

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NO: 29/09

DANIEL ADAIR – APPELLANT

and

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

Belfast – 9 November 2009

CHAIRPERSON: Mrs Mary O'Neill
MEMBERS: Mr Tim Hopkins, FRICS
Mr David Rose

DECISION

The unanimous decision of the Tribunal is that this 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. There was no appearance before the Tribunal by or on behalf of the Appellant or the Respondent, both parties having indicated that each was content to rely on representations in writing. In accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 an Appeal may be disposed of on the basis of a written representation if all the parties have given their consent in writing to that course.
3. The property which is the subject of this Appeal is a hereditament situated at 15 Dorchester Gardens, Ballybought, Newtownabbey, BT36 5JJ (the subject property).
4. The hereditament is a detached two storey house of brick/cement render finish and tile pitched roof construction with uPVC double glazing. It has a Gross External Area (GEA) of 161m². The subject property also has oil fired central heating, and integral garage, is situated on a corner site and is well located of the main Ballyhenry Road, with good access to the Sandyknowes Roundabout and M2 motorway.

5. The Capital Value Assessment (CVA) of the subject property is £165,000 as at 1 January 2005.
6. The following documents were before the Tribunal.
 - A Notice of Appeal against the valuation for rating purposes from the Appellant and received by the Tribunals Unit on 29 June 2009.
 - Letter from the Appellant dated 25 June 2009.
 - A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Henry Walls BSc.
 - Letter and enclosure from the Appellant dated 19 September 2009.
 - Letter of 3 November 2009 from the Appellant (and attachments).
 - Correspondence between the Tribunal and the parties.

THE LAW

7. 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;

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.

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 COMPARABLES

8. The subject property is noted at position number 1 in the "Presentation of Evidence" prepared by Mr Walls. It is recorded as a 1980's detached house with a GEA of 161m² with a single integral garage on a corner site within Dorchester Gardens. It has a Capital Value of £165,000. The Tribunal noted that Mr Walls for the Respondent confirms in his "Statement of Evidence" that he has "inspected the property on 11 February 2009" and is "content that the details held by LPS on this property and presented to this Tribunal in evidence are accurate and properly represent the property".

Property Number 2

19 Dorchester Gardens, Newtownabbey is also noted to be a 1980's detached house with a GEA of 161m² with a single integral garage and is identical to the subject property. The Tribunal took note of the fact that the Capital Value of £165,000 has not been challenged.

Property Number 3

10 Dorchester Gardens, Newtownabbey is also a 1980's detached house with a GEA of 161m² containing a single integral garage and is a two storey dwelling of the same size as the subject property with a Capital Value of £165,000; which was not challenged.

Property Number 4

9 Dorchester Gardens, Newtownabbey is a property identical to the subject property being a 1980's detached house with a GEA of 161m² with a single integral garage. It also has a Capital Value of £165,000; which was not challenged.

Property Number 5

16 Dorchester Gardens, Newtownabbey, is a 1980's detached house with a GEA of 155m² with an integral garage and it was noted to be similar to the subject property but with no gable window to the first floor conversion above the garage. This property had a Capital Value of £160,000; which was not challenged.

Property number 6

21 Dorchester Gardens, Newtownabbey is a 1980's detached house with a GEA of 154m² with an integral garage which was similar to the subject property with a conversion over the garage but slightly smaller. This property had a Capital Value of £160,000; which was not challenged.

Property Number 7

23 Dorchester Gardens, Newtownabbey is a 1980's detached house with a GEA of 149m² and an integral garage. This property was noted to be similar although smaller than the subject property but did not have a first floor conversion above the garage. It has a Capital Value of £155,000; which was not challenged.

Property Number 8

22 Dorchester Gardens, Newtownabbey is a 1980's detached house with a GEA of 139m² and an integral garage. This was similar to the subject property but had no first floor conversion above the garage and was a slightly smaller dwelling. This property had a Capital Value of £150,000; which was not challenged.

9. The Appellant, in his letter of 3 November 2009, appeared to challenge the GEA measurement of the subject property and appeared to do so by relying on measurements for the net internal area. The Respondent confirmed and the Tribunal accepted that the measurements of the subject property, which were verified by Mr Walls on his inspection and detailed by LPS; is based on the property's Gross External Area (GEA).

10. In his letter of 19 September 2009 the Appellant further queried the Capital Value Assessment for number 23 Dorchester Gardens, Newtownabbey. The Respondent has confirmed that this valuation is based on the data records held by LPS, those records do not show any conversion work on the first floor above the garage and reflects that the assessment of the Capital Value of £155,000 was based on the property being a detached dwelling with a Gross External Area (GEA) of 149m² and an integral garage. The Respondent has further indicated that the valuation list is continually being updated and amended to take account of ongoing changes to properties and have confirmed that if number 23 Dorchester Gardens has been altered or extended in any way, including by a possible roof space conversion, then its Capital Value will have to be revised by the District Valuer to reflect the value added by such alterations.
11. The Appellant, in his letter of 19 September 2009 also raises issues in respect of the NAV of various properties. The Respondent has confirmed, and the Tribunal accept, that these relate to a previous valuation list which is now closed and that the Respondent has assessed the Capital Value of these properties against current legislation and have indicated that the relevance of previous valuations would be of no assistance to the Tribunal.

THE TRIBUNAL'S DECISION

12. 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 a figure of £165,000. 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 (Schedule 12 being the statutory basis of assessment of the Capital Value – that is to say the amount, taking into account certain assumptions, which 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).
13. In these matters there is a statutory presumption 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. Thus, any Appellant must successfully challenge and displace the presumption of the correctness; otherwise the appeal will not be upheld.
14. 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.
15. In determining this case, the Tribunal has considered and taken into account 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.

16. The Tribunal having considered the written submissions from both the Appellant and the Respondent and having considered at length the comparables before it and the evidence presented are satisfied that in accordance with Schedule 12 to the 1977 Order that the most appropriate comparable properties in the same state and circumstances as the subject property are properties 2, 3 and 4 listed in the Appendix to the "Presentation of Evidence" provided by the Respondent. These properties have been assessed as having Capital Values of £165,000. The Tribunal finds that the Capital Value of the subject property is consistent with these properties.

The Tribunal has also considered properties referred to at numbers 5, 6, 7 and 8 of the Appendix to the "Presentation of Evidence" and on the basis of evidence currently available, are satisfied that each of these properties have a smaller Gross External Area (GEA) and are therefore not appropriate comparables.

In all of the above circumstances and in light of the evidence currently available and the findings above the Tribunal are satisfied that the valuation shown on the valuation list in relation to the subject property is correct.

17. The unanimous decision of the Tribunal is that this Appeal is dismissed.

Mary O'Neill
Northern Ireland Valuation Tribunal

Date decision recorded in Register and issued to parties: