

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

**CASE REFERENCE NUMBER: NIVT 45/12**

**ALAN JOHNSTON – APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NI - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Date of hearing: 10 December 2012, reconvened 13 February 2013**

**Chair: Ms Sarah Ramsey**  
**Members: Mr Tim Hopkins and Mr Robert McCann**

**DECISION AND REASONS**

**The Hearing**

1. The Appellant, Mr Alan Johnston, appeared at the Tribunal. He was accompanied by Cllr Thomas Buchanan MLA. The Respondent was represented by Ms Karen McCullagh.
2. The property the subject of the appeal is 46 Woodbank Road, Omagh, BT79 ONB (the subject property).
3. The Respondent assessed the capital value (CV) of the property as £65,000. The Appellant appeals against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended (hereinafter the 1977 Order).
4. The following documents were before the Tribunal;
  - Commissioner's decision on appeal dated 31.07.12;
  - Notice of appeal along with grounds of appeal;
  - Respondent's presentation of evidence;
  - Correspondence between the Tribunal and the parties.
  - Correspondence from Cllr Thomas Buchanan MLA
  - Valuation certificate on the subject property dated 27 September 2012
  - Valuation on the subject property from Pollock estate agents dated 15 March 2012
5. The Tribunal heard evidence and submissions from Mr Johnston, Mr Buchanan and from Ms McCullagh.

6. In the course of the hearing Mr Buchanan MLA gave evidence of a similar property in the area which had had its capital value reduced. The Tribunal indicated a desire to have more information in relation to this piece of evidence and the hearing adjourned for this to be provided.
7. Mr Buchanan subsequently submitted a document, received in the Tribunal office 12 December 2012, identifying the property as 103 Cornavarrow Road, Dromore, BT78 3BW.
8. Mr Michael McGrady forwarded a response to Cllr Buchanan's correspondence by email communication of 12 December 2012.
9. The Tribunal reconvened on 13 February 2013 to consider these documents.
10. This notice communicates the Tribunal's decision and contains the reasons for the decision in accordance with Rule 19 of the Valuation Tribunal (NI) Rules 2007.

## **The Law**

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

12. The relevant legislation for the purposes of this appeal is 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.*

*(3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12.*

*(4) In sub-paragraph (1) "relevant capital valuation date" means 1st January 2005 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.*

### **Capital value – the assumptions:**

*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.*

*(2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.*

13. 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 Tribunal's Findings**

14. The issue before the Tribunal in this appeal is whether the capital valuation is correct.

### **Capital Value**

15. Ms McCullagh submitted that the statutory assumptions mean that the property is assumed to be in an average state of internal repair and fit out. An internal and external inspection was carried out on the property on 26 July 2012. She spoke with Mr Johnston and Mr Buchanan at the inspection. Ms McCullagh submitted the valuation was considered fair and reasonable in comparison to similar properties. She submitted that the capital value for the subject property was considered to be £65,000. She submitted that this reflected the tone of the list and the comparables in the area.
16. Mr Johnston submitted that the property should be valued at approximately £25,000 - £30,000. Mr Johnston did not provide any comparables to the Panel.
17. The Respondent's Presentation of Evidence describes the subject property as a privately built two bedroom cottage which is constructed of single stone walls built before 1919, located on Woodbank Road off Deverney Road on the outskirts of Omagh. The property has timber framed double glazed windows, mains water, mains electricity and sewerage via a septic tank. The accommodation consists of ground floor one reception room, a kitchen a bathroom and two bedrooms and has a Gross external Area of 70m<sup>2</sup>. The Respondent identified minor dampness on the internal walls and identified some evidence of mould assessed as due to condensation caused by lack of ventilation.
18. The Respondent drew the Tribunal's attention to Mr Justice Singh's judgement in ***Wilson –v- Coll (Listing Officer) 2011 EWHC 2824 (Admin)***. In the case before the Tribunal the Appellant accepted the property was a hereditament by virtue of the proposed valuation of £25,000 - £30,000. In those circumstances, submitted the Respondent, the property should be deemed to be in an average state of internal repair and fit out.
19. The Respondent put forward evidence of five comparable properties in the area, all of which are in the same area as the subject property.
20. The property at 5 Lisnacreight Road Glassmullan Omagh BT78 5PG has a GEA of 70m<sup>2</sup>. It has mains water and electricity and a septic tank. Its value of £65,000 was unchallenged.
21. The property at 50 Woodbank Road BT79 ONB is on the same road as the subject property. It has a GEA of 73m<sup>2</sup>. It has Mains water, Mains electricity and a septic tank. Its value of £67500 was unchallenged.

22. The property at 46 Drumlish Road, Drumsheil, Dromore, BT78 3EN has a GEA of 73m<sup>2</sup>. It has mains water, mains electricity and a septic tank. Its value of £67,500 was unchallenged. The property at 19 Cappagh Road, Mountjoy East, Omagh, BT79 7JG has a GEA of 77m<sup>2</sup>. It has mains water, mains electricity and a septic tank. Its value of £72,500 was unchallenged (this valuation was prior to an Art 41 50% exemption).
23. The property at 46 Donaghanie Road, Garvaghy, Omagh, BT79 ONR has a GEA of 78m<sup>2</sup>. It has Mains water and mains electricity and a septic tank. Its value of £70,000 was not challenged.
24. All the above properties listed 16-19 are pre 1919 detached cottages and deemed to be Grade C – average repair.
25. The Appellant submitted the subject property is a small two bedroom cottage constructed of single stone walls built 1920. He asserted there is no damp proofing; the concrete floors are below ground level, that the walls show damp at ground level. The kitchen is small with no room for a table. The bathroom has no bath and there is only space for a shower and toilet with a small wash hand basin.
26. In the subsequent written communication from Mr Buchanan on Mr Johnston's behalf, Mr Buchanan drew the Tribunal's attention to the property at 103 Cornavarrow Road, Dromore, BT78 3BW which had had its value reduced from £78,000 to £77,500 to reflect repair of the property and no heating facilities. Following a secondary inspection an updated valuation was issued which represented a further reduction to £60,000. This property has a GEA of 100m<sup>2</sup>.
27. Mr McGrady submitted that in relation to this property the property had been valued at £95,000 but had been reduced by 25%-35% on account of external repairs being required, namely windows needing replaced, a new septic tank and a repair to one chimney stack.
28. The panel must apply the statutory presumptions set out in schedule 12 of the 1977 Order. These include the presumption set out at paragraph 12 of schedule 12 that the subject property is in an average state of internal repair and fit out having regard to the age and character of the property and its locality. The capital value of the subject property is therefore the amount it might reasonably have been expected to have realised if it had been sold on the open market by a willing seller on 1 January 2005 assuming it was in an average state of internal repair and fit out.
29. We have regard to the capital values in the valuation list for comparable properties as submitted by the Respondent. The panel was satisfied that, in accordance with schedule 12 paragraph 7 of the 1977 Order as set out above, the comparables submitted by the Respondent were appropriate being properties in the same area, state and circumstances as the subject property. We are satisfied that the capital value of the subject property is consistent with the properties put forward as comparables.

## **Decision**

30. The Appellant has not discharged the burden upon him to show that the valuation assessed for the subject property is not correct in accordance with paragraph 7 of Schedule 12 of the 1977 Order. In all of the circumstances and in light of the

findings above the Tribunal was satisfied that the valuation shown on the valuation list in relation to the subject property is correct.

31. The unanimous decision of the Tribunal is that the appeal is dismissed.

**Ms Sarah Ramsey, Chair  
Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties: *28 February 2013***