

NORTHERN IRELAND VALUATION TRIBUNAL

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

CASE REFERENCE NUMBER: 04/11

ALBERT MCCOMB AND ANN-MARIE MCCOMB – APPELLANTS

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

**Chairman: Barbara Jemphrey
Members: Philip Murphy and Peter Wardlow
Belfast, 8th August 2011**

DECISION

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 28th March 2011 is upheld and the Appellants' appeal is dismissed.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal received 10th May 2011 the Appellants appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 28th March 2011 in respect of the Valuation of a hereditament situated at 218 Bangor Road Holywood BT18 OFJ.
- 1.3 The Appellants appeared in person and the Respondent was represented by Gail Bennett and Gordon Bleakley.

2. The Law

- 2.1 The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order").
- 2.2 The tribunal considered the terms of Schedule 12 of the 1977 Order as amended which states as follows;

7.-(1) Subject to the provisions of this Schedule, for the purpose of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant capital valuation date.

(2) In estimating the capital value of a hereditament for the purposes of any revision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.

- 2.3 Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

3. The Evidence

The Tribunal heard oral evidence from both the Appellants and Gail Bennett. The Tribunal had before it the Appellants' Notice of Appeal dated 10th May 2011 and copies of various documents including the following:-

- 3.1 The Commissioner's Decision on Appeal dated 28TH March 2011.
- 3.2 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Gail Bennett of Land and Property Services.
- 3.3 Correspondence between the Tribunal and the Parties.
- 3.4 Letter dated 8th April 2011 from Rodgers and Browne Estate Agents.

All of these documents had been provided to all of the Parties whom had each been given an opportunity to consider and respond to them before consideration by the Tribunal.

4. The Facts

- 4.1 The hereditament is a detached house situated at 218 Bangor Road Hollywood (the Subject Property). The Subject Property was stated to be owned by the Appellants whom the Tribunal understood to be the rate payers. The Tribunal had no other information neither regarding the title to the Subject Property nor regarding its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.
- 4.2 The Subject Property is of brick construction with tiled pitched roof. It has a gross external area (GEA) of 267m². The Subject Property has a single garage of 24 m², and garden.
- 4.3 The Capital Value Assessment of the Subject Property is £400,000. In arriving at the Capital Value Assessment figure regard was had to the assessments in the valuation list of properties considered comparable and also to market sales of certain properties in the general locality. These comparables are set out in the

Schedules to the "Presentation of Evidence" submitted on behalf on the Commissioner. There were a total of 10 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided for 4 of the properties.

- 4.4 The Capital Value Assessments of the Comparables were all unchallenged. However 2 properties are listed for revision i.e. 214 and 216 Bangor Road. It is understood that after revision the assessment on 214 Bangor Road remains unchanged at £280,000 and that the assessment on 216 Bangor Road has been increased from £200,000 to £225,000.

5. The Appellant's Submission

The Appellants, in summary, made the following submissions:-

- 5.1 The Capital Value Assessment of the subject property and the rate burden arising is too high when viewed alongside comparable properties.
- 5.2 That the Subject property despite being designed and built to be both energy efficient and low carbon rated did not qualify for a reduction in Rates as it was built in 2006.
- 5.3 There were issues of non payment of Rates in respect of neighbouring properties and issues in relation to refuse collection, together with affordability issues in connection with the subject property in respect of available discounts on full rate payments made in advance.

6. The Respondent's Submissions

In summary, the following submissions were made on behalf of the Commissioner:-

- 6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 of the 1977 Order that "regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances" was duly observed.
- 6.2 The Comparables strongly supported the Capital Valuation.
- 6.3 The issues in relation to the non payment of rates of neighbouring properties and the refuse collection would be passed on to the relevant departments but were outside the remit of this Tribunal.

7. The Tribunal's Decision

- 7.1 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital

Value has been assessed at the Antecedent Valuation Date of 1st January 2005 as a figure of £400,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and the statutory basis for valuation has been referred to and especially reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.

- 7.2 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: "*On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown*". It is therefore up to the Appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.
- 7.3 The Tribunal saw nothing in the approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal, to suggest that the matter had been assessed in anything other than the prescribed manner provided for by Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner's Submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above.
- 7.5 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellant's Submissions. The Appellant has not displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property shall be deemed to be correct until the contrary is shown. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 28th March 2011 is upheld and the Appeal is dismissed.

Barbara Jemphrey, Chair
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties:

7 September 2011