

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

**CASE REFERENCE NUMBER: 05/07**

**LIAM FLANNIGAN & BERNADETTE FLANNIGAN - APPELLANTS**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr James V Leonard, President**

**Members: Mr Tim Hopkins FRICS and Mr Dermot Mullan.**

## **DECISION**

The unanimous decision of the tribunal is that is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland is upheld and the appellants' 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"). The appellants appeared at the tribunal and represented themselves. Mrs Claire White and Mr John Blacker appeared and represented the Commissioner of Valuation for Northern Ireland ("the Commissioner") as respondent. The matter was heard before the tribunal on 26 March 2008 and was adjourned to 14 April 2008.
2. The appellants, by Notice of Appeal received by the Office of the Tribunal on 5 December 2007 appealed against the decision of the Commissioner on appeal dated

7 November 2007 in respect of the valuation of a hereditament situated at Brae House, 8 Corernagh Road, Ballyargan, Tandragee BT62 2DY (“ the property”)

### **The Law**

3. The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The tribunal does not intend in this decision fully to set out the statutory provisions of Article 8 of the 2006 Order which amended Article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in the matter.

### **The Evidence and Facts**

4. The tribunal heard oral evidence from both of the appellants and also from both Mrs White and Mr Blacker on behalf of the Commissioner. The tribunal had before it the appellants’ Notice of Appeal to the tribunal (Form 3) and various documents including the following:-

- 4.1 The Commissioner's Decision on Appeal dated 7 November 2007.

- 4.2 A document entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Mrs White and submitted to the tribunal for the purposes of the tribunal hearing.

- 4.3 Various documents and photographs submitted in the evidence on behalf of the appellants.

- 4.4 Correspondence from the Commissioner in response to a notice for additional information served by the tribunal upon the Commissioner.

#### 4.5 Correspondence between the tribunal and the parties.

5. The following facts were not in contention. The property consists of a dwellinghouse situated at Brae House, 8 Corernagh Road, Ballyargan, Tandragee BT62 2DY. The property is occupied by the appellants who are the ratepayers. The property is a detached two-storey house constructed in 2002-2003 with a gross external area (“GEA”) of 353 m<sup>2</sup>. The property has a double garage of GEA 46m<sup>2</sup>. The property has a ground floor with two reception rooms, a kitchen, one bedroom, a cloakroom and a utility room. On the first floor there are three bedrooms, a shower room and a bathroom. The property is of concrete block and tile construction. It has the benefit of oil-fired central heating, mains electricity and water services and a private septic tank system. The property is situated on a rural road approximately 3 miles from the village of Scarva, County Down. The capital value was assessed as at 1 January 2005 (that being the antecedent valuation date, or “AVD”) at a figure of £320,000.
  
6. The Commissioner’s evidence to the tribunal is that in arriving at the capital value assessment figure regard was had to 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 a schedule to the Commissioner's Presentation of Evidence, with further particulars given thereafter in respect of these comparables, both sales and assessments, including photographs of the comparables. There are seven comparables in total, four being capital value assessments only and three being assessments together with sales particulars in relative proximity to AVD. Copies of the Commissioner's Presentation of Evidence and also of the other documentation have been provided to the appellants and the appellants have responded thereto in submissions to the tribunal.

#### **THE APPELLANTS' SUBMISSIONS**

7. The appellants, in brief, have included the following points in submissions:-

- 7.1 The following five properties ought to be taken into account as comparables in assessing the proper capital value of the property:- 17

Tullymacann Road, Tandragee, 39 Tullymacann Road, Tandragee, 11 Mullaghglass Road, Scarva, 159 Scarva Road, Banbridge, and 15 Castle Lodge, Banbridge, all County Down.

- 7.2 Specifically, the property at 39 Tullymacann Road, Tandragee (stated to be a much larger property) was sold on the 30<sup>th</sup> October 2002 for £185,000 and again on 2<sup>nd</sup> April 2004 for £190,000. This is a property sited close to the property. Considerable weight ought to be attached to that sales evidence, it is suggested.
- 7.3 The tribunal ought properly to consider the issue of building cost in respect of the property and other properties stated to be comparable.
- 7.4 When the property was first assessed for rates in 2003, “the value was decided at approximately £180,000”, it is contended.
- 7.5 The properties in the general locality of the property are not valued correctly. The property exists in an “island” of low valuation, which fact is not reflected in the capital value both of the property and also all other properties in this locality. Accordingly the comparable properties themselves indeed are overvalued. That fact is reflected in the valuation attributed to the property, it is argued, as the Commissioner has relied upon unchallenged (non-sales) capital value assessments.

