

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/50/1967
BETWEEN
VICTORIA HOUSING ESTATES LTD - APPELLANT
AND
THE COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

This was an appeal against the valuation for rating purposes of a flat known as Flat A (Valuation Office No 1), Clonaver Drive, Belfast 4. The flat was valued at £20 and on First Appeal the Commissioner of Valuation refused to alter this figure. The appeal to the Lands Tribunal dated 4th September 1967 asked for a reduction to £14 on the grounds that "the present valuation is excessive and unfair, based on excessive estimate of rental value and on comparison with similar properties".

At the hearing the appellant asked leave to amend this notice by altering the figure of £14 to £10 as the proposed reduction in the amount of the valuation, and the respondent agreed to this alteration.

There are sixteen similar flats in one block, each of which is the subject of an appeal. Counsel agreed that the present appeal in respect of the subject flat should be heard first, and the remaining fifteen - VR/5/1967 to VR/65/1967 - should await the decision in this case.

The appellant was represented by Mr J F B Russell QC, instructed by Tughan & Co, Solicitors, and Mr James W Burgess AAI, gave expert evidence.

The respondent was represented by Mr A Comerton, instructed by the Chief Crown Solicitor, and expert evidence was given by Mr R S J McIlmail AAI, an officer of the Valuation Division of the Ministry of Finance.

Mr Burgess gave evidence, which was not disputed, that the appellant is a Housing Association registered on 1st May 1950 under the Industrial and Provident Societies Act 1893. Its objects are to carry on the business of providing housing and associated amenities for persons, mainly of the working classes, in Northern Ireland. The subject flat

and the other fifteen flats in the same block were provided exclusively for elderly or handicapped persons with provision for the accommodation of a resident nurse or warden.

The appellant received financial assistance from the Ministry of Development and the Ministry of Finance in the form of loans and subsidies towards the cost of this housing, and the rents charged are subject to the approval of the Ministry of Development, and are based on the loan charges and outgoings in respect of each flat. The rent payable at the relevant date, for the subject flat was £122 16s per annum made up of £115 as rent, and £7 16s as a maintenance charge. The tenant also pays the rates.

The subject flat comprises small entrance hall, large living room with bed alcove, kitchen and combined bathroom and WC. The agreed internal area is 34 square yards, and it was also agreed between the expert witnesses that the valuation of £20 should be analysed as:-

34 square yards @ 11s 10d per square yard	£20 2s 4d
	say £20

Mr Burgess considered that, on account of the restrictions and controls on the letting of this flat, the best comparisons in arriving at the rateable value were flats provided for old people by the Belfast Corporation. Accordingly, he offered as comparables the following:-

- (1) 661 Springfield Road, Belfast. Similar bed-sitting flats for old people built by Belfast Corporation in 1958. Rent at the relevant date was 14s 2d (fourteen shillings and twopence) per week inclusive of rates.

Analysed as:-

Ground floor flat	43½ sq yds	Valuation @ 5s per sq yd	say £11
First floor flat	44½ sq yds	Valuation @ 4s 11d per sq yd	say £11

- (2) 26/34 Knockwood Park, Belfast. Similar bed-sitting flats for old people built by Belfast Corporation in 1959. Rent at the relevant date was 14s 2d (fourteen shillings and twopence) per week inclusive of rates.

Analysed as:-

Ground floor flat	43 sq yds	Valuation @ 5s per sq yd	say £11
First floor flat	44½ sq yds	Valuation @ 4s 11d per sq yd	say £11

- (3) Dehra Grove, Sydenham Avenue, Belfast. Similar flats for old people built by Belfast Corporation in 1955. Rent at the relevant date was 14s 2d (fourteen shillings and twopence) per week inclusive of rates.

