

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

**CASE REFERENCE NUMBER: 07/10**

**ALEX KELLY - APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr James V Leonard, President**

**Members: Mr Brian Sparkes FRICS and Mr Pat Cumiskey.**

**DECISION**

The unanimous decision of the tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal is dismissed.

**REASONS**

**Introduction**

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant indicated in his appeal that he was content for the appeal to be disposed of by written representations and accordingly there were no appearances at the hearing of the matter.
  
2. The appellant, by Notice of Appeal received by the Office of the Tribunal on 6 May 2010, appealed against the decision of the Commissioner of Valuation on appeal dated 22 April 2010 in respect of the valuation of a hereditament situated at 97 Parklands, Steeple, Town Parks, Antrim, County Antrim BT41 4NJ (" the property")

## **The Law**

3. The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The tribunal does not intend in this decision fully to set out the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in the matter.

## **The Evidence and Facts**

4. The tribunal heard no oral evidence as this was an appeal disposed of by written representations. The tribunal had before it the appellant's Notice of Appeal to the tribunal (Form 3) and various documents including the following:-
  - 4.1 The Commissioner's Decision on Appeal dated 22 April 2010.
  - 4.2 A document entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Ms Deborah Rice MRICS and submitted to the tribunal for the purposes of the tribunal hearing.
  - 4.3 Documents and written submissions submitted in evidence and by way of argument on behalf of the appellant to the tribunal.
  - 4.4 A submission made to the tribunal by the respondent in response to the appellant's submission.
  - 4.5 Correspondence between the tribunal and the parties.
5. The following facts were not in contention. The property consists of a dwellinghouse situated at 97 Parklands, Steeple, Town Parks, Antrim, County Antrim BT41 4NJ.

The appellant is understood to be the ratepayer. The property is a detached two-storey house constructed in 1999 with a gross external area (“GEA”) of 183 m<sup>2</sup>. The property has a detached garage of GEA 21m<sup>2</sup>. The property is of brick construction with tiled pitched roof and double-glazed windows. The property has an attic conversion with dormer window at the front and a sunroom to the rear and has the benefit of oil-fired central heating, mains electricity, water and sewerage services. The property is situated in a large private development of similar properties located off the Ballymena Road, Antrim, and close to the “Junction One” shopping center, Antrim. The capital value under appeal was assessed as at 1 January 2005 (that being the antecedent valuation date, or “AVD”) at a figure of £160,000.

6. The Commissioner’s submission to the tribunal is that in arriving at the capital value assessment regard was had to the statutory basis of valuation and thus regard was had to the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the subject property. These “comparables” are set out in a schedule to the Commissioner’s Presentation of Evidence, with further particulars given thereafter in respect of these comparables, including photographs of the comparables. There are four comparables in total including the subject property, none of these including sales value evidence. Whilst the Presentation of Evidence departs from the norm by not expressly stating that the other three comparables represent unchallenged capital value assessments, it is assumed that these are unchallenged and not subject to appeal, otherwise that would have been brought to the attention of the tribunal. For future reference, it would be valuable if that could be stated expressly in every case in the Presentation of Evidence, as it is normally done. The comparables are all in relatively close proximity one to the other in terms of location. The respondent’s submitted comparables consist of the subject property at 97 Parklands, together with numbers 89 Parklands, 1 Parklands and 166 Parklands, all Antrim. Copies of the Commissioner’s Presentation of Evidence and of the other documentation have been provided to the appellant and the appellant has responded thereto in submissions to the tribunal.

## **THE SUBMISSIONS**

7. The appellant and the respondent, in brief, have included the following points in submissions. The appellant in a written submission dated 4 July 2010 has put

forward Site 89 Parklands as evidence for his appeal. The appellant contends that at the time of his appeal (in February 2010) the valuation of that property was £155,000. The appellant contends that no structural changes to that property had been made in the previous six years and thus it would have been valued as part of the 2005 valuation exercise, yet the respondent in June of 2010 increased the valuation of that property to £160,000. The appellant states that this was done, as he puts it, "in an attempt to justify their actions", and only after the appellant had appealed, using that property as evidence. The appellant's further contention in respect of Site 89 Parklands is that the respondent has tried to use "square metre values" for that property but this is incorrect and is of no significance in valuation. In addition, the applicant has contended that other properties much larger than his in the Antrim area were also valued at £160,000 (for example 37 Station Road, Antrim BT41 4AB) and that there is a general overpricing of the area.

