

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

CASE REFERENCE NUMBER: NIVT 30/08

SAMUEL AND BARBARA HAIRE – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O'Neill

Members: Mr Tim Hopkins FRICS and Mr Kenneth Donaghey

DECISION

The unanimous decision of the tribunal is that the appeal is allowed and that the capital value of the property referred to below be assessed at £340,000 and the tribunal directs that the valuation list be altered accordingly.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). One of the appellants, Mr Samuel Haire appeared at the tribunal and represented himself. The Commissioner for Valuation (“the Commissioner”) was represented by Ms Gail Bennett and Mr Martin McGrath.
2. The appellant by Notice of Appeal dated 28 September 2008, appealed against the decision of the Commissioner (on appeal) dated 22 July 2008, time for the appellant to deliver a Notice of Appeal having been extended to 1st October 2008 by an Order of the President of the Northern Ireland Valuation Tribunal under Rule 9(2)(d) of the Valuation Tribunal Rules (Northern Ireland) 2007.
3. This appeal is in respect of the valuation of a hereditament situated at 21 Glenmachan Drive, Belfast, BT4 2RE (“the property”).

The law

4. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). These provisions have been fully set out in other decisions of the Northern Ireland Valuation Tribunal so it is not proposed to fully rehearse them in this decision. All the relevant statutory provisions were fully considered by the tribunal in deciding this case.

The evidence

5. The tribunal heard oral evidence from Mr Haire one of the appellants and also from Ms Bennett and Mr McGrath on behalf of the Commissioner. In addition the tribunal had before it the following documents:
 - (a) The Commissioners Decision on appeal dated 22 July 2008;
 - (b) The appellants’ Notice of Appeal dated 28 September 2008;
 - (c) Order of the President of the Northern Ireland Valuation Tribunal dated 2 October 2008 extending the time for delivery of Notice of Appeal
 - (d) A document entitled ‘Presentation of Evidence’ prepared on behalf of the Commissioner by Ms Bennett and submitted to the tribunal for the purposes of the hearing;
 - (e) Written submissions by the appellant including various appendices.

The facts

6. The property consists of a detached dwelling-house situated at 21 Glenmachan Drive, Belfast BT4 2RE (‘the property’). The property was built in 1989. It has a gross external area of 197m². It has a double garage and a conservatory. The accommodation comprises 2 reception rooms, a kitchen, 5 bedrooms (1 ensuite) and a bathroom. The property has the benefit of full oil fired central heating. The capital value was initially assessed at £390,000 and following a review was reassessed at £395,000. The District Valuer amended the capital value to £365,000. This figure was reduced by the Commissioner for Valuation on appeal to £350,000. The appellant appeals this decision to the tribunal.
7. The Commissioner’s Presentation of Evidence to the tribunal is that in that in deciding the capital value of the property regard was had to (i) certain

assessments in the valuation list considered comparable; and (ii) market sales of properties in the same development. Details of these comparable properties are set out in a schedule to the Presentation of Evidence, with further particulars of same, including, in some instances, photographs of the comparable properties. Six comparables are referred to: three being assessments and with sale particulars and three being capital value assessments only. A copy of the Presentation of Evidence was supplied to the appellant and on the morning of the hearing the appellant provided an amended written submission to answer contentions as set out in the Presentation of Evidence. Time was afforded to the representatives of the Commissioner to consider the appellant's written submissions and then the matter proceeded to oral hearing.

The appellant's submissions

8. The appellant made the following submissions:

(a) That the Commissioner has relied on 3 valuations as follows:

(i) *19 Glenmachan Drive* – sold on 9 August 2005 on the open market for £330,000.

(ii) *8 Glenmachan Drive* – sold on 13 September 2005 for £340,000 and

(iii) *2 Glenmachan Grove* – sold in July 2005 for £350,000.

Therefore the open market value of 3 comparable properties in August/ September/July 2005 provided evidence of a consistent pricing level. However this is not the relevant capital valuation date which is 1 January 2005 and the housing market in general was subject to an period of inflation during this period.

(b) That 19 Glenmachan Drive provided the best comparison in that it was an identical type of house. Adjusting its valuation from £330,000 when it was sold on 9 September 2005 to 1 January 2005 (and making adjustments in respect of the fact that No 21 has the benefit of a conservatory and a garage space conversion) a more realistic valuation of the property was in the region of £286,500 to £309,500.

(c) The other comparables provided are not suitable for comparison purposes. Nos 4 and 29 Glenmachan Drive are not reliable for

comparison purposes as these have been listed for revision as alterations carried out at construction stage in 1989 have not been taken into account.

- (d) The appellant asserted the valuation of No 12 Glenmachan Drive is incorrect in that it has a larger conservatory and a larger garage roof space conversion.
- (e) Therefore as the assessments in Glenmachan Drive have flaws only sales figures are suitable for comparison purposes.

The Tribunal's Decision

9. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. The submissions on behalf of the Commissioner contend that the capital value is fair and reasonable having regard to other properties and the statutory basis for valuation as set out in Schedule 12 to the 1977 Order in arriving at that assessment.
10. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the 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 to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.
11. The appellant referred to the three sales:
 - 19 Glenmachan Drive* – sold on 9 August 2005 on the open market for £330,000. The Presentation of Evidence on behalf of the Commissioner confirmed that from their records the property was marketed in the Spring of 2005 at an asking price of £325,000. Their research at the time included discussions with the selling agent and established that bids were at £330,000 in May 2005.
 - 8 Glenmachan Drive* – sold on 13 September 2005 for £340,000 and *2 Glenmachan Grove* – sold in July 2005 for £350,000. The Presentation of Evidence indicated that both these properties were on the market in early 2005. No indication was given as to what is meant by 'early'. It further noted

that these capital values were reduced on application to the District Valuer to their respective figures of £340,000 and £350,000. These reductions were agreed with the occupiers.

12. The appellant therefore accepted the open market values of the three properties mentioned above as correct. However the appellant contended that while these figures represented the open market value in the Summer of 2005 they did not represent the value at 1 January 2005. He submitted evidence of various house price indices not to establish a definitive figure for house price inflation at this time but rather as evidence of the fact that there was house price inflation in existence and that therefore the fact that no adjustment had been made for capital values as at 1 January 2005 was not correct.
13. The appellant contested the nature of the comparables in the appendix to the Commissioners Presentation of Evidence challenging the appropriateness of using No 4 and No 29 Glenmachan Drive as comparables as they are listed for review by the District Valuer given that alterations have been made to the properties. Further he has contended that the valuation of the remaining comparable, No 12 Glenmachan Drive is incorrect in that while both it and No 21 have conservatories, No 12 has a larger garage roof space conversion and so has a greater floor area. The site size of No 12 appears to be much larger than No 21 but this was not taken into account.
14. The tribunal carefully considered the issue as to whether the appellant had provided sufficient challenge to the Commissioner's schedule of comparables. The tribunal accepts that given that the sale of No19 Glenmachan Drive took place on 9 August 2005, having been marketed in Spring 2005 with bids at £330,000 in May 2005. The tribunal accepts that it is not possible to apply house price indices to a valuation of a certain property at a certain date to prove the capital valuation of a certain property at another predetermined date. However the appellant has not used house price indices to assess a value at a certain date but as evidence to demonstrate that given there was house price inflation in existence this tends to show that an open market sale at a date some time after the antecedent valuation date is not fully reflective of the capital valuation at the capital value date. Therefore in this case the appellant's appeal is successful and the tribunal directs that the valuation list

be amended so that the valuation of the property at 21 Glenmachan Drive, Belfast be reduced to £340,000.

15. The tribunal is very grateful to both the Commissioner's representatives and the appellant for the skilfully prepared presentations to the tribunal both in written evidence and in oral presentation at the hearing of this matter.

Mr Charles O'Neill
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: