Issue 63

February 2022

Valuation Tribunal Service

Valuation in Practice

News in brief

Annual Report

Our Annual Report and Accounts for 2020-21 was laid before Parliament and published on 17th January 2022. It is available on our website: https://www.valuationtribunal.gov.uk/

NDR 2017 appeals: New evidence submission guidance to be introduced

New guidance, streamlining the evidence requirements for NDR 2017 (CCA) appeals, will be issued at the end of January in advance of changes to our online registration system. Parties will be expected to comply with this guidance when submitting appeals from 14th February 2022. The salient points are that ratepayers or their representatives must now provide two documents only when submitting their appeal on the NDR online registration portal:

1) The VOA Challenge Decision Notice (unaltered), and
2) A supporting evidence statement highlighting the matters in dispute and the key points that will be relied upon.

Further changes made on the registration portal will include:

- The ability for ratepayers or their representatives to submit CCA appeals where 18 months have passed and a VOA Challenge Decision Notice has not been received; and
- The ability to make late appeals after receiving the VOA Challenge Decision Notice.

Billions more for councils to build back better

The Department of Levelling Up, Housing and Communities (DLUHC) have announced a £53.9 billion funding package for the coming financial year, including more than £1 billion of additional funding for social care. The press release can be read here.

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COVID-19 (coronavirus) update

For efficiency reasons, you are encouraged to use email to communicate with us. We currently have a limited presence in our Leman Street office at this time and are planning a full return to our office following the scrapping of all restrictions post 27th January.

Draft Council Tax report 2022 to 2023 - Policy paper

DLUHC have published a draft of the council tax referendum principles report to be laid before the House of Commons for approval at the time of the final settlement.

Business rates guidance: 2022/23 Retail, Hospitality and Leisure Relief Scheme

DLUHC published its guidance on 20 December 2021 to support local authorities in administering the 2022/23 Retail, Hospitality and Leisure Relief Scheme.

Omicron Hospitality and Leisure Grant for businesses most impacted by the Omicron variant

The Department of Business, Energy and Industrial Strategy published on 31 December 2021 its guidance on whether businesses are eligible for the Omicron Hospitality and Leisure Grant.

Additional Restrictions Grant

The Additional Restrictions Grant (ARG) supports businesses that are not covered by other grant schemes or where additional funding is needed. Further information can be found here.

Inside this issue:

Guidance updated – When is planning permission required?

Guidance was updated on 4 January 2022 setting out when planning permission is required and the different types of planning permission which may be granted. This makes an interesting read and the guidance can be found here.

Boost for high streets and businesses as markets and outdoor marquees allowed permanently

On 20 December 2021, the Department for Levelling Up, Housing and Communities (DLUHC), announced that markets can be held more often and marquees put up in pub and restaurant gardens without the need for planning permission. Read here for more information.

Business Rates Review: technical consultation

This consultation sets out how government intends to give effect to a number of measures arising from its recent business rates review. The consultation closes at 11:45pm on 22 February 2022.

Business rates guidance: Extension of Transitional Relief and Supporting Small Business Relief for small and medium properties

On 20 December 2021, DLUHC published guidance intended to support local authorities in administering the extension of transitional relief and Supporting Small Business (SSB) relief for small and medium properties announced at the Budget on 27 October 2021. Further detail can be found here.

Non-domestic rating: challenges and changes, 2017 and 2010 rating lists, September 2021

Official statistics on checks (England only), challenges and assessment reviews against the 2017 local rating list at 30 September 2021, were published on 28th October 2021. This release also includes challenges and assessment reviews against the 2010 local rating list (England and Wales) for the same period.

Update regarding ATM discussions

From the original 52,000 2010 ATM appeals identified as outstanding on 1 April 2020, just under 10,000 now remain outstanding. The outstanding cases are categorised into the following three types –

- Type 2 (cases to which the Supreme Court's judgment may apply) – 225
- Type 3 (appeals on the "host" property - generally valuation disputes) – 8,053
- Type 4 (redundant or duplicate appeals) – 1,446

The VTS is currently exploring with the ATM Group the interdependencies relating to types 3 and 4, recognising that a number of type 4 appeals are able to be independently listed (as these included those businesses who had ceased trading and where there had been no contact). There are also a further 1,200 appeals where there is no dependency on other types of appeal. An early listing of these cases may prove helpful in the circumstances.

