

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

**CASE REFERENCE NUMBER: 26/12**

**ELEANOR HARRIS – APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mrs Barbara Jemphrey**

**Members: Siobhan Corr and David Rose**

**Belfast, 8<sup>th</sup> May 2013**

**DECISION**

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 11<sup>th</sup> June 2012 is upheld 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 29<sup>th</sup> June 2012 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 11<sup>th</sup> June 2012 in respect of the Valuation of a hereditament situated at 62 Northview, Newtownabbey BT36 7GA.
- 1.3 The Appellant appeared in person and the Respondent was represented by Michael McGrady.

## 2 **The Law**

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

2.1 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 purpose 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.

2.2 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.

## 3. **The Evidence**

The Tribunal heard oral evidence from the Appellant and Michael McGrady on behalf of the Respondent. The Tribunal had before it the Appellant’s Notice of Appeal dated 29<sup>th</sup> June 2012 and copies of various documents including the following:-

3.1 The Commissioner’s Decision on Appeal dated 11<sup>th</sup> June 2012.

3.2 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Ronan McKenna of Land and Property Services.

3.3 Correspondence between the Tribunal and the Parties including a series of reports prepared in relation to the property.

3.4 Order for extension of time to lodge an Appeal dated 9<sup>th</sup> August 2012.

3.5 All of these documents had been provided to all 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**

4.1 The hereditament is a ground floor apartment no 62 situated at 6 Northview, Newtownabbey, BT36 7GA (the Subject Property). The subject property was stated to be owned by the Appellant whom the Tribunal understood to be the rate payer. The Tribunal had no other information neither 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.

- 4.2 The Subject Property is a purpose built ground floor apartment of modern construction using a combination of brick work with solid concrete floor slabs. It has a gross external area (GEA) of 71m<sup>2</sup>.
- 4.3 The Capital Value Assessment of the subject property was initially £115,000. This was reduced on appeal in April 2012 to £100,000. In arriving at the Capital Value Assessment figure regard was had to the assessments in the valuation list of properties considered comparable and also to market sales of certain properties in the general locality. These comparables are set out in the Schedules to the "Presentation of Evidence" submitted on behalf on the Commissioner. There were a total of 5 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided.
- 4.4 The Capital Value Assessments of the comparables were all unchallenged.

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

- 5.1 The Appellant provided extensive evidence including a series of reports in relation to the subject property. The Appellant's submission can be summarised in to two main issues.
- 5.2 Since its construction the subject property has suffered from serious and extensive damp issues resulting in the growth of fungi on some interior walls.
- 5.3 A spillage of Red Diesel by the builders in the master bedroom has rendered this room un-useable due to the smell and potential health hazards from the fumes.
- 5.4. Due to the serious and ongoing nature of both these issues the subject property has been rendered uninhabitable save for a short period of 9 months immediately following completion.
- 5.5 The Appellant submitted, given the serious and on-going nature of these issues, that the subject property should be zero rated until it is fit for habitation again.

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

- 6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 of the 1977 Order that "regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances" was duly observed.

- 6.2 The Respondent carried out an inspection of the subject property which revealed that the property required remedial works in relation to the damp. The Respondent submitted that on inspection there was no evidence of excessive damp on the walls.
- 6.3 In relation to the spillage of Red diesel it appeared this had been localised in one bedroom and had not impacted on the entire apartment.
- 6.4 The Respondent concluded that whilst the property requires remedial works these are minor in terms of cost relative to the Capital Value Assessment

## **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 has been assessed at the Antecedent Valuation Date of 1<sup>st</sup> January 2005 as a figure of £100,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and 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.
- 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*". It is therefore up to the Appellant 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 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 in anything other than the prescribed manner provided for by 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 notes the evidence submitted as to comparables and 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 the Tribunal or the arguments made by the Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above. The Tribunal appreciates the considerable, prolonged

disruption the Appellant has suffered as a result of the on-going issues with the subject property.

- 7.5 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellant's submissions. The Appellant has not displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property shall be deemed to be correct until the contrary is shown. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 11<sup>th</sup> June 2012 is upheld and the Appeal is dismissed.

**Barbara Jemphrey**  
**Northern Ireland Valuation Tribunal**

**15<sup>th</sup> May 2013**