## **THE TRIBUNAL'S DECISION**

8. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed at AVD at a figure of £320,000. On behalf of the Commissioner it has been contended that that figure is fair and reasonable in comparison to other properties; 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.

9. The tribunal starts with an important statutory presumption that is contained within the 1977 Order (see Article 54(3) of the 1977 Order). There it is provided 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. Any appellant must therefore either successfully challenge and displace that presumption or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.
10. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner that is provided for in Schedule 12 of the 1977 Order.
11. The Commissioner's Statement of Case as set out in the Presentation of Evidence and the schedule of comparables was challenged by the appellants both as to the appropriateness of these comparables and also as to the conclusions properly to be derived from the comparisons.
12. The tribunal examined the essential issue of whether or not the appellants had put forward sufficient challenge to the Commissioner's schedule of comparables and sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation. Certain of the arguments made by the appellants have been summarised above. Some arguments advanced are not permissible under the statutory framework within which this tribunal exists. For example, some of the appellants' case has been based upon evidence of building costs. However, building costs do not form part of the statutory basis for capital value assessment that is contained in the 1977 Order. In this case, as in all such cases, the statutory provisions state that the capital value of the property shall be the amount which (on the statutory assumptions) the property 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the property. However, the appellants did put forward arguments in connection with sales and valuation evidence concerning particular properties which they stated were properly comparable to the property; the tribunal was thus able fully

to consider and to give appropriate weight to these contentions as it thought fit, insofar as these related to the statutory basis of valuation.

13. Evidence supporting some of the appellants' arguments was not made out to the satisfaction of the tribunal. For example the contention was put forward that when the property was first assessed for rates in 2003, "the value was decided at approximately £180,000". There was no persuasive evidence supporting that suggestion. The appellants also contended that in the general locality in question properties generally were not valued correctly and the property existed in what might be described as being an "island" of low valuation. The tribunal would have had considerable difficulty in accepting that latter contention without considerably more evidence to support what was a rather broad and general argument.
14. Turning to the case made on behalf of the Commissioner, the tribunal notes that the Commissioner has not, in any manner accessible to the tribunal, weighted any of the evidence submitted in respect of comparable properties, nor has the Commissioner attempted to demonstrate to the tribunal how one property related to another in terms of capital value. The tribunal, not being possessed in the course of this hearing of any information other than that which has been provided to it by the appellants and by the Commissioner, is reliant upon a clear and cogent explanation as to how the assessment of capital value concerning any subject property has been conducted in the context of such evidential value as might be attached to any other property stated to be a proper and valid comparator for valuation purposes.
15. However, taking the state of the evidence as it was presented before the tribunal in this appeal, and noting the arguments and submissions made by the appellants and the case advanced on behalf of the Commissioner, the tribunal's conclusion is that the appellants have not placed before the tribunal sufficient evidence, information and argument to enable the statutory presumption of correctness in respect of the capital value assessment to be displaced. The tribunal comes to that conclusion on the basis of having carefully noted such evidence as was available from the comparables put forward by both parties for the tribunal's consideration.
16. The tribunal examined in particular the weight that might be attached to actual sales evidence. The sales evidence in respect of the Commissioner's schedule of

comparable evidence included properties at 4 Buskhill Road, Newry, 55 Barronstown Road, Dromore and 126 Newry Road, Banbridge, all County Down.

17. Examining this sales evidence with some care, the tribunal concludes that it is more probable than not that the Commissioner's assessment of capital value in respect of the property at a figure of £320,000 is not self-evidently or manifestly incorrect. Further, examining the evidence of comparable properties and the other evidence and arguments put forward by the appellants, the tribunal on balance sees nothing of sufficient weight to displace the statutory presumption of correctness in respect of the Commissioner's capital value assessment. Thus the appeal cannot succeed.
18. In conclusion, the tribunal must record, once again, the observation that the tribunal is conscious that appeals to this tribunal will largely be taken by persons without professional assistance or guidance and perhaps without substantial financial and other resources to enable appropriate help and guidance to be sought. The tribunal is conscious of its overriding objective which is to deal with cases fairly and justly, which includes dealing with cases in a proportionate manner regarding the complexity of the issues and the resources of the parties and seeking informality and flexibility in proceedings.
19. The tribunal recognises the considerable care and effort which the appellants have both clearly put into preparing for and presenting this appeal to the tribunal. In this case, however, the tribunal concludes unanimously that the Commissioner's assessment of capital value in respect of the property is correct. The Commissioner's Decision on Appeal is upheld and accordingly the appeal is dismissed.

**Mr James V Leonard, President**  
**Northern Ireland Valuation Tribunal**

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