

THE VALUATION TRIBUNAL FOR ENGLAND



Council tax valuation list appeal; mooring occupied by a boat; the effective date of the list alteration; regulation 11 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No.2270); appeal dismissed.

RE: Berth 15, Blackwall Basin Moorings, 1 Myers Walk, London E14 5GT

APPEAL NUMBER: VT00001221

BETWEEN:	Mr W Hart	Appellant
	and	
	Mr A Corkish	Respondent
	(Listing Officer)	

PANEL: Mr F J Stuart (Chairman)
Dr P A R Thomson

CLERK: Mr D Mulgrew

HEARING: Remote hearing No.4 on 8 April 2021

APPEARANCES: Mr W Hart (Appellant)
Mr L Dalli (Respondent's representative)

Summary of decision

1. Appeal dismissed. The panel made no change to the existing council tax band entry in the valuation list.

Introduction

2. This appeal has been brought in respect of the following: Berth 15, Blackwall Basin Moorings, 1 Myers Walk, London, which is a mooring occupied by a boat (the 'appeal property'). On 20 May 2018 it entered the valuation list at band A with effect from 1 December 2017. Band A is the lowest council tax

band and applied to dwellings which would have had a capital value no greater than £40,000 as at 1 April 1991.

3. Mr Hart's challenge began when he lodged a proposal that sought the removal of the entry in the valuation list. The Listing Officer decided not to delete the appeal property's entry in the list because he considered it to be a dwelling. Mr Hart appealed to the Valuation Tribunal for England (VTE) arguing that the entry should not have been backdated.
4. The President of the VTE is required to make sure arrangements are in place and make such statements and directions so as to ensure that business before the Tribunal is conducted in accordance with the relevant legislation¹. The VTE may determine the form of any hearing.
5. Therefore, in pursuance of the relevant regulation² the VTE has incorporated "remote hearings" as part of that definition and for the time being as the default option until it is safe to return to normal working. The Tribunal's Consolidated Practice Statement has been amended to reflect this.
6. This is not intended to be an exhaustive record of the proceedings, but the parties can be assured that all of the evidence presented was fully considered by the panel before coming to its decision. Consequently, the absence of a reference to any statement, or item of evidence, should not be construed as it having been overlooked.

Issue

7. When asked by Mr Dalli during the hearing, Mr Hart confirmed that the only matter being disputed was the Listing Officer's decision to backdate the appeal property's effective date of entry into the valuation list. He accepted that there was a liability going forward from the date he was first notified.

Evidence and submissions

8. The Listing Officer provided a joint evidence bundle which contained contributions from both parties to the appeal. It included plans; photographs; the originating proposal form; Listing Officer's decision; appeal form; correspondence between the parties; mooring agreement and related correspondence; and extracts from:
 - The Council Tax (Situation and Valuation of Dwellings) Regulations 1992 (SI 1992 No.550); and,
 - The Rating (Caravan and Boats) Act 1996.

¹ Local Government Finance Act 1988, Schedule 11, Part 1, paragraph A17(1) and the Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009 and by virtue of Part 2 regulation (5)(arrangement for appeals) and regulation (6)(3)(g) (appeal management powers).

² The Valuation Tribunal for England (Council Tax and Rating Appeals) (Procedure) Regulations 2009, regulation (6)(3)(g).

9. In preparation for the hearing, the panel's clerk provided the parties with regulation 11 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No.2270), as this specifically concerned the effective dates to be used for valuation list alterations.

Decision and reasons

10. The panel understood Mr Hart's reasons for making an appeal. He had received a council tax bill in February 2019 from the London Borough of Tower Hamlets (the 'billing authority'). He had not expected the bill and what is more the council tax had been backdated to 1 December 2017. The panel had a great deal of sympathy for Mr Hart because it appeared the legal position regarding council tax had not been properly explained to him before the bill had arrived. The panel noted that the backdating, which Mr Hart said was some 15 months, appeared to be mainly because of the billing authority's failure to notify the ratepayer of his liability promptly.
11. Mr Dalli stated that the Listing Officer had entered the appeal property into the valuation list from the date provided by the billing authority.
12. The panel found that Mr Hart was in occupation of the appeal property on 1 December 2017 although he had lived there for some time before that date.
13. Mr Hart confirmed during the hearing that he accepted that he was liable to pay council tax in respect of the appeal property; he was one of a number of boat residents in the marina that had received bills. However, he stated that the Citizen's Advice Bureau had informed him that he would only be responsible for council tax if he had been informed in advance; there should not have been a backdated liability.
14. Mr Hart was in the building trade and he said that he was aware that a completion notice was needed to start charging rates/council tax on properties. The panel was aware that the completion notice procedure was used to set a date of entry into a valuation list for newly built dwellings. They were sent in respect of unoccupied properties which had not been fully completed; the purpose was to determine a date for the list entry. Mr Dalli was correct when he said that dwellings could be entered into the valuation list, without a completion notice, if they were occupied. The principle of rateable occupation was well established by case law.
15. The relevant legislation concerning the day on which the valuation list alteration was to take effect was provided by regulation 11 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 (SI 2009 No.2270).
16. The Listing Officer believed that regulation 11(1) was relevant:

“(1) Subject to the following provisions of this regulation, an alteration made so as to show in or, as the case may be, to delete from a list any dwelling which, since the list was compiled—
(a) has come into existence or ceased to exist; ...

shall have effect from the day on which the circumstances giving rise to the alteration occurred.”

17. Mr Hart was of the view that regulation 11(5)(a) applied:

“(5) Where for the purposes of paragraph (3) or (4) the day on which the relevant circumstances arose is not reasonably ascertainable—
(a) where the alteration is made in pursuance of a proposal, the alteration shall have effect from the day on which the proposal was served on the LO;”

18. He further stated that LO meant legal owner. On this last point, the panel held that this was not correct because regulation 2 of the Council Tax (Alteration of Lists and Appeals) (England) Regulations 2009 showed that LO was the acronym for Listing Officer.

19. The panel carefully considered the views of both parties before deciding that the Listing Officer had correctly interpreted regulation 11. Regulation 11(1) allowed the Listing Officer to show in the valuation list any dwelling that has come into existence from the day on which the circumstances that gave rise to the alteration occurred. This meant valuation list entries could be backdated, potentially back to the date the mooring and boat was first used as a dwelling.

20. The remainder of regulation 11 provided some exceptions to this rule. There were some instances when backdating was not permitted; for example, when a Listing Officer split a single entry for a dwelling to create two new entries; or where the Listing Officer sought to increase an existing council tax band.

21. Mr Hart referred to sub-paragraph (5)(a) but the panel reached the conclusion that he had read this out of the context in which it appeared. Sub-paragraph (5)(a) referred back to sub-paragraphs (3) and (4) which concerned proposals concerning material reductions in the value of dwellings or changes to single properties which had a mixed domestic and non-domestic use (composite properties). Sub-paragraph 5(a) only applied when proposals had been made to make list alterations on those specific grounds and only in those cases where the date the circumstances had changed was “not reasonably ascertainable”.

22. In cases where a dwelling has been missed from the valuation list, as was the situation here, the Listing Officer was correct to rely on regulation 11(1). It was also noted that the Listing Officer could potentially still bring dwellings into the valuation list as far back as 1 April 1993, the start date of the current valuation list, if they had been omitted from the list.

23. Mr Hart's appeal was therefore unsuccessful, and the panel dismissed it.

Date: 28 April 2021

Appeal number: VT00001221