

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964**  
**IN THE MATTER OF AN APPEAL**  
**VR/1/1985**  
**BETWEEN**  
**PETER McCULLAGH - APPELLANT**  
**AND**  
**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Lands Tribunal for Northern Ireland - Mr A L Jacobson FRICS**

**Cookstown - 22<sup>nd</sup> April 1985**

This was an appeal against the decision of the Commissioner of Valuation not to reduce the rating assessment of £225, fixed by a District Valuer's Certificate dated 2<sup>nd</sup> October 1984, for No 16 Rathmore, Cookstown, Co Tyrone.

The hereditament is a newly erected bungalow which was initially valued at £215 Net Annual Value - a temporary allowance of £10 was made because the estate roads were not made up nor was there any street lighting. The allowance was withdrawn when roads were completed and street lighting installed. The bungalow is constructed of concrete blocks (pebble dashed) with a tiled roof and contains Living Room, Working Kitchen/Dinette, 3 Bedrooms, Bathroom (with WC and WHB). There is a partial central heating from a Stanley De Lux cooker in the Working Kitchen. A motor-house under construction at the date of the District Valuer's Certificate has not yet been assessed.

The Appellant, Mr McCullagh, made two major complaints viz:-

1. The Ulster Defence Regimental Depot was about 150 metres away. His house suffered noise from helicopters using the heli-pad inside that Depot. He considered a reduction of £40 should be made.
2. When he purchased the house, the plan showed to him by the selling agent indicated a pedestrian access to Cemetery Road/Chapel Street. There had been a tarred vehicular access while the estate was being built which purchasers used together with the builder's lorries and other vehicles. Since the road had been made up this access

had been dismantled but the pedestrian access had not been made. Representations to the builder had no effect nor, for that matter, had approaches to the Department of Environment for Northern Ireland brought a different answer. He considered a reduction of £25 was warranted. Mr McCullagh accepted that all 33 dwellings in this small but compact estate were similarly affected but submitted that as all were assessed on the same basis each house should get reductions of

$$£40 + £25 = £65.$$

Mr Robert McCann ARICS for the Commissioner of Valuation spoke to the following assessment:-

House 117 square metres @ £1.84 per square metre	£215
Partial central heating	<u>£ 10</u>
<b>Net Annual Value</b>	<b>£225</b>

He submitted three comparables viz:-

No 14 Rathmore

Assessed:-

House 118 square metres @ £1.84 per square metre	£217
Full oil-fired central heating	£ 20
Motor-house and store (29m <sup>2</sup> )	<u>£ 20</u>
Net Annual Value	£257
	<b>say £255</b>

No 24 Rathmore

Assessed:-

House 117 square metres @ £1.84 per square metre	£215
Full oil-fired central heating	<u>£ 20</u>
<b>Net Annual Value</b>	<b>£235</b>

No 34 Rathmore

Assessed:-

House 117 square metres @ £1.84 per square metre	£215
Full oil-fired central heating	£ 20
Motor-house (30m <sup>2</sup> )	<u>£ 20</u>
<b>Net Annual Value</b>	<b>£255</b>

He considered that all the houses in the estate were assessed on the same basis and all were affected in the same way on those occasions when helicopters were landing. The estate was a convenient walking distance from the Post Office and shops and the lack of an additional pedestrian access affected all the estate. Mr McCullagh was the only appellant making the present complaints and request for reductions.

## **DECISION**

Article 54(2) of the Rates (Northern Ireland) Order 1977 ("the 1977 Order") enacts that when an appeal has been made to the Lands Tribunal "the valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown".

Prima facie, therefore the assessment of net annual value of this hereditament at £225 is correct until the Appellant shows that it is incorrect. Schedule 12 Part I paragraph 2 to the Rates Order provides "in estimating the net annual value of a hereditament for the purposes of any revision of the valuation list, regard shall be had to the net annual values in the valuation list of comparable hereditaments which are in the same state and circumstances as the hereditament whose net annual value is being revised".

The Appellant accepted that all 33 houses in the estate were affected in the same way and to the same degree by helicopter noise and the lack of the promised pedestrian access. He also accepted that the comparables submitted on behalf of the Commissioner of Valuation were assessed on the same basis as his house (although he considered all houses in the estate should be reduced). But the assessment of the comparables must each be deemed to be correct until shown to be wrong. In the circumstances the appellant has not shown that the Net Annual Value of his house is too high.

The Commissioner of Valuation did not rely on the fact that the Appellant had not shown the Net Annual Value to be wrong. The three comparables submitted by Mr McCann are clearly in the same state and circumstances as the subject hereditament and in evidence the Appellant accepted that that was so. The assessments of those comparables in the Valuation List fully support the Net Annual Value of £225 of the subject hereditament (and once again the Appellant accepted that all of the comparables were assessed on the same basis as his house).

The Tribunal finds that the Commissioner of Valuation has shown that £225 is correct.

The Tribunal makes no change.

The Tribunal makes no order as to costs.

**ORDERS ACCORDINGLY**

**Mr A L Jacobson FRICS**

**13<sup>th</sup> May 1985**

**LANDS TRIBUNAL FOR NORTHERN IRELAND**

**Appearances**

**Appellant in person.**

**Robert McCann ARICS, for the Respondent.**