

## **NORTHERN IRELAND VALUATION TRIBUNAL**

### **The Rates (Northern Ireland) Order 1977 (as amended) and the Valuation Tribunal Rules (Northern Ireland) 2007 (as amended)**

**Case Reference Number: 6/10**

**CLIFTON LOCKHART – Appellant**

**and**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – Respondent**

**Chairman: Garrett E.O' Reilly**

**Members: Ms Siobhan Corr MRICS and Mr. Hugh Mulholland**

**Date of hearing: 04 October 2010**

### **Hearing**

1. This Hearing was an appeal to the Northern Ireland Valuation Tribunal under Article 54 of the Rates (Northern Ireland) Order 1977 (as amended) (the 1997 Order).
2. The Appellant had duly served a Notice of Appeal against a Decision of the Respondent dated the 12th April 2010 whereby on an appeal from a decision of the District Valuer the Respondent had amended the Capital Value of 120, Dunluce Avenue, Belfast BT9 7AZ (the Property) to £140,000.00.
3. In his Notice of Appeal the Appellant contended that the Capital Value of the Property should be £125,000.00.
4. The Appellant represented himself and the Respondent was represented by Ms. Deborah Rice BSc, MRICS and Mr. Henry Spence, District Valuer.

### **Statutory Considerations In Assessing The Capital Value Of A Property**

The basis for determining the Capital Value of a property (a hereditament) is set out in the 1997 Order and in particular Schedule 12 thereto and the powers of the Tribunal are specified in Article 54 of the 1977 Order.

In general terms

The Capital Value of a property is the amount which, on various assumptions, a property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on a relevant capital valuation date. The assumptions in assessing the Capital Value of a property include assumptions that the sale of a property is a sale with vacant possession and that the property is in an average state of internal state of repair and fit out, having regard to the age and character of the property and its locality and for deciding if another property is a comparable property (the assumptions).

The relevant capital valuation date for this appeal is the 1st January 2005.

In deciding the Capital Value of a property for the purpose of any revision of a valuation regard shall be had to the Capital Values in that Valuation List of comparable properties in the same state and circumstance as the property whose Capital Value is being revised.

The 1977 Order provides that, on appeal, any Valuation of a property specified in a Valuation List is deemed to be correct until the contrary is shown.

### **Appellant's Evidence**

1. The Appellant relied on the content of his Notice of Appeal and he confirmed to the Tribunal that he had bought the Property on the open market with vacant possession in good condition in March 2005 for £133,000.00.

### **Respondent's Evidence**

1. The Respondent had submitted a written Presentation of Evidence and Ms. Rice referred the Tribunal to it.

2. Ms Rice stated that in deciding the Capital Value of the Property she had regard to Capital Values in the Valuation List of comparable properties in the same state and circumstances as the Property. She referred to details of these comparable properties and to further particulars of same and photographs in the Presentation of Evidence.

3. Ms. Rice listed six comparable properties and referred to their Capital Values recorded in the Valuation List. The six properties were all in Dunluce Avenue. She said that she had also taken the sale prices of the six comparables properties and the sale price of the Property into consideration in assessing the Capital Value of the Property. She indicated that the highest priced of the six properties (135, Dunluce Avenue) was not such a good comparable.

4. Ms Rice also confirmed that having regard to the 1997 Order and in simple common sense two of the six properties (118, Dunluce Avenue and 144, Dunluce Avenue) were excellent comparables to the Property. She said that 118, Dunluce Avenue and 144, Dunluce Avenue were virtually identical to the Property and that 118, Dunluce Avenue adjoined the Property.

5. Ms. Rice pointed out that 118, Dunluce Avenue had a Capital Value shown in the Valuation List of £150,000.00 but that on the 24th June 2005 that it had been sold for £140,000.00.

6. Ms. Rice also said that 144, Dunluce Avenue had a Capital Value shown in the Valuation List of £150,000.00 but that on the 6th August 2004 that it had been sold for £132,800.00.

7. On behalf of the Commissioner Ms. Rice submitted that a Capital Value of £140,000.00 for the Property was fair and reasonable having regard to the Capital Value of comparable properties and the statutory presumption that the Capital Values of all the other comparables shown in the Valuation List are correct. Having regard to the actual sale prices of all her comparables and particularly the Property and the acknowledged best comparables of 118, Dunluce Avenue and 140, Dunluce Avenue Ms. Rice conceded that a Capital Value of £140,000.00 based on sales was at the very highest assessable Capital Value.

8. Ms. Rice did not dispute that in March 2005 the Property had been bought by the Appellant on the open market with vacant possession for £133,000.00, Further she

did not suggest that the sales of any of the comparables were not sales on the open market by a willing vendor nor did she suggest that the comparables sales breached any of the assumptions.

### **Decision**

The Tribunal considered the Capital Values shown in the Valuation List for the comparable properties and noted that these Capital Values are deemed to be correct on an appeal unless the contrary is shown.

The Tribunal noted the three sale prices of 118, Dunluce Avenue (£140,000.00), 144, Dunluce Avenue (£132,800.00) and the Property (£133,000.00) were all recorded very close to the relevant capital valuation date of 1st January 2005. The Tribunal also noted that such evidence of the sale amount of a property and of very comparable properties sold on the open market by willing sellers in and about the relevant capital valuation date is very unusual.

The Tribunal took the view it was clear that if a Capital Value for the Property was based solely on these sale prices then the Capital Value attributed to the Property would be lower than the said Capital Values shown in the Valuation List and the Commissioner's Capital Value of £140,000.00. In short there was a conflict between the sale prices and the Valuation List

After careful consideration the Tribunal unanimously decided on the evidence in this case that these sale prices were the strongest and most appropriate evidence for assessing the Capital Value of the Property and that being so the presumption of the correctness of the Capital Value of the Property on the basis of the Valuation List had been rebutted and that the Commissioner's Capital Value should be reduced.

The Tribunal did not accept that a reduction in the Capital Value of the Property to £125,000.00 as contended by the Appellant could be justified on the evidence of the sale prices and having regard to all the evidence the Tribunal decided that a fair and reasonable Capital Value for the Property was £133,000.00.

The Tribunal hereby confirms that its decision given orally on the completion of the Hearing and in consequence thereof and in accordance with Rule 19 of the Valuation Tribunal Rules (Northern Ireland) 2007 the Tribunal orders the valuation list in respect of the Property be amended to £133,000.00 (one hundred and thirty three thousand pounds).

**GARRETT E. O' REILLY**  
**Legal Chairman**  
**Northern Ireland Valuation Tribunal**

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