the Respondent was that the Valuer at that time explained to the Appellants' Solicitor that the Appellants "would not qualify for the Private Developer Exclusion as they are the second owner of this property". The Respondent's contention was that the Private Developer Exclusion entitles the initial owner to a twelve-month exclusion from Rates Liability but is only available to a Developer of a new home who is also the first owner of the new building.

- 6.5 On 2<sup>nd</sup> October 2017 that decision of the District Valuer dated 7<sup>th</sup> September 2017 was appealed to the Commissioner of Valuation who confirmed the decision of the District Valuer on 27<sup>th</sup> October 2017. It is that decision which the Appellants now purport to appeal.
- 6.6 The Respondent contends that the original Completion Notice was correctly served in accordance with paragraph 1 (1) of Schedule 8b to the 1977 Order on the person then entitled to possession of the Subject Property on the basis that it appeared to the Department that the work remaining to be done on the Subject Property at that time was such that the building could reasonably be expected to be completed within 3 months. The Respondent contends that, as the Completion Notice was not served on the Appellants (i.e. Mr and Mrs Richardson) the validity of the Completion Notice cannot be considered under this Appeal.
- 6.7 The Respondent however also submitted details of comparable properties contending that these comparable properties supported the capital value assessment of £225,000 on the Subject Property. However, as the Appellants' Notice of Appeal made it clear that the Appellants were not challenging the capital value, the Tribunal has not considered the evidence in relation to comparable properties.

## 7. **The Tribunal's Decision**

- 7.1 The Northern Ireland Valuation Tribunal is a Tribunal which is independent of the Commissioner of Valuation and all Appellants who pursue appeals against decisions of the Commissioner. It is however bound to apply the law in relation to the determination of capital values and entry of hereditaments onto the Valuation List as enacted by the legislature in the relevant legislation.
- 7.2 In this Appeal, the Appellants do not seek to challenge the capital value of the Subject Property. Rather, they seek to challenge that they should be required to pay Rates on a property which they did not live in between July 2016 and July 2017 due to its unfinished state of construction. It was clear to the Tribunal from the evidence before it that at the time of the Appellant's purchase of the Subject Property in July 2016 it had previously been entered on the Valuation List on 17<sup>th</sup> July 2013 and had therefore already been on the Valuation List for some three years at the time of their purchase.
- 7.3 This entry of the property onto the Valuation List had been pursuant to a Completion Notice issued on 18<sup>th</sup> April 2013 to the previous owner of the property, Mr Trouton. He had a right of appeal in respect of that Completion Notice but did not submit an appeal. In the absence of such an appeal, the Subject Property was therefore entered onto the Valuation List with an effective date of 17<sup>th</sup> July 2013.

- 7.4 Paragraph 4(1) of Schedule 8b to the 1977 Order provides that “*a person on whom a Completion Notice is served may, not later than twenty-eight days from the date of service on him of the Notice, appeal to the Commissioner against the Notice on the ground that the building to which the Notice relates has not been or, as the case may be cannot reasonably be expected to be completed by the day stated in the Notice*”. This makes it clear that the person entitled to appeal against a Completion Notice is the person upon whom the Completion Notice is served. In relation to the subject property, that person was Mr Trouton and the Completion Notice was issued to him on 18<sup>th</sup> April 2013. As such, he was the person entitled to appeal the Completion Notice if he considered that he had grounds to do so. He did not and, in consequence, it was entered onto the Valuation List.
- 7.5 The Completion Notice in respect of the Subject Property was not served on the Appellants as, at the time of issue of the Completion Notice, they were not the persons entitled to possession of the building as referred to in paragraph 1(1) of Schedule 8b of the 1977 Order. Therefore the Appellants have no standing to appeal the issue of the Completion Notice and have never had the standing to do so.
- 7.6 Accordingly, the Appellants’ Appeal is hereby dismissed and the decision of the Commissioner of Valuation dated 27<sup>th</sup> October 2017 is confirmed.

**Mr Alan Reid**

**Chairman Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties:**