

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: 21/09

**EAMON MOORE – APPELLANT
AND
COMMISSIONER OF VALUATION NI – RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Mr. Michael Ranaghan
Members: Mr. Sandy Moore and Garry McKenna**

Belfast, 29th June 2009

DECISION

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 11th March 2009 is upheld and the Appellant's appeal is dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").

By a Notice of Appeal, undated but marked as received at the Tribunals Unit, on 8th April 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 11th March 2009 in respect of the Valuation of a hereditament situated at 21 Derrylard Road, The Birches, Portadown, BT62 1XE.

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.

The Law

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

3. 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.

4. 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

5. The Tribunal heard no oral evidence but had before it the Appellant's Notice of Appeal received 27th January 2009 and copies of various documents including the following:-

- i. A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Claire White of Land and Property Services.
- ii. A letter from the Appellant dated 5th June 2009 and a response to same from Claire White dated 11th June 2009.

6. 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.

The Facts

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

The hereditament is a detached house situated at 21 Derrylard Road, The Birches, Portadown BT62 1EX (the Subject Property). The property has a gross external area of 276.48m² and comprises a garage and has full oil heating. The property is situated on a rural road approximately 6 ½ miles from Portadown town Centre.

8. The Capital Value Assessment of the Subject Property is £225,000. 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 one market sale of a property 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 5 comparables within the locality. Further particulars of the comparables were provided together with photographs of 2 of the comparables. The Capital Value Assessments of the Comparables were all unchallenged.

The Appellant's Submissions

The Appellants submissions are summarized as follows:

9. The Appellant purchased the property in March 2005 for £200,000. When he purchased the property there was no kitchen or bathroom suite sin the property. The property did have other extras according to the Appellant, namely an alarm, a central vacuum, oak staircase and skirting and towel radiators. The Appellant states that the kitchen and bathroom suites cost him £7000. The Appellant makes the case that taking into consideration the extras in the property and the cost of the kitchen and bathrooms suites that a fair adjustment would mean that the property was actually worth £205,000 on 1st January 2005. The Appellant further states that the Commissioners figure is based on a guess whilst the Appellants figure is based on fact. The Appellant contends that (just) because other similar properties are given a wrong price that "does not mean it is acceptable".

The Respondent's Submissions

10. The Respondent states that in reaching the valuation for this property she has considered assessments in the valuation list of properties which she considered to be comparable to the Appellants property. The Respondent also states that she had regard to market sales of similar circumstanced properties in the locality.

The Comparables

11. Five properties were used as comparables to the Appellants property. The Respondent has made specific reference to two of these:

- 22 Foy Road, Portadown – This property is a detached dwelling with a gross external area (GEA) of 258.4m². The property is slightly older than the Appellants property but is of similar construction. This property has an unchallenged capital value of £215,000 and was sold for £357,500 on 9th December 2005. The Respondent relies on the fact that this property is

some 18m² smaller than the Appellants property and has no garage to support the valuation placed on the Appellants property.

- 22 Derrylard Road, Portadown – This property is a detached dwelling with a gross external area of 270.8m² with a garage of 44.2m². The property is of a similar age and construction compared to the Appellants property and is located on the same road as the Appellants property.

The other properties used as comparables were:

- 39 Cloncore Road, Portadown – GEA 244m², no garage – Capital Value £220,000 (unchallenged)
- 41 Cloncore Road, Portadown – GEA 262m², no garage – Capital Value £225,000 (unchallenged)
- 117 Dungannon Road, Portadown – GEA 278m², garage 75.5m² – Capital Value £235,000 (unchallenged)

The Respondent contends that these comparisons are on similar properties to the Appellant and support the valuation placed upon it.

12. In response to the points raised by the Appellant in his notice of appeal the Respondent states:

‘The capital value of the appellant’s property assumed average repair as per paragraph 12-1 of Schedule 12 of the Rates Order. The Appellant has stated the cost of the kitchen and bathrooms was £7000. This is considered to be a very modest sum for the cost of these items in a house of this size and character. Furthermore, these are not the only items required to bring the house to an ‘average state’. There is also decoration, flooring, tiling etc. The actual cost of these items would not necessarily equate to the increase in value of the property.

And

‘The other items the appellant refers to such as alarm, central vacuum, towel radiators and oak staircase, doors and skirting are items I would consider “average” for a property of the size and type of the subject.

The Respondent disputed the Appellant’s claim that the Commissioner’s decision was based on a guess stating that in fact it was assessed in accordance with the prescribed method. The Respondent states that Paragraph 7(2) of Schedule 12 of the 1977 Order means that unchallenged (capital) values eventually set the overall tone of the values in the area and that regard must be had to these comparables.

The Appellant's Response

13. The Appellant took issue with the use of 22 Foy Road as a comparable. He stated that the fact that this property is smaller than his has no bearing as "rates are based on capital value". This property is only 3 miles outside of Portadown, 4 miles closer than the Appellant's property. The Appellant claimed that this property would have contained a lot of extras and its sale one year after valuation was at a time when house prices were rising at a considerable rate.

14. The Appellant made reference to the other comparables pointing out the reason why he felt that they should have higher capital values. Examples are: 39 Cloncore Road – the Appellant stated that this is a three storey house with an upstairs conversion whilst his property is a 1 ½ storey property; 41 Cloncore Road – this is a 2 storey property.

15. The Appellant queried why other properties were not used as comparables to his, for example 23A Cloncore Road. The Appellant states that this property is a 1 ½ storey property, is similar to his yet has a capital value of less than £200,000.

16. The Appellant took issue with the Respondent's assertion that £7,000 was a very modest sum for the kitchen and bathroom suites and then listed the individual price of each item. The Appellant also disputed the Respondent's view in relation to the other matters needed to bring the house into an average state and again provided figures which he claimed proved that his valuation of his property was fair and accurate.

The Respondent's Response

17. The response of the Respondent is summarized below:

- 22 Foy road – One of the factors in assessing capital value is the GEA (Gross External Area) of the property. 22 Foy Road is smaller than the subject and has no garage. These factors have been reflected in the capital value assessment.
- The Respondent disputes the Appellant's contention that 3 storey houses would be more valuable than one with 1 ½ storeys and states that the Appellant has provided no evidence to substantiate this claim.
- 23A Cloncore Road – The Respondent produced evidence from the Land and Property Service's website which indicated that this property which is 30m² smaller than the Appellants but has a larger garage has a capital value of £230,000.

The Tribunal's Decision

18. 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 £225,000. On behalf of the Commissioner it has been contended that 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.

19. 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.

20. 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.

21. The Tribunal must then 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.

22. 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.

23. There is evidence within the papers considered by the Tribunal that the Capital Value placed on the Appellants property is very much in keeping with the tone of the list, including a property specifically referred to by the Appellant – 23A Cloncore Road. The Tribunal was not clear as to the meaning of the Appellant's contention as detailed in paragraph 13 above and as the Appellant was not present this could not be clarified. No specific finding has however been made in relation to that contention.

24. The Tribunal was satisfied on the balance of probabilities that the Capital Value placed on the Appellant's property is reasonable. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 11th March 2009 is upheld and the Appeal is dismissed.

M Ranaghan, Chairman
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: