

NORTHERN IRELAND VALUATION TRIBUNAL

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

Douglas Hughes – Appellant

and

The Commissioner of Valuations for Northern Ireland – Respondent

Chairman - Mr Michael Flanigan

Members – Mr David Rose and Mr Philip Murphy

Decision and Reasons

1. The Respondent appeared and the Appellant was represented by Gareth Hughes. Both parties had prepared detailed submissions and the Tribunal is grateful to both parties for those.
2. The subject property (“the property”) in this appeal is situated at 4b East Stableyard, Gosford Castle, Mullaghbrack Road, Hamiltonsbawn, BT601FP. The property is 167m² mid terrace house. The property was one unit in the converted stables attached to the original Gosford Castle a grade A listed building. The conversion of the stables was part of the overall conversion of Gosford Castle for residential units.
3. On 12th May 2010 the premises entered the valuation list with a capital valuation of £330,000. The appellant had sought a revision in July 2015 and at that time the District Valuer reduced the capital valuation to £285,000 effective from 1st April 2015. The Appellant has appealed against that decision under Article 54 Rates (Northern Ireland) Order 1977 by way of Notice of Appeal received by the tribunal on 20 May 2016.

4. The Tribunal considered the appeal papers including the submissions, the comparables relied upon by both parties and the sales figures.
5. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 ("the 1977 Order") as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order")
6. The Tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which states 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.

7.2 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.

7. 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.
8. In Northern Ireland the relevant capital valuation date is and has been since the introduction of the Order the 1st January 2005.
9. The development appears to have been a particularly ill-starred one. It was originally envisaged that the castle and its stables would be converted and developed into a range of different sized units. Those in the castle itself were expected to attract the highest prices. In 2008 The Dining Room House had an asking price of £1,600,000. Houses in the converted stable and outbuildings were considerably lower in value and the asking price for the appellant's property was £599,000. It was

envisaged that the development when finished would have various lifestyle features such as tennis courts. Ultimately only part of development was ever completed. While the conversion of the stables including the property was almost completely finished, significant aspects to the development remained unfinished. The life style features and much of the landscaping were never added. The Tribunal was advised that the reduction in capital value from £330,000 to £285,000 in April 2015 was due to the failure to include the lifestyle features. In addition the driveway and parts of the road surface around the castle remain untarmacked. Many of the units within the castle are unfinished. There is no management company in place to carry out maintenance and repairs or take out block insurance. Those who did buy in the development have had to insure their own units and make ad hoc arrangements for maintenance of common areas.

10. The appellant purchased the property in 2012 for £135,000. The appellant submitted 3 different sets of comparables using different parameters. Properties of similar size within a 1 mile radius, mid terrace houses within 2 mile radius and Grade A Listed residential properties. In addition the appellant had collated evidence of recent sales in the development. Premises in the converted stables adjacent to the property had sold in 2012 and 2014 at £130,000 and £120,000 respectively.
11. The Respondent submitted a Schedule of Comparables under two headings. The Respondent submitted 3 comparables from within the Gosford Castle development and a second schedule of properties outside Gosford Castle but which were of apartments and houses deemed to be from similar exclusive developments in locations such as Templepatrick, Bangor and Portballintrae. It was a major plank of the Respondents case that this was a prestige development set in the grounds of a forest park and that comparables from ordinary housing stock in the Markethill area were not relevant.
12. The Tribunal at the hearing of an appeal is empowered to make any decision that the Commissioner might have made, and to make an

alteration to the valuation list to give effect to its decision. The work of the Tribunal is however bound by the provisions of Article 54 (3), which directs that any valuation shown in a valuation list with respect to hereditament shall be deemed to be correct until the contrary is shown.

13. The provisions of Article 54 (3) are specific in that “any valuation in the list is deemed to be correct unless proved otherwise”. The phrase “any valuation” in this context includes not only the valuation of the property which is the subject of the appeal, but also any other valuations on the list that are relied upon. Undoubtedly this places a substantial onus on an Appellant to prove that the entry which relates to their own premises is incorrect. The standard of proof in these proceedings is on the balance of probabilities; and that standard must be satisfied on the basis of evidence submitted to the Tribunal.
14. In dealing with the instant case both sides relied substantially upon their Schedule of Comparables. The appellant had produced comparables of similar size or type (i.e. mid terrace) to the property but which ignored the exclusive nature of the development and its location. The Respondent submitted that the exclusive nature of the development was the dominant characteristic and therefore the comparables which were relevant were those from similar developments. The Respondent also submitted that the unique features of the development such as its forest park location meant that it in effect had created its own “tone of the list” and that the comparables from Gosford Castle itself were the most relevant.
15. The conflict in comparables in this case came down to whether the property should be compared to general housing stock in the Markethill area or whether the property was situated in a prestigious exclusive development such as would justify it being compared only to other high end, exclusive prestigious developments. Terms such “prestigious” or “exclusive” are essentially subjective and not particularly helpful in valuation. The Tribunal therefore sought to identify whether there was any sales evidence from closer in time to the capital valuation date

(01/01/2005) that could assist the Tribunal. The Respondent produced the following evidence of sales:

3A West Stableyard Gosford (158 m² CV £270,000) sold on
25/1/2008 £475,000

3E Court Front House Gosford (284 m² CV £425,000) sold on
3/9/2009 £745,000

3F South west Front House (295 m² CV£445,000) sold on
15/9/2009 £600,000.

16. The assessment of the Tribunal was that the above sales evidence did support the Respondent's case that this was a prestigious exclusive development which had continued to attract significant prices well after the downturn in the housing market in late 2007.

17. The evidence of sales shifted the weight of comparable evidence in favour of the comparables submitted by the Respondent.

18. The Tribunal was ultimately satisfied that the Respondent had demonstrated that the weight of comparable evidence was against the appellant and that the tone of the list supported the Commissioners decision and valuation of £285,000. Examining the submissions from both parties, the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal is upheld and the appeal is dismissed.

While this appeal has been dismissed it has highlighted one of the recurring difficulties in the current system of capital valuation. Those difficulties derive in no small part from the failure to carry out a general capital revaluation in the past 10 years. The appellant had purchased the property long after the general collapse in house prices in Northern Ireland and after it had become clear that this development had significant problems. Some units were still unfinished and may not be for years. It is inevitable that a purchaser who has paid the market price for a house in 2012 in the sum of £135,000 should feel aggrieved that he is required to pay rates based upon a valuation over twice what he paid in the sum of £285,000. The fact that the Tribunal has

accepted the Respondent's valuation of £285,000 is primarily due to the fact that the capital valuation date it is obliged to apply remains 1st January 2005. This date requires the Respondent to carry out the challenging task of estimating the value of a property sometimes several years before it was even built and after one of the most turbulent housing markets in recent times. At the same time the Appellant is left with a capital valuation which he knows is far removed from what a willing vendor could ever expect if the house now went on the open market.

19. This disparity between current market value and the capital valuations of the Respondent will continue until such times as a further general capital revaluation takes place. The Tribunal has no power to order such a general capital revaluation however the need to do so is ever more urgent. In a rating system based upon capital valuations there should be a recognisable connection between the current market value of a house and the capital valuation which the Respondent has ascribed to it and upon which the rate payer is expected to pay their rates.

Signed: Michael Flanigan – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 19 July 2017