

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: 19/14

ROBERT G WALKER – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Members: Mr Hugh McCormick FRICS and Ms Noreen Wright

Date of hearing: 20 April 2021, Belfast

DECISION

The unanimous decision of the tribunal is that the appeal is upheld and that with regard to the completion the completion notice shall be dated 30 August 2013 and completion day shall be 30 November 2013.

REASONS

Introduction

1. This is a reference under the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). This matter was listed for hearing on 20 April 2021 and proceeded by way of a hybrid hearing in which the tribunal members (and the tribunal clerk) were present in the tribunal court room as was the appellant. The respondent was represented by Mr Steven Jeffrey and Mr Andrew Magill who appeared by video link.
2. The hearing was conducted in accordance with the Northern Ireland Valuation Tribunal Remote Hearing Protocol of 24 September 2020.
3. This appeal is in respect of a completion notice issued in respect of the property at 105 Moybrick Road, Moybrick Lower, Dromara, County Down, BT25 2BY (the subject property).

The Law

4. The statutory provisions regarding the service of a completion notice are to be found in the 1977 Order as amended. The relevant extract from the legislation states:

Schedule 8B New Buildings (Completion Days)

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

The history of the proceedings

5. In these proceedings the case has taken a somewhat circuitous route to the hearing of the matter.
6. At the hearing of a preliminary issue on whether time limit for service of the appellant's notice of appeal from the decision against the issue of a completion notice should be extended, a Valuation Tribunal ordered on 29 October 2018 that the time limit for submission of a notice of appeal be extended and the appeal be listed for substantive hearing.
7. The substantive hearing was listed for oral hearing on 4 December 2019 and was part heard and was adjourned on terms that the respondent within one month present written submissions on the nature and evidence concerning the condition of the subject property and the works required to be undertaken to complete the building which grounded the issuing of the completion notice on 15 March 2013 and the appellant within one month of the date of submission of such evidence by the respondent present written submissions on the nature and evidence concerning the condition of the subject property and the works required to be undertaken to complete the building in March 2013 i.e. just before the issuing of the completion notice by the respondent on 15 March 2013.
8. The matter was subsequently listed for hearing on the basis of the written submissions of the parties but was adjourned on 22 February 2021 to facilitate an oral hearing.
9. This is (subject to the observations made below) a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").

The evidence

10. The tribunal heard oral evidence. The tribunal had before it the following documents:
 - a. Copy decision on a preliminary issue dated 29 October 2018.
 - b. Copy completion notice dated 11 September 2013.
 - c. Presentation of Evidence prepared for the respondent by Andrew Magill MRICS dated 3 July 2019.
 - d. Copy letter from the appellant dated 10 August 2019.
 - e. Copy interim order dated 19 December 2019.
 - f. Addendum to the Presentation of Evidence dated 16 January 2020.
 - g. Copy letter from the appellant dated 18 February 2020.
 - h. Copy correspondence between the parties and the tribunal office.

The facts

11. The property is a house situated at 105 Moybrick Road, Dromara, County Down. On 15 March 2013 a completion notice was issued on the property giving the completion day as 13 June 2013.
12. On 5 April 2013 the appellant appealed the completion notice to the Commissioner of Valuation. On 11 September 2013, the appeal case was closed with the notice having been deemed to be valid.
13. The appellant appealed to this tribunal against the issue of the completion notice.
- 14.

The appellants submissions

15. The appellants submits that he had never received a completion notice determination. He indicated that the three-month completion notice was not achievable in that he employs sub-contractors and with the amount of work required and from previous experience the time frame required would be at least 6 months.
16. The appellant states that the respondent inspected the property externally on 30 August 2013. No reference is made to the respondent trying to arrange a site meeting with the appellant to discuss the volume of work needed to complete the build.
17. The appellant also refers to the fact that from 2012 to 2014 some 129 completion notices in the Lisburn office were appealed and 97 were upheld and so 32 were successful – 25%.
18. With regard to the condition of the property as at 15 March 2013, the appellant states that the shell of the property was complete and some of the downstairs rooms were painted, some radiators were in place and some electrical sockets fitted. The upstairs was floored but no studwork was in place so no plastering, electrical, plumbing or insulating work had been started.
19. He further confirms that the following items would be needed to complete the build:
 - a. Upstairs – first and second fix joinery, first and second plumbing (fresh water, soil pipes and solar panels) first and second electrics, plasterboard and plaster, insulation, install bathrooms, paint, extend fire alarm system, floor coverings and renewable energy panels
 - b. Downstairs – finish second fix electrics (including alarm and electric meter panel) finish second fix plumbing (including mains pressure system), second fix joinery (skirting, architrave, doors), selection and installation of main bathroom, shower room and en-suite bathroom, selection and installation of kitchen and utility room, fireplaces, floor coverings.
 - c. External – septic tank and soakaways, steps to all entrances including disabled ramp, boiler and oil tank, ramps to garage doors, internal boarding and plastering of garage plus electrical and plumbing works in garage.
20. The appellant states that work continued on the property and it was relisted for sale in 2014. At this point several more aspects of the work had been carried out. In 2016 prior to the sale the final building control inspection was carried out and a fire risk assessment carried out for building control purposes. The property was sold in 2016.

The respondent's submissions

21. In his Presentation of Evidence the respondent confirmed that the subject property was inspected externally by Mr Andrew Magill on 30 August 2013. The property at the time was weather tight. Block walls and a standard tiled pitched roof had been constructed. Skylights to the roof and guttering had also been installed. Internally he could see that the sub floors appeared complete, radiators appeared to have been fitted, walls had been plastered and painted, electrical sockets had been installed and the staircase had been completed.

22. The respondent states that in relation to the issuing of a completion notice it is not permitted to take into account the personal circumstances of the appellant as this is not a relevant factor. He cites *Neil Moffet v Commissioner of Valuation NIVT (15/12)* as authority for this.
23. He further indicates that the timescales of the project taking longer than the usual time due to the availability (or perhaps more accurately the lack of availability of professional tradesmen) as a reason for not being in a position to complete the property within three months is not a relevant circumstance. Neither is the economic climate a relevant circumstance in determining the completion period of three months.
24. The respondent therefore concludes that the works could reasonably be carried out within a period of three months and that the completion notice was correctly served and the completion day of 13 June 2013 was considered reasonable.

The tribunal's decision

25. In this case a major issue for the tribunal to consider was the evidence in relation to the condition of the property when the completion notice was issued. It is clear that Mr Magill inspected the property on 30 August 2013 and therefore is in a position to confirm the condition of the property on this date and thus the grounding of a case for the issuing a completion notice on this date. However, the completion notice was in fact issued on 15 March 2013. The main question is what was the condition of the property on 15 March 2013 that caused the respondent to issue the completion notice?
26. The evidence before the tribunal consisted of a photograph taken from Google maps of the subject property in 2008 with a note that as can be seen at this stage almost five years before the date of inspection the property appeared weather tight albeit with a temporary external door. This photograph (and the photographer is unknown) appears to be from a long distance from the property.
27. The photograph taken by Mr Magill and dated 30 August 2013 is much closer to the property and it states that the property appears largely the same (as in the previous photograph) however a permanent external door has been fitted by this stage.
28. In the addendum to the Presentation of Evidence reference is made to a photograph which was attached to the respondent's computer system on 7 December 2012 by a valuer with the comment completion notice ready.
29. Reference is also made in the addendum to the Presentation of Evidence to an advertisement on Propertypal added to the respondent's computer system in September 2013 and the print date for the advertisement is 15 October 2010.
30. Finally in the addendum to the Presentation of Evidence the respondent refers to a generic timeline which shows the work that can be undertaken within 3 months from the date of issue of a completion notice. This is used to state that the completion notice was valid and that the property could be completed within three months.
31. In this case Mr Magill confirmed at the hearing of this matter that the photographs put on the respondent's computer system on 7 December were merely an external photograph. There are no other notes at the time and the property was not inspected internally. When asked about the practice and procedure of the respondent at this

time in relation to the issuing of completion notices, Mr Magill indicated that the legislation was in its infancy and inspections by the District Valuer were external only.

32. In this case the tribunal finds that there is insufficient evidence on which the respondent issued a completion notice was issued on 15 March 2013. The respondent has issued this on the basis of one external photograph entered onto the respondent's computer system on 7 December 2013. The photograph is taken some distance from the actual property and is only of the front of it. There is no indication that an inspection, external or internal has taken place other than a note inserted by an unnamed valuer as 'completion notice ready'. While it is clear that the Propertytypal brochure (which itself is unclear and impossible to read in parts) is dated 15/10/2010 it is stated that this was added to the computer system on September 2013 so it is unclear if this was evidence which grounded the issuing of the completion notice.
33. The tribunal finds this unsatisfactory and that there is no evidence to ground the issuing of the completion notice on 15 March 2013 as no inspection of any substantive kind appears to have taken place in advance of the issuing of the notice. Therefore, there is no evidence on which the Department could expect that the work remaining to be done to a new property is such that the building could reasonably be expected to be completed within three months. The tribunal noted in the case of *Moffatt v Commissioner of Valuation* it was stated

"The tribunal would have anticipated an internal inspection to be undertaken by the Department at an identified date and sufficiently detailed and specific estimations or observations upon outstanding construction and finishing matters. A timeline in respect of works to be undertaken and reasonably to be completed, with reference to any specified period contained in any completion notice would be very helpful to the tribunal in conducting the task of bringing to bear an objective scrutiny of the issues and in reaching any resultant determination. The foregoing of course would also be very helpful as far as the Appellant in any such appeals might be concerned."
34. The question then is what is the appropriate date for the issuing of the completion notice in this matter? The property was inspected by Mr Magill on 30 August 2013, and he noted that the property at the time was weather tight. Block walls and a standard tiled pitched roof had been constructed. Skylights to the roof and guttering had also been installed. Internally he could see that the sub floors appeared complete, radiators appeared to have been fitted, walls had been plastered and painted, electrical sockets had been installed and the staircase had been completed.
35. Therefore, the respondent would be of the view that the property could have been completed within three months certainly from this date. As evidence of this he has produced a gant chart showing that the works outstanding could have been completed within three months.
36. In this case it is correct that the appellant decided to undertake some of the works required to finish the property at a later stage than three months. Indeed, he would state that the time frame would be at least six months. There were several reasons for this – partly due to the fact that he used self employed tradesmen and has no direct employees. As in previous decisions of the Valuation Tribunal, notably *Scott v Commissioner of Valuation*, the appellant submitted that the timescales of the project are longer due to the waiting times on professional construction tradesmen. In *Scott* the tribunal held that the personal circumstances of the appellant regarding the availability of such tradespersons cannot be taken into account when determining a completion notice.

37. Therefore in this case the tribunal is satisfied that the appropriate date for the issuing of the completion notice is 30 August 2013 i.e. the date on which the property was inspected.
38. Therefore in this case the appeal is permitted and the completion notice should be dated 30 August 2013 with the completion day noted as 30 November 2013.

Mr Charles O'Neill

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 03 August 2021