As an action plan, to ensure focus and momentum is maintained, it was agreed that the ATM listing programme will start with the listing of the 1,200 type 4 cases which have no impact on other appeals. This particular listing programme will span over a six-month period commencing February/March 2022 so that resources are not diverted from maintaining discussions on other types.

Another meeting is arranged for 5th April 2022 to review progress and agree the next stage of the listing programme regarding type 2 and 3 appeals.

Business rates information letters – collection

These letters provide information about business rates issued by Department for Levelling Up, Housing and Communities. The letters only apply to England and the collection for 2021 can be read here.

Our Tribunal Hearing Programme – Jan 2022 to Mar 2022

The majority of our hearings continue to be held remotely using MS Teams as the virtual platform. The profile and volume of the hearings to March 2022 is:

Tribunal Type	Jan	Feb	Mar	TOTAL
Council Tax	49	56	73	178
2017 Rating List	19	15	9	43
2010 Rating List	1	2 (1 Complex)	2 (1 Complex)	5
Other	2	2	0	4
TOTAL	**71**	**75**	**84**	**230**

Council Tax hearings continue to dominate our hearing programme (77%).

We continue to manage 2017 Rating List appeals in a similar way to previous months and our aim continues to list these within 5 months of receipt.

Like previous months, hearings in respect of the 2010 Rating List are being convened to deal with those appeals that are able to be progressed.

Rating (Coronavirus) and Directors Disqualification (Dissolved Companies) Act

The Royal Assent was received on 15 December 2021. This Act states that measures brought in because of coronavirus will not be considered a Material Change of Circumstances. https://bills.parliament.uk/bills/2861

Stayed appeals – January 2022

This is our current list of appeal types that are 'stayed' (currently not being progressed) by the Valuation Tribunal.

Appeals stayed at the Valuation Tribunal for England

Type of appeal	Reason for stay
Valuation of museums and art galleries	Outstanding Upper Tribunal appeal
Questions on occupation of 'empty offices & other buildings' where property guardians occupy	Cases impacted by the Court of Appeal decision in *London Borough of Southwark & Ludgate House Ltd, Ricketts (VO)* [2020] EWCA Civ 1637 Ludgate House Ltd have sought permission from the Supreme Ct to appeal the decision.
Premises occupied by the Church of Scientology	Appeals heard by VTE President. Appeals been made to Upper Tribunal.
Valuation of offices for 2017 list, outside central London, where the issue in dispute relates to fitting out costs which replace an existing fit out	VTE decisions been appealed to the Upper Tribunal.
Valuation of offices for 2017 list, inside Central London, where the issue in dispute relates to fitting out costs which replace an existing fit out	Appeals to be heard as complex as all parties agree that the London office market is unique and different to the rest of the country.
ATM's, Photo booths, Coin counters, Kiddies rides, Max Spielman machines, Coffee machines (such as Costa Express & Simply Coffee), Travel Money Bureaux, Lottery Terminals, Travel Terminals, Paypoints, Vending machines, Taxi Commission (payphones & other such devices), Lockers, Car bays, guided selling terminals & software, Post Offices hosted, Mobile Hand Car Washes, Laundrette machines, Pharmacy concessions	Joint application to stay whilst negotiations take place. VTE/VTS holding regular meetings with the parties for updates.
Council Tax repair appeals seeking a deletion before, or in the absence of, a scheme of works	An appeal to the High Ct of the VTE decision in 17 Mill Ridge, Edgware, HA8 7PE (Appeal number VT00003935).
2017 List appeals made on behalf of Debenhams Retail Ltd	Short stay agreed to allow parties to consider the impact of the Wales VT decision and continued settlement of large-scale shops.

Decisions from the High Court

Ian Salisbury & Another v Dawn Bunyan (LO) [2021] EWHC 3136 (admin)

An appeal against a VTE decision upheld the Listing Officer's disaggregation of the appeal property into 2 self-contained units, with effect from 7 July 2019.

Following a billing authority report, the Listing Officer altered the valuation list entry to reflect that the dwelling was a single hereditament comprised of two self-contained units. This report alerted that the appellant had been letting out the rooms on the second floor, although at the date of the billing authority's report the second floor was unoccupied.

Following the Listing Officer's decision to disaggregate, the main house was placed in Band G and the flat in Band B.

The appellants' main argument before the VTE was that the second floor landing area was a living room as opposed to a conventional landing. It was kitted out as an office and was the central IT hub for the whole property. The VTE rejected the appellants' argument because looking at the space objectively and disregarding its current use, it was a landing, i.e. the central place for the stairs which led to various rooms. Whilst the landing area was large, the VTE did not see how it could be categorised as anything other than a landing.

