

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 44/18

MS PATRICIA GRIMES – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Michael Flanigan

Members: Mr Chris Kenton FRICS and Mr David Rose

Date of hearing: 22 July 2020

DECISION

Introduction

1. Neither the appellant nor respondent appeared and both parties relied upon their written submissions only.
2. The primary legislation governing this matter is the Rates (Northern Ireland) Order 1977 (“the 1977 Order”).
3. The subject property “the property” in this appeal is situate at 15 Ashgrove Lodge, Portadown BT62 1US. The property is owned by the appellant and is a privately built 3 bedroomed terraced house constructed in or about 2008. The property is within the Ashgrove Lodge Development, a development of some 39 houses. The terrace of houses in which the subject property is situate are bounded to the rear by a communal alleyway, and beyond that by a river which is a subsidiary of the Upper Bann.

History of Appeal

4. The respondent issued a valuation certificate on 25th February 2019 giving a capital valuation on the property of £87,500 and the appellant by a Form 3 Notice of Appeal dated 13th March 2019 appealed against that decision.

5. The appellant's grounds for appeal may be summarised as follows: -

- A The appellant had to vacate the property between 1st May 2018 and November 2018 to allow for essential works to the drainage system during which time the house was uninhabitable, and
- B The capital valuation is excessive due to subsidence of land at the rear of the property, together with ongoing issues concerning ownership of the ground and responsibility for it.

The Respondent's Case

Ground A- Necessary works

- 6. The respondent's Presentation of Evidence accepted that works had taken place in order to carry out repairs to the drainage system and that the appellant was unable to occupy the property for approximately 7 months.
- 7. The submission of the respondent however was that even in circumstances where premises are vacated in order to carry out works, that in itself did not remove the property from the valuation list and accordingly rates were still payable in respect of same.

Ground B - Subsidence of land at the rear of the property

- 8. The respondent accepted that upon inspection there "appears to be evidence of subsidence/movement specifically in relation to rear back garden/communal alley" but relied upon the general principle that the capital valuation of the property was in keeping with the valuations of other properties in the row.
- 9. No applications for revision of capital valuation had been made in respect of any other property. The respondent submitted that, having regard to capital valuations of the other properties in the development, the tone of the list determined that the valuation of the subject property should be maintained at £87,500.

Decision of the Tribunal

Ground A - Necessary Works

10. The 1977 Order requires that rates should be paid in respect of any hereditament which is retained on the valuation list. Rates are payable in respect of a property if it is unoccupied and even in circumstances where it cannot be occupied for necessary repairs. A property is therefore only removed from the valuation list in circumstances where it can be considered to be derelict.
11. The term derelict in valuation terms has a specific and narrow meaning. The term was examined by the High Court in England in the decision *Wilson v Coll* (2011). In that case Mr Justice Singh set out the test when deciding these cases in the following terms, whether “having regard to the property and a reasonable amount of repair works being undertaken could the premises be occupied as a dwelling.” It is only when a property could not be occupied even after a reasonable amount of work has been undertaken, that it can be considered truly derelict.
12. There is no evidence to suggest that the property was at any time derelict in the above sense and the fact that repairs were carried out and the premises re-occupied would suggest otherwise.
13. The Tribunal was satisfied that the property was not derelict and had remained a hereditament and accordingly the appellant’s appeal on Ground A was refused.

Ground B - Subsidence of ground at the rear of the property

14. The subject property is one of a terrace of houses completed in or around 2008. The rear gardens of the houses and a communal alleyway have been built on what can only be described as a riverbank. The river is a tributary of the Upper Bann which it joins a short distance away. Unsurprisingly perhaps, the ground forming the rear gardens and alleyway of this terrace has now become the subject of subsidence and movement. It is also perhaps unsurprising that following the developer going into administration, no one has yet accepted responsibility for the rectification and repair of this problem.

15. The respondent has sought to rely on the fact that adjoining premises within the same development had capital valuations which were unchallenged and supported the capital valuation at £87,500. This is the submission that the capital valuation of the property is in keeping with the tone of the list. The “tone of the list” is a shorthand description of the valuation tool that properties should be valued in keeping with the valuations already given to similar properties in the same area. It is supported by the legal presumption in valuation law that a valuation is correct unless evidence is submitted to demonstrate it is incorrect.
16. The decision of *Trimble & McCusker v Commissioner for Valuation for NI (33/11)* has established for some considerable time that both Land & Property Services and the NIVT have the power and discretion to allow for a reduction in capital valuation in the cases of unfinished and poorly built estate developments.
17. This power to reduce a capital valuation can be exercised in circumstances where the builder has gone into administration and is no longer available to complete works or carry out necessary repairs, which is the instant case.
18. In the current appeal the Tribunal was satisfied that the capital valuation of the property had been adversely affected by the subsidence/movement in the land at the rear of the property.
19. The Tribunal determined that the effect of this subsidence/movement should be reflected by a reduction of 10% to the capital valuation of £87,500 rounded up to £79,000.
20. The appeal is successful on Ground B and the entry of the property in the valuation list is amended accordingly.

Signed: Mr Michael Flanigan – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 13 August 2020