

Procedures to Follow If Permission to Inspect Is Refused

The Legal Position

1. At Common law a person has an implied licence to proceed to the front door of a property and to inquire whether he/she may be admitted to conduct his or her lawful business (Robinson –v- Hallet [1967] 2 All E R 407). A person has no implied licence however to conduct a survey if the permission of the ratepayer or their representative has not been obtained.
2. Article 58 (1) of the Rates [NI] Order 1977 says that the Commissioner or any person authorised by him in writing may, on production if required of his credentials, at any reasonable time enter any land for the purpose of the survey, valuation or examination of that or any other land.
3. The statement on a Valuer's Warrant Card is the Commissioner's authorisation for the purposes of Article 58 (1)
4. But this does not mean that an inspection can proceed without the occupier's permission. In practical terms there may be security and health and safety implications for the staff involved. Also legal advice is that entry into premises in the absence of the owner, occupier or their representatives for the purpose of a survey may constitute a breach of human rights under Article 8 of the E C H R i.e. the right to privacy etc.
5. Article 58 (2) obliges the occupier / person entitled to possession to give reasonable assistance when information is being gathered for rating valuation purposes. Where a person fails to give reasonable assistance, in relation to the power of entry, they will be guilty of an offence and liable to a fine – Article 60 (4) and (5)

Practical Implications

1. The overriding consideration for the Agency is the health and safety of staff and no property should be inspected without the permission of the owner, occupier or their representatives.
2. Care should be exercised to ensure that the person purporting to give permission actually has the power to do so – an owner's permission will not permit an inspection when the rateable occupier refuses entry.

3. Best practice is to make an appointment either by writing to the occupier, by means of a telephone conversation or by e mail.
4. If an appointment is not possible and a “cold call” is necessary always be prepared to postpone any survey to a date and time which suits the occupier.
5. If permission is refused the following course of action is recommended:
 - a. Write to the person who has refused permission and make a formal request – a draft letter is attached at Annex A.
 - b. If permission is still denied or if there is no reply inform your senior valuer or the district valuer who will decide whether or not further legal action is appropriate or if a valuation should proceed.
 - c. If the senior valuer / district valuer so directs the premises should be valued without being surveyed. In these circumstances every effort should be made to obtain physical details. Building Control and the Planning Service should be contacted and plans obtained if held. NI Map and STAR are also useful sources of information.
 - d. When preparing a valuation it is important that the NAV assessed is not “punitive” – in other words an unreasonably high NAV has been assessed to “punish” the ratepayer for their lack of cooperation. The NAV assessed must be defensible as being fair and reasonable in the circumstances.
 - e. However if there is doubt about the use of a building the assumption should be made that the building is in rateable occupation and it should be valued accordingly.
 - f. Likewise with other value sensitive factors – do not make any allowances without an inspection.
 - g. Lastly do not assume agricultural or industrial user where permission to inspect has been refused.
 - h. Note that in the event of a subsequent dispute as to whether or not permission to inspect was sought any letter issued is a factual record and should be retained on file or scanned into AO.

Annex A

Dear Sir / Madam

Valuation of Premises at

I am a valuer employed by Land and Property Services and have been authorised by the Commissioner of Valuation for the purpose of the Rates [Northern Ireland] Order 1977. This states that:

58 – (1) The Commissioner or any person authorised by him in writing in that behalf may, on production if required of his credentials, at any reasonable time enter any land for the purpose of the survey, valuation or examination of that or any other land.

(2) The occupier or, if the land is not occupied, the person entitled to possession of it shall give such assistance as the Commissioner or the person authorised by him may reasonably require to enter the land for the purpose mentioned in paragraph (1)

I am requesting your permission to carry out a survey for valuation purposes of premises at and I would like to arrange a mutually convenient date and time.

Please note that failure to allow an inspection, by a person entitled to do so, may be an offence and make the person involved liable on summary conviction to a fine – Article 60 paragraphs (4) and (5) of the 77 Order refers.

It may also result in the District Valuer assessing the rateable value of the property based on the best information available – but without the benefit of a survey having been carried out.

When assessing a valuation my aim is to ensure that the premises concerned are treated fairly and relatively with similar properties in the Valuation List. I hope you will consider your previous refusal and permit an inspection. I can be contacted at:

- Office Address
- Office Telephone
- Mobile number
- E mail