

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

CASE REFERENCE NUMBER: NIVT16/10

DALE McEVOY - APPELLANT
AND
COMMISSIONER OF VALUATION - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Stephen Herron

Members: Mr Gordon Jackson FRICS and Mr David Rose

Belfast, 14 February 2011

DECISION

The unanimous decision of the tribunal is that the Commissioner's assessment of capital value in respect of the property is incorrect. The proper assessment of capital value, taking into account all relevant factors and circumstances, is £305,000 and the tribunal orders that the valuation list shall be amended accordingly.

REASONS

Introduction

1. The Appellant appeared at the tribunal and represented himself. The Respondent was represented by Ms Deborah Rice accompanied by Mr Gordon Bleakley
2. The property the subject of the appeal is 50 Kittys Road, Derryogue, Kilkeel, BT34 4EJ. It is a detached chalet bungalow constructed in 2008 with a gross

external area of 278m². The property has shore frontage at the rear with sea views. It is situated at the bottom of a cul-de-sac along which there is a mixture of private and social housing.

3. By way of the Commissioner's Decision on Appeal dated 20 September 2010 the Respondent assessed the capital value of the property as £345,000 (as at 1st January 2005, the relevant capital valuation date). This decision reduced the original valuation list entry of £400,000. The Appellant considered that a further reduction was warranted and appealed against the revised valuation under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").
4. The following documents were before the tribunal;
 - 1 Commissioner's decision on appeal dated 20 September 2010
 - 2 Notice of appeal received on 11 October 2010
 - 3 Respondent's presentation of evidence
 - 4 Letter from the appellant dated 1 February 2011
 - 5 Valuations of the subject property from (i) Owen Cunningham Auctioneer and Valuer and (ii) J F Speers Auctioneers, Valuers and Estate Agents.
5. The tribunal gave an oral decision reducing the capital valuation from £345,000 to £305,000. 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 Respondent referred to comparable properties detailed in the presentation of evidence-
 - (i) 11 Kitty's Road, Kilkeel. GEA- 228m². Built in 2003. No sea views. Capital Valuation £240,000.
 - (ii) 35 Lurganreagh Road, Kilkeel. GEA-277m². Built in 2008. No sea views. Capital valuation £280,000.
 - (iii) 25 Ballynahatten Road, Kilkeel. GEA-246m². Built in 2005. No sea views. Capital valuation £270,000.
 - (iv) 66 Cranfield Road, Cranfield. GEA-246m². Built in 2005. Sea views. Capital valuation £270,000.
 - (v) 11 Benagh Road, Kilkeel. GEA-302m². Built in 2010. No sea views. Capital value £330,000.
10. It was confirmed by the respondent that comparable number (iii) was listed for re-valuation and that the remaining comparable properties had not challenged their respective valuations.
11. The Respondent considered that properties (ii), (iii) and (iv) were the best comparables as they are large detached bungalows similar to the subject property and number (iv) had sea views.
12. It was noted by the tribunal that all comparable properties were valued below the subject property, even property (v) which was some 24m² larger. When questioned on this the Respondent indicated that the subject property was considered to attract a premium in terms of valuation because it had uninterrupted sea views and was closer to the town of Kilkeel. The Respondent considered that a property with a sea view would be more desirable in this area than a similar property in a more rural location, and would thus be valued accordingly.
13. When asked if the difference in valuation of £75,000 between the subject property and the only comparable property with sea views was purely down to the difference in size, the Respondent produced a map showing the situation of 66 Cranfield Road which indicated that the sea views were not as immediate as the subject property.
14. In the course of giving evidence the respondent referred to the sale of a property at 10 Benagh Road, Kilkeel. This property had a capital valuation of £230,000 and a GEA of 265m². It was sold for £220,000 in May 2005. When questioned about the difference in valuation of £115,000 between this property and the subject property, the Respondent indicated that Benagh Road was

smaller, in a more remote location, and as it had not yet been inspected, it may also have other disadvantages which the Respondent was not currently aware of. No other relevant sales evidence was available.

15. The Appellant gave evidence concerning the location of his property which he considered had a negative impact on valuation. It was submitted that Kitty's Road was never known as a "good area". This was put down to there being occasional trouble from the housing estate, and the presence of industrial works located along the road, a steelworks and flooring company. The location of the industrial buildings was pointed out by the Appellant on the map prepared by the Respondent. The Appellant referred to the right of way granted to NI Water over his property to sewage works on adjoining land, and it was indicated that monthly inspections were carried out and de-silting would also occur.
16. In relation to the 35 Lurganreagh Road property, the Appellant submitted that the owner of this property used to live on Kittys Road and moved to get away from this area. The Appellant advanced the proposition that a house in a rural location would demand a premium over his property on Kittys Road. As regards 66 Cranfield Road it was suggested by the Appellant that this property was located close to two popular tourist beaches and had been built specifically to take advantage of sea views. The Appellant submitted that his property had not been constructed to maximize sea views and that there was no shore access at the rear of his property due to the large vertical drop.
17. The Appellant referred to the two estate agent valuations he had commissioned. The valuation from Owen Cunningham put the estimated market value of the subject property at £265,000 as at May 2010. The valuation from J F Speers put the estimated market value based on an inspection conducted on 5 July 2010 at £280,000. The Respondent made representations that the relevant date for the assessment of capital value was 1 January 2005 and that valuations conducted in May and July 2010 were of no evidential value in assessing the correct valuation of the subject property. The Appellant stated that both valuers he instructed were asked to carry out a valuation based on what his property would have been worth as at 1 January 2005, although he accepted that this was not apparent from a reading of either valuation report.
18. As part of the written representations provided by the Appellant, the tribunal was referred to a Bank of Ireland report on house prices in 2005, which suggested that the average detached house price in 2005 for Mid and South Down was £182,152. The Respondent submitted that such a report was of little evidential value as it is very general in nature and does not take into account specific locations or the size of a property.

The Tribunal's Findings

19. The tribunal considered that the valuation reports provided by the Appellant were of no evidential weight as they were carried out in May and July 2010. Although the Appellant stated that the valuers were instructed to assess the property as if being valued on 1 January 2005, as neither valuer had referred to this in their report, it had to be assumed that the valuations related to the dates referred to in the respective valuations. The Bank of Ireland report was considered to be of no evidential assistance as it only provides an overall average of house prices, some of which may not be comparable to the subject property, whereas the tribunal is required to have regard to capital values in the valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.
20. The tribunal had regard to the comparable properties identified by the Respondent, and in particular considered the evidence regarding the sale of the property at 10 Benagh Road some 5 months after the relevant capital valuation date. A primary issue of contention between the Appellant and the Respondent was whether a property in a rural location in the Kilkeel area should attract a higher valuation than a similar property with a coastal location and sea views. In this regard the tribunal considered that the two most useful comparable properties in assessing whether the subject property was appropriately valued were 35 Lurganreagh Road and 66 Cranfield Road, valued at £280,000 and £300,000 respectively. The tribunal accepted that 35 Lurganreagh Road although almost identical in age and size to the subject property may not be valued as highly due to it being located further away from Kilkeel, having a narrow access road, and no sea views. The Cranfield Road property is 25m² smaller than the subject property, and the sea views from this house could not be considered on a par with the views from the subject property which are uninterrupted. Although the tribunal recognised the Appellant's arguments that the Cranfield Road property was perhaps in a better location than his property as it was close to a beach and had no social housing or industrial premises nearby, it is considered that the sea views from the subject hereditament are such that a purchaser would value them as a particular feature of the property, even though the Appellant himself did not personally do so.
21. The tribunal considered that the Respondent had not taken sufficient account of the locational disadvantages of the subject property as outlined by the Appellant, and had placed too high a premium on the fact that the property had uninterrupted sea views when valued against the comparable properties. In assessing the amount by which the valuation of the subject property required to be reduced, the valuations of 35 Lurganreagh Road, 66 Cranfield Road and 11 Kittys Road were closely considered. Taking into account all relevant facts and circumstances the appropriate valuation of the subject property was considered to be £305,000.

Decision

22. The tribunal's unanimous decision is that the Commissioner's decision on appeal was incorrect and that the valuation of the subject property should be amended to £305,000.

**Mr Stephen Herron, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: *7 April 2011*