

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

**CASE REFERENCE NUMBER: 6/09**

**CLIFFORD RODGERS – APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mrs Barbara Jemphrey**

**Members: Brian Sparkes and Leo Mullan**

**Belfast, 2<sup>nd</sup> March 2009**

**DECISION**

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 15<sup>th</sup> 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 19<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 15<sup>th</sup> December 2008 in respect of the Valuation of a hereditament situated at 26 Meadowlands, Jordanstown, Newtownabbey, BT37 0UR.
- 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 19<sup>th</sup> January 2009 and copies of various documents including the following:-

3.1 The Commissioner’s Decision on Appeal dated 15<sup>th</sup> December 2008.

3.2 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Gareth Neill of Land and Property Services.

3.3 Correspondence between the Tribunal and the Appellant.

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

## 4. **The Facts**

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

4.1 The hereditament is a dwelling house situated at 26 Meadowlands, Jordanstown, Newtownabbey, County Antrim, BT37 0UR (“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 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 two storey chalet house constructed circa 1998. It has a gross external area (GEA) of 211m<sup>2</sup>. It has a brick and block construction with a tiled pitched roof and is situated in a development of similar type properties in Jordanstown. It has mains electricity, water and sewerage services and full-oil fired central heating. In addition to the GEA already referred to the Subject Property has a single garage 22m<sup>2</sup> (GEA).
- 4.3 The Capital Value Assessment (CVA) of the Subject Property is £250,000 at Antecedent Valuation Date (AVD) that date being 1<sup>st</sup> January 2005. In arriving at the CVA 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 were a total of 4 comparables. Further particulars of the comparables were provided together with photographs of the Subject Property and all of the comparables.

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

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

- 5.1 The Subject Property was purchased on the open market by the Appellant in July 2005. The Appellant paid £240,000
- 5.2 The Appellant 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 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 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 sales of No 2 Meadowdale for £235,000 on 2<sup>nd</sup> July 2004 and No 4 Meadowdale for £250,000 on 14<sup>th</sup> October 2005 provide the best market evidence to support the CVA of the properties in the Meadowlands development.
- 6.3 No 2 Meadowdale with a GEA of 206.5m<sup>2</sup> is slightly smaller than the Subject Property. A conservatory was however added to this property following the sale on 2<sup>nd</sup> July 2004 when it was sold for £235,000.

- 6.4 No 4 Meadowdale is of a smaller size to the Subject Property GEA 201.7m<sup>2</sup> but has an additional conservatory GEA 11.7m<sup>2</sup>. This is reflected in the higher Capital Assessment Value of £255,000.
- 6.5 Of the comparables listed only No 4 Meadowdale has challenged their assessment. This was reduced by the Commissioner to £255,000.
- 6.6 No 5 Meadowdale has a GEA of 213.6m<sup>2</sup>. It was sold on 5<sup>th</sup> August 2004 for £285,000.
- 6.7 34 Meadowlands has a GEA of 259m<sup>2</sup> and is larger than the Subject Property. It was sold on 2<sup>nd</sup> July 2004 for £265,000.

## **7. The Tribunals 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 £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 Appellant are sufficient to displace the statutory presumption. The Appellant's argument have been summarised above. Essentially the Appellant's argument was that the Subject Property was purchased on the open market in August 2005 for £240,000. The Appellant contends this should reflect the Capital Value Assessment figure and therefore the Capital Value Assessment figure attributed to the Subject Property is excessive. 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 Further, the open market sale prices of the properties at 4 Meadowdale (GEA 201.7m<sup>2</sup>) in October 2005 for £250,000 and 2 Meadowdale (GEA 206.5m<sup>2</sup>) in July 2004 for £235,000 are strong indicators that a Capital Value of £250,000.00 for the Subject Property (GEA 211m<sup>2</sup>) as at 1 January 2005 is reasonable.
- 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 15<sup>th</sup> 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:**