

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: 38/21

SUZANNE CRONE AND KONSTANTINOS MAVRIDIS – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O'Neill

Members: Mr Hugh McCormick and Ms Noreen Wright

Date of hearing: 23 August 2022, Belfast

DECISION

The unanimous decision of the tribunal is that the decision on appeal of the Commissioner of Valuation for Northern Ireland is upheld, and the appellant's appeal is dismissed.

REASONS

Introduction

1. This is (subject to the observations made below) a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order"). This matter was listed for hearing on 23 August 2022.
2. The hearing proceeded by way of a hybrid hearing in which the Tribunal members and the tribunal clerk) were present in the tribunal room and the appellants appeared by video link. The Respondent was represented by Mr Steven Jeffrey and Mr Gerard Fitzpatrick by video link.
3. The hearing was conducted in accordance with the Northern Ireland Valuation Tribunal Remote Hearing Protocol dated 24 September 2020. All parties were content to proceed on this basis.
4. This appeal is in respect of the valuation of a property situated at 106A Kilkeel Road, Annalong, BT34 4TJ (the subject property).

The Law

5. The law in relation to these cases is contained in the Rates (NI) Order 1977 as amended by the Rates (Amendment) (NI) Order 2006. The tribunal does not intend in this decision to set out the statutory provisions of the legislation as these provisions have been fully set out in earlier decisions of this tribunal.

The Evidence

6. The tribunal heard oral evidence. The tribunal had before it the following documents:
 - a. The Commissioner's Decision issued on 2 September 2021;
 - b. The appellant's notice of appeal dated 27 September 2021;
 - d. A document entitled Presentation of Evidence dated 5 November 2021, prepared on behalf of the respondent and submitted to the tribunal for the purposes of the hearing;
 - e. Correspondence between the parties and the tribunal office.

The facts

7. The subject property is a privately built detached chalet property built in 1990. It has 1.5 storeys and has a gross external area of 306m² and a garage of 36m². The property is stated to have a limited sea view. The capital value of the property has been assessed by the respondent at £300,000.
8. By way of background, as outlined in the Presentation of Evidence, the property had been assessed with a capital valuation of £255,000. The District Valuer received an application for a revaluation of the property on 26 January 2021 as the recent purchase price was lower than the capital value assessment. On foot of this application the District Valuer issued a valuation certificate confirming that the capital value would be increased to £300,000 in order to maintain tone with comparable properties in the locality.
9. This decision was appealed to the Commissioner of Valuation who issued a certificate of no change to the capital value on 2 September 2021. This decision has been appealed to this tribunal.

The appellant's submissions

10. The appellants in their notice of appeal state that the capital value of the property had been £255,000. They believed this to be too high because they had purchased the property in December 2020 for £200,000 and the property had been sold for £130,000 in July 2002.
11. The appellants refer to the fact that the capital value of a hereditament is the amount which the hereditament might reasonably be expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date, which is 1 January 2005. Reference is made to the fact that average annual percentage property price increases in the early 2000s were in single digits. They submit that it defies logic that a property is being valued at over 130% between 2002 and 1 January 2005.

12. They further contend that it does not make sense that the property would have devalued from £300,000 to £200,000 in December 2020. Therefore, they would state that the capital valuation is wrong.
13. They also refer to the fact that there is a prior sales history of the property, and this should be considered when reaching a figure for the capital valuation.
14. The appellants contend that the capital value should be £150,000.

The respondent's submissions

15. The respondent referred in the Presentation of Evidence to the following comparable hereditaments stated to be in the same state and circumstance as the subject property, namely
 - I. 159 Kilkeel Road, Annalong, BT34 4TY which is a privately built detached chalet, built in 1986 with a Gross external area (GEA) of 303m² and a garage of 56m². This property is stated to have a limited sea view. It has a capital value of £320,000.
 - II. 74 Kileel Road, Annalong, BT34 4TJ which is a privately built detached chalet built in 1987 with a GEA of 249m² and a garage of 36m². This is stated to have a sea view. It has a capital valuation of £330,000.
 - III. 221 Kilkeel Road, Annalong, BT34 4TW which is a detached chalet built in 1970 with a GEA of 292m² and a garage of 46m². It has a sea view. It has a capital value of £350,000.
 - IV. 25 Grove Road, Annalong, BT34 4XB which is a privately built chalet built in 1970 with a GEA of 262m² and a garage of 38m². It has a limited sea view. It has a capital value of £280,000.
 - V. 3 Greenfield Drive, Annalong, BT34 4TE which is a privately built chalet built in 1980 with a GEA of 304m² and a garage of 45m². It has a capital value of £290,000.

The Tribunal's Decision

16. The tribunal is grateful to the parties for their written and oral presentations in this matter.
17. There are several issues arising in relation to this case. At its heart is the basis upon which the capital value of properties is based. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. In this case the capital value has been assessed at a figure of £300,000. On behalf of the Commissioner, it has been contended that this figure is fair and reasonable in comparison to other properties.
18. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the 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 to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.
19. The basis of valuation is the amount which on the relevant assumptions 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 capital valuation date (1 January 2005).
 20. The appellants refer to the fact that the subject property was sold for £130,000 in July 2002 and this is a relevant capital value. The tribunal considers this to be of limited relevance as it is over 2 years before the relevant capital valuation date.
 21. The appellants also refer to the fact that they purchased the property in December 2020 for £200,000. This of itself is approximately 15 years after the relevant capital valuation date and the tribunal gives little or no weight to this.
 22. The appellants further contend that it does not make sense that a property that was sold for £130,000 in 2002 would have increased in value to £300,000 in 2005. This would mean an increase of 130% in 2.5 years. On this basis the property then decreased in value by 50% by the time they purchased it.
 23. In relation to this submission, it has been held by the tribunal in a number of cases including *Commissioner of Valuation v Ballentine* that the basis of valuation is not a simple calculation of taking a valuation figure at a point in time and using it to calculate the valuation at another defined point in time.
 24. It is also important to state the basis on which valuations have to be assessed in the legislation. This has already been set out in decisions of both this tribunal and indeed the Lands Tribunal. As has been pointed out in a recent decision of the Lands Tribunal in *RZ v Commissioner of Valuation* (VT/2&3/2016 [2017]) the tribunal in deciding cases derives assistance from the following cases

McKeown Vintners v Commissioner of Valuation VR/9/1985

“When, however, a revision of an entry in a valuation list is under consideration different principles come into play; in particular paragraph 2(1) and the concept of comparable hereditaments. The reason is simple. The very completion of the list, at general revaluation, by itself creates comparables, and paragraph 2(1) can begin to play its role. That role is this. There can, as the Tribunal has already stated, be no challenge to the principles applied at general revaluation. Any challenge before the Lands Tribunal must be by way of an application for revision of an entry already in the list. As time progresses, if actual rental levels and turnover figures were used for the revision of a particular entry in the valuation list, it would inevitably result in that entry being increased to a level significantly higher than other entries in the list. There must therefore be a limiting factor, and this provided by paragraph 2(1) which, in essence, produces what is often termed a ‘tone of the list’, and which ensures fairness and uniformity. It does this by providing that at revision stage regard ‘shall be had’ to the net annual values in the valuation list of comparable hereditaments. Its role will be discussed in greater detail later. Suffice to say that the significance of this role increases with the passage of time...”.

In the subject reference for “paragraph 2(1)” read “paragraph 7(2)” for “net annual value” read “capital value” and for “rent/rental levels” read “capital value/capital value levels”.

A-Wear Limited v Commissioner of Valuation VR/3/2001

“The early days are important and the Tribunal agrees with Mr Hanna that the practical reality is that, if entries are not challenged, or if challenges are abandoned, the point will have been reached within a relatively short space of time at which it would have to be said that these settlements establish a reliable Tone of the List for the hereditaments in a location or category. At that stage, although still a question of balance, by virtue of paragraph 2 of schedule 12, a district valuer is almost obliged to apply that level. Skilled assessment based on proper research may justify an adjustment or allowance in individual cases, but the Tone of the List provision, although protecting ratepayers from unfairness resulting from inflation, does make anything other than a first phase challenge difficult.”

Examining all the material facts to be derived from the evidence, the tribunal’s considered and concluded view and determination is that the completion notice is a valid one and the appeal of the appellant is therefore dismissed.

Elias Altrincham Properties v Commissioner of Valuation VR/15/2011

“For the following reasons the Tribunal is not persuaded that Mr Elias has succeeded in displacing the presumption that the valuations shown in the valuation list were correct. Both in law and in practice the time for an effective challenge to the evidential basis, that set the tone of the list at the relevant General Revaluation, is long past. (See *A-Wear Ltd v Commissioner of Valuation* [2003] and *McKeown Vintners Ltd v Commissioner of Valuation* [1991].) Any attempt now to reconsider the principles and basis on which the tone was set would be mainly speculation ... At the time the list came into operation, apart from one exception, the assessments were not challenged...”

25. These cases highlight that in the valuation list regards should be had to capital values of properties in the same state and circumstance as the subject property.
26. In relation to this, the tribunal has carefully considered the evidence put forward by the respondent as comparable properties. The tribunal finds that the best comparable evidence to be 159 Kilkeel Road, Annalong. This is slightly smaller than the subject property (303m² with a garage of 56m² compared to 306m² and a garage of 36m²). Both properties have a limited sea view. The capital value of the property is £320,000 whereas the subject property has a capital value of £300,000.
27. The capital valuation of the subject is also supported by that of 74 Kilkeel Road, Annalong (capital valuation of £330,000) which is smaller than the subject but has a sea view. It is further supported by 221 Kilkeel Road Annalong which is again smaller than the subject and has a capital valuation of £350,000.
28. In the light of the evidence presented to it the tribunal is satisfied that the capital valuation of the subject property is correct and that the appeal is dismissed.

Signed Mr Charles O'Neill
Northern Ireland Valuation Tribunal
Date decision recorded in register and issued to the parties