

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT8/13**

**ALBERT BAIRD - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Alan Reid, LL.B.
Member: Mr Chris Kenton BSc (Est.Man.) FRICS**

Date :

DECISION

The unanimous decision of the Tribunal is that the Notice of Decision on Appeal of the Commissioner of Valuation for Northern Ireland in respect of the valuation of the property at 30 Ballynahinch Road, Crossgar, Downpatrick County Down BT30 9HS as contained in the Notice of Decision dated 10th May 2013 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 dated 18th May 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 10th May 2013 in respect of the Valuation of a hereditament situated at 30 Ballynahinch Road, Crossgar, Downpatrick County Down BT30 9HS.
- 1.3 The parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 ("the Rules") and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

- 1.4 The Appeal was listed for determination by the Tribunal on 20th March 2014. On that date one of the Tribunal members was unavailable. Rule 4(3) of the Valuation Tribunal Rules (Northern Ireland) 2007 provides that an Appeal can be considered and determined in the absence of any one member other than the Chairman provided the parties consent. The Secretary to the Tribunal contacted the parties by telephone and the parties confirmed their consent to the Appeal being determined by two Tribunal members.

2. **The Law**

The relevant statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The statutory provisions regarding the basis for valuation are contained in Article 8 of the 2006 Order which amended Article 39 of the 1977 Order and have been fully set out in numerous previous decisions of this Tribunal. The Tribunal does not therefore intend in this decision to fully set out the statutory provisions of Article 8.

3. **The Evidence**

The Tribunal heard no oral evidence but had before it copies of various documents including the following:-

- 3.1 Valuation Certificate issued by the Commissioner of Valuation on 8th April 2013 with covering letter to the Tribunal dated 23rd May 2013 indicating that the Appeal Certificate was dated 14th May 2012
- 3.2 The Appellant’s Notice of Appeal dated 18th May 2013
- 3.3 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Andrew Magill MRICS of Land and Property Services and received by the Tribunals Unit dated 6th August 2013.

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**

Based upon the information before it the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a detached bungalow constructed post 1990 on the edge of the village of Crossgar and situated at 30 Ballynahinch Road, Crossgar, Downpatrick County Down BT30 9HS (“the Subject Property”).
- 4.2 Its gross external area (“GEA”) is 297 m² with a detached garage of 44 m². The Tribunal understood the Appellant to be the occupier and rate payer

in respect of the property. The Tribunal had no other information 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. The Subject Property is a detached chalet bungalow of mostly block construction with a pitched tile roof located approximately 0.3 miles from the centre of Crossgar. There is a commercial workshop on the opposite side of the road from the Subject Property.

- 4.3 The Subject Property had originally been entered into the Capital Valuation List as a 200 m² detached bungalow with a single garage of 28 m² and on that basis the Capital Value had been assessed at £245,000.00.
- 4.4 On 11th September 2012 the Subject Property was reassessed to take account of a roof space conversion which had not been considered in the original Valuation. A double garage of 44 m² had also been constructed in place of a previous single garage of 28 m². The Capital Value of the Subject Property was amended to £330,000.00 to take account of those factors.
- 4.5 In arriving at the Capital Value Assessment figure of £330,000.00, regard was had to the Capital Value Assessments of other properties in the Valuation List considered comparable. These comparables were set out in a Schedule to the "Presentation of Evidence" submitted on behalf of the Commissioner. There were a total of five comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and of all of the comparables.
- 4.6 The Capital Value Assessments of all of the comparable properties were unchallenged.

5. The Appellant's Submission

The Appellant, in summary, made the following submissions in his Notice of Appeal:-

- 5.1 The Capital Valuation of the Subject Property could only be altered if there had been a change in the structure of the Subject Property after 1st January 2005. The alterations to the property comprising the roof space conversion had been in place prior to 1st January 2005. The double garage had been constructed after 2005 and had cost approximately £20,000.00 and therefore could not have added more £25,000.00 to the Capital Valuation of the property as at 1st January 2005. The Appellant was of the view that the Capital Valuation as at 1st January 2005 should therefore be £270,000.00.
- 5.2 The Appellant was also of the view that the Capital Valuation of the Subject Property was adversely affected by the commercial traffic relating to the commercial property opposite and that this needed to be taken into account in assessing the Capital Value.

- 5.3 The Appellant in his Notice of Appeal explained that the construction of the detached garage at the Subject Property had been undertaken for health and safety reasons.
- 5.4 The Appellant did not submit any evidence with regard to any suggested comparable properties in support of his claim that the Capital Valuation of the Subject Property was incorrect or had been inaccurately assessed.

