

**NORTHERN IRELAND VALUATION TRIBUNAL**

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

**CASE REFERENCE NUMBER: 15/09**

**MR B McGRATH AND MRS E McGRATH – APPELLANTS**

**AND**

**COMMISSIONER OF VALUATION NI – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Michael Ranaghan**

**Members: Mr Sandy Moore and Garry McKenna**

**Belfast, 29<sup>th</sup> June 2009**

**DECISION**

**DECISIONS and REASONS**

**The Hearing**

1. The Appellants appeared at the Tribunal and represented themselves. The Respondent was represented by Ms Deirdre Shiels and Mr Peter Bell.

2. The property the subject of the appeal is 118 Clare Road, Waringstown BT66 7SD. The property comprises a detached bungalow with a basement area of 37.4m<sup>2</sup> and a storage area of 14m<sup>2</sup> and was built in or around 1970. The property is situated on a roadside site in a rural area of Craigavon District Council approximately 1 1/2 miles from Waringstown village. The gross external area of the property is 152m<sup>2</sup>. The property is in good overall repair with full oil central heating.

3. The Respondent assessed the Capital Value of the property at £185,000 as at 1<sup>st</sup> January 2005, the relevant capital valuation date. The Capital Value of the property was then reduced on appeal to £165,000 (certificate dated 7<sup>th</sup> September 2005) to reflect material changes to the property as the original garage had been incorporated into the dwelling accommodation as a basement and storage area.

4. The following documents were before the panel:

- The Notice of Appeal received 10<sup>th</sup> March 2009.

- The Respondent's presentation of evidence including a location map and descriptions and photographs of properties used as comparables to the property under consideration.
- Correspondence from the Housing Executive dated 19<sup>th</sup> September 2003 concerning the property.
- Correspondence between the Tribunal and the parties.

5. The Tribunal gave an oral decision disallowing the appeal. This notice confirms that decision and contains the Tribunal's reasons for its decision in accordance with Rule 1 of the Valuation Tribunal Rules (Northern Ireland) 2007.

### **The Law**

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

6.1 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 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.

6.2 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.

### **The Evidence**

7. The Tribunal heard evidence from Ms Shiels on behalf of the Respondent and oral evidence from the Appellants.

8. The Respondent's submissions were that the Capital Valuation of the property which was based on sales evidence and the assessments of similarly circumstanced properties within the locality was fair and reasonable.

9. The Respondent stated that the property, a SPED house, had been vacant and on the market for some time prior to it being purchased by the Appellants. It was in need of some remedial works and maintenance. In arriving at the valuation the Respondent stated that the Commissioner is required by the Rates (Northern Ireland) Order 1977 schedule 12 - 12(1) & (2) to value the property as if it was in average state of repair and fit out for a dwelling of its age character and location on the relevant date (1<sup>st</sup> April 2007). The Commissioner must therefore disregard any remedial works and repair the property may require.

10. The Respondent referred to Schedule 12 – 7 (2) of the Order which states that in estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the valuations in that valuation list of comparable hereditaments in the same state and circumstances as the hereditaments whose valuation is being revised.

11. The Respondent's evidence contained details of a number of comparable properties within the vicinity. These were:-

**Properties on the far side of the crossroads from the subject property**

- 53 Clare Road 154m<sup>2</sup> + 45m<sup>2</sup> garage + central heating valued at £180,000
- 43A Clare Road 152m<sup>2</sup> + 36m<sup>2</sup> garage + utility area 13m<sup>2</sup> + central heating valued at £180,000
- 43 Clare Road 209m<sup>2</sup> + 48m<sup>2</sup> garage + central heating valued at £240,000

**It was not clear on which side of the crossroads the 2 comparisons below were actually situated.**

- 9 Crowhill Road built 1990 147m<sup>2</sup> no garage but with full central heating valued at £165,000
- 61 The Slopes built 2001 136m<sup>2</sup> no garage but with full central heating valued at £150,000

**The properties listed below are on the same side of the crossroads as the subject property.**

- 125 Clare Road 162m<sup>2</sup> + 55m<sup>2</sup> garage + central heating valued at £185,000
- 9 Clare Moss Road 121m<sup>2</sup> + 31m<sup>2</sup> garage + central heating valued at £150,000

- 11 Clare Moss Road 170m<sup>2</sup> + 43m<sup>2</sup> garage + garage 30m<sup>2</sup> + utility 5m<sup>2</sup> + central heating Valued at £200,000. This properties valuation is under review for extensions.
- 49 Valley Lane 155m<sup>2</sup> + 26m<sup>2</sup> garage + full central heating valued at £170,000
- 9 Annaghnoon Road 169m<sup>2</sup> + 15m<sup>2</sup> garage full central heating valued at £180,000
- 72 Donaghcloney Road 163m<sup>2</sup> + 54m<sup>2</sup> garage valued at £185,000.

The Respondent relied on the above valuations and the available sales evidence to show that the valuation placed on the subject property was fair and reasonable.

12. The Appellants' submissions were that any valuation of the property should have been based on local knowledge. The Appellant disputed that the comparables used by the Respondent were not similar properties and that the roads on which these properties were situated were 'individual' roads with their own characteristics which would affect the valuation of individual properties.

13. The Appellants claimed that paramilitary activity influenced the market value of properties in the area and that the dividing line was at the Clare Road / Crowhill Road crossroads, the properties on the Appellants side of the crossroads having the lower value. The Appellant also stated that the price that he had purchased the house for was actually inflated and was the result of a bidding war on the property.

### **The Tribunal's Decision**

14. 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 £165,000. 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.

15. 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.

16. 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.

17. 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.

18. The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellants' 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 is upheld and the Appeal is dismissed.

**M Ranaghan, Chairman**  
**Northern Ireland Valuation Tribunal**

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