

**NORTHERN IRELAND VALUATION TRIBUNAL  
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE  
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007  
CASE REFERENCE NUMBER: NIVT12/15**

**ASHRAF AHMED - APPELLANT  
AND  
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -  
RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Alan Reid, LL.B.  
Members: Tim Hopkins FRICS and Garry McKenna**

**Date : 20<sup>th</sup> May 2016**

## **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 5 Drummond Manor, Ballyfinaghy, Belfast BT10 0DD as contained in the Notice of Decision dated 6<sup>th</sup> May 2015 is upheld in confirmation of the Capital Value of £210,000.00 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 22<sup>nd</sup> May 2015 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 6<sup>th</sup> May 2015 in respect of the Valuation of a hereditament situated at 5 Drummond Manor, Ballyfinaghy, Belfast BT10 0DD.
- 1.3 Prior to confirming its Decision the Tribunal identified what appeared to be an administrative error in the Valuation Certificate issued by the Commissioner on 6<sup>th</sup> May 2015 which, on the face of the Certificate indicated that the previous Capital Value Valuation of the hereditament had been £210,000.00 and that this had been revised to £250,000.00. It was apparent from the papers submitted by both parties to the Appeal to the Tribunal that the previous Valuation had in fact been £250,000.00 and

had been reduced to £210,000.00 and that it was the Capital Value figure of £210,000.00 which the Appellant sought to challenge. This was apparent from the Appellant's Form 3 Notice of Appeal and also from the response of the Commissioner's representatives. However, prior to confirming its decision the Tribunal sought and received from both parties to the Appeal written confirmation that the updated Valuation as confirmed by the Commissioner of Valuation in his Notice of Decision dated 6<sup>th</sup> May 2015 was intended to read £210,000.00 and the Tribunal has considered and determined the Appeal on that basis.

- 1.4 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.

## **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 6<sup>th</sup> May 2015 (but considered by the Tribunal as referred to at paragraph 1.3 above).
- 3.2 The Appellant's Notice of Appeal dated 22<sup>nd</sup> May 2015.
- 3.3 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Jonathan Maybin MRICS of Land and Property Services and received by the Tribunal on 7<sup>th</sup> January 2016.
- 3.4 A document dated 2<sup>nd</sup> February 2016 submitted by the Appellant in response to the presentation of evidence submitted on behalf of the Commissioner.
- 3.5 A further response dated 25<sup>th</sup> February 2016 submitted by Mr Maybin on behalf of the Commissioner in response to the Appellant's document dated 2<sup>nd</sup> May 2016.

- 3.6 A letter and Valuation Certificate both dated 13<sup>th</sup> November 2015 confirming a further alteration to the Capital Value of the property by the District Valuer to update the Capital Value of the hereditament from £210,000.00 to £220,000.00. This Valuation was not the subject of the Appeal dealt with by the Tribunal and was not therefore taken into account by the Tribunal in reaching this decision.

All of these documents had been provided to both 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 2.5 storey terraced property constructed in approximately 2011 and is situate at 5 Drummond Manor, Belfast BT10 0DD (“the Subject Property”).
- 4.2 The gross external area (“GEA”) of the Subject Property is 151 m<sup>2</sup> and for the purposes of this Appeal had an integral garage of 17 m<sup>2</sup>. The property has gas fired central heating with mains sewerage, electric and water. The Tribunal understood the Appellant to be the occupier and rate payer in respect of the property. The Subject Property is of brick construction with a pitched tiled roof. 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.
- 4.3 The Subject Property had previously been entered into the Capital Valuation List with a Capital Value of £250,000.00. A Certificate of Valuation was issued to that effect on 18<sup>th</sup> March 2015.
- 4.4 On 8<sup>th</sup> April 2015 the Appellant appealed the District Valuer’s decision to the Commissioner of Valuation. Following a review, the Commissioner reduced the Valuation to £210,000.00. This reduction apparently arose as a result of a Decision by the Commissioner Valuation to remove a 15% uplift that had been previously applied to the property for good repair. Whilst not strictly relevant to the issues in consideration in this Appeal, the Tribunal would observe that none of the members of the Tribunal, as constituted for the purposes of this Appeal, were aware of such a “15% uplift for good repair” having been applied in any previous case coming before any members of the Tribunal Panel and had this matter been proceeding as an oral hearing the Tribunal would have sought clarification from the Commissioner in relation to the matter. Nevertheless as it was not relevant to the issues under Appeal it has not been taken into account as a factor in determining this Appeal.

- 4.5 As referred to in paragraph 1.3 above, the Certificate of Valuation which was issued on 6<sup>th</sup> May 2015 purporting to confirm the revision of the Valuation at £210,000.00 in fact stated the revision to be £250,000.00. For the purposes of this Appeal however the Tribunal notes that the Certificate of Valuation was intended to read £210,000.00 and the Tribunal has deemed it so to have read for the purposes of this Appeal.
- 4.6. In arriving at the Capital Value Assessment figure of £210,000.00, regard was had to the Capital Value Assessments of other properties in the Valuation List considered comparable. These comparables were set out in an Appendix 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.
- 4.6.1 The first comparable was the property at 169 Finaghy Road South which had a GEA of 154 m<sup>2</sup> was comprised of 2.5 storeys and constructed around 2011 at approximately the same time as the Subject Property. It had an unchallenged Capital Value of £190,000.00.
- 4.6.2 The second comparable property was the property at 173 Finaghy Road South which again was constructed around the same time as the Subject Property in 2011 and had 2.5 storeys and full central heating. It had a GEA of 157 m<sup>2</sup> and had an unchallenged Capital Value of £190,000.00.
- 4.6.3 The third comparable was the property at 171 Finaghy Road South. It had a GEA of 139 m<sup>2</sup>. It was constructed in approximately 2011 and had 2.5 storeys and full central heating. It had an unchallenged Capital Value of £175,000.00.
- 4.6.4 The fourth comparable was the property at 4 Drummond Manor, Finaghy. It was again a 2.5 storey terrace property constructed around 2011 with full central heating. It had a GEA of 164 m<sup>2</sup> and an unchallenged Capital Value of £220,000.00.
- 4.6.5 The fifth comparable was the property at 6 Drummond Manor, Finaghy. Once again it was a 2.5 storey terrace property constructed around 2011 with full central heating. It had a GEA of 165 m<sup>2</sup> and an unchallenged Capital Value of £220,000.00.
- 4.7 The Capital Value Assessments of all of the comparable properties referred to above were unchallenged save as referred to in this Decision.

## **5. The Appellant's Submission**

The Appellant, in summary, made the following submissions in his Notice of Appeal and in his written submission to the Tribunal:-

- 5.1 The Capital Value Assessment of £210,000.00 for the Subject Property was excessive because other houses in the same street had lower valuations. The Appellant referred particularly to the property at No 169

- Finaghy Road South which has a Capital Value of £190,000.00, £20,000 less than the Subject Property. He also referred the Tribunal to the property at 167 Finaghy Road South which had a Capital Valuation of £290,000.00 and a GEA of 212 m<sup>2</sup>. The Appellant calculated this to be a value of £1,367.00 per m<sup>2</sup>. He calculated that the Subject Property with a GEA of 155 m<sup>2</sup> and a Capital Valuation of £210,000.00 had a value of £1,354.00 per m<sup>2</sup> and queried why a detached house should have nearly the same valuation per m<sup>2</sup> as the Subject Property.
- 5.2 The Appellant contended that he had purchased the Subject Property in November 2014 for £169,000.00 and that in view of various published statistics and price indices he suggested that house prices in the last quarter of 2014 were similar to house prices in early 2005. He contended that the Capital Valuation of £210,000 for the Subject Property was excessive.
- 5.3 The Appellant was of the view that the correct Capital Value of the Subject Property should be £180,000.00.

## **6. The Respondent's Submissions**

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

- 6.1 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.
- 6.2 It was submitted on behalf of the Commissioner that for the purposes of a revision to the Valuation List the relevant legislation requires that regard should be had to the assessment of other comparable hereditaments already in the Valuation List which were in the same state and circumstances as the Subject Property. The Tribunal's attention was drawn to the decision of Dawkins (VO) –v- Ash Bros and Heaton Ltd (1969) 2 AC 336 and to a previous decision of the Northern Ireland Valuation Tribunal, Michael Ballentine –v- Commissioner of Valuation (Case Reference 16/14) which, it was contended, had rejected the use of house price indices.
- 6.3 The Respondent did not accept that the property at 167 Finaghy Road South was in the same state and circumstances as the Subject Property because it was a detached house rather than a terraced house.
- 6.4 With regard to the property at 169 Finaghy Road South, whilst accepting that this property was similar in size and type to the Subject Property and was therefore a good comparable to the Subject Property, the Respondent was of the view that its Capital Valuation of £190,000.00 (£20,000.00 less than the Subject Property) was accounted for by the fact that 169 Finaghy Road South did not have a garage, was comprised of only 2 storeys rather than 2.5 storeys and was located on a more restricted site. These factors

- amongst others, in the Respondent's submission, explained why this property had a lower Capital Value of the Subject Property.
- 6.5 The Respondent referred the Tribunal to the adjoining properties in Drummond Manor namely Nos 1, 2,3, 4 and 6 Drummond Manor and contended that these were the best comparables for the Subject Property. These were all 2.5 storey terraced properties built in 2011. Three of them had GEA's of 166 m<sup>2</sup> and the other two of 164 m<sup>2</sup> and 165 m<sup>2</sup>. All five of the properties in question had Capital Values which had been revised by the District Valuer to £220,000.00 (in each case £10,000.00 more than the Subject Property).
- 6.6 The £10,000.00 difference in the Capital Value of the Subject Property compared to the other comparable properties in Drummond Manor was in the view of the Respondent explained by the fact that the Subject Property had a GEA of 151 m<sup>2</sup> and an integral garage of 17 m<sup>2</sup> whereas the other five properties in Drummond Manor referred to in paragraph 6.5 had converted the former integral garages on those properties into additional habitable space.
- 6.7 The Respondent was also of the view that the properties at 169, 171 and 173 Finaghy Road as referred to above supported the Capital Value of the Subject Property at £210,000.00. The Respondent contended that although they were of similar size to the Subject Property their other characteristics such as the lack of a garage on Nos 169 and 173 and the restrictive nature of the site of No 167 indicate that a Capital Valuation of £20,000.00 lower than the Subject Property is reasonable.
- 6.8 The Respondent contended that having regard to the other Capital Values of properties in the Valuation List, the Capital Value of £210,000.00 assessed for the Subject Property 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 Antecedent Valuation Date ("AVD") of 1<sup>st</sup> January 2005 at a figure of £210,000.00. 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 Appellants 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 Appellants are sufficient to displace the statutory presumption. Those arguments have been summarised above.
- 7.5 Whilst the Tribunal accepts that certain house price indices may well demonstrate that broadly speaking certain house types in 2014 had a generally similar valuation to similar house types in early 2005, the Tribunal does not accept that such percentage figures for general house price inflation can then simply be applied to an individual property to arithmetically determine the precise objective increase or decrease in value of that particular property for any specific period or at any specific time.
- 7.6 Similarly, the Tribunal does not accept that the Capital Value of a property can be determined or compared with the Capital Value of another property by comparing its size and Capital Value and arithmetically calculating the Capital Value per m<sup>2</sup> of either property.
- 7.7 Rather, 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 1<sup>st</sup> January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances. The Appellant and indeed the Respondent have referred the Tribunal to a number of potentially comparable hereditaments the details of which are referred to above.
- 7.8 The Tribunal has carefully considered the details and characteristics of all of the properties put forward by the parties as suggested comparable hereditaments in respect of the Subject Property. Having done so, the Tribunal is satisfied on the balance of probabilities that the most suitable comparable properties are the other properties in Drummond Manor at Nos 1, 2, 3, 4 and 6 Drummond Manor. These were all almost identical in size, age and location to the Subject Property and were all 2.5 storey terraced dwellings constructed in 2011. The only significant difference between these comparable properties and the Subject Property was that all of them had completed a conversion of the integral garage in each of

them to provide additional habitable space whereas, at the time of assessment of the Subject Property and for the purposes of this Appeal, the Subject Property had an as yet unconverted integral garage. Those dwellings in Drummond Manor with a converted garage had Capital Valuations in the Valuation List in the sum of £220,000.00 each, £10,000.00 higher than the Subject Property. The Tribunal was satisfied on the balance of probabilities that a differential of £10,000.00 for the Capital Value of the Subject Property in comparison to the other properties referred to in Drummond Manor was reasonable in view of its then unconverted integral garage.

7.9 The Tribunal is therefore satisfied on the balance of probabilities that the evidence before it supports the Respondent's contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1<sup>st</sup> January 2005 is £210,000.00 and that the Appellant's evidence and submissions are not sufficiently persuasive to displace the statutory presumptions as referred to above.

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 5 Drummond Manor, Ballyfinaghy, Belfast BT10 0DD as purportedly contained in the Notice of Decision dated 6<sup>th</sup> May 2015 in the sum of £210,000.00 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:**