

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

CASE REFERENCE NUMBER: 30/12

MICHAEL TERENCE NICKLE – APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mrs Barbara Jemphrey

Members: Siobhan Corr and David Rose

Belfast, 8TH May 2013

DECISION

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland is upheld and the Appellant's appeal is dismissed.

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 received on 3rd August 2012 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 22nd June 2012 in respect of the Valuation of a hereditament situated at 32 Sandown Road, Belfast BT5 6GY.
- 1.3 There was no appearance before the Tribunal by or on behalf of the Appellant or the Respondent, both parties being content to rely on written representations.

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**

- 2.1 The Tribunal heard no oral evidence the parties being content that the case be heard on the basis of written representations. The Tribunal had before it the following documents:-

3.2 The Commissioner’s Decision on Appeal dated 22nd June 2012.

3.3 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Ronan McKenna of Land and Property Services.

3.4 Notice of Appeal.

3.5 Correspondence between the parties.

3.6 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 terrace house situated at 32 Sandown Road, Belfast BT5 6GY (the Subject Property). The Subject Property was stated to be owned by the Appellant whom the Tribunal understood to be the rate payer. The Tribunal had no other information either 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 of traditional construction with solid brick walls and a slate roof. It has a gross external area (GEA) of 111m².
- 4.3 The Capital Value Assessment of the Subject Property is £110,000.
- 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 on the Commissioner. There were a total of 5 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided.
- 4.5 The Capital Value Assessments of the Comparables were all unchallenged.

5. The Appellant's Submission

The Appellant, in summary, has made the following submissions:-

- 5.1 The subject property is situated backing on to a very busy noisy and polluting large yard comprising several businesses including a garage, paint shop, car body repair workshop and an exhaust and tyre centre. Some businesses operate seven days a week and late into the night.
- 5.2 The access to the yard for vehicles is via an entry which is directly behind the property. This is noisy and dangerous. It contains deep puddles.
- 5.3 The property is located facing onto a public car park. Noise and light affect the property from cars using the car park late at night.

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 cvmparables strongly supported the Capital Valuation.
- 6.3 The car park and commercial premises to the rear of the property have been in operation for some time and therefore would have been reflected in the Capital Value Assessment.

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 £110,000. 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 saw nothing in the approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal to suggest that the matter had been assessed in anything other than the prescribed manner. The statutory mechanism has been expressly referred to in the Commissioner's submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above.
- 7.5. The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellants Submissions. The Appellant has not displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property is shall be deemed to be correct until the contrary is shown. Accordingly the Tribunal's unanimous decision is that the Commissioners Decision on Appeal dated 22nd June 2012 is up held and the Appeal is dismissed.

Barbara Jemphrey
Northern Ireland Valuation Tribunal

15 May 2013