

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT64/12**

**JONATHAN KING - 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 Decision on Appeal of the Commissioner of Valuation for Northern Ireland as contained in the Certificate of Alteration dated 29th October 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 which appears to have been undated but which was received in the Tribunals Unit on 12th November 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") as contained in the Certificate of Alteration dated 29th October 2012 in respect of the Valuation of a hereditament situated at 70a Budore Road, Dundrod, Crumlin BT29 4UA.
- 1.3 The parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 ("the Rules") and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

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 heard no oral evidence but had before it copies of various documents including the following:-

- 3.1 The Appellant’s Notice of Appeal received by the Tribunals Unit on 12th November 2012.
- 3.2 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Nicola Stewart of Land and Property Services dated 26th February 2013.
- 3.3 Appellant’s email dated 12th March 2013.

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

Based upon the information before it the Tribunal determined, upon the balance of probabilities, the following facts:-

- 4.1 The hereditament is a detached chalet type dwelling situated at 70a Budore Road, Dundrod, Crumlin BT29 4UA (“the Subject Property”). The Subject Property was stated to be owned by the Appellant who the Tribunal understood to be the rate payer. The Tribunal had no other information regarding the title to the Subject Property nor regarding its physical construction and characteristics save as described in the papers before the Tribunal and referred to herein.
- 4.2 The Subject Property is a detached chalet type dwelling built in approximately 2006. It has a gross external area (“GEA”) of 299.8 m² and a garage measuring 56.3 m². It benefits from mains electricity and water. Sewerage is by means of a septic tank. Access to the property was described as “difficult” – a description not challenged by either of the parties. The Subject Property has a Capital Value Assessment of £280,000.00 at the Antecedent Valuation Date (“AVD”) that date being 1st January 2005.

- 4.3 The Subject Property had initially been assessed in the Valuation List on 1st April 2007 as having a Capital Value Assessment of £320,000.00 at the AVD. Following two separate applications to the District Valuer for reviews of the assessment and a subsequent Appeal to the Commissioner of Valuation, the Commissioner issued a Certificate on 29th October 2012 confirming the reduction of the Capital Value to £280,000.00.
- 4.4 In his decision to reduce the Capital Value to £280,000.00, the Commissioner had regard to the Capital Value Assessments of other properties in the Valuation List considered comparable. These comparables were set out in a Schedule to the “presentation of evidence” submitted on behalf of the Commissioner. There were a total of four comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and of all of the comparables.
- 4.5 The Capital Value Assessments of all of the comparable properties were unchallenged.
- 4.6 Additionally, the Commissioner had considered details of six of nine sales of other properties in the general locality dating from 2005 provided to the Appellant by his Agent Norman Morrow and Company and had also considered the opinion of Norman Morrow and Company as related by the Appellant that the Market Value of the property in 2005 was between £200,000.00 and £225,000.00.

5. The Appellant's Submission

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

- 5.1 A desk study had been performed by a local Estate Agent, Norman Morrow & Company, on behalf of the Appellant. The study itself was not before the Tribunal but the Appellant contended that the result of it was that Norman Morrow & Company estimated the value of the house to be £225,000.00 in January 2005. This estimate had been based upon details of nine sales of other properties in the locality in 2005 details of which had been provided to the Respondent by the Appellant.
- 5.2 In his email of 12th March 2013, the Appellant further referred to the desk study of Norman Morrow & Company and challenged the Respondent's assessment of the Capital Value of the Subject Property on the basis that, in the Appellant's view, the assessment was not based upon actual sale details and that therefore the Respondent had no proof to support the assessment. In his email the Respondent referred to the four properties submitted by the Respondent as comparables in the “Presentation of Evidence”. He commented that no “sales details” had been provided for any of the four comparable properties and that therefore *“LPS's valuation of these properties was not based on sales figures but rather on a theoretical idea of what the properties are worth”*. He contended that on the basis of the sales details provided by Norman Morrow & Company, the Capital Value of the Subject Property should be £225,000.00.

