

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

CASE REFERENCE NUMBER: 60/12

CYRIL KING - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr Tim Hopkins FRICS and Mr Alan Martin

DECISION

The unanimous decision of the tribunal is that the appellant's appeal against the Decision of the Commissioner of Valuation in respect of a Certificate of Valuation dated 2 October 2012 is dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant indicated in his appeal that he was content for the appeal to be disposed of by written representations and accordingly there were no appearances at the hearing of the matter. The matter was dealt with under the applicable procedure by the tribunal on Wednesday, 29 May 2012.
2. The appellant, by Notice of Appeal received by the Office of the Tribunal on 30 October 2012, appealed against the Decision of the Commissioner of Valuation in respect of Certificate of Valuation dated 2 October 2012 in respect of the valuation of a hereditament situated at 20 Desmond Avenue, Lurgan, Craigavon BT67 9EQ (" the property")

The Law

3. The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The tribunal, as is customary, does not intend in this decision fully to set out the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, for the reason that these provisions have been fully set out in many decisions of this tribunal, which are readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter.

The Evidence and Facts

4. The tribunal heard no oral evidence as this was an appeal disposed of, as agreed, by written representations. The tribunal had before it the appellant's Notice of Appeal to the tribunal (Form 3) and the following:-
 - 4.1 The Valuation Certificate dated 2 October 2012.
 - 4.2 The document dated 6 February 2013 entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Mr Gordon Bingham MRICS and submitted to the tribunal for the purposes of the tribunal hearing.
 - 4.3 Correspondence between the tribunal and the parties, including letters respectively dated 13 September 2012, 15 March 2013 and 13 May 2013 from the Appellant to the tribunal which, in effect, constituted written submissions to the tribunal.

5. The documentary evidence supports the conclusion that the property consists of a terraced dwellinghouse constructed about 1970 and situated at 20 Desmond Avenue, Lurgan, Craigavon BT67 9EQ. The appellant is understood to be the ratepayer. The property has a gross external area (“GEA”) of 120m² with a garage attached and located at the frontage of GEA 20m² and situated at the end of the rear garden is an outbuilding of GEA 13m². The property was further described in the Presentation of Evidence report (without objection by the appellant) as having block/brick construction, a tiled roof, uPVC double glazed windows, and full central heating (oil). It is also understood, on account of the location, that there is mains water, electricity and mains sewerage.
6. The rating history of the matter is that at revaluation in 2007 the property was assessed at a capital valuation of £77,500. The appellant then had constructed a sunroom to the rear and also an outbuilding at the end of the rear garden. The property was thereafter inspected in August 2012 and the District Valuer re-assessed the capital value at £90,000, with the effective date being 1 April 2013. The appellant appealed to the Commissioner of Valuation and a Certificate of Valuation dated 2 October 2012 was then issued confirming the capital valuation at £90,000. It is against that Certificate of Valuation dated 2 October 2012 that the appellant’s appeal now lies to this tribunal.
7. The Commissioner’s submission to the tribunal is that in arriving at the capital value assessment regard was had to the statutory basis of valuation and thus regard was had to the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the subject property. These “comparables” are set out in a schedule to the Commissioner’s Presentation of Evidence, with further particulars being given thereafter in respect of these comparables, including photographs. There are five comparables in addition to the property. It is perhaps fortunate that the property exists in an urban area where selection of potential comparables in relatively close proximity is readily possible.
8. The comparables in the Presentation of Evidence are indeed all located in very close proximity to the property. All were constructed about 1970. The brief particulars thus indicated are as follows:

(1) Number 22 Desmond Avenue, dwellinghouse GEA 110m², Garage GEA 20m², this being a terraced dwellinghouse – capital value (unchallenged) is £85,000;

(2) Number 18 Desmond Avenue; dwellinghouse GEA 100m², Garage GEA 19m², this being a terraced dwellinghouse – capital value (unchallenged) is £77,500;

(3) Number 24 Desmond Avenue; dwellinghouse GEA 121m², Garage GEA 21m², this being a terraced dwellinghouse – capital value (unchallenged) is £90,000;

(4) Number 23 Desmond Avenue; dwellinghouse GEA 122m², Garage GEA 32m², this being a semi-detached dwellinghouse – capital value (unchallenged) is £110,000; and

(5) Number 13 Desmond Avenue, dwellinghouse GEA 100m², no garage, this being a semi-detached dwellinghouse – capital value (unchallenged) is £87,500.

Copies of the Commissioner's Presentation of Evidence and of the other documentation has been provided to the appellant. The appellant has responded to the forgoing by raising in his letters respectively dated 15 March 2013 and 13 May 2013 various issues which shall be summarised and addressed below.

THE SUBMISSIONS

9. The appellant, in summary, has made the following points in his appeal submissions:-

9.1 The valuation does not take proper account of the distinction between mid-terraced and end-terraced houses and between these and semi-detached houses. The valuation does not take proper account of the construction of the garage to the frontage with consequent drawbacks and restrictions and the loss of frontage and the necessity to have a flat roof, with consequent repairing issues.

9.2 The valuation does not take proper account of access issues from the rear of the property with lack of ready vehicular and other access to the front.

9.3 The valuation does not take proper account of rainwater drainage issues, with consequent adverse effects upon the property.

9.4 The correct valuation, taking account of these things, should be £85,000.

10. For the respondent, those issues raised by the appellant in the appeal prior to the date of the Presentation of Evidence have been addressed and responded to in the Presentation of Evidence. Therein, specific reference is made to the issue of examination of similar properties in the Valuation List, including both terraced and semi-detached houses in the neighborhood. It is contended that the values for terraced houses range from £77,500 to £90,000, with larger properties being valued higher. It is contended that the valuation of £90,000 fits well when compared to other terraced houses of a similar size. Although semi-detached houses are assessed somewhat higher, in the case of the property this is somewhat larger than the majority of semi-detached houses located upon Desmond Avenue. The matter of the rear access raised by the appellant is mentioned in the Presentation of Evidence, with the observation being made that access from the gate at the rear of the garden leads to open space, with access being possible to an alleyway leading to the front of the property. The issue of the removal of rainwater raised by the appellant is also mentioned in the Presentation of Evidence, with the observation being made that the arrangements for drainage affecting numbers 18, 20, 22 and 24 Desmond Avenue, and particularly the drainage arrangements for drainage in respect of both numbers 18, 20 draining into the rear of the property, are a fairly typical arrangement for terraced houses. It is contended that there are no repair or drainage issues resulting and nothing arising therefrom to impinge upon capital valuation issues.

THE TRIBUNAL'S DECISION

11. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed, with reference to AVD, being the date 1 January 2005, at a figure of £90,000. The appellant contends in this appeal that that figure ought properly to be £85,000. On behalf of the Commissioner it has been contended that the figure of £90,000 is fair and reasonable in comparison to other properties. 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.

Schedule 12 provides that the assessment of capital value is made (based upon certain statutory assumptions) by assessing what 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 (in this case AVD).

12. In carrying out this exercise, one accordingly assesses the current situation and circumstances of any property and then, in effect, projects the capital valuation back to the deemed AVD value. In carrying out that task, the comparative method is employed by examining the capital values of comparable properties, these being ideally properties located in relatively close proximity to the subject property (as is so in this case) and having similar characteristics and circumstances. The tribunal also notes the statutory presumption contained within the 1977 Order, Article 54(3). Thereby, any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal, the appellant must therefore either successfully challenge and displace that statutory presumption of correctness or the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.
13. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner as provided for in Schedule 12 of the 1977 Order. The tribunal thus examined the essential issue of whether or not the appellant had put forward sufficient challenge to the Commissioner's evidence of comparables or otherwise sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation.
14. The issues raised by the appellant in this appeal can be broadly divided into three matters. Firstly, it is contended that the valuation does not take proper account of the distinction between mid-terraced and end-terraced houses and between these and semi-detached houses; it is further stated that the valuation does not take proper account of the construction of the garage to the frontage, with consequent drawbacks and restrictions. In regard to that first issue, the tribunal notes the evidence generally concerning this topic and particularly the evidence given in the

papers as to the comparative method of valuation that has been employed in this case, as is required by the statutory regime. The tribunal specifically notes the particulars of the comparables as stated and has carried out an exercise in cross-comparison, taking into account the various relevant factors. In the light of the appellant's arguments and contentions, the tribunal nonetheless determines that the statutory presumption of correctness has not been effectively displaced by the weight of any evidence or submissions made by the appellant. As mentioned, in order to succeed in an appeal, the appellant must provide evidence and argument of sufficient weight to successfully challenge and displace that presumption. Whilst the appeal has raised issues that have been carefully and fully noted, the tribunal's finding is that the evidence of the comparables, on balance, supports the correctness of the assessment of capital valuation at £90,000 in regard to the property, and that is nonetheless so taking into account the distinction between mid-terraced and end-terraced houses and between these and semi-detached houses in this locality and any available evidence in regard to that issue.

15. Turning then to the second issue, the tribunal notes the specific points made by the appellant in contending that the capital valuation does not take proper account of access issues from the rear of the property, with lack of ready vehicular and other access to the front. Again, the tribunal has noted what the respondent has had to say regarding that issue. The tribunal's finding is that the evidence of the comparables and the general and specific circumstances supports the capital valuation of £90,000 in regard to the property, when these specific access issues are taken into account.
16. Dealing finally with the third issue, the tribunal notes the specific points made by the appellant in contending that the capital valuation does not take proper account of rainwater drainage issues, with consequent adverse effects upon the property. The tribunal has taken account of what the respondent has had to say regarding that issue. The tribunal's finding is that the evidence, in the light of this issue, yet again supports the capital valuation of £90,000 in regard to the property, when these rainwater drainage issues are taken into account.
17. The unanimous decision of the tribunal accordingly is that the appeal does not succeed and the appellant's appeal is dismissed.

**Mr James V Leonard, President
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: