

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

CASE REFERENCE NO: 5/11

BERNARD McREYNOLDS & CATHERINE McREYNOLDS– APPELLANTS

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

**Date of Hearing 25 August 2011
Belfast**

Chair: Ms Alison Stewart

Members: Mr Bill Deddis MRICS and Mr Garry McKenna

DECISION AND REASONS

Introduction

1. This is a reference under Article 12B of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). There was no appearance before the tribunal by or on behalf of the applicant and the respondent, both parties having indicated that each was content to rely upon representations in writing. In accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007, an appeal may be disposed of on the basis of written representations if all the parties have given their consent in writing to that course.
2. This is an appeal by the appellants against a valuation of a private house at 2 Thorndale Way, Carryduff, County Down, BT8 8GR for domestic rating purposes.
3. The valuation by the respondent as at 1 January 2005 is £305,000. The appellants have appealed this and suggest the valuation should be £285,000 on 1 January 2005.
4. The following documents have been considered by us:
 - a. The Notice of Appeal against the Valuation for rating purposes from the appellants and received by the Tribunals Unit on 2 June 2011 and the grounds of appeal.

- b. A copy of the Commissioner's decision on appeal.
- c. A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Mrs Deborah Rice BSc MRICS.
- d. A document entitled "Presentation of Evidence" submitted on behalf of the appellants;
- e. A document dated 9 August 2011 entitled "Response to appellant's case" submitted on behalf of the respondent;
- f. A document submitted on behalf of the appellants in response to the respondent's document at 'a' above;
- g. A document dated 19 August 2011 entitled "Response to appellant's case" submitted on behalf of the respondent;
- h. A document submitted on behalf of the appellants in response to the respondent's document at 'g' above;
- i. A further document submitted on behalf of the appellants in response to the respondent's document at 'g' above;
- j. Correspondence including emails between the Tribunals Unit, the appellants and the respondent.

The Law

5. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (NI) Order 2006 ("the 2006 Order"). Article 54 of the 1977 Order enables a person to appeal to this Tribunal against the decision of the Commissioner on appeal regarding the Capital Value.
6. Schedule 12 of the 1977 Order as amended states:
 - (1) Subject to the provisions of this Schedule, for the purposes of this Order the Capital Value of the hereditament shall be the amount which, on the assumptions mentioned in Paragraph 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 the valuation list, regard shall be had to the Capital Values in the valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.
7. Article 54(3) of the 1977 Order provides that on appeal any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of the correctness; otherwise the appeal will not succeed.

The Appellants' House

8. The appellants' property is shown at page 3 of the respondent's statement of case. The wrong photograph was included in the description but the Tribunal is satisfied that this was rectified before their consideration of the matter. The property is described as a detached house built in 2010 having a gross external area (GEA) of 257m² together with a detached garage comprising a gross external area of 25m². The property is further described as being a detached house of

brick construction with tiled pitched roof and PVC double glazed windows. The house has mains electricity, water and sewage services. Mrs Rice indicated that in assessing the capital value she had, as required, considered assessments in the valuation list of properties which she considered to be comparable. She confirmed that the comparables she used are set out in appendix 1 with their locations indicated on the map. In her opinion, the best comparables are 3 Thorndale Way, 8 Black Quarter and 17 Baronscourt Road as these are the closest in size to the subject property.

The Appeals process

9. The appellants replied to the respondent's Presentation of Evidence by means of the document at IV above. The Tribunal has considered this submission but is of the opinion that a number of issues raised are not matters for this Tribunal namely:-
 - a. The appellants consider that the process of valuing property in Northern Ireland for rating purposes has inherent flaws. The process is governed by the current legislation and it is not possible for this Tribunal to make any order or decision regarding this process. From the evidence before us, however, it is clear that the process has been adhered to properly as required by the relevant legislation;
 - b. The appellants state that they would query the independence of this Tribunal. They made a freedom of information application request of the Tribunal Unit and have made assumptions with regard to the information provided. This panel cannot address the question of the independence or otherwise of the Northern Ireland valuation Tribunal save that the panel is satisfied that this particular panel does not have any bias or other influence in respect of this particular appeal.

The Certificate of Valuation

10. The date of issue of the Certificate of Valuation is a matter of importance in this case as the appellants state that this was not received by them until long after the 28 days notice of appeal had expired and the respondent argued that they could not appeal as they were outside the statutory timeframe of the appeal.
11. This is a pertinent point in this case as the appellants claim that one of the comparables namely no 3, Thorndale Way were similarly unable to appeal their rateable valuation. The respondent refers to this property's rateable valuation as being unchallenged.
12. The legislation in relation to an appeal against a rateable valuation is contained in Article 51 of the 1977 Order states –

“Any person, other than the Department, who is aggrieved –

 - a. by an alteration which the district valuer has caused to be made in the valuation list; or
 - b. by a decision of the district valuer not to cause the valuation list to be altered in consequence of an application for revision;

may, within twenty-eight days from the date of service on him of the certificate of the alteration, or, as the case may be, of the notice of the decision, appeal to the Commissioner against the alteration or decision.”

13. This Tribunal does not have any evidence before it regarding the details of service or the subsequent correspondence referred to between the appellants and respondent regarding the time limits for appeal. It is the Tribunal’s view that the 28 day period for entering an appeal runs from the date of service and not from the date of the certificate or decision.
14. It is for this reason also that this Tribunal accepts the respondent’s view that the rateable value in respect of 3 Thorndale Way is unchallenged.