Analysed as:-

42 sq yds @ 5s 2d per sq yd say £11

From these comparisons and taking into account any possible differences in physical situation, Mr Burgess considered that the subject flat should be valued as:-

34 sq yds @ 6s per sq yd	£10 4s 0d
say	£10

For the appellant, Mr McIlmail gave evidence that in his opinion the rent which a hypothetical tenant might have been expected to pay for the subject flat in the year ended 31st March 1939, on the assumptions contained in Section 1 of the Valuation Acts Amendment Act (NI) 1954, was £30 per annum exclusive of rates, and with the landlord being responsible for maintenance. He deducted £10 for maintenance and arrived at a net annual value of £20. He relied on valuations of comparable hereditaments in this area to support this valuation of £20. The following table shows these comparables and also shows current rents.

No	Description	Accommodation	Valued Sq Yds (Nett)	Let at
1	<u>44 Circular Road</u> (Now No 66) Old house conversion	Flat 1 st Floor	RW/K.Bed Bath & WC 60 @ 9/4) Coals £1) ^{£29}	£195 + pa 15/6/60
2	<u>221⁽²⁾ Belmont Road</u> Old house conversion 221 ⁽¹⁾ "	Flat Gr Floor "	RW/K.Bed Bath & WC "	£195 + pa 1/12/60 £218 + 1963
3	<u>9⁽³⁾ Dundela Park</u> Old house conversion	Flat 1 st Floor	RW/K.Bed Bath & WC 50 @ 10/5 £26	£175 + pa 1/5/61

No	Descri- ption	Accom- modation	Valued Sq Yds (Nett)	Let at
4	<u>17 Inverary Drive</u> Modern S/C flat over shop at Sydenham Rly Stn	Flat 1st Floor	RW/K.2Bed Bath & WC 77 @ 8/4 £32	£220 + pa (incl CH 19/8/61)
5	<u>363/373 Hollywood Road</u> Modern two storey block of 24 flats (Victoria Housing Estates Ltd)	Flat Gr Floor Flat 1 st Floor	RW/K.2Bed Bath & WC 54 @ 11/1 £30) 54 @ 11/1 £30)	£200 + pa
6	<u>116 Hollywood Road</u> Old house conversion	Flat 1 st Floor	RW/K.2Bed Bath & WC 57 @ 9/10 £28	£175 + pa 1960

Mr McIlmail stated that in his opinion, the rent charged for the subject flat, £115 per annum plus maintenance charges and rates, was less than the fair market value, and that the true present net rental value was £150 per annum.

He considered that the comparables offered by Mr Burgess were unhelpful because they were Corporation flats. In his opinion there was, rightly or wrongly, a "stigma" attaching to Corporation houses and flats which resulted in a reduced rental value and consequently a lower valuation level. The rents paid for these flats are, in any case, he stated, not market rents, but are based on cost and other matters considered relevant by the Belfast Corporation. He considered that the current rental value was about 30s per week plus rates - £78 per annum plus rates.

In answer to Mr Russell on cross-examination, Mr McIlmail agreed that Mr Burgess's comparable, Dehra Grove, was close to the subject flat, was in a good situation near to St Mark's Church, and fronted on Sydenham Avenue, which contained good class private dwelling-houses. He considered that the Dehra Grove flats were little less valuable than the subject flat, and were worth a current open market rent of £100 per annum plus rates and maintenance. There was not much "stigma" attached to Dehra Grove as the approach was from Sydenham Avenue, but it backed onto a Corporation Housing Estate.

Mr Burgess, in cross-examination by Mr Comerton, agreed that Corporation houses and flats commanded a slightly lower rent than did privately owned hereditaments. He considered that the fair rental values of his three comparables were roughly the same as was charged for the subject flat with some allowance for the "stigma" of a Corporation house, and also that the rent actually paid for the subject was the full market rent. He further differentiated Mr McIlmail's comparables from the subject flat by the fact that they had either one or two bedrooms, separate from the living room.

Mr Russell contended that the Corporation flats, relied on by Mr Burgess as comparables, represented the best comparison, since these comparables were all restricted by controls, both as to the type of tenant and the rent that could be charged. He referred to decisions of the Lands Tribunal for England and Wales:-

Collie and Others v Avery and Sale Owner Occupiers' Association and Sale Borough Council (LVC/249-263/1959), RRC Vol 6 p221

Lach v Williamson (LVC/616/1957), RRC Vol 2 p347

and contended that the restrictions and controls on the subject flat were a "stigma" similar to those obtaining in Corporation owned houses and flats.

Mr Comerton referred to three decisions of the Lands Tribunal for England and Wales:-

Garrod and Another v Smith (LVC/722/1964) Court of Appeal RRC Vol 12 p5

Miller v Wilson (LVC/743/1964) RRC Vol 11 p169

McMahon v Wilson (LVC/744/1964) RRC Vol 11 p169

and contended that the valuation of a privately owned flat is more dependably tested by reference to the valuations of other privately owned flats than by reference to the valuations of Corporation owned flats, which by reason of the "stigma" attached to them had lower rental values, and consequently lower valuations. Mr Comerton relied on the provisions of Section 1 of the Valuation Acts Amendment Act (NI) 1954. He submitted that the appellant had failed to show, as required in Section 23 of the Valuation (Ireland) Act 1852, that the valuation of the subject flat was incorrect and that, therefore, this appeal must fail.

DECISION

The Tribunal has inspected the subject flat and all the comparables mentioned at the hearing.

The facts in this case are not in dispute, and the contest centred on whether the subject flat should be valued by comparison with the valuations of Corporation flats or by comparison with the valuations of non-Corporation owned flats.

Both expert witnesses were agreed that some "stigma", to use their expression, or "prejudice", as the Tribunal prefers to call it, exists in respect of the occupation of Corporation houses and flats. There was no forthright statement on behalf of the appellant that a similar prejudice existed in regard to the subject flat and the other flats owned by the appellant in the same block. A perusal of the decisions of the Lands Tribunal for England and Wales referred to by Counsel reveals the reasons which led that Tribunal to accept in particular cases that a prejudice did exist against living in Council houses and that it would affect the free market in rental values. It would appear that these reasons are equally valid in Belfast and the real crux of the matter is the risk of finding incompatible neighbours on a Corporation estate where many of the tenants may have come from slum clearance areas, or may have been selected as tenants without full regard to their suitability in a manner which most private landlords adopt.

On this test, the Tribunal can find no evidence that the tenants of the appellant's flats use their accommodation in a manner out of keeping with the pleasant and attractive area around Clonaver Drive and Circular Road. These flats are all of attractive external appearance, and the two that were inspected were very nicely furnished and of comfortable appearance. The tenants in general appear to be of a type that would fit happily into any community. The Tribunal therefore has come to the conclusion that a hypothetical tenant would not feel reluctant to live in one of these flats and would not expect to pay a materially reduced rent on account of their character and circumstances.

Mr Russell, however, for the appellant, contended that the comparables offered by Mr Burgess were the best guide to use in the assessment of the subject flat, since the comparables were all purpose built bed-sitter flats, built for old people by the Belfast Corporation, and the subject flat was subject to similar controls and restrictions.

It is well established that the annual value of a dwelling is not restricted by the rent which can legally be charged for it. Poplar Assessment Committee v Roberts [1922] 2 AC. Every dwelling-house or flat must be valued on the assumption that there is a free market for it. R v Paddington Valuation Officer ex parte Peachey Property Corporation Ltd RRC Vol 11 p141.

The hypothetical tenant in August 1939 for the subject flat could be any person to whom that bed-sitter flat, in its present state and circumstances, would be suitable. There would, in the Tribunal's view, be many people other than elderly people who would find the flat attractive. Almost the only qualification would be that, because of the limited bed-sitting accommodation, he or she would probably be a single person. A number of single people of all ages who live in hostels, hotels, boarding-house and "digs", as well, no doubt, as many who share flats with other people in similar need of accommodation, would be possible hypothetical tenants.

The Tribunal therefore cannot agree that the hypothetical tenant, for the purposes of rating, must be someone from the exclusive class for which the appellant built the subject and the adjoining flats.

The Tribunal finds little assistance in Mr Burgess's comparisons at Springfield Road and Knockwood Park. These are too far distant from the subject flat. Similarly Mr McIlmail's comparisons, 9 Dundela Park, 116 Holywood Road, 44 Circular Road and 221 Belmont Road, are flats which have been provided by the conversion and division of large old houses. The rents for these could, in default of better evidence, give some guidance, but in Dehra Grove there are purpose built flats with the same accommodation as the subject flat, in a good situation, a short distance from the subject flat though of rather different construction, and backing onto a Corporation Housing Estate. And at 363/373 Holywood Road there are purpose built flats each with two bedrooms, but of similar construction and very close to the subject flat. These Holywood Road flats were also built by the appellant. A third comparable, 17 Inverary Drive, comparatively close to the subject is also available. This is a modern purpose built first floor flat with two bedrooms over a shop and has central heating, but is in a less attractive situation than Clonaver Drive, looking directly across Inverary Drive to the railway and the Sydenham by-pass dual carriageway.

As regards these comparables which offer the closest comparisons as regards accommodation.

The Tribunal inspected two of the flats at Dehra Grove and found them rather less attractive than the subject flat. Dehra Grove is a part of a Corporation Housing Estate and it was common case that the flats there were less valuable than privately owned flats on account of the prejudice factor. In answer to Mr Russell on cross-examination, Mr McIlmail very frankly agreed that the prejudice reduction in the case of Dehra Grove should not be large. The measure of this appears to lie in the rate per square yard - 5s 2d (five shillings and twopence) - applied to the area of the Dehra Grove flats, whereas the rate for the subject flat is 11s 10d (eleven shillings and tenpence) per square yard. Even allowing for the slightly smaller degree of attractiveness of Dehra Grove, the prejudice reduction is of the order of 50%. The Tribunal finds this difficult to accept since, to a large extent, the rate per square yard for the subject flat is corroborated by the rates adopted in valuing other privately owned flats in the area, as shown by Mr McIlmail's comparables. The valuations of the Dehra Grove flats are, therefore, suspect and are not, even with adjustments, considered to be of much assistance.

The valuation of the Inverary Drive comparable appears to be in line with the valuations of the flats at 363/373 Holywood Road, after making allowance for the less attractive situation of Inverary Drive and the fact that it is above a shop, but has central heating. The rate per square yard for the flats at 363/373 Holywood Road is 11s 1d (eleven shillings and one penny) and this is the best base from which to assess the valuation of the subject flat.

After considering all the evidence, the Tribunal has come to the conclusion that a bed-sitter flat is not so attractive to the hypothetical tenant as are flats with bedroom and living-room separate. Certainly it is the opinion of the Tribunal that such a tenant if asked to choose between a flat containing a living-room, separate bedroom, kitchen and bathroom, and a flat of the same area containing a bed-sitting room, kitchen and bathroom, would without question choose the former.

Making the best estimate possible in the light of all the evidence and the detailed inspections carried out, the Tribunal has decided that the rate of 11s 1d per square yard for 363 Holywood Road should be reduced by about 10% to 10s per square yard in valuing the subject flat and so arrives at the following assessment:-

24 square yards @ 10s

£17 0s 0d.

This appeal, therefore, is allowed to that extent and the Tribunal directs the valuation for rating purposes of the subject premises to be shown in the list as £17.

The Tribunal directs the respondent to pay the appellant's costs of this appeal, such costs, in default of agreement, to be taxed by the Registrar of the Lands Tribunal on the County Court Scale.

ORDERS ACCORDINGLY

22nd March 1968

**F MALCOLM McKIBBIN
LANDS TRIBUNAL FOR NORTHERN IRELAND**

Appearances:

Appellant: Mr J F B Russell QC instructed by Messrs Tughan & Co, Solicitors, Belfast.

Respondent: Mr A Comerton instructed by the Chief Crown Solicitor, Belfast.