

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

IN THE MATTER OF AN APPEAL

VT/1/2010

BETWEEN

KEN SAYERS – APPLICANT/APPELLANT

AND

THE COMMISSIONER OF VALUATION – RESPONDENT

Re: 6 Ashburn Park, Eglinton, County Londonderry

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

Application for Leave to Appeal

1. By a decision 36/09 ('the Decision') the Northern Ireland Valuation Tribunal ('NIVT') refused the applicant/appellant's appeal against a decision of the Commissioner of Valuation ('the Commissioner'). The President of the NIVT subsequently refused his application for leave to appeal to this Tribunal. By an application received on 26th March 2010 the applicant/appellant now seeks leave from this Tribunal to do so.

2. His application was on matters he said were material to the outcome that were obviously wrong. His particular grounds were:
 - Land & Property Services ('LPS'), formerly the Valuation and Lands Agency, breached their own rules; and
 - The Valuation Tribunal was not independent.A number of ancillary matters were raised but these were the core issues.

3. Mr Sayers represented himself. Mr Henry Spence MRICS Dip.Rating, represented the Commissioner. The parties agreed that the matter be dealt with by written representations and the Tribunal received:
 - A statement of his case from Mr Sayers;
 - A response from Mr Spence; and
 - A rejoinder from Mr Sayers.

4. The background to the complaint was this. Mr Sayers says that two extensions had been built to the property before 1994. These had been inspected by LPS (VLA). Mr Spence said that there was no record within LPS of any inspection of the property between 1978 and 2009.
5. Mr Sayers said that in January 2007 he was notified by LPS that the Capital Value of his home, as at 1st January 2005, was £130,000. He says he was sent a copy of the “Rules and Regulations”. Later he queried the assessment. The District Valuer treated this as a request to review the Capital Value. When that review was carried out, the extensions carried by Mr Sayers and his predecessor were noted. It appears that the District Valuer concluded that if the alterations were not taken into account the valuation should be reduced slightly but when the alterations were taken into account there should be a substantial increase. Whatever the correctness of the practice, two certificates were issued on consecutive days. The first reduced the original assessment from £130,000 to £125,000. The second, which took into account the extensions, increased the assessment (from that revised figure of £125,000) to a final figure of £150,000.
6. Mr Spence explained that the reason for the two certificates was an attempt to assist Mr Sayers. If the valuation had gone from £130,000 to £150,000 in a single certificate, Mr Sayers would not have received any benefit from the reduction in the original assessment. In effect the certificate at £125,000 was a device that assisted Mr Sayers in limiting his rates liability for a period.
7. Mr Sayers said that the “Rules and Regulations” stated very clearly that the Capital Value would only change if you add to your property and he had not added to his property since January 2005. He said that the first valuation therefore could not be altered.
8. The “Rules and Regulations” to which Mr Sayers referred were, in fact, abstracts from explanatory material provided by LPS. These may have been less than a complete explanation. The Tribunal was not referred to any Rule or Regulation that would prohibit such an alteration. The Tribunal concludes that LPS was entitled to alter the Capital Value to £150,000. In any event, Mr Spence provided the Tribunal with a copy of the notification to Mr Sayers of his original assessment. This includes the advice:

“If any of the details we hold about your property are wrong, or there are any other inaccuracies, we will need to review the Capital Value, which maybe adjusted accordingly, either up or down”.
9. Mr Sayers said that in his opinion if a member who is currently practising as a valuer sits on the tribunal, it cannot be considered to be independent. He suggested that being involved with

valuations would automatically involve regular contact with the LPS who were the other party involved in his case. There would therefore be a conflict of interest. Any tribunal member in a case such as his should be a person with no involvement with LPS. He suggested the correct person to sit on a valuation tribunal would be an estate agent or valuer who had been retired for a number of years.

10. Rule 4 of the Valuation Tribunal Rules (Northern Ireland) 2007 makes provision for a tribunal to comprise three members of the Valuation Tribunal, including a member who has had experience in the valuation of land. The acceptance of appointment by a member to a tribunal to hear a case carries with it responsibilities that include a duty to disclose any involvement that might give the appearance of creating bias. That does not mean that no practising valuer may sit on a tribunal.
11. In this case there was nothing received by this Tribunal to suggest that any matter that ought to have been disclosed was not disclosed, or that there was anything that would raise a real possibility of bias in the eyes of a reasonably minded person. This complaint is purely theoretical. The Tribunal rejects the suggestion that the tribunal that heard the case was not independent.
12. There is nothing to suggest that the Valuation Tribunal did not properly address the correctness or otherwise of the final figure of £150,000.
13. There is no matter material to the outcome that is obviously wrong. The Tribunal refuses the application for leave.

ORDERS ACCORDINGLY

2nd June 2010

**Michael R Curry FRICS IRRV MCI.Arb Hon.Dip.Rating Hon.FIAVI
LANDS TRIBUNAL FOR NORTHERN IRELAND**