

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL & COMPENSATION ACT (NORTHERN IRELAND) 1964
RATES (NORTHERN IRELAND) ORDER 1977

IN THE MATTER OF AN APPEAL

VR/7/2005

BETWEEN

IAN WILSON - APPELLANT

AND

THE COMMISSIONER OF VALUATION – RESPONDENT

Re: 217 Ballynahinch Road, Ballykeel, Dromore

Lands Tribunal - Mr M R Curry FRICS IRRV MCI.Arb Hon.FIAVI

Belfast – 24th April 2006

1. Mr Ian Wilson has two occupations. He is a farmer and he also works full time for Lisburn City Council ('the Council'). His house at 217 Ballynahinch Road, Ballykeel, Dromore is a detached chalet bungalow with a garden, which in turn is bounded by land farmed by him. The farm comprises some 36 hectares. This is an appeal against a decision of the Commissioner of Valuation in June 2005 refusing to treat the house as 'a farmhouse' in the context of Schedule 12 Part II of the Rates (Northern Ireland) Order 1977 ('Part II').
2. Mr Ian Wilson appeared in person. Mr David McAlister instructed by the Departmental Solicitor's Office appeared for the Commissioner.
3. Many people who are not farmers are prepared to pay a substantial price for a house in the country. But Part II provides a special rule for the valuation for rating tax purposes of a house occupied by a farmer; the prices that might be paid by persons who are not farmers and whose bid would be related primarily to the merits of the house as a residence in the countryside are not to be taken into account. The provisions do not provide an automatic discount or relief. They are no more than what valuers term an 'assumption' or 'disregard': "the rent at which the house might

reasonably be expected to let from year to year *if it could not be occupied and used otherwise*". The effect, if any, on value of this notional restriction will depend on the facts of each case. See e.g. Jones v Terrell (1964) 10 RRC 389 and Lemon v Verrinder [1972] RA 202.

4. A great many farmers rely on income from 'off the farm' through a second occupation. The average farm in Northern Ireland is significantly smaller than in the rest of the United Kingdom and most farms cannot provide a livelihood for a family. Farmers often also rely on help with operations on the farm from their extended families. As a result of changes in agricultural policy decoupling the link between production and subsidies and recent downward pressures on farm incomes, the relative contribution of off the farm incomes may be increasing. Farmers also are now being encouraged to diversify on the farm, using their land and buildings to provide another occupation. Part II recognises this common reliance on another occupation. So far as is relevant it defines a farmhouse as a house occupied in connection with agricultural land and used as the dwelling of a person *whose primary occupation is the carrying on or directing of agricultural operations on that land*.
5. Where, as in this case, a person has more than one occupation the issue for the Tribunal to determine is which was his primary occupation at the relevant time. It is a question therefore of balance that requires a consideration and weighting of the individual occupations. It is a test that requires an objective inference to be drawn from the facts. It is a personal test and the matters to be taken into account and their relevance will depend on the particular circumstances of each individual. In some cases the answer will be readily apparent. In others it will not. The term *occupation* has not got a technical meaning; and therefore it must be given its ordinary meaning, which is that which engages the daily time and the attention of a person (see McCoy v Commissioner of Valuation [1989] VR/35/1988). Correctly, in the view of the Tribunal, a broad approach has been taken to the issue of primacy. It goes beyond an analysis of the day-to-day carrying on or directing of operations to include a question of which occupation is of *primary concern or importance* (see e.g. Gammans v Parsons (1953) 46 R&IT 527; Scott v Billett (1956) 1 RRC 29; and Passam and Passam v Richardson (1957) 1 RRC 271). So, it requires a qualitative as well as a quantitative assessment and the relative time devoted to each or the financial returns or relative contribution to the livelihood may not be the only measure (see Scott v Billett).

