

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: NIVT 7/20

FRANK & UNA CASSIDY – APPELLANTS

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Michael Flanigan

Members: Mr Brian Reid (valuation) and Mr Garry McKenna (Lay)

Date of hearing: 9 August 2021 & 22 September 2021

DECISION

The unanimous decision of the Tribunal is that the Appellants appeal is adjourned Sine Dei.

REASONS

Introduction

This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”).

The Law

The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The Tribunal does not intend in this decision to set out the statutory provisions of article 8 of the 2006 Order, which amended article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this Tribunal.

All relevant statutory provisions including The Rates (Maximum Capital Value) Amendment Regulations (NI) 2009 were fully considered by the Tribunal in arriving at its decision in this matter.

The Tribunal had received written submissions from both the Appellant and the Respondent. The appeal was adjourned on 10th August 2021 and both sides submitted further submissions at that time. Neither party appeared before the Tribunal and the appeal was decided on the basis of appeal papers and all submissions received.

The subject property (“the property”) in this appeal is situate at 6a New Forge Lane BT9 5NU. The property is a detached 2 1/2 storey house with a detached garage.

Background

The property was built around 2010 and entered the Valuation list on 22nd August 2011. The capital value was assessed at £850,000. The Appellants submitted an appeal to the Commissioner of Valuation in September 2019. The Commissioner of Valuation in a

decision dated 10th September 2020 confirmed the Capital Valuation of £850,000. The Appellants have appealed that decision to the Northern Ireland Valuation Tribunal.

The Appellants believe that the correct capital value of the property is £650,000 and made written submissions in support of that valuation. The Respondents believe that the current entry in the valuation list of £850,000 is correct and submitted their own Presentation of Evidence in support of that valuation. Both sides submitted comparables in support of their respective positions.

By reason of the Rates (Maximum Capital Value) Amendment Regulations (NI) 2009 the current capital valuation is capped at £400,000.00 (the cap"). In practical terms, for the purpose of the calculation of annual rates, the rates department are required to ignore the value of any residential property which exceeds £400,000.00. On the first date of hearing the Tribunal took the view that there was no practical benefit to the Appellants in resolving an argument as to whether 6A New Forge Lane, Belfast has a capital value of £850,000.00 or £650,000.00. The rates payable by the Appellants would in either event still be calculated based on a valuation of £400,000.00. The appeal was adjourned and both sides were invited to address this point.

For their part, the Appellants' main submission was that the current cap of £400,000 could change at some point in the future and that they might then be affected by the valuation. The Respondents submitted that the NIVT had in the past dealt with appeals for premises valued in excess of the cap and that the responsibility of the Respondent was to maintain an accurate valuation list. The Respondent did not take into account liability for rates.

The Tribunal's Decision

It is well-established law that appellate bodies should not engage in hearing academic arguments or making a determination which has no practical effect.

"Appeals which are academic between the parties should not be heard unless there is a good reason in the public interest for doing so, as for example (but only by way of example) when a discrete point of statutory construction arises which does not involve detailed consideration of facts and where a large number of similar cases exist or are anticipated so that the issue will most likely need to be resolved in the near future." Ex-Parte Salem, R v. UKHL 8, 1999.

Valuation appeals are almost invariably fact specific to each subject property and it is so in this appeal also. The Tribunal was satisfied that no point of public interest arose in the appeal and that the outcome of the appeal, if it were to proceed, would have no wider implication for the rating of any property other than the subject property itself. The Appellants had invited the Tribunal to proceed with the appeal on the basis that the law might change at some point in the future. The Tribunal was not persuaded that it should do so. It is not the role of Tribunal to attempt to "future proof" the property against such an event. The Respondents' submission was that the appeal should proceed because the valuation was disputed, and their task was to maintain an accurate valuation list. Essentially this was an argument that the appeal should proceed because the Respondent believed their valuation was correct. Neither side argued, nor could they usefully have done so, that resolution of the dispute would have any practical effect. Having considered all the submissions the Tribunal was drawn to the inescapable conclusion that this was an academic argument the outcome of which had no practical effect.

The Tribunal was referred to Carson v Commissioner of Valuation 25/14). It is noted that the Rates (Maximum Capital Value) Amendment Regulations (NI) 2009 were not argued in that case, no submissions in respect of same were made and the Tribunal decision made no

reference to it. For those reasons the Tribunal does believe that the decision in Carson is of assistance and is not bound by it.

The decision of the Tribunal is that the continuing operation of the rates cap has rendered the appeal an academic argument. For the reasons set out above it is not necessary for the Tribunal to investigate the merits of the valuation submissions from either side and it has not done so.

The Tribunal notes that both sides have made lengthy written submissions in this case and that rather than dismissing the appeal the correct approach is to adjourn the appeal Sine Dei. In the event therefore of a change in the Rates (Maximum Capital Value) Amendment Regulations (NI) 2009 which does affect the property, the appellants can ask for the appeal to be listed. In the interest of clarity, the existing entry in the valuation list (£850,000) remains unchanged by this decision.

Chairman: Michael Flanigan

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 17 November 2021