

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

**CASE REFERENCE NUMBER: 11/09**

**ANDREW NELSON – APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mrs Barbara Jemphrey**

**Members: Philip Murphy and Garry McKenna**

**Belfast, 19<sup>th</sup> June 2009**

**DECISION**

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 7<sup>th</sup> January 2009 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 29<sup>th</sup> January 2009 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 7<sup>th</sup> January 2009 in respect of the Valuation of a hereditament situated at 29 Lancedean Road, Belfast, BT6 9QP.
- 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**

The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).

- 2.1 The tribunal considered the terms of 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.

- 2.2 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 29<sup>th</sup> January 2009 and copies of various documents including the following:-

- 3.1 The Commissioner’s Decision on Appeal dated 7<sup>th</sup> January 2009.  
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**

- 4.1 The hereditament is a detached house situated at 29 Lancedean Road, Belfast (the Subject Property). The Subject Property was stated to be owned by the Appellant who the Tribunal understood to be the rate payer. The Tribunal had no other information regarding neither 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 house of brick construction with tiled pitch roof. It has a gross external area (GEA) of 108m<sup>2</sup> garage and has full oil heating and a garden.
- 4.3 The Capital Value Assessment of the Subject Property is £180,000. 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 properties in the general locality. These comparables are set out in the Schedules to the "Presentation of Evidence" submitted on behalf on the Commissioner. There were a total of 5 comparables within the locality. Further particulars of the comparables and Subject Property were provided; photographs were also provided except for two comparables.
- 4.4 The Capital Value Assessments of the Comparables were all unchallenged.

## **5. The Appellant's Submission**

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

- 5.1 The Subject Property was purchased on 31<sup>st</sup> July 2006 for £215,000. According to University of Ulster Annual Growth Rates of Properties Northern Ireland house inflation from 01.01.05 until 30.06.06 was up by 35%. A 22% increase in 2005 and 37% in 2006.
- 5.2 The Appellant submitted an extract from the Land and Property Services website showing his capital value prior to a reduction being made on 28.11.07.
- 5.3 The Appellant submitted two news articles on house price increases in Northern Ireland.
- 5.4 The Appellant submits that these factors indicate the Capital Value Assessment of the Subject Property is too high.

## **6. The Respondent's Submissions**

In summary of 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 requirement in Schedule 12 of the 1977 Order 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 Appellant has 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 of 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.
- 6.3 The purchase price of the property reflected the poor state of repair at that time. Had the property been in an “average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality”, as the legislation assumes, a higher price could have been anticipated.
- 6.4 The assessed Capital Value of £180,000 includes an allowance for poor external repair, as understood to have existed at the date of valuation.

## **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 1<sup>st</sup> January 2005 as a figure of £180,000. 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 Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above. Essentially the Appellant's argument was that in the sale price of £215,000 paid to the Subject Property was in inflationary market conditions and the Capital Value assessment was accordingly too high. The Appellant did not, however, seek to challenge the Capital Value Assessments of any of the comparables put forward on behalf of the Commissioner.
- 7.5 On behalf of the Commissioner it is submitted that the price indices to which the appellant refers cannot be applied to individual properties with any degree to accuracy to achieve valuation for rating purposes. The assessed Capital Value of £180,000 includes an allowance for poor external repair, as understood to have existed at the date of valuation.
- 7.6 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 Appellant has 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 7<sup>th</sup> January 2009 is upheld and the Appeal is dismissed.

**Mrs Barbara Jemphrey  
Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties:**