6. The case is concerned with things as they were in 2005 but an understanding of the circumstances at that time requires some knowledge of earlier events. Mr Wilson's parents had owned a farm. When Mr Wilson's brother left school he worked full-time on the farm with his father. Later he supplemented his income by working part-time off the farm as a long haul lorry driver. Mr Wilson is professionally qualified as a surveyor. For some years he worked in Belfast and then about 1992 he set up his own planning consultancy business, working from home. But he said he always was interested in farming. He had helped out on the family farm and in 1993 bought an adjacent farm of about 6 hectares. His father helped with the purchase money. Prior to 1995 Mr Wilson estimated that he would have been working for about the normal 37-hour week at his consultancy business. But then his brother unexpectedly died. His father was then aged 85 and not well. Mr Wilson took over working the family farm. Although he kept his consultancy business going, he devoted more time to working on the farm. Then, in November 1996 his father died. His mother then died in June 2002.
7. As a result of these circumstances Mr Wilson said he borrowed in order to make proper financial provision for his late brother's family and, in accordance with his mother's will, for his sisters. In 1999 to help make ends meet he took employment with the Council. He is an Assistant Director within the Council's Environmental Services Department and has 21 employees who report to him. He is contracted to work 37 hours weekly for the Council. He can work at home from where he has secure remote access to the Council's information technology systems. The Council's flexible working hours arrangement is very extensive (this allows attendance at group meetings or Council meetings after ordinary business hours). There is no fixed core time during which he is required to be present in the office, although he must maintain appropriate service standards and lead his staff. He is not entitled to overtime but does receive time off in lieu. His job is pensionable and promotion attainable.
8. Mr Wilson said that farming was in his blood. On weekdays he worked on the farm before and after work at the Council. He spent all of his weekends at the farm and made other visits outside these times. As he had no set pattern of work within the Council he was able to manage his time so as to facilitate visits for example in connection with the Farm Quality Assurance Scheme and veterinary visits to the farm. The Tribunal has viewed the farm. Since his father's death Mr Wilson said he had

increased the farming activity both in stock and arable crops. He had increased the livestock numbers from around an average of 40 to around 70 a year. In 2005 the farm consists of 30 acres silage, 10 acres barley and the remainder grazing. With some family help only, Mr Wilson did all the work on the farm including looking after the farm buildings and machinery. He produced trading accounts. They showed a trading loss, a substantial amount spent on repairs and the introduction of substantial capital. He said he was working towards the farm shortly becoming a sufficiently sustainable and profitable business for him to go back to farming as his only occupation.

9. The recent proposals for Reform of Public Administration in Northern Ireland might provide an early opportunity but those would not have been known at the relevant time and the Tribunal does not consider their potential effect should be taken into account.
10. Mr McAlister accepted that maybe in the near future and maybe even in the past Mr Wilson might have been entitled to relief. Clearly the flexibility of his occupation at the Council was greater than some but he suggested that ultimately it was a full-time occupation and had to engage his first attention. That was his primary source of income and primary occupation.
11. The farm may be said to be a larger small farm, its size is about the average for Northern Ireland. Both Mr Wilson's occupations would be full-time occupations for some and the Tribunal does not find any significant difference in the time he devoted to each. He had chosen a very flexible employer but the Council generally had priority in the allocation of his availability. His gross salary from off the farm was something more than his gross income from the farm. On these factors alone the balance would lean towards not treating farming as his primary occupation.
12. However, the Tribunal accepts Mr Wilson's evidence that he took the job at the Council out of necessity arising from family circumstances. It was not his preferred option to farming. Clearly he had no capital invested in the Council and a substantial investment in the farming venture, which he continued to improve. Taking that together with the overall impression given by what Mr Wilson said the Tribunal believes that he had a genuine interest in farming and an exceptional commitment to operating and developing this family farm. His commitment to that was not matched

by any corresponding commitment to a career with the Council. Viewed objectively but in terms of primary concern or importance to him, occupation as a farmer of this land far outweighed his occupation at the Council. In this case that is sufficient to tip the balance the other way and the Tribunal therefore concludes that the house was occupied in connection with agricultural land and used as the dwelling of a person whose primary occupation was the carrying on or directing of agricultural operations on that land.

ORDERS ACCORDINGLY

23rd June 2006

**Mr M R Curry FRICS IRRV MCI.Arb Hon.FIAVI
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances:-

Appellant – Mr Ian Wilson appeared in person.

Respondent – Mr David McAlister instructed by the Departmental Solicitor's Office.