The Appellant's representative argued that the VTE had committed three errors of law by taking an unrealistically simplistic and bright line approach to the issue and had addressed it in a legally incorrect way.

1. Failure to have regard to the actual use to which the landing was put. The actual use could have answered the question whether it was a living room or a conventional landing. This was rejected by the Judge as earlier authorities had shown that it was a matter for the VTE whether the actual use of the area would assist in its task. In any event, the appellant had already conceded that the correct test was to apply the bricks and mortar test based on the physical attributes of the accommodation and this was the test the VTE applied.

2. Failure to take into account the landing's physical configuration and in particular the fact that it formed the electronic hub for the IT wiring for the property as a whole, a key part of the appellants' case which the VTE had completely disregarded. The Judge rejected this, as it was seen as a matter for the VTE's judgment whether the furniture and the IT equipment were physical characteristics of the property.

3. Failure to consider whether the house was a self-contained unit by not considering how the access arrangements for the second floor impacted on the house. In particular, it failed to consider the privacy implications of access to the second floor via the appellants' office. Moreover, the VTE's decision that the area was a conventional landing was insufficient to resolve the issue of the status of the house. The Judge noted that the appellants had accepted that the second floor had the features of a self-contained flat and that the VTE had expressly recorded its decision that there were two self-contained units in the property. As regards any privacy aspects, this went to the communal use of the landing, which the VTE was entitled to ignore.

The decision of the VTE decision was upheld and the appeal was dismissed.

Click here for the full decision.

Consolidated Practice Statement (CPS)

Don't forget: the CPS can be found on the VTS website which summarises the changes relating to COVID-19.

Decisions from the Upper Tribunal (Lands Chamber)

Andrew Ricketts (VO) v Cyxtera Technology Ltd [2021] UKUT 0265 (LC)

Four VTE decisions were appealed by the Valuation Officer in respect of a data centre at 628-630 Ajax Street in Slough. The four appealed entries were the 2010 compiled list entry and three subsequent alterations by the VO with effect from 22 July 2010, 30 September 2010 and 13 March 2013.

There were two issues in dispute between the parties. The first issue, common to all four appeals, was whether white space formed part of the hereditament. The answer to that question would dispose of three of the appeals, as valuations in the alternative had been prior agreed between the parties.

The second issue in dispute was only relevant to the fourth appeal in relation to the assessment that took effect from 13 March 2013. This was whether 631 Ajax Street should form part of the assessment. At the material date, it was accepted that the property had not been handed over to the respondent by the building contractors. However, the VO argued that the Upper Tribunal (UT) had the power to include it with effect from 1 July 2013 by applying regulation 38 (7) of the VTE (Council Tax and Rating Appeals) (Procedure) Regulations 2009.

White space was defined as space within a data hall that had not been adapted for customers. Space which had been adapted for customers was referred to as customised white space.

The VTE had determined that white space should not form part of the hereditament. The Upper Tribunal took a different view.

The UT found that the respondent was in rateable occupation of the whole building. Although the data halls within the building were available for use by its customers, the latter were not in rateable occupation. The respondent operated, actively maintained and constantly customised white space for customers or de-customised it if customers moved on.

The respondent's arguments that the white space had to be customised before it was rateable was seen as a red herring, since the respondent's beneficial occupation of the space was all that mattered. As a result, the VO's valuations for the first three entries were upheld as correct.

With regard to the second issue in dispute, the UT decided not to exercise its discretion in the use of regulation 38 (7) for two reasons. Firstly, no argument for the list to be altered with effect from 1 July 2013 was pleaded by the VO in the case papers filed; and secondly, no valuation evidence was put forward relating to what existed on 1 July 2013. The UT declined to use its own valuation expertise or guesswork and decided that the VO's case on this point had no reasonable prospect of success. The following entries were therefore determined;

£685,000 with effect from 1 April 2010 and 22 July 2010

£1,220,000 with effect from 30 September 2010 and 13 March 2013.

Decisions from the Upper Tribunal (Lands Chamber)

Hermes Property Unit Trust v Richie Roberts (VO) and Trafford Council [2021] UKUT 308 (LC) - heard by written representations

The VTE had dismissed three rating list appeals, where deletions of the rating assessment had been sought on the grounds that the completion notices were invalid.

