

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

CASE REFERENCE NUMBER: 9/08
BRENDAN McLAVERTY - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND –
RESPONDENT

Northern Ireland Valuation Tribunal

Date of hearing: 15th September 2008

Chair: Ms Anne Grimes

Members: Mr Tom Matthews and Ms Olga McGettigan

DECISION AND REASONS

The Hearing

1. The Appellant appeared at the Tribunal and represented himself. The Respondent was represented by Mr Martin McGrath and Ms Deirdre Shiels.
2. The property the subject of the appeal is 482 Lisburn Road, Belfast BT9 6GU. It comprises a house, outbuilding and garden. It is a detached interwar two-storey house brick rendered and slate construction. It is located close to a busy junction and the Kings Hall on Belfast's Lisburn Road. It is in good repair. Its gross external area is 248 m². The house has a cloakroom, kitchen/reception, two reception rooms, four bedrooms, a bathroom and an ensuite. There is full oil central heating and a single garage plus PVC double glazing. There is shared access via a short driveway off the Lisburn Road.
3. On 16th April 2008 the Respondent assessed the capital value of the property as £490.00 as at 1st January 2005, the relevant capital valuation date. The Appellant appeals against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").
4. The following documents were before the Tribunal;

- Notice of appeal dated 30th April 2008
 - Commissioner's decision dated 16th April 2008
 - Respondent's presentation of evidence
 - Photographs of other properties on the Lisburn Road along with details of their valuations and a photograph of the property submitted by the appellant
 - Correspondence between the Tribunal and the parties.
5. The tribunal gave an oral decision allowing the appeal. This notice confirms that decision and contains the tribunal's reasons for the decision in accordance with Rule 19 of The Valuation Tribunal Rules (NI) 2007.

The Law

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

7. —(1) Subject to the provisions of this Schedule, for the purposes 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.

8. 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.

The Evidence and Submissions

9. The tribunal heard evidence from the appellant and from Ms Shiels and Mr McGrath on behalf of the respondent.
10. The appellant said that he moved into the property in 1995. He purchased the property for £143,000. At that point he had the opportunity to purchase a property at Malone Park Lane for £125,000. He submitted that in January 2005 the property in the Malone Park Lane was valued at £330,000. He

11. The appellant submitted that the comparable properties selected by the respondent were not reasonable. Balmoral Avenue is a more tranquil area than the Lisburn Road. There are a number of factors affecting his enjoyment of his property in particular the noise coming from the King's Head pub across the road and the disruption from the Kings Hall. He shares a driveway with a neighbouring property. No properties have been sold in the vicinity since 1995. It is unfair to compare his property to the capital valuation attributed to his neighbours' properties. He is aware that there were reasons why his neighbours did not object to the capital valuation assessed for their property. He accepted that there were similar traffic levels on Balmoral Avenue but houses there did not suffer the same disruption caused by the Kings Hall.
12. The respondent's presentation of evidence contained details of a number of comparables which were all located on Balmoral Avenue. These were 39 Balmoral Avenue at 253 m² valued at £525,000; 71 Balmoral Avenue at 243m² valued at £490,000, 47 Balmoral Avenue at 269 m² valued at £550,000 and 19 Balmoral Avenue at 109 m² valued at £235,000.
13. Ms Shiels submitted that the comparables she put forward in the presentation of evidence were reasonable. The appellant lives on a busy road but she submitted that Balmoral Avenue is also busy. She had regard to the best evidence in terms of sales and assessments. The properties quoted by the appellant in Malone Park Lane differ from his own property in terms of age, type, location and size. The relative purchase price of such different properties 10 years ago is of no assistance today. She said that both of the appellant's neighbour's properties had been assessed on a similar basis to his; number 484 which is 256 m² has been assessed at £550,000 and number 480 which has an area of 221 m² has been assessed at £500,000. The appellant had put forward a number of comparables however number 22 Lisburn Road which is smaller than the appellant's property was demolished three weeks ago and she suggested that number 13 Lisburn Road will need to be revalued. Ms Shiels clarified that about 5% was a reasonable deduction to the value of a property in respect of a shared driveway.

The Tribunal's Findings

14. The tribunal considered the appellant's submission that his property should be revalued on the basis of the percentage difference between the purchase price of his property and a property in Malone Park Lane in 1995. The tribunal was satisfied that such a method of assessment is not within the statutory provisions.

15. The tribunal had regard to the comparables put forward by the appellant. The tribunal was satisfied that number 22 and 28 Lisburn Road at 139 m² and 168m² respectively were so much smaller than the appellant's property that they were of limited value in assessing the value of the appellant's property.
16. Of the comparables put forward by the appellant the tribunal was satisfied that the most direct comparables is number 13 Lisburn Road which was assessed at £275,000. The evidence was that the property at number 22 has been recently demolished. It was recognised that number 13 was smaller than the appellant's property but has been assessed at a significantly smaller amount. The tribunal felt unable to attach significant weight to the respondent's intention to review the valuation attributed to this property.
17. The tribunal considered the comparables put forward by the respondent. In terms of size the closest comparables were 39 and 71 Balmoral Avenue. Number 39 is larger than the appellants at 253 m², it also has four bedrooms and it has capital valuation of £525,000. The property at 71 Balmoral Avenue is slightly smaller than the appellant's property at 243 m²; it has three bedrooms, a double garage and has been valued at £490,000.
18. The tribunal was satisfied that the location of the appellant's property on the Lisburn Road was not as good as that of the comparables on Balmoral Avenue. The tribunal was satisfied that direct comparables are very limited. The closest direct comparables are the appellants neighbouring properties however the tribunal was satisfied that the valuation attributed to those properties were not based on sales. The tribunal was satisfied that the lack of a challenge by the appellant's neighbours to their valuations was not a valid argument in support of the valuation assessed for the appellant's property.
19. The tribunal felt that the valuation of the appellant's property at £490,000 did not adequately reflect the significant difference in location as between Balmoral Avenue and the Lisburn Road. In particular it did not reflect the proximity of the appellant's property to the King's Hall and the resultant disruption. In addition the tribunal felt that the valuation did not reflect the appellant's shared driveway. None of the comparable properties put forward by the respondent had a shared driveway.
20. The tribunal felt that the appellant's evidence along with the respondents own valuations and comparables were sufficient to displace the presumption that the valuation on the register is correct.
21. In all of the circumstances and in light of the findings above the tribunal felt that a reasonable reflection of the differences between the appellant's property and the comparables would be a reduction in the valuation by £30,000 leading to a revised valuation of £460,000. The tribunal believed that

Decision

22. The tribunal has assessed a revised valuation of £460,000. The tribunal's unanimous decision is that the appeal is allowed.

23. The tribunal directs that the valuation list be altered accordingly.

**Ms Anne Grimes, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: