

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

CASE REFERENCE NUMBER : 34/08

ROGER MOORE

APPELLANT

AND

COMMISSIONER OF VALUATIONS FOR NORTHERN IRELAND

RESPONDENT

Northern Ireland Valuation Tribunal
Chair: Ms. Monica McCrory
Members: Mr. Tom Matthews and Mr. Ian Kyle

Belfast, 13th February 2009

DECISION

The unanimous decision of the tribunal is that the Commissioner of Valuation for Northern Ireland's Decision of Appeal 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"). The appellant did not appear in person and was represented at the hearing by Mr Blair McCullough BSc MRICS. Mr Martin McGrath and Mr Brian James BA.(Hons.)MRICS appeared and represented the Commissioner of Valuation for Northern Ireland ("the Commissioner") as respondent.

2. The appellant by Notice of Appeal dated 21st December 2008 appealed against the decision of the Commissioner on Appeal dated 27th November 2008 in respect of the valuation of a hereditament situated at 28 Lord Wardens Manor, Rathgill, Bangor, BT19 1YW (“the property”) wherein the Commissioner had declined to amend the valuation list for the property, confirming the capital value at a figure of £170,000.

The Law

3. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).
4. The tribunal considered the terms of Schedule 12 of the 1977 Order as amended which states as follows:
 - 4.1 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.
 - 4.2 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.

THE EVIDENCE

5. The tribunal heard oral evidence from Mr McCullough on behalf of the appellant and from Mr McGrath and Mr James on behalf of the respondent.
6. The following documents were before the Tribunal;
 - Notice of Appeal dated 21st December 2008 enclosing copies of the University of Ulster house price surveys dated 6th December 2004, 28th February 2005 and 30th November 2005 together with a copy of the Ulster Property Sales magazine for July 2005
 - The Commissioner's Decision on Appeal dated 27th November 2008
 - Respondent's "Presentation of Evidence" dated 23rd January 2009
 - Correspondence between the Tribunal and the parties.

The Facts

On the basis of the information before it the tribunal determined the following facts upon the balance of probabilities. The property:-

- is a detached brick and tiled chalet bungalow
- has a gross external area (“GEA”) of 128m²
- has a conservatory of GEA 13m²
- has a single garage
- has two reception rooms, a kitchen, three bedrooms and a bathroom
- is situated in a residential development composed of different property types including chalet bungalows and detached houses

7. The capital value was assessed as at 1st January 2005 (the antecedent valuation date, or “AVD”) at a figure of £170,000.

THE RESPONDENT’S CONTENTIONS

8. The respondent’s contention is that in arriving at the capital value 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 respondent’s Presentation of Evidence. There are four comparables in total, one being capital value assessment only (stated to be “unchallenged”) and three being capital value assessments, taken together with sales particulars having varying degrees of proximity in time to AVD.

THE APPELLANT’S CONTENTIONS

9. The appellant, in summary, made the following points in his submissions:-

- The Commissioner had failed to take account of the sales evidence and the fact that the Appellant had purchased the property on the 26th August 2005 for £168,000
- The Appellant used the University of Ulster house price survey to adjust the sale price of the property as at the AVD to £144,791.00

- The Commissioner's comparable property at No. 3 Lord Wardens Parade may contain expensive extras whereas the subject property was built internally to the standard builder's specification with no extras.
 - The Appellant submitted that the comparables used by the Commissioner were selective and the only relevant comparable was No. 3 Lord Wardens Parade. The subject property while described as a chalet bungalow was in fact a two storey building with a staircase and as such could properly be compared to a detached house and when compared to detached houses in the same development the capital value was high.
10. The tribunal will address further the detail of the appellant's and the respondent's respective contentions below.

THE TRIBUNAL'S DECISION

11. 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 £170,000. 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 reference has been made to Schedule 12 to the 1977 Order in arriving at the assessment.
12. In these matters there is a statutory presumption that, on appeal, any valuation shown in a valuation list with respect to a hereditament (in this case the property) shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of the correctness of the valuation, otherwise the appeal will not be upheld.
13. Looking at the general approach taken by the respondent to the valuation of the property, the tribunal saw nothing to suggest that the matter had been dealt with in anything other than the prescribed manner provided for by Schedule 12 of the 1977 Order.
14. In determining this case, the tribunal will examine the essential issue of whether or not the appellant has put forward sufficient challenge to the Commissioner's schedule of comparables and advanced sufficient evidence or argument effectively

to displace the statutory presumption of correctness in regard to assessment of capital value.

15. The appellant in the Notice of Appeal calculated that by applying the quarterly Northern Ireland House Price Index produced by the University of Ulster to the sale price for the subject property that an adjusted sale price at the valuation date would be £144,791 and submitted £145,000 as the appropriate capital valuation at AVD. The tribunal was not persuaded by this argument. The University of Ulster survey is a broad analysis of sales throughout Northern Ireland and the tribunal was of the view that it cannot be used to derive either a capital value for an individual property nor can it be used to adjust sales evidence in respect of an individual property in or around the AVD to derive a capital value at AVD.