8. For the respondent, it is contended that the appellant's identified property, Site 89 Parklands (otherwise 89 Parklands), was initially valued at £155,000 based on information held at the time but that the statutory provisions impose a requirement upon the District Valuer to revise assessments if considered necessary. The revision of the valuation in respect of 89 Parklands (from £155,000 to £160,000) took account of the addition of a sunroom to that property. That action was in line with the District Valuer's action in reviewing the assessment of the subject property. In both instances the assessed capital values were increased to reflect alterations previously not taken into account in the valuations. In regard to 37 Station Road, Antrim, for the respondent it is stated that the recorded details specify a property which is not only older and smaller than the subject property but also in a different location and, further, that there is currently a revision case with the District Valuer to consider alterations to that property.

### **THE TRIBUNAL'S DECISION**

9. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed at AVD at a figure of £160,000. The appellant contends that that figure ought properly to be £155,000. On behalf of the Commissioner it has been contended that that figure is fair and reasonable in

comparison to other properties; 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.

10. The tribunal notes the statutory presumption contained within the 1977 Order, Article 54(3). Thereby, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal, the appellant must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.
11. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner as provided for in Schedule 12 of the 1977 Order.
12. The Commissioner's Statement of Case as set out in the Presentation of Evidence and the schedule of comparables was challenged by the appellant on the basis mentioned above and in particular the proposition has been put forward that opportunities were missed by the District Valuer to value the subject property correctly and that now values are being adjusted in view of the present appeal.
13. The tribunal examined the essential issue of whether or not the appellant had put forward sufficient challenge to the Commissioner's schedule of comparables and sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation.
14. The arguments made by the appellant have been summarised as mentioned above. In this case, as in all such cases, the statutory provisions state that the capital value of the property shall be the amount which (on the statutory assumptions) the property 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the property. The tribunal thus gave full consideration to all of the evidence and argument including the analysis of

the appropriateness of selection and the weight to be attached to the properties put forward as comparables both by the respondent and also by the appellant, insofar as these related to the statutory basis of valuation. There is no sales evidence and so the case is reliant upon (presumed) unchallenged capital values as evidence of “tone of the list”

15. The appellant's contention appears to be based upon the assumption that capital value assessment must be a static and not a fluid process. The respondent's submissions have endeavoured to address that point and to correct any misunderstanding of the process. The tribunal, without hesitation, accepts the respondent's proposition that it is quite permissible for those entrusted with the valuation process to revisit the assessment process from time to time in fulfilling the essential statutory function provided that is done rationally and properly. The tribunal has particularly noted the comparable properties selected and placed in evidence by the respondent. These are all located within a relatively small and well-defined area and are all of relatively similar size and characteristics, the best comparable perhaps being 89 Parklands which has a slightly larger area than the subject property but nonetheless a similar capital value at £160,000. Number 166 Parklands has a similar area and similar characteristics to the subject property, save that it has an integral double garage and has a capital value at £165,000. The tribunal accepts the respondent's contention that the comparables are indicative of the correctness of the capital value ascribed to the subject property by the respondent on appeal. The properties cited by the appellant in argument are not as useful in comparative terms and thus lesser weight must be attached to these evidentially.
16. Taking the evidence as presented to the tribunal and noting the arguments and submissions, the tribunal's conclusion is that the appellant has not placed before the tribunal sufficient evidence, information and argument to enable the statutory presumption of correctness in respect of the capital value assessment to be displaced. The tribunal concludes that the Commissioner's assessment of capital value in respect of the subject property at a figure of £160,000 is not self-evidently or manifestly incorrect. Examining the evidence of the comparable properties and the other evidence and arguments put forward by the appellant, the tribunal on balance sees nothing of sufficient weight to displace the statutory presumption of correctness

in respect of the Commissioner's capital value assessment. Thus the appeal cannot succeed. The Commissioner's Decision on Appeal is upheld and accordingly the appeal is dismissed.

**Mr James V Leonard, President  
Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties:**