

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

CASE REFERENCE NUMBER: 5/09

ROBERT OLIVER – APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mrs Barbara Jemphrey

Members: Brian Sparkes and Leo Mullan

Belfast, 2nd March 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 20th 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 12th December 2008 in respect of the Valuation of a hereditament situated at 9 Warren Manor, Donaghadee, County Down, BT21 0QT
- 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 the Schedule 12 of the 1977 Order as amended which states as follows;

7.-(1) Subject to the provisions of this Schedule, for the purposes 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 20th 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 B. James 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 who 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 second floor apartment situated at 9 Warren Manor, Donaghadee (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 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 recently constructed second floor apartment in a block of ten fronting the Warren Road in Donaghadee. It has a gross external area (GEA) of 100m². The Subject Property has a sea view as do all the apartments in this block. It also has a designated car parking space.

- 4.3 The Capital Value Assessment of the Subject Property is £220,000. 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 Schedule to the "Presentation of Evidence" submitted on behalf on the Commissioner. There were a total of 9 comparables within the apartment block and 6 comparables within the locality. Further particulars of the comparables were provided together with photographs of the Subject Property and all out two of the comparables.
- 4.4 The Capital Value Assessments of the Comparables were all except one unchallenged.

5. The Appellant's Submission

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

- 5.1 The Subject Property has been recorded as 100m². Other apartments, namely No 2 has been recorded as 113m² with a garage yet there is only a £10,000 difference in the Capital Value Assessment.
- 5.2 Apartment No 10, the Penthouse apartment, has been recorded as 189m² with a capital value of £190,000. This is the largest apartment at Warren Manor and yet has the lowest Capital Value.
- 5.3 The Subject Property was sold for £175,000 to the previous owners.
- 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 Capital Values within the apartment block have been reviewed by the District Valuer and revisions made where appropriate. The two properties specifically identified by the appellant as No 2 and No 10 have been revised to £240,000 and £300,000 respectively.
- 6.3 The appellant purchased the Subject Property in July 2006 form MAR Developments Limited. The apartment had previously been purchased by MAR Developments Limited from Ballinturber for £175,000 in November

2005. The purchase by MAR Developments Limited was part of a transaction which included several properties and land and as such cannot be treated as good comparable evidence.

- 6.4 Sales evidence within Warren Manor has been detailed and appears initially to be conflicting as sales from the original developer, Ballinturber in 2002/2003 are at a high level compared to some of the subsequent resale evidence. There appear to be some unique features in respect of these sales.
- 6.5 The sale of No 6 in October 2005 for £180,000 was on the death of the owner, this property had been acquired in August 2002 for £225,000.
- 6.6 The sales of No 3 and 9 by MAR Developments Limited were at a level less than would have been expected in a typical resale. This can be attributed to particular circumstances surrounding these sales as the last apartments in the block and the developers desire to move on.

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 AVD at a figure of £220,000. 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 comparison to the Capital Value Assessments of No's 2 and 10 Warren Manor the Capital Value Assessment of the Subject Property was excessive. The Appellant argued that the previous sale of the Subject Property of £175,000 reflected its Capital Value.

7.5 On behalf of the Commissioner it is submitted that the Capital Values of No 2 and No 10 Warren Manor have been revised and are now £240,000 and £300,000 respectively. It is also submitted that the sale of the Subject Property was part of a larger transaction and therefore is not an appropriate comparable.

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 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: