

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

CASE REFERENCE NUMBER: 08/09

MR. JAMES WESLEY STARR
– APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND
– RESPONDENT

Northern Ireland Valuation Tribunal
Date of hearing: 30th March 2009
Chair: Keith Gibson
Members: Mr William Moore and Mrs Sally Anne Lennon

DECISION AND REASONS

The Hearing

1. The Appellant appeared at the Tribunal and represented himself. The Respondent was represented by Mr Martin McGrath and Mr Peter Bell.
2. The property the subject of the appeal is 4 Baronscourt Drive, Carryduff, BT8 8RH. It comprises a house, a garage, and garden. It is a detached two storey bungalow of relatively recent construction, being built in 1988 and situated in a concentrated residential area. It is located in a modern residential development and a large number of the properties surrounding the property are of a similar nature and type. Access to the property is along an adopted road. It is in good repair. Its gross external area is 131 m². The house has 4 bedrooms, two reception rooms, a bathroom and an ensuite. There is full oil central heating and a garage, which is a single garage attached to the property.
3. The Respondent assessed the capital value of the property as £200,000 as at 1st January 2005, the relevant capital valuation date (hereinafter referred to as the 'AVD'). The Appellant appeals against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").

The following documents were before the Tribunal;

- Notice of appeal dated 16th January 2009
- Commissioner's decision dated 23rd December 2008
- Respondent's presentation of evidence and written responses to those of the appellant, including photographs.

- Written submissions of the appellant
 - Correspondence between the Tribunal and the parties.
4. The tribunal reserved its decision. This notice confirms that decision and contains the tribunal's reasons for the decision in accordance with Rule 19 of The Valuation Tribunal Rules (NI) 2007.

The Law

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

The tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which states as follows:

(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.

(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.

6. The assumptions mentioned in paragraphs 9 to 15 are set out below;
9. The sale is with vacant possession.
10. The estate sold is the fee simple absolute or, in the case of a flat, a lease for 99 years at a nominal rent.
11. The hereditament is sold free from any rentcharge or other incumbrance.
12. —(1) The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.
- (2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.
- (3) In sub-paragraph (2) "relevant date" means 1st April 2007 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.
13. The hereditament has no development value other than value attributable to permitted development.
14. —(1) A hereditament falling (or deemed to fall) within any sub-paragraph of Article 39(1A) will always fall within that sub-paragraph.
- (2) A hereditament falling (or deemed to fall) within paragraph (1B) of Article 39 will always fall within that paragraph.
15. —(1) There has been no relevant contravention of—
- (a) any statutory provision; or

(b) any requirement or obligation, whether arising under a statutory provision, an agreement or otherwise.

(2) In sub-paragraph (1) "relevant contravention" means a contravention which would affect the capital value of the hereditament.

7. 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 and Submissions

8. The tribunal heard evidence from the appellant, and from Mr. McGrath on behalf of the respondent.
9. The Appellant made the following submissions:-
- a) The property was placed on the open market with UPS at an asking price of £199,950 and subsequently agreed for sale on 2nd February 2006 at the said asking price. On the basis that the price of properties was uniformly increasing between 2005-2006, the house could not therefore have been worth £200,000 at the Antecedent Valuation Date (AVD). In support of this proposition the Appellant quoted from University of Ulster's (UU) housing price index which showed house prices in Northern Ireland increased by 20% in 2005.
 - b) The reduction the Appellant is seeking is to £182,000 based not on the UU's 20% but on the percentage increase of 10.28% used by the LPS when adjusting sale figures in the Baronscourt area from the sale dates to the AVD. He pointed out that in his written evidence Mr. McGrath said that a sale seven months after the AVD confirmed this upward trend continued.
 - c) Unlike many of the houses in Baronscourt the appellant's property did not have double glazing. No evidence was introduced to show if there was double glazing in any of the comparables.
 - d) Baronscourt Drive is a main estate road giving access to several cul-de-sacs traffic on it is therefore a busier road than any of the comparisons quoted by Mr. McGrath and would have a lower value because of this.
 - e) The subject is overshadowed by the gable wall of house 17 in the Danesfort development.

The following submissions were made on behalf of the Commissioner:-

- a) The capital value assessment of the subject was carried out in accordance with the provisions of the Rates (Northern Ireland) Order 1977

- b) Sales evidence in the development support the assessment of £200,000.
- c) Tone of the list is now established for this development and the valuation must rest within that tone.
- d) The UU index is non specific and can't be used to establish valuation growth in a particular development and its use for specific properties has been rejected by previous Tribunals.
- e) Before building of the Danesfort development commenced the subject had an open aspect to the rear which it has now lost. No addition was made to the capital value for the open aspect therefore no reduction could be made when it was lost.
- f) The subject is overlooked by a small window with obscured glass in the gable of 17 Danesfort. All the comparisons listed are within the Baronscourt development and are overlooked to a greater degree by surrounding properties. Mr McGrath produced photographs showing the overlooking/overshadowing in the Baronscourt development.
- g) Mr McGrath rejected the Appellants claim that houses in the Drive would have a lower value than those in the adjoining cul-de-sacs and referred to the sales of 10 Baronscourt Drive and 8 Baronscourt Mews.

10. The respondent's presentation of evidence contained details of a number of comparables which were all located within the vicinity. These were:-

- 10 Baronscourt Drive, Carryduff, 115m², valued at £170,000 and sold on the 2nd July 2004 for £163,000,
- 8 Baronscourt Mews, Carryduff, 116m², valued at £170,000 and sold on the 24th October 2004 for £166,000,
- 42 Baronscourt Avenue, Carryduff, 122m², valued at £185,000,
- 34 Baronscourt Avenue, Carryduff, 131m² and valued at £205,000,
- 3 Baronscourt Gardens, Carryduff, 131m² and valued at £205,000 and sold on the 6th December 2002 for £177,000,
- 1 Baronscourt Glen, Carryduff, 139m² and valued at £205,000,
- 16 Baronscourt Gardens, Carryduff, 141m² and valued at £205,000 and sold on the 17th June 2003 for £182,500,
- 1 Baronscourt Gardens, Carryduff, 141m² and valued at £205,000 and sold on the 28th July 2004 for £198,000, and finally
- 4 Baronscourt Lane, Carryduff, 144m² and valued at £220,000 and sold on the 24th June 2005 for £235,000

The Tribunal's Findings

- 11. The tribunal is unable to accept the appellant's assertions that the location of his property with regard to its position in the development in any way should materially affect his valuation with reference to the other comparables. The appellant's property is surrounded on all sides by other

properties and as a matter of fact the tribunal finds that the impact of any further development would be negligible. A similar approach was taken in respect of the issue of double glazing. The presence of double glazing, whilst it may attract a potential buyer is not a factor which materially affects the tone of the list and its inclusion or absence in a property is not of material concern.

12. The list of comparables was extensive and had effectively set the tone of the list. The only complicating factor and the issue which the Tribunal had to address was whether the fact that the appellant's property had sold on the open market for £200,000 some 14 months after the AVD in a rising market established that the capital value should be adjusted.

The relevant law is as below:

7. —(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.

(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.

13. The law and duty on the Commissioner is clear, in making his decision regard must be had to the comparables in the same state and circumstances. The Commissioner is under no duty to investigate from the houseowner as to potential circumstances or evidence which might cause the specific entry to be varied. The Commissioner is only under a duty to have regard to the various comparables in coming to his decision. The onus of proof is on the appellant to prove that this approach is flawed or that the Commissioner has in some way erred in his duty.
14. The appellant in this particular case is unable to do so. The evidence of the sale of his property in a rising market should be disregarded. There are many individual and particular reasons as to why one property may be sold for more or less than a comparable one and it would be wrong to take a subsequent sale into account and assume that the rise or fall in house prices should be applied universally.
15. The Tribunal finds as a matter of fact that the tone of the list is well settled in this area and nothing in the appellant's submissions indicate that any factor has been taken into account which should not have been or which was not taken into account which should have been.

Decision

16. The Tribunal's unanimous decision is therefore that the appeal be dismissed.

**Mr. Keith Gibson, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: