

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

CASE REFERENCE NUMBER: 21/10

DAVID DUFFY – APPELLANT

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Barbara Jemphrey
Members: Philip Murphy and Peter Wardlow
Belfast, 8th August 2011

DECISION

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 17th November 2010 is upheld and the Appellant's appeal is dismissed.

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended ("the 1977 Order").
- 1.2 By a Notice of Appeal dated 10th December 2010 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 17th November 2010 in respect of the Valuation of a hereditament situated at 7 The Oyster Yard, Comber BT23 6HR.
- 1.3 The Appellant appeared in person and the Respondent was represented by Deborah Rice.

2. The Law

- 2.1 The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order").
- 2.2 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 purpose 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.

- 2.3 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.

3. The Evidence

The Tribunal heard oral evidence from the Appellant and Deborah Rice. The Tribunal had before it the Appellant's Notice of Appeal dated 10th December and copies of various documents including the following:-

- 3.1 The Commissioner's Decision on Appeal dated 17th November 2010.
- 3.2 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Deborah Rice of Land and Property Services.
- 3.3 Correspondence between the Tribunal and the Parties.

All of these documents had been provided to all of the Parties whom had each been given an opportunity to consider and respond to them before consideration by the Tribunal.

4. The Facts

- 4.1 The hereditament is a semi detached house situated at 7 The Oyster Yard, Comber (the Subject Property). The Subject Property was stated to be owned by the Appellant whom the Tribunal understood to be the rate payer. The Tribunal had no other information neither regarding the title to the Subject Property nor regarding its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.
- 4.2 The Subject Property is of block and render construction with tiled pitched roof. It has a gross external area (GEA) of 199m². The Subject Property has a single garage of 18.6 m², and garden. .
- 4.3 The Capital Value Assessment of the Subject Property is £290,000. In arriving at the Capital Value Assessment figure regard was had to the assessments in the valuation list of properties considered comparable and also to market sales of

certain properties in the general locality together with sales evidence in connection with the subject property. These comparables are set out in the Schedules to the "Presentation of Evidence" submitted on behalf on the Commissioner. There was a total of 3 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided. The Capital Value of the Subject Property had been reduced on appeal by the District Valuer from £300,000 to £290,000.

4.4 The Capital Value Assessments of the Comparables were all unchallenged.

5. The Appellant's Submission

The Appellant, in summary, has made the following submissions:-

- 5.1 Comparable properties in the locality were valued with a lower Capital Value. The Appellant referred to 2 properties, 1 Ardmillan Road and 1 the Beeches Killinchy.
- 5.2 That the purchase price of the Subject Property included all fixtures and fittings as it was the show house and this fact should have been taken into account when assessing the Capital Value
- 5.5 The Appellant submits that these factors indicate the Capital Value Assessment of the Subject Property is too high.

6. The Respondent's Submissions

In summary, the following submissions were made on behalf of the Commissioner:-

- 6.1 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order (as amended) and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 of the 1977 Order that "regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances" was duly observed.
- 6.2 The properties referred to by the Appellant were not good comparables. The property at 1 Ardmillan Road is a detached house built pre 1919, with a GEA 193m², conservatory 24m² and out building 10m². The property at 1 The Beeches whilst of a more contemporary design is also a detached house built in 2002 GEA 186m² and a garage 25m². This property is located in a different market area.
- 6.3 The Comparables strongly supported the Capital Valuation

7. The Tribunal's Decision

- 7.1 Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital Value has been assessed at the Antecedent Valuation Date of 1st January 2005 as

a figure of £290,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and 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.

- 7.2 The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: "*On an appeal under this Article, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown*". It is therefore up to the Appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.
- 7.3 The Tribunal saw nothing in the approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal, to suggest that the matter had been assessed in anything other than the prescribed manner provided for by Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner's Submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above.
- 7.5 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellant's Submissions. The Appellant has not displaced the statutory presumption that the valuation shown in the Valuation List in respect of the Subject Property shall be deemed to be correct until the contrary is shown. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 17th November 2010 is upheld and the Appeal is dismissed.

Barbara Jemphrey, Chair
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties:

7 September 2011