6. The Respondent's Submissions

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

- 6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and as required by Schedule 12 of the Order regard had been had to the Capital Values in the Valuation List of other comparable hereditaments.
- 6.2 The Respondent had considered the nine sales details provided by the Appellant. The Respondent had been unable to identify three of those sales but had considered the sales details provided in relation to the other six. The Respondent contended in each of those six cases that they were not of assistance in determining the Capital Value of the Subject Property at the AVD because in all six cases the properties were smaller than the Subject Property and additionally, due to their location and/or era of construction, none of them were relevant in considering the Capital Value of the Subject Property.
 - 6.3.1 The first comparable property put forward by the Respondent was a detached bungalow at 21 Budore Road built in approximately 1993. Its GEA is somewhat smaller than the Subject Property at 251m² and it has a similar size garage at 54m². Its unchallenged Capital Valuation is £260,000.00.
 - 6.3.2 The second comparable was a detached two storey chalet type dwelling at 40 Budore Road built in approximately 1998. Again its GEA at 260m² is somewhat smaller than the Subject Property and it has a somewhat smaller garage at 42m². Its unchallenged Capital Value is £260,000.00.
 - 6.3.3 The third comparable put forward by the Respondent was a detached two storey chalet type dwelling at 9b Tullyrusk Road built in approximately 1995. Its GEA of 285m² and garage at 55m² are slightly smaller than the Subject Property. It has an unchallenged Capital Value of £275,000.00.
 - 6.3.4 The fourth comparable put forward by the Respondent was a detached two storey house at 5 Divis Road built in approximately 2006. Its GEA of 297m² is almost identical to the Subject Property and it has a slightly smaller garage of 36m². Its unchallenged Capital Value is £310,000.00.
- 6.4 The Respondent contends that having had regard to the characteristics of the Subject Property compared to those of the comparables in accordance with the legislation, a reasonable assessment of the Capital Value of the Subject Property at 1st January 2005 is £280,000.00.

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 AVD at a figure of £280,000.00. 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.
- 7.2 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”*. 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.
- 7.3 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.
- 7.4 The Tribunal then turns to consider whether the evidence put before it or the arguments made by the Appellant are sufficient to displace the statutory presumption referred to at paragraph 7.2 above. There are two broad limbs to the Appellant’s Appeal in this instance. Firstly, he seeks to rely upon the “desk top study” carried out by Norman Morrow and Company in relation to sales of other properties in the general locality in 2005 and because those sales were at prices less than £280,000.00 contends that a Capital Value Assessment of the Subject Property of £280,000.00 at the AVD is excessive. Secondly, he contends that, with regard to the four properties submitted as comparables by the Respondent, these should not be taken into account because their values are not based upon actual sales of those properties.
- 7.5 Dealing firstly with the Norman Morrow & Company desk top study, the Tribunal considered the descriptions of the six properties in respect of which detailed sales particulars were available. The GEA of the Subject Property is 299.8m² and it has a garage of 56.3m². All six of the properties in the Norman Morrow & Company desk top study in respect of which particulars were available were significantly smaller than the Subject Property, the largest of them being a property at 17 Knockcairn Road Crumlin with a GEA of 192m². It was also a much older property being a pre-1919 detached farmhouse. It had been sold for £240,000.00 on 30th September 2005 and had an unadjusted Capital Value at the AVD of £165,000.00. Particularly in view of the size of these six properties, the Tribunal considered that they were of limited assistance as valid comparable properties but that, if anything, on the balance of probabilities,

- they lent support to the Capital Value Assessment of the larger Subject Property at £280,000.00.
- 7.6 Dealing with the second limb of the Respondent's arguments that Capital Values of the comparables put forward by the Respondent should not be taken into account, the Tribunal is required to determine all Appeals coming before it in accordance with the provisions of the relevant legislation – in this case the 1977 Order. That legislation, enacted by the legislature, sets out the statutory basis for valuation and in particular Schedule 12 requires that in assessing the amount which the Subject Property might reasonably have been expected to realise if it had been sold on the Open Market by a willing seller on the relevant AVD (in this case 1st January 2005) "*regard shall be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances*". Accordingly the Tribunal must consider relevant comparables put forward in evidence. Furthermore, as already noted at paragraph 7.2 above, Article 54(3) requires that "*any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown*". The Appellant has not challenged the Capital Values of the four comparables put forward by the Respondent in evidence nor has he sought to challenge the relevance of those four comparables.
- 7.7 The first two comparables put forward by the Respondent at 23 and 40 Budore Road, as already noted above, were somewhat smaller than the Subject Property and each have Capital Values of £260,000.00, £20,000.00 less than the Subject Property. The comparables at 9b Tullyrusk Road and 5 Divis Road are similar in size to the Subject Property and have Capital Values of £275,000.00 and £310,000.00 respectively. All four comparables are, like the Subject Property, relatively modern privately built detached dwellings. Having carefully considered the particulars and Capital Values of all the comparable properties put forward by the Respondent and their unchallenged Capital Values, the Tribunal is satisfied on the balance of probabilities that those comparables support the Respondent's contention that the appropriate Capital Value Assessment of the Subject Property at the AVD on 1st January 2005 is £280,000.00 as it presently appears in the Valuation List.
- 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 as contained in the Certificate of Alteration dated 29th October 2012 is dismissed.

**Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal**

23rd April 2013