16. Dealing with the schedule of comparables submitted by the Respondent the position would appear to be as follows:-
 - (a) 3 Lord Wardens Parade. This is an identical house type to the subject property in the same estate with a GEA of 128m² but without a conservatory. It had achieved a sale price of £159,950 on 19th August 2004 and had a capital value at AVD (unchallenged) of £170,000.

 - (b) 6 Lord Wardens Manor. This was a slightly smaller detached bungalow in the same estate with a GEA of 125m² and although not identical to the subject property was in many respects similar. It achieved a sale price of £154,000 on 17th January 2003 and had a capital value at AVD (unchallenged) of £170,000.

 - (c) 10 Lord Wardens Crescent. This is a smaller detached brick and tile bungalow in the same estate with a GEA of 112m². It achieved a sale price of £160,000 on 7th May 2004 and had a capital value at AVD (unchallenged) of £165,000.

 - (d) 26 Lord Wardens Manor. This is an identical chalet bungalow adjacent to the subject property but without a conservatory. It has a GEA of 128m². There was no sale evidence attached to this comparable and it had a capital value at AVD (unchallenged) of £170,000.

17. The appellant submitted that there were other relevant comparables as follows:-

- (a) 32 Lord Wardens Manor. This property is described by the appellant as a detached house with a GEA of 220m² and a capital valuation at AVD of £260,000. The capital value per square metre was £1,181.81. There was no sales evidence attached to this property.
 - (b) 34 Lord Wardens Manor. This property is described by the appellant as a detached house with a GEA of 184m² and a capital valuation at AVD of £205,000. The capital value per square metre was £1,114.13. There was no sales evidence attached to this property.
 - (c) 10 Lord Wardens Avenue. This property is described by the Appellant as a detached house with a GEA of 161m² and a capital valuation at AVD of £185,000. The capital value per square metre was 1,149.06. This property was advertised for sale by Ulster Property Sales in July 2005 at offers around £167,500 but there was no evidence of the sale price achieved.
 - (d) 7 Lord Wardens Court. This property is described by the Appellant as a detached house with a GEA of 146m² and a capital valuation at AVD of £175,000. The capital value per square metre £1,198.63. This property was advertised for sale by Ulster Property Sales in July 2005 at offers around £179,950 but there was no evidence of the sale price achieved.
18. The tribunal considered the foregoing information and made an assessment of the usefulness or otherwise of the evidence concerning potentially comparable properties.
19. The appellant submitted in evidence a carefully prepared table of the comparables set out at paragraph 17 and calculated that the capital value of the subject property was high at £1,328.12 per square metre. The tribunal felt unable to attach significant weight to this argument as the comparables proposed by the appellant were significantly larger than the subject property and the tribunal is bound by the statutory basis for capital value assessment contained in the 1977 Order.
20. The tribunal was satisfied that the comparable properties submitted in evidence by the Respondent were direct and fair. They are of similar size and construction and are all located in the same development. The tribunal considered the most useful comparables to the tribunal's determination were 3 Lord Wardens Parade and 26 Lord Wardens Manor. The most useful comparable was 3 Lord Wardens Parade which achieved a sale price of £159,950 on 19th August 2004 and had an unchallenged capital value at AVD of £170,000.

21. The appellant submitted that 3 Lord Wardens Parade although described as an identical house type to the subject property may contain many expensive extras. Mr McGrath in his oral evidence to the tribunal confirmed that 3 Lord Wardens Manor had been inspected by a suitably trained person after the sale of said property on 19th August 2004 and that this inspection was not a kerbside inspection. Mr McGrath submitted that he could confirm to the Tribunal that there was nothing out of the ordinary in relation to the internal fittings for 3 Lord Wardens Parade.

22. The subject property is an identical house type to 3 Lord Wardens Parade and in addition the subject property has a conservatory with a GEA of 13m2 which was in place at AVD. The tribunal was satisfied that the conservatory would have a sales value. The subject property was purchased on 25th August 2005 for £168,000 having been marketed for sale by UPS for £170,000 in July 2005. On the basis of the sales evidence in respect of the subject property and the sales evidence in respect of 3 Lord Wardens Manor (an identical property but without a conservatory) together with the unchallenged capital value assessments for the four similar properties referred to in the appellant's schedule of comparisons the tribunal was satisfied that the valuation shown on the valuation list in relation to the subject property is fair and reasonable.

23. The tribunal is very grateful to the appellant for the time and effort he has taken in preparing detailed written submissions and to Mr McCullough for his oral submissions. The tribunal has carefully examined all of the evidence and all of the arguments in this case and finds that there is insufficient evidence to displace the statutory presumption that "any valuation shown in the valuation list with respect to a hereditament 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 27th November 2008 is upheld and the appeal is dismissed.

Ms Monica McCrory, Chair
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties