

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

CASE REFERENCE NUMBER: 35/08

ANDREW HUGH ALLAN NELSON

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").
2. The appellant by Notice of Appeal received by the Office of the Tribunal on 29th 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 24 Mount Merrion Avenue, Belfast BT6 0FR (“the property”).

3. All parties to the Appeal had indicated that they were content to rely on written representations and in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 an appeal may be disposed of on the basis of written representations if all parties have given their consent in writing to that course.

The Law

4. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).
5. The tribunal considered the terms of Schedule 12 of the 1977 Order as amended which states as follows:
 - 5.1 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.
 - 5.2 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

6. The following documents were before the Tribunal;
 - Notice of Appeal received by the Office of the Tribunal on the 29th December 2008
 - The Commissioner's Decision on Appeal dated 27th November 2008
 - Respondent’s "Presentation of Evidence" dated 23rd January 2009

- Letter dated 2nd February 2009 from the appellant by way of further submission to the tribunal enclosing details of properties for sale at 25 & 35 Mount Merrion Avenue and 2 Mount Merrion Drive
- Correspondence between the Tribunal and the parties.

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

The Facts

7. On the basis of the information before it the tribunal determined the following facts upon the balance of probabilities. The property:-
 - is a semi-detached house of brick and block construction with tiled pitched roof constructed in or around 1955 with a garage
 - has a gross external area (“GEA”) of 84m²
 - has oil fired central heating and main services
 - is situated in a development of similar type properties off Rosetta Road in east Belfast
8. The capital value was assessed as at 1st January 2005 (the antecedent valuation date, or “AVD”) at a figure of £127,500.

THE RESPONDENT’S CONTENTIONS

9. 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 five comparables in total, three being capital value assessment only (stated to be “unchallenged”) and two being capital value assessments, taken together with sales particulars having varying degrees of proximity in time to AVD.

THE APPELLANT'S CONTENTIONS

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

- 10.1 The property had been valued in January 2004 at £89,950 by Halifax Estate Agents. The property next door at No. 26 Mount Merrion Avenue, Belfast was at the same time advertised for sale at £110,000
- 10.2 The property at 26 Mount Merrion Avenue had been renovated and extended with a new kitchen and bathroom and the valuers had put a difference of £2,500 after appeal on the two properties which was amazing considering the difference in the condition of the two properties
- 10.3 The annual growth rate of property in Northern Ireland was 13% according to the University of Ulster for the year 2004
- 10.4 The appropriate capital valuation for the property is £100,000

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 £127,500. 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, 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. Some of the arguments advanced by the appellant are not permissible under the statutory framework. In the Notice of Appeal the appellant states that the annual growth rate of properties in Northern Ireland according to the University of Ulster was 13% for the year 2004. 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. The appellant submitted the subject property had been valued by Halifax Estate agents in January 2004 following the death of his father at £89,950 and the next door property at No. 26 Mount Merrion Avenue was for sale at the same time at £110,000. The tribunal had no further information before it regarding the valuation by Halifax Estate Agents and accordingly was unable to confirm that the valuation had been carried out in accordance with the statutory basis for capital assessment contained in the 1977 Order.
17. The schedule of comparables submitted by the Respondent were as follows:-
 - a) 23 Mount Merrion Avenue. This is a semi-detached house of the same age and construction and located in the same development with a GEA of 86m² and a garage. It had a capital value at AVD (unchallenged) of £130,000.
 - b) 28 Mount Merrion Avenue. This is a semi-detached house of the same age and construction and located in the same development with a GEA of 84m² and a garage. It had a capital value at AVD (unchallenged) of £130,000.

- c) 30 Mount Merrion Avenue. This is a semi-detached house of the same age and construction and located in the same development with a GEA of 84m2 and a garage. It had a capital value at AVD (unchallenged) of £130,000.
 - d) 26 Mount Merrion Avenue. This is a semi-detached house of the same age and construction and located in the same development with a GEA of 94m2 and a garage. It achieved a sale price on 14th April 2004 of £117,000 and had a capital value at AVD (unchallenged) of £130,000.
 - e) 16 Mount Merrion Drive. This is a semi-detached house of the same age and construction and located in the same development with a GEA of 89m2 and no garage. It achieved a sale price on 3rd June 2004 of £125,000 and had a capital value at AVD (unchallenged) of £130,000.
18. The appellant furnished the tribunal with details downloaded from propertynews.com of properties for sale being Nos. 25 & 35 Mount Merrion Avenue and No. 2 Mount Merrion Drive. The tribunal could not attach significant weight to this evidence as the tribunal did not have details of the GEA of these properties, their capital value assessments, sales completed rather than sales agreed and the evidence was not considered sufficiently proximate in time to the AVD (1st January 2005) as they were currently on the market for sale.
19. The tribunal considered the schedule of comparables submitted by the Respondent and made an assessment of the usefulness or otherwise of the evidence concerning potentially comparable properties.
20. The appellant submitted No 26 Mount Merrion Avenue had been extended to include a kitchen and bathroom. The tribunal noted that No. 16 Mount Merrion Drive with a GEA of 89m2 and no garage achieved a sale price of £125,000 on the 3rd June 2004 and No 26 Mount Merrion Drive being a larger property with a GEA of 94m2 and a garage achieved a lower sale price of £117,000 on 14th April 2004. The tribunal was satisfied that size was not the only factor determining value. However it appeared common ground between the appellant and the respondent that No 26 Mount Merrion Avenue had been upgraded. The appellant stated in the Notice of Appeal that the subject property was in poor condition. . The Respondent relied on and is entitled to rely on the statutory assumption that the property is in an average state of internal repair and fit out having regard to the age and character of the hereditament and its locality. The tribunal noted that the capital value of the subject property had been reduced by the District Valuer by £2,500 due to the property having a poorer quality light weight garage when compared to the garage at 26 Mount Merrion Avenue.

21. The appellant did not challenge the comparables at No 23, 28 and 30 Mount Merrion Avenue and 16 Mount Merrion Drive. The tribunal was satisfied that these comparables were direct and fair. They were of similar size and construction and are all located in the same development as the subject property. The property at No. 16 Mount Merrion Drive (a slightly larger property than the subject property but with no garage) had achieved a sale price of £125,000 on 3rd June 2004. The sales evidence of No 16 Mount Merrion Drive of £125,000 some six months before AVD would suggest a capital value assessment of the subject property of £127,500 is fair and reasonable.

22. The tribunal having examined all of the evidence and all of the arguments in this case did not find that the appellant had produced sufficient 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