

NORTHERN IRELAND VALUATION TRIBUNAL

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

CASE REFERENCE NUMBER: 20/13

CYRIL GILHAWLEY – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mrs Barbara Jemphrey

Members: Siobhan Corr and David Rose

Belfast, 30th April 2014

DECISION

The unanimous decision of the Tribunal is that the decision of the Commissioner of Valuation for Northern Ireland is not upheld and the Tribunal determines that the Capital Value of the subject property in the Capital Valuation list is properly to be amended to a figure of £195,000 and the Tribunal orders that the list be amended accordingly.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”).
- 1.2 By a Notice of Appeal dated 10th July 2013 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) dated 18th June 2013 in respect of the Valuation of a hereditament situated at 27 Aughrim Road, Belcoo East, Belcoo, Enniskillen, BT93 5FL.
- 1.3 The Appellant appeared in person and the Respondent was represented by Michael McGrady and Karen McCullagh.

2. The Law

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

2.1 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 purpose 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.

2.2 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.

3. The Evidence

The Tribunal heard oral evidence from the Appellant and Michael McGrady and Karen McCullagh on behalf of the Respondent. The Tribunal had before it the Appellant's Notice of Appeal dated 10th July 2013 and copies of various documents including the following:-

3.1 The Commissioner's Decision on Appeal dated 18th June 2013.

3.2 A document entitled "Presentation of Evidence" submitted on behalf of the Respondent by Karen McCullagh of Land and Property Services.

3.3 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.

4. The Facts

4.1 The hereditament is a detached property situated at number 27 Aughrim Road, Belcoo East, Belcoo, Enniskillen, BT93 5FL (the Subject Property). The Tribunal had no other information neither regarding the title to the Subject Property nor regarding its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.

4.2 The Subject Property is a detached two storey property built circa 1966. It has a gross external area (GEA) of 265.44m² and garage of 28m².

4.3 The Capital Value Assessment of the Subject Property was initially £185,000. The Respondent was subsequently notified by Building Control that a sunroom and garage had been constructed. An inspection was carried out in January 2013 and the Capital Value amended to £200,000. At this time the recorded

gross external area was 242m² and 28m² garage. The Appellant appealed against this decision and a further inspection of the property was carried out on 14th June 2013. This inspection revealed an error had occurred as the sunroom had been omitted from the previous measurements. The correct gross external area was recorded as 265.44m² and 28m² garage.

4.4 In arriving at the Capital Value Assessment figure regard was had to the 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 the Schedules to the "Presentation of Evidence" submitted on behalf of the Commissioner. There were a total of 8 comparables within the locality. Further particulars of the comparables and the Subject Property were provided.

4.5 The Capital Value Assessments of the comparables were all unchallenged.

5. The Appellant's Submissions

5.1 The emphasis of the Appellants comprehensive submissions was that the comparable properties selected by the Respondent differed in three main aspects; construction, location and access to amenities from the Subject Property:

1. Construction: The Appellant highlighted at length to the Tribunal a number of construction defects which affected the Subject Property.
2. Location: The Appellant contended that the subject property's position on a main road made it subject to noise from fast moving vehicles.
3. Access to amenities: The Appellant highlighted the subject property was further away from local amenities than comparable properties.

5.2 The Appellant considered these aspects to be highly detrimental to the Subject Property and argued the Capital Value should be adjusted accordingly.

6. The Respondent's Submissions

6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 of the 1977 Order that "regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances" was duly observed.

6.2 The Respondent carried out an inspection of the subject property which revealed that the property had work carried out and that the previous record of the Subject Property's gross external area was inaccurate. This was corrected following the inspection by the Respondent.

7. The Tribunal's Decision

- 7.1 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital Value has been assessed at the Antecedent Valuation Date of 1st January 2005 as a figure of £200,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and the statutory basis for valuation has been referred to and especially reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.
- 7.2 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: "*On an appeal under this Article, any valuation shown in a 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 on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.
- 7.3 The Tribunal considered that it can be difficult to apply comparables for properties in rural locations given the wide variety of styles, age and geographical location. Consideration was given to each of the comparables submitted in evidence. The Tribunal considered that the best three comparable properties were 28 Roscar Lane, 10 Manger Road and 71 Lattone Road as they were of a similar size to the subject property, located in the same electoral ward and were a similar distance to local amenities.
- 7.4 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is sufficient evidence to support the Appellant's submissions. The Appellant has displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property 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 is not upheld and the Capital Valuation List be properly amended to a figure of £195,000.

Barbara Jemphrey

Northern Ireland Valuation Tribunal

Date 18th June 2014