

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

Case Reference Number: 18/12
APPELLANT – JOHN MCCLORY
RESPONDENT – COMMISSIONER FOR VALUATION
Chairman - Mr Michael Flanigan
Members – Mr David McKinney and Mr Peter Somerville

Hearing: 28th January 2013

Decision and Reasons

The Hearing

1. Neither the Appellant nor the Respondent appeared and both parties relied on their written submissions only.
2. The subject property (“the premises”) in this appeal is situated at 58 Ballynafoy Road, Ballynaskeagh, Banbridge, BT32 5DN. The property is owned but not occupied by the Appellant. The property is a single storey, pre 1919 built detached cottage with single storey extension to the rear and a detached garage.
3. On the 14th May 2012, the Commissioner of Valuation on appeal confirmed the capital valuation of the premises in the sum of £77,500. The appellant appealed against that decision under Article 54 Rates (Northern Ireland) Order 1977.
4. The following documents were before the Tribunal;
 - 4.1 Notice of Decision dated 14th May 2012
 - 4.2 Notice of Appeal dated 13th June 2012
 - 4.3 Respondent’s Presentation of Evidence

Evidence and Submissions

5. The appellant’s appeal was based upon the condition of the premises and the submission that council building control department had found the premises to

have “damp throughout requiring a full damp course in order to be made habitable”. The appellant submitted that as the remedial works recommended by building control had not been carried out the premises were uninhabitable. The appellant sought a reduction in the capital valuation due to the condition of the premises.

6. The respondent in their Presentation of Evidence relied upon the capital valuation given to comparable properties, one of which, 50 Ballynafoy Road, Banbridge, was in close proximity to the premises. The premises at 50 Ballynafoy Road, Banbridge had a capital valuation of £80,000 which was unchallenged.
7. The inspection of the premises by the respondent established that the dwelling had been vacant for five years and that externally the premises were in average repair for its age and type of construction. The roof profile was sound with no slipped or missing slates and the render work on the building façade was generally sound although on the right hand side elevation it was noted that the render work had come off the scratch coat in line with the chimney breast. The survey acknowledged that the premises suffered from both rising damp and penetrating damp although this was not found to be severe. The respondent further relied upon the statutory assumption that for the purposes of valuation the premises must be considered to be internally in a state of average repair.

The Law

8. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”)
9. The Tribunal considered the terms of Schedule 12 of the 1977 Order as amended by the 2006 Order 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.

7.2 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 assumptions mentioned in paragraphs 9-15 of the 2006 Order include at 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.”

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.

Decision of Tribunal

10. The Tribunal at the hearing of, an appeal is empowered to make any decision that the Commissioner might have made, and to make an alteration to the valuation list to give effect to its decision. The work of the Tribunal is bound by the provisions of Article 54 (3), which directs that any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown. The respondent submitted a schedule of comparables to support the capital valuation given to the premises of £77,500. The Tribunal was satisfied that the comparables submitted by the respondent were of properties in a similar state and circumstances as the subject property. The capital valuation of £80,000 attached to 50 Ballynafoy Road, Banbridge was considered to be particularly relevant.

11. The appellant had relied upon the assessment by a building control officer that certain works had to be carried to make the house habitable. The appellant did not submit any other survey report on the premises. The appellant did not submit copies of any correspondence or notices issued by the council in support of the appeal.

12. The condition of the premises is clearly relevant to the capital valuation of the property i.e. what the hereditament might reasonably be expected to realise that if it had been sold on the open market by a willing seller on the 1st January 2005. The fact that the premises required a damp proof course was not in dispute. The fact that the appellant had not carried out certain recommended works was a matter between the appellant and the council. The powers of the council to issue directions to a landlord to carry out certain works are the subject of an entirely different set of regulations from those which govern the rating of domestic dwellings. The Tribunal noted the case of *Wilson V. Josephine Coll (Listing Officer)* (2011) EWHC 2824 as authority for the submission that a dwelling continues to be rated even if it requires major repair to make it habitable. The respondent submission was that the capital valuation of £77,500 adequately reflected the current condition of the premises. The tribunal noted that the appellant had not sought to challenge any of the comparable valuations relied upon by the respondent and accordingly the tribunal was satisfied that the capital valuation of £77,500 adequately reflected the condition of the premises when compared to the capital valuations attached to similar properties.

13. Examining the facts of the matter and the written submissions from both parties the tribunal's unanimous decision is that the Commissioners decision on appeal is upheld and the appeal is dismissed.

Michael Flanigan, Chairman
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 15 February 2013