6.The Respondent's Submissions

In summary, the following submissions were made on behalf of the Commissioner -

- 6.1 Although there was a workshop on the opposite side of the road from the Subject Property any extra volume of traffic was insignificant.
- 6.2 Although the roof space conversion of the Subject Property had indeed existed prior to the Antecedent Valuation Date ("AVD") of 1st January 2005 it had not previously been included in the GEA for the Subject Property and had therefore not been valued. The revised assessment of £330,000.00 for the Capital Value of the Subject Property includes both the additions for the roof space conversion and the double garage.
- 6.3 The Capital Value Assessment of the Subject Property had been carried out in accordance with the legislation contained in the 1977 Order. In particular as required by Schedule 12 of the 1977 Order regard was had to the Capital Values of other properties in the Valuation List.
- 6.4.1 The first comparable put forward by the Respondent was No 23 Ballynahinch Road, Crossgar. This was a detached house constructed post 1990 with a GEA of 264 m² and no garage. It was on the opposite side of the road from the Subject Property and close to the commercial premises referred to in the Appellant's Notice of Appeal Its GEA was 33 m² less than the Subject Property. It had a Capital Valuation of £300,000.00 which had not been appealed or challenged.
- 6.4.2 The second comparable put forward by the Respondent was No 36 Abbeyview Road, Crossgar. This, like the Subject Property was a post 1990 detached bungalow with a GEA of 297.53 m² and a garage of 49 m². It had an unchallenged Capital Value of £330,000.00.
- 6.4.3 The third comparable put forward by the Respondent was No 128 Drumnaconagher Road, Crossgar. Again this was a post 1990 detached bungalow. It had a GEA of 231.2 m², some 66 m² smaller than the Subject Property but had a garage with a GEA of 53.2 m² which was somewhat larger than the garage at the Subject Property. It had an unchallenged Capital Value of £260,000.00.
- 6.4.4 The fourth comparable put forward by the Respondent was 43 Kilmore Road, Crossgar. Again this is a post 1990 detached bungalow. It had a GEA of 233 m² which was 64 m² smaller than the Subject Property. It had a similar size garage to the Subject Property. Its unchallenged Capital Value was £270,000.00.

- 6.4.5 The fifth comparable put forward by the Respondent was at 127 Listooder Road, Crossgar. This was another post 1990 detached bungalow with a GEA of 236 m², a conservatory of 15 m² and a garage of 41 m². Its unchallenged Capital Value was £280,000.00
- 6.5 The Respondent contended that having had regard to the other Capital Values of properties in the Valuation List the Capital Value of £330,000.00 assessed for the Subject Property was “in tone” and should remain unchanged.

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 for the Subject Property has been assessed at the AVD at a figure of £330,000.00. On behalf of the Commissioner it has been contended that that figure is fair and reasonable when compared to other properties. The statutory basis for valuation has been referred to and, in particular, 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”*. The onus is therefore upon 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 In this case 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 on anything other than the prescribed manner provided for in Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner’s submissions to the Tribunal and the Tribunal noted the evidence submitted as to comparables. The Tribunal accordingly 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 it or the arguments made by the Appellant are sufficient to displace the statutory presumption. Those arguments have been summarised above.
- 7.5 Schedule 12 of the 1977 Order requires that in assessing the amount which the Subject Property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant AVD (in this case 1st January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the

same state and circumstances. The Respondent has put forward a number of comparable hereditaments the details of which are referred to in paragraphs 6.4.1 to 6.4.5 inclusive above.

- 7.6.1 The comparable at 23 Ballynahinch Road, Crossgar is located near to the Subject Property and closer to the commercial premises referred to by the Appellant in his Notice of Appeal. It would be similarly affected by any commercial traffic associated with the commercial premises. It has a smaller GEA than the Subject Property and no garage.
- 7.6.2 The comparable at 36 Abbeyview Road, Crossgar is almost identical in size to the Subject Property and with a similar size garage. Its Capital Value is £330,000.00, the same as the Subject Property.
- 7.6.3 The comparable at 128 Drumnaconagher Road, Crossgar is a smaller detached bungalow with a larger garage. Its Capital Value is £260,000.00.
- 7.6.4 The comparable at 43 Kilmore Road, Crossgar is again a smaller detached bungalow with a similar sized garage to the Subject Property and a Capital Valuation of £270,000.00
- 7.6.5 The comparable at 127 Listooder Road, Crossgar is again a smaller detached bungalow than the Subject Property with a similar sized garage. Its Capital Value was £280,000.00.
- 7.7 Whilst the Tribunal noted the reasons given by the Appellant for the construction of the detached garage at the Subject Property, such reasons are not relevant to the determination of the Capital Value in accordance with the relevant statutory provisions to which the Tribunal, like the parties, is obliged to have regard.
- 7.8 None of the Capital Values for the comparable properties put forward by the Respondent were challenged by the Appellant. Having carefully considered the particulars and Capital Values of all of the comparable properties put forward, the Tribunal is satisfied on the balance of probabilities that the comparables support the Respondent's contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £330,000.00 as it presently appears in the Valuation List.
- 7.9 Accordingly, the unanimous decision of the Tribunal is that the Appeal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland in respect of the Valuation of the property at 30 Ballynahinch Road, Crossgar, Downpatrick, County Down BT30 9HS as contained in the Notice of Decision dated 10th May 2013 is upheld and the Appellant's Appeal is dismissed.

**Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: