

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT31/11**

**THOMAS J JONES - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Alan Reid, LL.B.
Members: Sandy Moore and Pat Cumiskey**

Armagh, 26th March 2013

DECISION

The unanimous decision of the Tribunal is that the Notice of Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 3rd January 2012 is allowed and the Capital Value of the Property at 21 Legane Road, Aughnacloy BT69 6HD be assessed at £80,000.00 and the Tribunal directs that the Valuation List be amended accordingly.

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”).
- 1.2.1 By a Notice of Appeal dated 24th January 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 3rd January 2012 in respect of the Valuation of a hereditament situated at 21 Legane Road, Legane, Aughnacloy, BT69 6HD.
- 1.3 1.3 The Appellant Mr Jones appeared and represented himself. Mr Patrick Quigley accompanied by Mr Michael McGrady appeared for and represented the Commissioner as Respondent.

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 had before it the following documents :-

- 3.1.1 The Commissioner’s Decision on Appeal dated 3rd January 2012
- 3.1.2 The Appellant’s Notice of Appeal dated 24th January 2012
- 3.1.3 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Mr Patrick Quigley of Land and Property Services.

At the commencement of the hearing of the Appeal both parties confirmed that all of these documents had been provided to each of them and that they had had an opportunity to consider them prior to the hearing.

4. The Facts

On the basis of such information as was before it, the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a detached two storey dwelling house situated at 21 Legane Road, Legane, Aughnacloy, Co Tyrone BT69 6HD (“the Subject Property”). The Subject Property was stated to be owned by the Appellant who the Tribunal understood to be the rate payer.
- 4.2 The Subject Property is situated approximately five miles from Aughnacloy village in a rural area. It is on a farmyard setting although the Subject Property itself is presently vacant. It was constructed prior to 1919 and has mains water and electricity connections. Sewerage is by means of a septic tank. It does not presently have a functioning central heating system, the essential elements including radiators, piping, boiler and storage tank having been stolen. The Subject Property comprises two reception rooms, a kitchen and one other ground floor room with four bedrooms and a bathroom on the first floor. It is of traditional design and construction with rubble masonry walls with plaster render and a pitched slate roof. It has a gross external area (“GEA”) of 143 m².
- 4.3 The Capital Value Assessment of the Subject Property is £85,000.00 at the Antecedent Valuation Date (“AVD”) that date being 1st January 2005.

- In arriving at that Capital Value Assessment figure regard was had to assessments in the Valuation List of properties considered comparable in the general locality. These comparables were set out in a Schedule to the "Presentation of Evidence" submitted on behalf of the Commissioner. There were a total of three such comparables. Further particulars of the comparables were provided together with, in each case, photographs.
- 4.4 The Capital Value Assessments of all of the comparable properties were unchallenged.

5. The Appellant's Submission

The Appellant, in summary, made the following submissions:-

- 5.1 He had inherited the Subject Property from a former owner approximately 14 years ago. Since that time the Subject Property has been plagued by woodlice which the Appellant has sought to deal with on a number of occasions but without success. The Appellant described the property as being in a poor state of repair and suffering from dampness. His evidence to the Tribunal was that there was no damp proof course in the property and no central heating because all of the elements of the central heating system had been stolen.
- 5.2 When invited by the Tribunal to indicate his view with regard to the correct Capital Value Assessment for the property he initially told the Tribunal that he felt the property was worth site value only and then expressed the view that a reasonable Capital Value for the property at 1st January 2005 assuming a reasonable state of repair would be half of the current Capital Value Assessment of £85,000.00 (ie £42,500.00).
- 5.3 Commenting upon the comparables put forward on behalf of the Respondent the Appellant did not challenge the Capital Values of any of the comparables but sought to distinguish each of them from the Subject Property. All three of the comparables were detached dwellings constructed prior to 1919 and with Capital Values (before any allowance for agricultural occupation) of £105,000.00 in each case. All three of the properties had the benefit of connections to mains water and electricity with sewerage via a septic tank and all had full or partial central heating.
- 5.3.1 The first comparable at 92 Carrycastle Road, Gortmerron, Dungannon had a GEA of 140 m². The Appellant sought to distinguish this from the Subject Property on the basis that it was a full two storey house whereas he contended that the Subject Property was a one and a half storey house. He also contended that 92 Carrycastle Road was much closer to the main public road than the Subject Property.
- 5.3.2 The second comparable at 42 Legilly Road, Tyhan, Dungannon had a GEA of 145 m² together with outbuildings measuring 37 m². The Appellant was familiar with this property and contended that it was a much more modern property than the Subject Property and also had the benefit

- of outbuildings and a yard. He also contended that it was situated on a main road whereas the Subject Property was not.
- 5.3.3 The comparable at 189 Eglish Road, Carrowcolman, Dungannon had a GEA of 144 m². Again the Appellant sought to distinguish this comparable from the Subject Property on the basis that it was a more modern house than the Subject Property and was located on a main road whereas the Subject Property was not.
- 5.4 The Appellant contended that the difference in capital valuation of the Subject Property at £85,000.00 from each of the comparables (each with Capital Values of £105,000.00) was not a fair reflection of the differences between the Subject Property and the comparables.

6. **The Respondent's Submissions**

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

- 6.1 Mr Quigley informed the Tribunal that he had personally inspected the property on 14th December 2011 and confirmed that in his view it was a full two storey dwelling. Nowhere on the property was any of the floor space subject to a ceiling height of less than 1.5 metres.
- 6.2 The Subject Property had initially been assessed on 1st April 2007 with a Capital Value of £74,000.00 net of a 20% Agricultural Allowance which had been applied as the property at that time had been assumed to be occupied as a farmhouse. The full unadjusted Capital Value would have been £92,500.00 at that time.
- 6.3 On 8th November 2011, the District Valuer considered an application for a review of the Capital Value. The unadjusted Capital Value was revised to £105,000.00 to better reflect the tone of the Valuation List. Agricultural Allowance had been removed as the property was not occupied as a farmhouse but a 10% reduction was made to reflect the isolated location of the property on a secondary road thus reducing the assessed Capital Value to £94,500.00 and a further 10% reduction was then made to reflect the fact that the property was on an active farmyard bringing the revised Capital Value Assessment to its current figure of £85,000.00.
- 6.4 The Appellant had brought an appeal to the Commissioner of Valuation which had been determined on 3rd January 2012 when the Commissioner had issued a Notice of Decision confirming the Capital Value Assessment at £85,000.00.
- 6.5 Mr Quigley described the property to the Tribunal as having a basic kitchen and bathroom and suffering from some rising dampness. In his view the levels of rising dampness were normal for a building of this age and character. Unlike the Appellant, he did not consider that the property required to be rewired. He told the Tribunal that it had wooden double glazing throughout and that the roof structure seemed to be in good repair

- given the age of the dwelling although there were some rotten areas in the fascia and soffit boards requiring repair. He confirmed that he had seen evidence of some woodlice in the property but was not able to comment as to the extent of the woodlice as a problem. He confirmed that there was evidence of the Subject Property having previously had full oil fired central heating but that all of the elements of the central heating system had been stolen.
- 6.6 Commenting on the three comparables put forward in evidence Mr Quigley expressed the view that the best comparable was the property at 92 Carrycastle Road, Gortmerron, Dungannon which at 140 m² was almost identical in size to the Subject Property and was rurally located up a lane. He felt the comparables at 42 Legilly Road, Tyhan, Dungannon and 189 Eglish Road, Carrowcolman, Dungannon were also useful comparables as they were similar in size to the Subject Property and of similar age. He conceded however that both properties were located on a main road and that the property at 189 Eglish Road, Carrowcolman was in a better state of repair.
- 6.7 In response to questions from the Tribunal, Mr Quigley confirmed that although the Subject Property was noted not to have central heating, no reduction in the Capital Value Assessment had been made in this regard. Mr McGrady confirmed that a £5,000.00 reduction would normally be made to allow for the fact that a property did not have the benefit of central heating.
- 6.8 In answer to questions from the Tribunal, Mr McGrady confirmed that the effect of applying a 10% reduction to reflect the remote location of a property and then applying a further 10% reduction thereafter to reflect the fact that a property is located on an active farmyard, did not result in a total discount of 20%. He confirmed that the practice was not to “accumulate” the reduction because to do so would, in theory at least, mean that one could ultimately arrive at a nil Capital Value Assessment.
- 6.9 Mr McGrady further confirmed that Capital Value Assessments were usually rounded to the nearest multiple of £2,500.00. The main exceptions to this practice were when Agricultural Allowance was applied resulting in a net Capital Value Assessment which was not a multiple of £2,500.00 or if the Tribunal were to order a Capital Value Assessment which was not a multiple of £2,500.00.

7. The Tribunal's Decision

- 7.1 The Tribunal thanks the parties for their helpful submissions and their courteous appearances before the Tribunal.
- 7.2 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 AVD at a figure of £85,000.00. 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.

- 7.3 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 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.
- 7.4 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.
- 7.5 The Tribunal must then consider whether the evidence placed before it or the arguments made by the Appellant are sufficient to displace the statutory presumption. Those arguments have been summarised above. In large part they focused upon the Appellant’s contention that the Subject Property was in a poor state of repair. However, Schedule 12 to the 1977 Order sets out certain assumptions which must be made in seeking to determine the Capital Value of a property. Paragraph 7 of Schedule 12 defines Capital Value as *“... the amount which on the assumptions mentioned in paragraphs 9-15 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”*. In this case the relevant Capital Valuation date is the AVD of 1st January 2005. Amongst the assumptions which were laid down by the legislature in Schedule 12 to 1977 Order are two assumptions set out respectively at paragraphs 12 (1) and 12 (2) of Schedule 12 to the Order to the effect that *“the hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality”* and *“the hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date”*. Accordingly, whilst the Tribunal acknowledges the evidence of both parties as to the internal state of repair of the Subject Property, the Tribunal is obliged to disregard that actual state of internal repair and fit out and instead to assume in accordance with paragraph 12 that the hereditament is in an average state of internal repair having regard to its age and character and its locality. In

arriving at its decision, the Tribunal has accordingly had regard to that assumption.

- 7.5 The Appellant did not seek to challenge the Capital Value Assessments of any of the comparables placed in evidence by the Respondent. Each of the comparables had an unadjusted Capital Valuation of £105,000.00. Whilst the Tribunal accepts that all of the comparables were broadly similar in size, rural location and age to the Subject Property, the Tribunal noted that they all had full or partial central heating and that, although certain other reductions had been made from an initial Capital Value Assessment of £105,000.00 for the Subject Property no reduction had been made in the Capital Value Assessment of the Subject Property to reflect the fact that it did not have central heating. The evidence given on behalf of the Commissioner was that a £5,000.00 reduction would normally be made where a property did not have central heating. Accordingly, the Tribunal was of the view that a £5,000.00 reduction should be applied.
- 7.6 The Tribunal considered whether this £5,000.00 deduction should have been made initially from the £105,000.00 Capital Value Assessment leaving a net figure of £100,000.00 from which the two subsequent 10% deductions as referred to at paragraphs 6.3 and 6.8 above would then have been made. The effect of this would have been to arrive at a net figure of £81,000.00 for the Capital Value Assessment. Alternatively, if the £5,000.00 deduction was simply made from the current Capital Value Assessment of £85,000.00, this would result in a figure of £80,000.00.
- 7.7 Having carefully considered the particulars and Capital Values of all of the comparable properties put forward by the Respondent and their unchallenged Capital Values and the evidence of the Respondent as to the manner and circumstances in which deductions from the initial Capital Value Assessment are made to reflect individual factors affecting individual properties, the Tribunal was satisfied on the balance of probabilities that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £80,000.00.
- 7.8 Accordingly, the unanimous decision of the Tribunal is that the Appeal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 3rd January 2012 is allowed and that the Capital Value of the property at 21 Legane Road, Legane, Aughnacloy, Co Tyrone BT69 6HD be assessed at £80,000.00 and the Tribunal directs that the Valuation List be altered accordingly.

Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal