

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: 50/12

MICHAEL GRANT - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr Tim Hopkins MRICS and Ms Angela Matthews

DECISION

The unanimous decision of the tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal 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 21 February 2013.

2. The appellant, by Notice of Appeal received by the Office of the Tribunal on 19 September 2012, appealed against the decision of the Commissioner of Valuation by Certificate of Valuation dated 27 September 2012 in respect of the valuation of a hereditament situated at 10 Dunwish Road, Calkill, Omagh BT78 5PH ("the property").

The Law

- 3.1 The primary statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”) and, as applicable, by subsequent legislation. 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.
- 3.2 The relevant statutory provisions in respect of completion notices are to be found at Schedule 8B of the 1977 Order. The Rates (Unoccupied Hereditaments) Regulations (Northern Ireland) 2011 (“the 2011 Regulations”) provide that, from 1 October 2011, domestic buildings and parts of buildings as well as non-domestic buildings or parts of buildings became subject to rating, with certain statutory exceptions which are set forth in the Schedule to the 2011 Regulations. In summary, the effect of Article 25A and Schedule 8A of the 1977 Order, when read with the 2011 Regulations, prescribe that rates are payable on unoccupied domestic property at the same level as if the property were to be occupied.

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 and the following:-
- 4.1 The Commissioner's Decision by Valuation Certificate dated 27 September 2012.
- 4.2 The document dated 14 January 2013 entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Mr Patrick Quigley MRICS and submitted to the tribunal for the purposes of the tribunal hearing.
- 4.3 Any relevant correspondence between the tribunal and the parties.

5. The property consists of a dwellinghouse situated at 10 Dunwish Road, Calkill, Omagh BT78 5PH. The appellant is understood to be the ratepayer. The property is a detached bungalow, constructed circa 2011, with block cavity construction walls, unrendered and with a slate roof. The property has a gross external area ("GEA") of 133.70m² and has a garage of GEA 65.00m². The property was further described in the Presentation of Evidence report as having uPVC double glazed windows throughout, mains water, mains electricity and septic tank sewerage system, and with full central heating system (type of system not stated in the Presentation of Evidence but presumed to be oil). The ground floor accommodation comprises one reception room, a kitchen, one bedroom and a bathroom. It is also stated in the Presentation of Evidence that there exists a first floor with potential for two further bedrooms. The property has been classified as having three bedrooms. It is confirmed in the respondent's report that, at time of inspection, all doors and windows were installed and the property was watertight. It is further confirmed that, internally, the property had some works left to be conducted before it could be considered complete; the kitchen and bathroom facilities were not yet installed at the date of inspection and there was no finished flooring, merely sub-flooring. The capital value under appeal was assessed as at 1 January 2005 (that being the antecedent valuation date, or "AVD") at a figure of £135,000. The history of the matter is that a completion notice was served on the property on 29 March 2012; the property was on 22 June 2012 entered into the capital valuation list at a figure of £135,000; on 3 September 2012 the case was closed, with the capital valuation figure being affirmed as correct by the Commissioner.

6. 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 of the comparables. There are five comparables in addition to the property. The respondent's submitted comparables, with GEA values for both dwellinghouse and (if applicable) garage, and with ascribed capital values (presumed to be unchallenged) consist of the following:-

- The subject property at 10 Dunwish Road, Calkill, Omagh BT78 5PH (particulars as above stated);
- 28 Drumlegagh Road South, Tully, Omagh BT78 5NG, GEA 134.90m², Garage GEA 31.20m² (£140,000);
- 65 Drumlegagh Road South, Lisnacreaght, Omagh BT78 5PQ, GEA 140.00m², Garage GEA 36.00m² (£145,000 unadjusted);
- 25 Cashty Road, Beragh, Omagh BT78 5RH, GEA 141.00m², Garage GEA 23.70m² (£125,000 unadjusted);
- 85 Beltany Road, Mountjoy Forest, West Division, Omagh BT78 5NL, GEA 145.00m², Garage GEA 39.00m² (£140,000); and
- 77A Botera Road, Corlea, Omagh BT78 5LQ, GEA 155.60m², (no garage) (£135,000).

Copies of the Commissioner's Presentation of Evidence and of the other documentation have been provided to the appellant. The appellant has not responded any further thereto by making any additional submissions to the tribunal to add to the points contained in the Notice of Appeal.