The completion notices were issued on the basis that the billing authority deemed the new buildings to be completed from 3 May 2016 but the notices were not received by the ratepayer until 9 May 2016. The VTE found that although the service was retrospective, which was contrary to the statutory requirement in paragraph 2 (3) of Schedule 4A to the Local Government Finance Act 1988, the completion notices were substantially compliant with the legislation. In addition, there was another statutory remedy open to the ratepayer to cure any minor prejudice caused by delayed service which was to make an appeal under Schedule 4A against the completion date set.

The UT overturned the VTE decisions and ordered the VO to delete the entries from the Rating List. In doing so, Judge Elizabeth Cooke agreed with the ratepayer's Counsel's that the statutory requirement that completion notices could not be served retrospectively and could not be overcome by substantial compliance. Parliament cannot have intended substantial compliance to be good enough in this context because that would result in uncertainty and retrospectivity. Judge Cooke stated that it would be startling if the billing authority could create a liability for tax on a basis that is both counterfactual and retrospective and held that the completion notices were invalid.

Click here for the full decision.

Interesting VTE decisions—Council Tax Liability

Council tax discount

1. A 50% council tax discount was reinstated because there was no evidence of any local discount determination at a lesser percentage. The facts in this appeal were not disputed and it was accepted that the appellants purchased the appeal property on 14 March 2019 and that this was not their sole, or main residence for the period 14 March 2019 to 29 February 2020.

2. In cases where there are no residents in a chargeable dwelling, the default position in legislation is a 50% discount under section 11(2)(a) of the Local Government Finance Act 1992.

3. The panel found that in England, there could be two exceptions to this rule. Firstly, under section 11A and the Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003. Secondly, under section 11B where a premium is applicable for a long-term empty dwelling.

4. Both sections 11A and 11B required a local determination by the billing authority concerning the amount to be discounted or levied on those classes of dwelling.

Click here to sign up to receive an alert when a new Practice Statement is issued or any future change is made.

To be continued on Page 7

Interesting VTE decisions—Council Tax Liability continued...

5. While the panel noted the billing authority's argument for not allowing a 50% discount was that it had "complete discretion", the billing authority had not provided any evidence to show that it had made a determination under section 11A. The panel held that in cases where a billing authority argues that a 50% discount is not appropriate, there is an evidential burden on that authority to demonstrate that it has determined a lesser or zero percentage discount. Luton Borough Council had not done so. Therefore, a 50% discount which the billing authority had removed on grounds that it had been allowed by mistake, was re-instated by the VTE.

6. This decision should serve as a useful reminder to billing authorities that there is a requirement on them to evidence any local departure from the legislative default position of a 50% discount.

The full decision can be read here.

Interesting VTE decisions—Council Tax Liability

Student exemption

A council tax liability appeal made in accordance with Section 16 of the Local Government Finance Act 1992 in which the appellant was aggrieved by the billing authority's determination regarding liability for council tax on the appeal dwelling for the period 31 August 2019 to 3 September 2020. The appeal was on the basis that although she was on a one-year work placement, she continued to study and was mentored by the Royal Institute of British Architects (RIBA).

The appellant wanted to be considered a full-time student because the traditional route to qualify as an architect is a seven-year full-time education programme involving five years study at university and two years integrated work experience. It was contended that this programme is chosen by the majority of architectural students and that to become an architect, the student must achieve the RIBA's Part 1, 2 and 3 qualifications.

The appellant had spent three years at Liverpool University studying for a Bachelor of Arts degree in architecture. She had graduated from Liverpool University in 2019 and had obtained a position at Ryder Architecture for one year (the period in dispute). On completion of the one-year work placement she had registered with Sheffield University to commence a postgraduate master's degree in architecture in 2020. Both of these degree courses had been accredited by the RIBA.

The panel noted that throughout the time the appellant was employed she had been a student member of the RIBA and had been monitored and continued to study. However, the RIBA is a professional membership body and unfortunately, not an educational establishment, consequently, the appellant had been unable to provide the billing authority with a 'student certificate'.

The panel gave careful consideration to all of the evidence which had been placed before it but found itself to be bound by Schedule 1, Part II, paragraph 3 of The Council Tax (Discount Disregards) Order 1992. Regardless of the fact that the appellant had continued to study and was following an educational programme, she was not officially enrolled on a full-time course of education with a prescribed educational establishment for the period in dispute.

The panel found that the appellant was not a student for the purposes of the Council Tax (Discount Disregards) Order 1992 and therefore the appeal dwelling did not qualify for exemption under Class N of the Council Tax (Exempt Dwellings) Order 1992. The appeal was dismissed.

Read the full decision here.

Interesting VTE decisions—Council Tax Liability

Single person discount

The appellant had purchased a house in her sole name in 2015. Her main residence was at the family home with her husband and children. As work commitments meant she had to work in another town, she needed a second home for the purposes of her employment, as the family home was remote from her workplace. She completed the forms for the billing authority, when she purchased her house in 2015, stating that she owned the house and only she lived in the property. The billing authority awarded her a single person's discount on the assumption that it was her sole place of residence.

In October 2020 the appellant emailed the billing authority asking if she was entitled to any extra discount on her second home as she had, due to Coronavirus restrictions, been unable to occupy it and had remained at the family home for some months. The billing authority then became aware that the appellant's main residence was at the family home and removed her single person's discount.

As she had occupied the appeal property on her own, the appellant argued that remained eligible for the single person's discount. Otherwise, she would be paying more council tax than other taxpayers who lived on their own.

She stated that she had always been honest with the information that she had provided in that she was the only person living in the appeal property because neither her husband nor her children ever stayed there. She had never completed a single person's discount form and so had never applied for the discount. The billing authority had of its own volition awarded her the single person discount and so she had been led to believe that she was entitled to it otherwise it would not have awarded her it.

The panel determined that she was not entitled to single person's discount for her second home and dismissed the appeal.

The full decision can be read here.

Interesting VTE decisions—Council Tax Valuation

Banding of an annexe in dispute

The annexe was entered into the list at band D. Its size was 82 m^2 and comprised living room, kitchen, one bedroom and a bathroom. The appellant submitted a proposal against the Listing Officer's notice on the grounds that two bedsits had been merged to create a small one-bedroom home for an elderly dependent relative. A reduction to band A or B was requested.

In response, the Listing Officer issued a decision notice which stated that after a review of the information held there would be a change to band C.

The appellant considered that band C was too high and submitted an appeal to the Valuation Tribunal on the grounds that there were other "granny" annexes in the locality larger than the subject property in band A.

At the hearing, it was confirmed that while the Listing Officer's case had been based upon a defence of band C, in the interim period an offer had been made to reduce to band B.

The Listing Officer contended that the appeal property was not an annexe and should be valued as a separate hereditament due to there not being a restrictive covenant on occupation. He submitted that the best evidence was derived from sales of similar detached properties, to which he had applied a 30% reduction to reflect that the appeal property was within the curtilage of the main house.

To be continued on Page 9

Interesting VTE decisions—Council Tax Valuation continued...

The appellant argued that the appeal property was an annexe, as it was situated within the curtilage of the main house and could not be sold separately. He provided details of annexes in the locality which had been placed in band A.

The starting point was whether the appeal property was a separate hereditament. The panel gave consideration to section 3 of The Local Government Finance Act 1992; the definition of a hereditament in Section 115 (1) of the General Rate Act 1967; and the concept of rateable occupation.

The main house and the annexe were owned and occupied by one household. The appellant retained control over all the property and curtilage, including the annexe. The nature of the appeal property as an annexe, rather than a separate hereditament was further supported by the fact that there was a planning restriction in place which prevented a separate sale of the property.

The fact that there did not appear to be an occupancy restriction did not alter the panel's finding that the main house and the annexe comprised a single hereditament.

Consequently, the panel rejected the Listing Officer's evidence of detached properties. They were all hereditaments in their own right, and therefore not relevant for comparison with an annexe.

The panel decided to attach most weight to the appellant's evidence of comparable annexes. There were five in band A, three of which were larger than the appeal property. The panel held that the appellant had demonstrated that band A was fair and reasonable and consistent with other annexes in the locality.

The appeal was allowed. The full decision can be read here.

Interesting VTE decisions—Council Tax Valuation

Authenticity of tenancy agreements

This was a council liability tax appeal in relation to four flats where the billing authority had determined that the appellant was the liable person, as the non-resident owner.

The appellant argued that the Billing Authority (BA) had made her liable for the council tax by default for all of the flats and that it had not made sufficient enquiries itself to prove that the flats were occupied by the various tenants.

The BA had made the tenants liable for the council tax for the periods where it was satisfied that the flats were occupied. However, for the periods in dispute, the BA was satisfied that the flats were unoccupied and untenanted. The BA had issued enquiry forms to ascertain the occupiers of the flats and one of its inspectors had also visited the properties to gather this information. As it had had no success in finding any occupiers, it believed the flats were unoccupied during the periods in dispute. In addition, when the appellant had provided the names of her alleged tenants, the BA had undertaken some credit reference agency checks and there was no trace of them.

Although the appellant had provided some tenancy agreements, the panel determined that they were sham documents. There was no supporting evidence such as proof of the tenant's identity or proof of payment of rent. Most of them were not witnessed and for the duration of some of the alleged tenancies, the BA's records showed that the tenants lived elsewhere. In respect of one of the alleged tenants, it had received an email from the tenant stating that they had moved out before the start of the tenancy agreement provided by the appellant. The appeal was therefore dismissed.

The full decision can be read here.

Interesting VTE decisions—Council Tax Valuation

Deletion from CT Valuation list

The appeal before the panel was whether the subject property should be deleted from the council tax valuation list with effect from 1 April 1993, i.e., the introduction of council tax and the date when the subject property was first shown as a dwelling in the list.

It was the LO's contention that the appeal should be dismissed on the basis of *res judicata* as the matter had already been decided by an earlier tribunal panel. That previous VTE decision was appealed unsuccessfully to the High Court in *Doyle & others v Roberts* [2020] EWHC 659 (Admin). In paragraph 24 of the judgment, Mr Justice Fordham stated;

> "It follows, for all these reasons, that the Valuation Tribunal was correct in law when it said, in its concluding paragraph: "The panel is satisfied that section 3 (2) of the 1992 Act is applicable, as each of the appeal properties would have been a hereditament for the purposes of the General Rate Act 1967, are not non-domestic properties required to be shown in a local or central non-domestic waiting list, and they are not exempt from local non-domestic rating". The Respondent was correct in law in the approach to "dwelling" in section 3 of the 1992 Act, when refusing the proposals to delete the Appellants' properties from the council tax list. Council tax is applicable to a unit of property such as a house or flat which, without a 'business' element, is domestic property used wholly for the purposes of living accommodation. The arguments of the Appellants to the contrary fail, as do their appeals."

Leave to appeal to the Court of Appeal (CoA) was sought by Mr Doyle & Others direct to the CoA. The application was refused by the CoA on 23 June 2021.

At the hearing, the Appellant's arguments were based on his belief that Mr Justice Fordham's High Court decision was flawed and was a breach of Articles 4 and 8 of the European Convention on Human Rights, established in domestic law by the Human Rights Act 1998. However, the Tribunal panel held that it was not open to a party, unsuccessful in an appeal to a superior court, to attempt to re-litigate the same matter before the same tribunal. The appeal was therefore struck out.

The decision can be read in full here.

Interesting VTE decisions—Council Tax Completion Notices

Completion date

In this decision the Tribunal dismissed eight appeals to alter the completion date set for the respective flats.

The Billing Authority (BA) had issued completion notices in July 2019 which set a completion date of 30 September 2019 as it considered the works outstanding could reasonably be completed by then. The appellant had proposed a revised completion date of 1 February 2020 as the works took longer to complete due to various factors. The appellant also questioned the validity of the notices.

In *Delph Property Group Ltd v Alexander (VO) and Leicester City Council* [VTE: 246525454690/538N10] the President decided that the only issue that the VTE could determine, in a completion notice appeal, was the completion date. Any issues regarding validity could be raised in a proposal to alter the valuation list usually on the grounds that the entry should be deleted, as no valid completion notice had been served.

In respect of the works outstanding, the panel had regard to *the London Merchant Securities Plc and Trendworthy Two Limited v Islington Borough Council* [1987] RA 99 judgment, which provided that developments which had reached the end of Phase 1 (structural completion) could be subject to unoccupied property rates, and that when a completion notice is issued, the approach is to assess the estimated time when the remaining work can reasonably be expected to be done.

To be continued on Page 11

Interesting VTE decisions—Council Tax Completion Notices continued...

It was accepted that, in reality, the flats had not been completed by the date set but the panel found that this was not the legal test. The panel had to consider what further work was essential before the flats were ready for occupation, when the notices were served. Although the appellant had originally agreed with the BA that the works could be completed by the completion date set, the project took longer than expected. He became ill and he relied on his sons to complete the work. However, the panel determined that these were not relevant factors and the assumption had to be that the outstanding works continued unabated with manpower and materials in place to complete the work.

You can read the full decision here.

VALUATION TRIBUNAL SERVICE

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