

LANDS TRIBUNAL FOR NORTHERN IRELAND
LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964
IN THE MATTER OF AN APPEAL
VR/22/1989
WILLIAM ALBERT BROWN - APPELLANT
AND
THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Lands Tribunal for Northern Ireland - Mr A L Jacobson FRICS

This was an appeal against a Net Annual Value of £207 for a detached bungalow No 10 Thorndale Road South, Carryduff, Belfast. It arose with an application for revision to the District Valuer dated 22nd March 1989 when Mr Brown sought a reduction on the grounds:- "(1) Loss of aspect, (2) Loss of privacy, (3) Loss of Light, (4) Loss of property value due to the excessive proximity of new housing development." The District Valuer by Certificate dated 5th July 1989 declined to make a reduction.

On 17th July 1989 Mr Brown appealed to the Commissioner of Valuation against the District Valuer's decision on the grounds:- "(1) Loss of privacy, (2) Loss of value due to extreme proximity of and the overlooking of subject by adjacent houses, (3) Blow down of chimney during prevailing winds, remedial action needed". The Commissioner of Valuation dismissed that appeal by Notice dated 14th September 1989 for the reason:- "the Valuation is fair and relative to those of other houses in the area".

On 21st September 1989 Mr Brown appealed to the Lands Tribunal against that decision of the Commissioner of Valuation on the grounds:- "(1) Only existing bungalow as adversely affected, (2) We are overlooked by new housing development creating lack of privacy eg from upstairs room can see into our kitchen, back garden and side path, (3) Our property has definitely declined in value and if we were to rent out the rental would now be a lower sum, due to unfavourable appearance, (4) Loss of scenic view, (5) One room now rendered partly uninhabitable due to blow downs in chimney".

Mr Brown, who was not represented, accepted that prior to the erection of a pair of semi-detached houses his bungalow was fairly assessed in line with the comparables submitted by the Commissioner of Valuation. Mr Brown submitted no comparables, but the semi-detached houses had been erected at right angles to the road within 7 metres of his house.

This coupled with the fact that those houses were situated on rising ground had the effect that the roof was 30 feet above the ground level at his bungalow. That meant a loss of natural light in his bungalow and a loss of view. The rear windows of those houses overlooked his rear garden and overlooked anyone working in the working kitchen. When the prevailing wind was in a certain direction frequent blow-downs were caused in his chimney requiring the fire to be put out completely. These blow-downs occurred about 14/15 times each winter. A cowl had been put on the chimney to attempt a remedy but in vain. He submitted that the rental value of the bungalow had diminished because of the erection of the pair of semi-detached houses.

Mr Matthew Robert Coates ARICS, Valuer I in the Valuation and Lands Office, for the Respondent/Commissioner spoke to a valuation of £207 Net Annual Value. He supported this with four comparables viz:

1. No 12 Glennor Crescent assessed @ £201 Net Annual Value.
2. No 2 Thorndale Road South assessed @ £209 Net Annual Value.
3. No 4 Lough Erne Park assessed @ £197 Net Annual Value.
4. No 1 Lough Erne Park assessed @ £200 Net Annual Value.

The Tribunal finds it necessary to show the details of each assessment because Mr Brown properly and quite fairly accepted that if it were not for the existence of the adjacent pair of semi-detached houses the assessment of his bungalow was in line with those comparables.

Mr Coates underlined the fact that as far as No 4 Lough Erne Park was concerned it was situated at a concave corner at the bottom of a cul-de-sac which meant that it was partly overlooked from windows of each of the two adjacent houses. No allowance had been given.

Also No 2 Thorndale Park South was situated on a busy concave corner with passing pedestrian and vehicular traffic. No allowance had been given.

He submitted

1. The adjacent development was not abnormally close.
2. The subject bungalow enjoys much the same privacy as the comparables.

3. It is difficult to quantify the effect (if any) the siting of the new development has had on the capital value of the subject bungalow.
4. No addition to the assessment was made for the scenic view originally enjoyed. No reduction can be made for the loss of scenic view.
5. The problem of smoke blow-down is intermittent. The fact that there is full oil-fired central heating would not reduce the rent the hypothetical tenant would be prepared to offer.

DECISION

The Lands Tribunal inspected Mr Brown's bungalow, the comparables and the general surrounding area. Mr Brown properly conceded that had the pair of semi-detached houses not been erected the assessment of £207 for his bungalow was in tone with the level indicated by the Commissioner's comparables. Mr Brown considered that the Net Annual Value should be reduced because that development diminished the rental value of his bungalow but did not quantify what should be that allowance.

On the other hand, Mr Coates considered that the erection of the adjacent semi-detached houses did not affect the Net Annual Value at all. In cross-examination he admitted that he was not aware of the frequency of the blow-downs of smoke and properly agreed that if the problem was unable to be remedied at reasonable expense some allowance should be made (the Lands Tribunal's underlining). Mr Coates made no attempt to quantify such an allowance (if it were warranted).

This resultant net point to some extent could be decided with help from an empiric judgement aided by an on-the-ground inspection. Photographs submitted in evidence by themselves were not conclusive. But the inspection showed that the pair of semi-detached houses had been erected at the bottom of a new cul-de-sac and the rear of both houses overlooked the rear garden of No 10 Thorndale Road South. The surface of that cul-de-sac is approximately five feet above the vehicular access to No 10 Thorndale Road South. While the windows at first floor level of those semi-detached houses are bathroom windows with opaque glass and thus privacy enjoyed by the Brown family is not greatly diminished, the Tribunal accepts Mr Brown's evidence regarding the frequency of the blow-downs and that the intensity and duration of each blow-down requires the fire to be completely

extinguished. Taking into account that oil-fired central heating is installed Mr Coates properly accepted that some allowance was necessary if the chimney fault could not be remedied at reasonable cost. Mr Brown has attempted so to do by fitting a chimney cowl but in vain. Consequently the Tribunal accepts that some allowance should be given but without any assistance from either witness the Tribunal must do the best it can. An allowance of £17 must be given. The valuation becomes:-

House	87 m ²	@ £.196/m ²	=	£171
MH	18 m ²	say		£ 16
GH	6 m ²	say		£ 2
Central Heating		say		<u>£ 18</u>
				£207
Less Allowance				<u>£ 17</u>
Net Annual Value				<u>£190</u>

The Tribunal directs the Valuation List to be amended thus:-

Description:- H O's & G

Net Annual Value:- £190 PD & TOTAL

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

ORDERS ACCORDINGLY

12th December 1989

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

Appearances:-

Mr William Albert Brown, the Appellant, by himself.

Mr Matthew Robert Coates, ARICS for the Respondent/Commissioner of Valuation.