

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
IN THE MATTER OF AN APPEAL
VR/19/1988
ANNE FLANAGAN - APPELLANT
AND
THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND

Lands Tribunal for Northern Ireland - Mr A L Jacobson FRICS

Belfast - 14th June 1990

This was an appeal against the Net Annual Value of £104 (in the Valuation Lists) for No 334 Glen Road, Belfast. That assessment was £128 in the 3rd General Revaluation List of 1st April 1976 but an end allowance of £13 was made by the District Valuer on 24th January 1986. Following a further application to the District Valuer no change was made and on first appeal the Commissioner of Valuation increased the end allowance to £24 by Certificate dated 16th May 1988.

The Appellant sought a further reduction because of the severe nuisances from a large itinerant encampment immediately in front of her house but on the opposite side of the Glen Road.

Following application, there being no objection, the Lands Tribunal gave permission for Councillor Alex Attwood LLB to represent the Appellant. Mr Attwood explained that, although a practising solicitor, he was not acting in that capacity in this case.

The Appellant, Mrs Anne Flanagan, submitted photographs of the itinerant encampment as seen from her house. Stated rather briefly her complaints were:-

1. There were about 100 caravans situated on the other side of the road. The encampment was on 2 levels - the higher was the farther away.
2. Scrap cars were regularly burned causing a lot of billowing smoke. About 50 cars a day are burned and those scrap cars taken down the road to the scrap yard. Fires may be still burning up to 11.00 pm.
3. A business laying tarmac/bitmac paths is carried on from the encampment. Each late evening the itinerants clean the steel barrels used in that business at one of the stand-

- 4.
4. There is no electricity on the encampment and because the street lighting cables were connected to the caravans the street lighting was turned off for fear of electrocution. There was no street lighting for a period of 5 months. Eventually street lighting was restored only on the side of the road where the houses were situated but illegal connections were once again made. At the present time the lighting is switched on but as soon as an illegal connection is made it is switched off yet again - and so on.
5. The only water on the site is provided by two stand-pipes. One is near the road opposite Appellant's house. That is used by itinerants who strip to the waist and wash. It is kept running in a continuous flow - it flows down Glen Road and in winter often turns to ice.
6. Some caravans use small generators to provide electricity and in the summer they run from 9.00 pm to 2.00 am each day. Some are very noisy.
7. The bus stop used to be nearby but when the street lighting was removed so was the bus stop. It is now situated 5 to 10 minutes walk away.
8. There is no sanitation on the encampment. There are 80 to 85 families without toilets - some of those families have up to 14 children. There are no fixed places for anyone to go to the toilet. Also there are horses, dogs, geese, chickens and cocks. The smells from the site are out of control.

Because the site is not fenced animals of all kinds get on the road from time to time and the dogs (including Dobermans and Alsations) run in packs and the noise often interrupts sleep.

9. A number of the house occupants met some of the travellers to explain the problems but were met with an answer that there is no bin emptying services on the site and the travellers were doing the City a service by getting rid of the scrap cars. They explained that there was a problem with rats but of no avail.
10. The Appellant further testified that when she asked one traveller to stop kicking her gate she was met with verbal abuse, physical attacks and here house was attacked with stones, bottles and screwdrivers.

11. At times the travellers fall out one with another and this normally ends with a fight between families or even clans. Everything in the caravans are thrown at each other - inevitably some of which finish up on the Glen Road. Fights are often with sticks, crowbars etc.

Mrs Flanagan accepted that if there was no encampment opposite but instead the former proposed recreation area the Net Annual Value of £128 was correct, but she considered that the present reduction was insufficient. All the houses in the small terrace of 10 she considered are affected to the same extent.

Mr K Brown of the Crown Solicitor's Office (for the Respondent Commissioner) called Mr James Alan Hamilton ARICS to give evidence.

Mr Hamilton accepted the factual evidence of the Appellant but considered that as there is no disagreement with the original Net Annual Value of £128 the end allowance given has proper regard to all the adverse factors and that allowance is fair when compared with similarly circumstanced hereditaments.

He supported that opinion with a "schedule of comparisons" viz:-

Nos 324/332 and Nos 336/340 Glen Road

8 terrace houses similar to subject.

Basic NAV	£128
less:- end allowance 18.7%	£ <u>24</u>
NAV	£ <u>104</u>

No 342 Glen Road

Extended end terrace house.

Basic NAV	£149
less:- end allowance 20.13%	£ <u>30</u>
NAV	£ <u>119</u>

Nos 314/322 Glen Road

5 terrace houses similar to subject.

Basic NAV	£128
less:- end allowance 14.84%	£ <u>19</u>
NAV	£ <u>109</u>

No 62 Rossnareen Avenue

End terrace house similar to subject.

Basic NAV	£128
less:- end allowance 10.16%	<u>£ 13</u>
NAV	<u>£115</u>

DECISION

The Tribunal inspected generally on 3 separate occasions at different times of the day. The Tribunal must approach this problem by accepting the proven facts and the basic Net Annual Value of £128 and solely to consider what end allowance is warranted. In this regard the Tribunal must be guided by 2 particular matters in the Rates (Northern Ireland) Order 1977 viz:-

Article 54(2)

"On an appeal under this Article, the valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown."

Schedule 12, Part 1, Paragraph 2-(1)

"Subject to sub-paragraph (2), 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."

A number of matters arise viz:-

1. The best comparables are situated in the same terrace - Nos 314 to 332 and Nos 336 to 340 Glen Road.
2. The Net Annual Value of each of those comparables is not subject to an appeal and therefore all are deemed to be correct.
3. The travellers' encampment has extended from eight caravans in 1973 to eleven caravans in 1976 to 80 caravans in 1988 to now about 100 caravans.

4. The Tribunal considers that the words "regard shall be had ..." does not mean that the comparable hereditaments' assessments should be slavishly followed but proper account should be taken of them.

The Tribunal in course of the few submissions made by both sides asked the same question as to what was the correct way of dealing with the end allowance viz (a) by deducting a percentage; (b) by deducting firstly 10% and then a further 10% of the remainder; or (c) a financial sum. Mr Brown for the Respondent Commissioner considered the "amount of the reduction should be the same when the houses are the same but the end house is slightly different and should be treated differently". Mr Attwood (for the Appellant) considered that the "end allowance should be in financial sums and it should impact in the same way on people who are equally affected".

He further considered that:-

- "1. The position was unique - no hereditaments affected in the same way elsewhere in Belfast could be found
2. No comparables were put forward other than the 2 terraces in Glen Road.
3. The Appellant should get a large allowance - the best possible interpretation should be put on it."

The Tribunal considers that Nos 314/322 Glen Road and No 62 Rossnareen Avenue were not helpful. That leaves Nos 324/332; Nos 336/340 and No 342 Glen Road - all the other houses in the same terrace of 10 houses.

The end allowance given are either 18.7% to 20.13% for the extended end house or £24 to £30 for the extended end house.

The Tribunal was not told the arithmetic of the Net Annual Value of £149 for the extended house but one way of looking at it would be basic NAV £128 plus £21 for extensions = £149. The end allowance would then be £128 less 18.7% £24 = £104 plus £21 less 28.57% £6 = £15. Thus £104 plus £15 = £119. The Tribunal appreciates that this is merely an arithmetical analysis rather than a valuation but it is indicative of the difficulty of applying percentage end allowance having slavish regard to comparables.

Consequently, the Tribunal prefers in an unique case such as this to use a sum of money as an end allowance. The Tribunal having regard to the £30 end allowance for No 342 prefers £28 rather than the £24 given even though other middle terrace houses have an

end allowance of £24, for it is obvious that the nuisances affecting the Appellants house have been increasing continuously since 1973 until the operative date (for the purpose of this appeal) of 1987/1988 rating year (District Valuer's Certificate dated 24th July 1987), and were expected to (and in fact have) increased continuously since that date.

The Tribunal reduces the Net Annual Value to £100.

The Respondent Commissioner will pay measured costs of £40 to the Appellant.

ORDERS ACCORDINGLY

2nd August 1990

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

Appearances:-

The Crown Solicitor for the Respondent Commissioner of Valuation.

Councillor Alex Attwood LLB for the Appellant.