VALUATION TRIBUNAL FOR ENGLAND

Non-Domestic Penalty-FOR appeal: Local Government Finance Act 1988; failure to provide the Valuation Officer information; Schedule 9 to the Local Government Finance Act 1988; appeal dismissed.

APPEAL NUMBER: VT00027220

RE: The Waterside Wedding Venue, 367 Uxbridge Road, Rickmansworth, Hertfordshire WD3 8DT
(the "subject property")

BETWEEN:	Fohera Lane Ltd	Appellant
	and	
	Karen Giles (Valuation Officer)	Respondent

SITTING: *remotely using Microsoft Teams*

ON: 4 April 2025

BEFORE: Mr P Patel, Presiding Senior Member
Mr WJ Read, Senior Member

CLERK: Miss F Willson

APPEARANCES: Mr C Smyth (director of the appellant company representing the appellant company)
Ms H Craven (on behalf of the respondent as advocate only)

DECISION AND STATEMENT OF REASONS

Decision

1. The appeal is dismissed.

2. The panel upheld the decision by the Valuation Officer (VO) to impose a penalty of £100 for not providing information the VO requested. Therefore the penalty notice stands.

Introduction

3. This appeal is brought in respect of the Valuation Officer's Penalty Notice dated 20 November 2024. A penalty of £100 imposed after the appellant company failed to provide the information requested. The appeal was made to this Tribunal on 27 November 2024 and was accepted under Schedule 9 to the Local Government Finance Act 1998 (the '1988 Act').

4. This statement of reasons is not and does not purport to be a full verbatim record of the proceedings.

Relevant Law

5. Under paragraph 5 of Schedule 9 to the Local Government Finance Act 1988 the valuation officer may serve a notice on a person who is the owner or occupier of a hereditament requesting him to supply to the officer with information which she believes will assist in carrying out functions conferred or imposed on her by or under this part. The legislation insists that the person on whom the notice has been served shall supply the information requested in such form and manner as specified in the notice. Failure to comply with the notice within 56 days beginning on the day may result in a penalty of £100. Paragraph 5 of Schedule 9 of the Local Government Act 1988 states:

   (1) A valuation officer may serve a notice on a person who is an owner or occupier of a hereditament requesting him to supply to the officer information-

      (a) which is specified in the notice, and

      (a) which the officer reasonably believes will assist him in carrying out functions conferred or imposed on him by or under this Part.

   ……………………………………………

   (5A)

      (1) If a person on whom a notice is served under paragraph 5 above fails to comply with paragraph 5(2) or (2A) within the period of 56 days beginning with the day on which the notice is served, he shall be liable to a penalty of £100.
      (2) Where a person becomes liable to a penalty under sub-paragraph (1) above, the valuation officer shall serve on him a notice (a "penalty notice") stating-

         (a) that he has failed to comply with paragraph 5(2) above within the period mentioned in sub-paragraph (1) above;

         (b) that he is liable to a penalty of £100;

         (c) the effect of sub-paragraphs (3) and (4) below; and

         (d) that he has a right of appeal under paragraph 5C below.

   ………………………………………….

   (5C)

   (1) A person may appeal to a valuation tribunal if he is aggrieved by the imposition on him of a penalty under paragraph 5A above;

(2) An appeal under this paragraph must be made before the end of the period of 28 days beginning with the day on which the penalty notice is served;

(3) An appeal under this paragraph shall not prevent liability to any further penalty or penalties arising under paragraph 5A(3) above;

(4) An appeal under this paragraph shall be treated as an appeal against the penalty imposed under paragraph 5A(1) above and any further penalty which may be imposed under paragraph 5A(3) above;

(5) On an appeal under this paragraph the valuation tribunal may mitigate or remit any penalty under paragraph 5A above if it is satisfied on either or both of the grounds specified in sub-paragraph (6) below;

(6) Those grounds are:
   (a) that the appellant had a reasonable excuse for not complying with paragraph 5(2) above, or
   (b) that the information requested is not in the possession or control of the appellant.

Discussion

6. The issue in dispute was whether the VOA's decision to impose a penalty of £100 was in accordance with Paragraph 5 of Schedule 9 to the Local Government Finance Act 1988 and whether the appellant had a reasonable excuse for not complying with that request or the information was not within his possession.

7. The original Form of Return requesting information for the 2023 revaluation exercise was sent on 29 April 2024. Taking into account posting it was not deemed to be served until 3 May 2024. In line with the relevant legislation the form was due to be returned within 56 days of service which would be by 24 June 2024 at the latest. A first reminder was sent on 29 May 2024 which was followed by a second reminder on 19 June 2024. No form had been received within the statutory time period outlined in the legislation and a penalty notice letter dated 20 November 2024 was issued to the appellant. The form of return was eventually returned on 27 November 2024. The Valuation Officer stated that the timely return of the information requested was essential in order to carry out the duty of compiling the 2023 Rating List.

8. The panel noted that Mr Smyth on behalf of the appellant company did not deny receiving the request for information nor the reminders and subsequent penalty notice. He did however state that he thought the documents were for the owner of the premises and not for him. He submitted that as the appellant company was the tenant he did not consider that any information about the value of the subject property should be responded to by a tenant but by an owner and so he did not reply to any of the notices. Under questioning Mr Smyth confirmed that the documents were addressed to his company and not the landlord. He also confirmed that he was the person who received the business rates bill on behalf of the appellant company in connection with the subject property and that he did not contact the VOA to ask why they had sent the documents to his company and not the owner.

Disposal

9. Given all of the above, it was clear to the panel that the information requested was in the possession or control of the appellant company, and that Mr Smyth had eventually returned the completed form on 27 November 2024. Furthermore, he had not demonstrated to the panel's satisfaction that he had a reasonable excuse for not complying with the Form of Return. Ultimately, the form had been addressed to the appellant company and two reminders had been sent. It was clear the information was needed. If there had been any lingering doubts about whether there was a need to complete it, Mr Smyth as director of the appellant company should have made enquiries with the VO. The panel therefore dismissed the appeal.

Date issued to parties: 25 April 2025

Right of further appeal

Any party who is aggrieved by the Tribunal's decision, and who appeared or was represented at the hearing, has the right of appeal to the Upper Tribunal (Lands Chamber). Any such appeal should be made within four weeks of the date of this decision notice.
