

**LANDS TRIBUNAL FOR NORTHERN IRELAND**  
**LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964**  
**IN THE MATTER OF AN APPEAL AGAINST VALUATION FOR RATING PURPOSES**  
**VR/20/1976**  
**BETWEEN**  
**JOHN FRANCIS RUTLEDGE - APPELLANT**  
**AND**  
**THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Lands Tribunal for Northern Ireland - Sir Frank Harrison MBE QC DL**

**Omagh - 24<sup>th</sup> May 1977**

This was an appeal against the net annual value of £315 in respect of No 9 Mullagharn Road, Omagh, registered on Folio 8944 of County Tyrone. The subject hereditament was entered in the Valuation List as House, Offices and Grounds and upon the appellant's application for revision on 12<sup>th</sup> February 1976 was reduced by the District Valuer to £315. The Commissioner of Valuation dismissed the First Appeal by Notice of Dismissal dated 14<sup>th</sup> October 1976 and the appellant then brought this appeal to the Tribunal by Notice of Appeal dated 1<sup>st</sup> November 1976 in which he set out as grounds of appeal:-

The original valuation of £354 (before appeal) was excessive and the reduction to £315 insufficient for the reasons given below and also because the latter amount is still much higher than that for modern properties, in the district, with similar accommodation;

and he gave as reasons:-

- (a) Heating is installed on the ground floor only.
- (b) Fabric of building is old, leading to higher maintenance costs (Building Society would not extend loan period beyond 15 years).
- (c) Mains water supply is via a farmer's private main and has to be paid for. The rural district council originally made an allowance, since withdrawn by the Department of the Environment.

- (d) Large volume of building means high heating and maintenance costs without any useful increase in accommodation.
- (e) No mains sewer is provided.
- (f) No street lighting is provided.
- (g) Public transport is completely inadequate and it is necessary for me to provide a car for my wife so that she can collect the children at school on any day when they have music lessons, participate in sport etc. The alternatives would be that the children should wait 2 hours for a bus or walk 3 miles.

and sought reduction of the net annual value to £250.

The appellant conducted his own case and John Desmond Simpson, a Senior Valuer in the Department of Finance, Omagh District, presented the case for the respondent.

The subject hereditament was built in or about 1912 as a manse and was double fronted, two storeys, with rubble masonry walls cement rendered and with slated roof, on an elevated site in grounds of about 1.619 acres heavily timbered. The house was approached over a rough, winding, heavily rutted avenue of hard-core with a loose stony surface, and through grounds overgrown with shrubs and which apart from a vegetable garden and paddock were not well cared for. The uneven surface of the avenue, especially on the corner nearest the house could be negotiated only by vehicles which had high clearance, and some makes of car with low undercarriages could suffer damage on this section of the avenue.

Around the house, there was a concreted surround to give a dry footing to the walls and concrete yard gave a dry approach to the kitchen door.

The house had electric power and light from the public supply, but water was obtained privately from a neighbouring farmer with a mains supply at a figure which presently was £9.36 per annum (measured through a meter privately purchased by the appellant at £11.85), and drainage was to a septic tank installed by the appellant.

The house was 3 miles from the centre of Omagh off a side road on which there was no regular bus service, and children had to be ferried by private car to and from school and school activities such as games and music.

Evidence was given by the appellant that when he purchased the freehold of the premises for £4,000 on 20<sup>th</sup> March 1969, and as the premises were in substantial disrepair he intended to spend up to £2,500 on improvements and repair. He was refused a mortgage from the Nationwide Building Society, as the main rubble walls and foundations showed cracks possibly indicating subsidence. Through family and business influences he eventually obtained an advance of £2,500 from the Society on special terms, providing for repayment in 15 years, and after spending this amount and all his savings, he obtained a further mortgage for £1,000. In all he spent £6,000 on improvements and repairs over 7 years, largely using his own labour to carry out complete re-organisation of the kitchen, the plumbing and lighting throughout the subject, and as regards the accommodation the rooms have been largely re-plastered on battened walls. The entire ground floor has been concreted with underfloor electric heating after the original timber floors were found to be suffering from dry and wet rot, and the kitchen area has been tiled over the concrete base. The roof timbers were treated commercially for extensive wood-worm damage by experts in this work. The slates are however unstable due to deterioration in roof lathes, and at the front (SW aspect) a number are anchored only by lead strips, and much work remains to be done to give adequate weather and storm-proof roof cover.

No work has been done by replastering or otherwise to close the extensive cracking in window heads and on outside walls, except some cement rendering of areas around and under window sills. This cracking extended through some walls to affect inside plaster, which has been stripped and replaced in the main by plaster board on battens. Some of this work is not sufficiently insulated and sound-proof, and resonance occurs which makes it possible to hear what is taking place in an adjoining room. The work of improvement and repair is still going on, and some flooring and tiling is incomplete, but as a matter of impression a very high standard of services in the kitchen, bathroom layout and plumbing generally has been achieved largely by the appellant's own work, and the subject has a most attractive interior and high standard of decorative repair.

The outside walls, the roof and out-buildings are quite another matter, and in the opinion of the Tribunal, need considerable expenditure to bring them up to anywhere near the standard set by the interior. The appellant estimated that at least £100 per annum was needed simply to keep the subject in its present state of repair and any loss of slates or penetration of cracked walls by water could absorb that amount at any time in a single repair. That estimate was not challenged and seemed in relation to the total expenditure of £6,000 over 7 years with the appellant doing most of the work himself, to be quite a reasonable and perhaps modest assessment.