The comparables

15. 8 Black Quarter Lane is number 2 on the appendix to the respondent’s Presentation of Evidence and is slightly smaller than the appellants’ house. Its rateable value is £285,000 and the property was sold in June 2006 for £380,000.
16. 85 Ballynahinch Road is number 3 on the appendix to the respondent’s Presentation of Evidence and again is slightly smaller than the appellants’ property. The rateable value is £290,000.
17. 17 Baronscourt Road is number 4 on the appendix to the respondent’s Presentation of Evidence. It too is smaller than the appellants’ property and its rateable value is £300,000.
18. 8 Manse Drive is number 5 on the appendix to the respondent’s Presentation of Evidence. It is smaller than the appellants’ property and has a rateable valuation of £280,000.
19. 3 Thorndale Way is number 6 on the appendix to the respondent’s Presentation of Evidence. It is exactly the same type and size of house as the appellants’ and has a rateable value of £305,000.
20. 27 Thompsons Grange is number 7 on the appendix to the respondent’s Presentation of Evidence. It is exactly the same size as number 5 on the appendix and smaller than the appellants’ property.
21. 36 Thompsons Grange is number 8 on the appendix to the respondent’s Presentation of Evidence. The house is larger than the appellants’ property and the rateable value is £330,000 although this is reduced to £300,000 because of an adjoining derelict site.
22. The respondent considers that 3 Thorndale Way, 8 Black Quarter Lane and 17 Baronscourt Road are the best comparables as they are the closest in size to the appellants’ property. The respondent states, however, that the valuations of the other comparables whilst smaller their valuations would support the valuation of the appellants’ property.

The arguments

23. As noted earlier the appellants are aggrieved at the use of the wrong photograph and the perceived lack of background work done by the respondent. The Tribunal agree that this is unfortunate but have decided that this would have no bearing on the outcome of their decision regarding the valuation of the appellants' property.
24. The appellants argue that a number of properties in Black Quarter Lane are comparable to the subject property as whilst they are smaller they have larger garages. Numbers 8 and 9 have a valuation of £285,000. And number 1 has a valuation of £275,000. The appellants argue that this would support their view that the appropriate valuation for their property should be £285,000.
25. The appellants distinguish the comparable at 85 Ballynahinch on the basis that it has excellent road frontage and is on a larger more mature site. As it has these advantages they state that its valuation at £290,000 would support their argument that their valuation should be £285,000.
26. 8 Manse Drive is also distinguished by the appellants on the basis that it is 1.5 miles closer to Belfast and is beside schools and has mature gardens. The property was sold in August 2005 for £285,000 and the appellants argue that the correct discount should have been applied of 9% growth for the first half of 2005 meaning that the valuation on 1 January 2005 should be £260,000. The appellants state that the owner was not aware of the 28 day rule for an appeal. There is no evidence, however, to support this statement.
27. 27 Thompsons Grange is argued to have been agreed for sale in March 2005 for £247,500 but that this did not complete due to a death in the family. The appellants contend that this property's valuation of £260,000 would support their argument for a valuation of £285,000 on the subject property on the basis that whilst the house is smaller the garage is larger.
28. The appellants also seek a reduction on the rateable value of the property of 20% because of the unfinished state of the development. In arguing this point they refer to 36 Thompsons Grange which had its rateable value reduced from £330,000 to £300,000 because of a derelict site adjoining it.

Our conclusions

29. As agreed by the parties valuation is not a matter of fact but a reflection of valuations of comparable properties in the location. The Tribunal has considered the evidence before it and has come to the following conclusions:
 - a. 3 Thorndale Way is an exact comparator and its valuation is exactly the same as the rateable value as assessed in respect of the subject property. The Tribunal did not see any evidence that the owners were prevented from challenging this valuation;
 - b. The Tribunal considered the argument that whilst certain premises were smaller their garages were larger. The panel were of the opinion that whilst a garage would enhance the value of a property the area of a garage did not equate to the area of a house.

- c. The appellants argued that certain comparables were closer to Belfast than others. The Tribunal checked where the comparables were on the map in comparison to the subject property. The furthest comparable was 1.5 miles away but still within the confines of Carryduff. The Tribunal is of the view that the comparables were all in the same location for comparison purposes
- d. The Tribunal notes that 36 Thompsons Grange has a reduction due to the adjoining derelict property. The Tribunal considered the appellants' argument for a similar reduction due to the unfinished state of the roads at Thorndale Way. The Tribunal is of the view that the owners of 36 Thompsons Grange are powerless to change the situation regarding the adjoining land. This is not so of the appellants. It is the Tribunal's view that the appellants' developer would undoubtedly have had to take out a road bond. It is inconceivable that any lender in 2010 would have lent on a development without such a bond. The appellants have the right to enforce such a bond and in doing so would improve the roads at Thorndale Way.
- e. It is our conclusion that all the comparators in our view support the valuation of £305,000. This is particularly so when number 3 Thorndale Way has the same valuation.

THE TRIBUNAL'S DECISION

30. The Tribunal is satisfied that the valuation shown on the valuation list in relation to the subject property is correct and the appeal is dismissed.

Alison Stewart, Legal Chair

Northern Ireland Valuation Tribunal

Date Decision recorded in Register and Issued to Parties: