

NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007

CASE REFERENCE NUMBER: 3/09

IVAN GREGG AND GILLIAN GREGG – APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mrs Barbara Jemphrey

Members: Philip Murphy and Garry McKenna

Belfast, 19th June 2009

DECISION

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 12th December 2008 is upheld and the Appellant's appeal is dismissed.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal dated 8th January 2009 the Appellants appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 12th December 2008 in respect of the Valuation of a hereditament situated at 3 Hawe Court, Bangor, County Down, BT19 6XN.
- 1.3 All parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Rules and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

2 **The Law**

- 2.1 The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).
- 2.2 The tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which states as follows;
- 7.-(1) Subject to the provisions of this Schedule, for the purpose of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.
- (2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.
- 2.3 Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

3. **The Evidence**

The Tribunal heard no oral evidence but had before it the Appellant’s Notice of Appeal dated 8th January 2009 and copies of various documents including the following:-

- 3.1 The Commissioner’s Decision on Appeal dated 12th December 2008.
- 3.2 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Claire White of Land and Property Services.
- 3.3 Correspondence between the Tribunal and the Parties.

All of these documents had been provided to all of the Parties whom had each been given an opportunity to consider and respond to them before being considered by the Tribunal.

4. **The Facts**

Based on upon the information before it, the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a detached chalet bungalow situated at 3 Hawe Court, Bangor (the Subject Property). The Subject Property was stated to be owned by the Appellants who the Tribunal understood to be the rate payers. The Tribunal had no other information neither regarding the title to the Subject Property nor regarding its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.

- 4.2 The Subject Property is a detached chalet-bungalow of brick construction with a tiled pitched roof. It has a gross external area (GEA) of 231m². The Subject Property also has full oil heating, double garage and garden.
- 4.3 The Capital Value Assessment of the Subject Property is £250,000. In arriving at the Capital Value Assessment figure regard was had to the assessments in the valuation list of properties considered comparable and also to market sales of certain sales in the general locality. These comparables are set out in the Schedule to the "Presentation of Evidence" submitted on behalf on the Commissioner. There are a total of 6 comparables within the locality. Further particulars of the comparables were provided together with photographs of all the comparables.
- 4.4 The Capital Value Assessments of the Comparables were all unchallenged.

5. The Appellants Submissions

The Appellant, in summary, has made the following submissions:-

- 5.1 The Appellants purchased the Subject Property in January 2006 for £225,000.
- 5.2 The Appellants state they were not aware of any sales on the Ballycrochan area in early 2005 in the region of £250,000.
- 5.3 Page 3 of Valuation and Lands Agency document "Changes to Domestic Rates in Northern Ireland" states "Capital Value is the amount your property could reasonably have sold for on the open market on 1st January 2005". The Appellants contest that the Subject Property could not have achieved £250,000 on the open market in January 2005.
- 5.4 The Appellants refer to the quarterly reports produced by the University of Ulster on house prices in Northern Ireland in particular Executive Report No86 refers to the first quarter of 2006, the period in which the Subject Property was purchased, shows a regional increase in detached houses in North Down as 33.2% compared with the first quarter. The Appellants contend that using the Valuation and Lands Agency Capital Value of £250,000 which is "the amount your property could reasonably have been sold for on the open market on 1st January 2005" and the subsequent house price increase of 33.2% would have meant the Subject Property should have been valued at £333,000 in January 2006. The Appellants contend that this shows the Capital Value of £250,000 was grossly inflated.
- 5.5 The Appellants state that having spoken to friends and neighbours the Appellants have formed the opinion that the Capital Value allocated to properties in their area is dictated by a figure which ensures there is no actual change in the amount of rates paid by the householders and thereby guaranteeing the income raised by rates remains consistent with previous years.

- 5.6 The Appellants submit that the Subject Property has a porch measuring approximately 1.96m x 2.72m which adds £5,770 onto the Capital Value.
- 5.8 The Appellants submit that these factors indicate the Capital Value Assessment on the Subject Property is too high
- 5.9 The Appellants did not seek to otherwise challenge the appropriateness of the comparables submitted in evidence on behalf of the Commissioner nor the accuracy of the particulars of those comparables.