THE SUBMISSIONS

7. The appellant has made the following points in his appeal submissions:-
 - 7.1. "I have two independent valuations averaging £80,000"
 - 7.2. "Location to local amenities is 4 miles"
 - 7.3. "No street lighting or street cleaning"
 - 7.4. "No bus service"
 - 7.5. "No main sewers"

8. For the respondent, the forgoing issues raised by the appellant have been addressed and responded to in the Presentation of Evidence. Firstly, the approach to the assessment has been explained in the context of the property being vacant and the subject of a statutory completion notice and the statutory provisions mentioned above have been briefly alluded to in the Presentation of Evidence. The tribunal notes that the appellant's appeal does not either expressly or by implication

take issue with the application of any of these above-mentioned statutory provisions to the property but merely mentions the points as set out in the preceding paragraph.

9. For the respondent, reference has been made to the applicable legislation and to the general statutory basis upon which assessments of capital values are conducted, this being with reference to the antecedent valuation date (“AVD”). Reference has been further made on behalf of the respondent to the statutory requirement to have regard to the capital values of other (comparable) properties. The comparable properties selected by the respondent are set out in the appendix to the Presentation of Evidence. It is submitted on behalf of the Commissioner that the comparables are all located in rural neighbourhoods outside Omagh and are all somewhat distant from local amenities and services and that most of these comparables are served by septic tanks and are not on direct access to bus services.
10. Regarding the other matter raised by the appellant, where it is stated that the appellant has two independent valuations (of the subject property) averaging £80,000, the submission is made on behalf of the Commissioner that current market value is of no relevance in assessing the valuation of the property for rating purposes in view of the various assumptions as to repair which must be made and the requirement to adhere to the antecedent valuation date (“AVD”) as the relevant reference date for valuation.

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 regarding capital value. In this case the capital value has been assessed at AVD at a figure of £135,000. The appellant has suggested in this appeal that the figure ought properly to be £80,000, in place of the assessed figure. Dealing firstly with this issue, for this is a well-established point but sometimes misunderstood by appellants, a contemporary (and indeed what might be an entirely accurate and expertly-assessed) valuation (or average of two valuations) of any property under appeal, misunderstands the basis upon which capital values are assessed for domestic rating purposes under the statutory provisions mentioned above. The valuation must be made in reference to AVD. On behalf of the Commissioner it has been submitted that the valuation figure of £135,000 is fair and

reasonable. Reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment and this 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 (AVD). In carrying out this exercise, one assesses the current situation and circumstances and projects the capital valuation back to the deemed AVD value. There is no evidence that the valuation figure of £80,000 (being the average of the two valuations indicated by the appellant) was indeed projected back in notional terms to AVD and it is very probably a contemporary valuation figure. Whilst that is not expressly stated by the appellant it is certainly implied and there is no indication made that it is referable in any manner to AVD. Thus, any contemporary valuation does not assist the tribunal and so the tribunal can attach no weight to that.

12. Regarding the remainder of the points made by the appellant, in the light of the respondent's submissions and the law, the tribunal carefully examined the evidence to be gained from the comparables in order to examine the application by the respondent of the statutory considerations to the assessed capital value of the subject property. 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 and having similar characteristics and circumstances. That exercise appears to have been correctly and adequately conducted by the respondent.
13. There is a statutory presumption contained within the 1977 Order, Article 54(3), whereby any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown. As has been often mentioned in decisions of this tribunal, in order to succeed in an appeal the appellant must 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. It has to be noted that the appellant, in this appeal, did not directly challenge any of the comparables identified in the presentation of evidence, but instead he relied upon the points mentioned above which relate to such matters as absence of amenity and remote

location. Examining the comparables and the evidence to be taken from these, the capital values illustrate valuation information of properties which to a greater or lesser degree also have such absence of amenity and remote location, which factors must properly to be taken as reflected in the (unchallenged) comparable capital values ascribed.

14. Noting all of the evidence as presented to the tribunal, the tribunal's conclusion is that the appellant has not placed before the tribunal sufficient evidence, information and argument to enable the statutory presumption of correctness in respect of the capital value assessment to be displaced.

15. The tribunal concludes that the Commissioner's assessment of capital value in respect of the subject property at a figure of £135,000 is not self-evidently or manifestly incorrect. Examining the evidence of the comparable properties and the other evidence and arguments put forward, the tribunal on balance sees nothing to permit this appeal to succeed. The Commissioner's Decision on Appeal is accordingly upheld and the appeal is dismissed.

Mr James V Leonard, President
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 20 March 2013