For the respondent there were a number of comparables introduced, and the interesting feature was that among these were three recently improved, and modernised rectories or manses, and two farmhouses, all in the vicinity of Omagh. The Valuation was supported by Mr Simpson on the ground that it had already been substantially reduced by the District Valuer and now devalued as follows:-

House 258.9m <sup>2</sup> at £1.09		£282.20
Motor-house and offices 55m <sup>2</sup>	say	£ 20.00
Add for underfloor heating		£ <u>12.00</u>
		£314.20
	<b>say</b>	<b>£315.00 NAV</b>

Two small points were made by the appellant on this devaluation.

First the motor-house, being at right angles to the drive could not be used as such because only the smallest of cars could turn in and out at a right angle. This situation could not be substantially improved because the space available and lie of the land prohibited simple remedial works.

Second the figure for underfloor heating was arbitrary and in comparison with comparable properties with central heating or underfloor and storage heating throughout the whole house was much too high.

The most useful of Mr Simpson's comparables were:-

PRICE NO	ADDRESS	DESCRIPTION NAV	ACCOMMODATION REMARKS	USE	AREA M <sup>2</sup>	PER M <sup>2</sup>	
1	81 Edenderry Road £1	H OS & GROUNDS £240	Art 41	3R K Pty/4B Bath WC Presbyterian		House	241
	£120	Manse in rural area.	Currently on revision				
4	34 Riverview Road £270	H O & G Old house in	2 R K Sc Pty/4B Bath WC	House OS	238 113	£1.05 say	£250 20
	fairly good repair, poor rambling layout.	No Application for revision					
6	20 Rash Road Farmhouse built £348	H (Ag) OS 1964, on narrow	3 R W K Study Wash Ho Clks/4B Bath WC	House Car Port Central Heating	232 39	£1.32 say	£306 15 27
	side road.	No Application for revision					

7	32 Rash Road	H OS & GROUNDS	3 R W K Clks/4BHouse	271		
	£0.78	£210	Art 41	Old RM/S Rectory		
			Box Rm, Bath WC	OS	235	say 30
	£120	beside Church &				

Graveyard -  
 repair fair for  
 age.

No Application for revision

The Tribunal inspected the subject during the hearing and after completion of the case then inspected all the comparable.

## **DECISION**

This was an interesting case which was well presented by the appellant and well met by the respondent's valuer.

The unusual feature was the circumstance that the structure based on rubble masonry was insufficiently stable and badly enough cracked to make it impossible for the appellant to get a mortgage on normal terms and indeed the mortgage he obtained would not have been available to a normal borrower. The roof condition also raises speculative questions which would affect the hypothetical market and the hypothetical letting which must be assumed. These circumstances have to be considered in relation to a dwelling in which the good craftsmanship and heavy expenditure have made the interior of the premises very attractive to the hypothetical tenant.

The correct legal approach to the problem is to assume that the landlord in the hypothetical market should carry out such repairs as are economically reasonable having regard to the age and condition of the premises and that the hypothetical tenant from year to year should keep the premises in as good repair as when let. Saunders v Maltby [1976] RA 109. If the cost of doing such repairs would be out of all proportion to the value of the premises, the reasonable hypothetical landlord will not do such repairs at all, but let the premises at a low rent.

The work done by the appellant in the present case enhances the attractions of the premises, but the cost of putting the structure (including the roof) in repair would clearly have exceeded all the actual expenditure by the tenant to date. The amount required was not estimated and obviously would have involved

expensive professional surveys and bills of quantities for itemised work, which could not be expected from an appellant appearing in person.

The Tribunal's view is that in all probability the cost of stabilising the rubble masonry walls and rendering them impervious when added to the cost of making sound the roof condition, the hypothetical landlord would decide to leave such work undone, and take a reduced rent leaving the tenant to make out as best he could.

The comparables presented for the respondent contained the four useful valuations set out. There were several others and two recent lettings at high rents, which devalued at £1.04 or £1.50 per m<sup>2</sup>, but these were not taken into account as variation in size and position, or difference in character and age made them less relevant than the said four comparables. Unfortunately the Tribunal was not able to inspect the inside apartments of these four houses, and must assume a reasonable condition in each case.

These four comparables devalued at figures per square metre between .78p for the old Rectory on Rash Road (No 7) to £1.05 for 34 Riverview Road. The former, beside an old Church and Graveyard, which did not depreciate its attraction, seemed to be unimproved and rather shaded by the standing timber and the latter was, like the subject, on an elevated site, but overlooking the Camowen River. Its position obviously enhanced its potential on the hypothetical market, as did the more extensive grounds, very well kept, and the good approach avenue. The other two comparables, rather similar in size and slightly smaller than the subject showed a devalued figure of £1 per square metre for the old unmodernised Presbyterian Manse in a rural area (No 1), and £1.32 for the modern farmhouse built in 1964 on the Rash Road (No 6). The latter owed £27 of its valuation to central heating.

Having regard to the fact that none of the comparables suffered from the structural and roof defects found in the subject and the evidence that a

hypothetical £100 per annum would have to be found for repairs, one year with another, the Tribunal has come to the conclusion that the valuation should be:-

House 258.9m <sup>2</sup> at 0.90p	£233.00
Motor-house and offices say	£ 15.00
Add for underfloor heating	£ <u>12.00</u>
and thus giving a Net Annual Value of	£260.00

The Tribunal accordingly allows the appeal and directs that the valuation of the hereditament be entered in the Valuation List as £260.00.

No order as to costs. The respondent to pay to the appellant the entry fee of £2 and the hearing fee of £5.

**ORDERS ACCORDINGLY**

**FRANK HARRISON**

**8<sup>th</sup> June 1977**

**LANDS TRIBUNAL FOR NORTHERN IRELAND**