6. **The Respondents Submissions**

In summary the following submissions were made on behalf of the Commissioner.

- 6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirements in Schedule 12 that “regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances” was duly observed.
- 6.2 The sale of the Subject Property is not taken in isolation; it is examined in the context of the sales of other similarly circumstanced properties.

The Capital Value of a property is different from Market Value as it is subject to a number of statutory assumptions as set out in Schedule 12, paragraphs 9-15 of the 1977 Order. Of particular relevance to the Subject Property is paragraph 12 which states, “The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.”

The Appellants advised at the time of inspection that after they purchased the property they replaced the bathrooms and carried out decoration work. The selling agents have also confirmed that the photographs on the sales brochure showed the property to be in need of some modernisation and remedial work.

The sale price of the Subject Property reflects its condition. The Capital Value of the property reflects what it could have reasonably sold for on 1st January 2005 subject to the statutory assumptions.

- 6.3 The Appellants state that they are not aware of any sales in the Ballycrochan area in the region of £250,000 during early part of 2005. Land and Property Services database indicates two properties in the Ballycrochan area which sold for £240,000 and £245,000 respectively. 12 Deanfield and 142 Hawe Road Bangor.

6.4 The booklet the Appellant refers to is entitled 'Changes to Domestic Rates in Northern Ireland. What This means to you'. The Appellants have omitted some of the wording from paragraphs 6 and 7. The full wording reads,

6. "Capital Value is the amount your property could reasonably have sold for on the open market on 1 January 2005. In assessing this value we used information on the sales prices of properties in your neighbourhood, and we also used assumptions, to make sure that properties are valued on a consistent and equal basis.

7. For example, we assume that your property has an average state of internal repair and fit-out, (such as a standard kitchen and bathroom) for its age, type and location."

The Capital Value of £250,000 is therefore what the Subject Property could reasonably have sold for on the open market on 1 January 2005 assuming that it was "in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality."

The Subject Property was in a less than average state of repair and this was reflected in the sale price.

6.5 The Appellants have referred to annual growth rates of property produced by the University of Ulster. These house price indices are an indication that there is inflationary pressure operating within the general property market within a particular area or housing type. They cannot, however, be applied to individual properties with any degree of accuracy to achieve a valuation for rating purposes. The use of indices for this purpose has been considered in previous referrals to the Northern Ireland Valuation Tribunal. In the reports from these hearings the Tribunals have indicated they do not endorse the use of house price indices as a valid means of arriving at a value.

6.6 The Capital Value of a property will not change between revaluations unless a material change takes place at the property. However, each council sets a district rate in the pound which changes annually. This rate will be based on the Council's anticipated expenditure for the year verses the anticipated revenue raised from domestic and commercial rates. Each council will therefore vary its district rate to ensure that the income raised through rates is sufficient.

A primary motivation for the change in the domestic rating system was to provide a fairer and more consistent distribution of the rates burden. It has never been a consideration that Capital Value should be set in such a way as to prevent a change in general levels of rates paid as this would be totally contrary to the prescribed method of valuation under the legislation.

6.7 The porch attached to the property has been valued as an integral part of the house and has not been valued separately. It is useable space and would not be treated differently from any other part of the house. The Subject Property is assessed £20,000 higher than any other property in Hawe Court

because it is the largest property in the development. It has been valued in line with similar sized properties in the adjoining Hawe Park and Hawe Road. The properties in Hawe Court vary in size from the smallest at 126m² with a single garage to the largest (the subject) which is 235m² with a double garage. This accounts for the difference in Capital Value.

7. The Tribunal's Decision

- 7.1 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital Value has been assessed at the Antecedent Valuation Date of 1st January 2005 as a figure of £250,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and the statutory basis for valuation has been referred to and especially reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.
- 7.2 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: "*On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown*". It is therefore up to the Appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.
- 7.3 The Tribunal saw nothing in the approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal, to suggest that the matter had been assessed in anything other than the prescribed manner provided for by Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner's Submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellants are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above.
- 7.5 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellant's Submissions. The Appellants have not displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property shall be deemed to be correct until the contrary is shown. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 12th December 2008 is upheld and the Appeal is dismissed.

**Mrs Barbara Jemphrey
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: