

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

CASE REFERENCE NO: 20/09

DAVID LOYAL & CHRISTINE LOYAL – APPELLANT

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

**Date of Hearing 9 November 2009
Belfast**

Chairperson: Mrs Mary O’Neill
Members: Mr Tim Hopkins FRICS
Mr David Rose

DECISION

The unanimous decision of the Tribunal is that this appeal is dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (NI) Order 1977, as amended (the 1977 Order). Mrs Christine Loyal appeared at the Tribunal and represented the Appellants. Mrs Claire White and Mr Paul Boylan appeared and represented the Commissioner of Valuation for Northern Ireland (“the Commissioner”) as Respondent.
2. The subject of the appeal is a hereditament situated at 7 Hanover Grove Bangor BT19 7ZT (the subject property).
3. The hereditament is a detached house of brick and block construction with tiled pitched roof situated in a development of detached houses of the Old Gransha Road in Bangor. The property has mains water, sewerage and electricity services and full oil heating connected.
4. The Capital Value Assessment (CVA) of the subject property is £195,000 as at 1 January 2005.

5. The following documents were before the Tribunal:
- A Notice of Appeal against the Valuation for rating purposes from the Appellant and received by the Tribunals Unit on 6 April 2009.
 - A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Mrs Claire White BSc (Hons) MRICS.
 - A letter of 6 August 2009 from Mrs Christine Loyal and received by the Tribunals Unit on 12 August 2009 with enclosures including the Appellants table of properties, each parties minutes of meeting, e-mail correspondence between parties, extracts from Domestic Capital Value List and photographs of the general location.
 - Written response prepared by Claire White and dated 26 August 2009 with enclosure.
 - Correspondence between the Tribunal and the parties.
6. The Tribunal heard evidence and submissions from Mrs Christine Loyal, Mrs White and Mr Boylan.
7. The Tribunal reserved its decision. This notice communicates the Tribunals decision and contains the reasons for the decision in accordance with Rule 19 of the Valuation Tribunal Rules (NI) 2007.

The Law

8. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (NI) Order 2006 ("the 2006 Order").
9. The Tribunal considered the terms of 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 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.
10. Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to hereditament shall be deemed to be correct until the contrary is shown.

THE COMPARABLES

11. The subject property is noted at position number 1 in the Schedule of Comparisons for the Northern Ireland Valuation Tribunal which has been prepared by Mrs White. It is recorded as a detached house located in a development of detached houses. The property has mains electricity, water and sewerage services and full oil fired central heating. It has a Gross External Area (GEA) of 176.3m² and a garage of 29.7m². It has a Capital Value of £195,000. Mrs White for the Respondent confirms that the subject property is a detached house built circa 1989. She further confirmed 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 further confirmed that the comparables are all located in the Hanover Development and are all of a similar type and size to the subject property. She also confirmed that none of the comparable assessments has been challenged.

Property No. 2

2 Hanover Grove, Bangor is also a detached house located in the same street as the subject property. This property has mains electricity, water and sewerage services and full oil fired central heating. It has GEA of 169.4m² with a garage of 29m². This property is noted to have a capital value of £190,000 which has not been challenged. The Tribunal noted that sales details were available for this property which was sold on 1 October 2004 for £189,500. In the Presentation of Evidence, Mrs White for the Respondent confirmed that in her view No 2 Hanover Grove was considered to be the best available comparable. She noted that this property was approximately 7m² smaller than the subject, had a similar appearance, had a capital value of £190,000 and was sold for £189,500 on 1 October 2004.

Property No. 3

3 Hanover Grove, Bangor was noted to be a detached house located in the same street as the subject property. This property had mains electricity, water and sewerage services and full oil fired central heating. The property had GEA of 181m² with a garage of 32m². The property had a capital value of £205,000 which was not challenged.

Property No. 4

43 Hanover Chase, Bangor This property was a more recently built detached house located in an adjoining street to the Subject Property. The property also had mains electricity, water and sewerage services and full oil fired central heating. It had a GEA of 189m² with a garage of 21m². It had a capital value of £210,000 which was not challenged. It was also noted that there were sales details available as the property had been sold for £210,000 on 5 December 2003.

Property No. 5

6 Hanover Crescent, Bangor was a detached house located in a nearby street to that of the Subject Property in the same development. The property also had mains electricity, water and sewerage services and full oil fired central heating. This property had a GEA of 186m² with a garage of 21m². The property was noted to have a capital value of £210,000 which had not been challenged. There were also sales details available for this property which had been sold for £183,500 on 6 October 2003.

CONTENTIONS OF THE PARTIES

The Appellants' Contentions

12. The Appellant in her Notice of Appeal against a valuation for rating purposes had indicated that she believed that the valuation for her property at 7 Hanover Grove Bangor should in fact be £175,000. The reason given for her appeal was that in her view "the valuation is not fair and reasonable in comparison to similar properties in the street". In her letter of 6 August 2009 the Appellant indicated that she had moved into the property at 7 Hanover Grove Bangor in or around November 2006 and was notified in early 2007 that the property was valued at £200,000. The Appellant appealed this valuation and the value was reduced to £195,000. The Appellant had immediately appealed this revaluation indicating that she wanted parity with four similar properties in the street all of which had lower valuations; three in particular being substantially lower at £175,000 although all of these properties had conservatory/sunroom extensions. In particular the Appellant contended that No. 9 Hanover Grove had a sunroom and a large garden. The Appellant was concerned that "it was grossly unfair" for her property to remain at a higher value than those properties and that the value should remain at this level until 2010 when any potential revision would be made. The Appellant was further concerned that extensions to her neighbours houses had not been valued. The Appellant contested that No. 2 Hanover Grove was the "best comparable". In her view the sale price for this property reflected a newly installed kitchen and a south facing garden. The Appellant queried whether or not the LPS held the correct GEA in respect of various properties and whether extensions which had been added to a number of the properties had been included by LPS in their valuations. The Appellant requested that the Tribunal should have her property "valued fairly with our neighbours either by reducing the capital value in line with theirs or if the other properties have been under valued that a moratorium on our capital value should be made ... until the re-valuation happens as it was not our fault that the LPS had a substantial back log". The Appellant was concerned that LPS had not been "communicative" and indeed had been hampered by "deadlines". The Appellant contended that No. 8 and No. 12 Hanover Chase had been sold in May 2006 and she sought details of the sales price for comparative purposes.

The Respondent's Contentions

13. The Respondent indicated and the Tribunal accepted that a sale in May 2006 was too far removed from the valuation date to be of assistance in this case. The Appellant had queried if extensions to No.s 2, 3, 4, 7 and 9 Hanover Grove had been taken into account in assessing value. The Respondent indicated that extensions to No.s 2, 3 and 7 Hanover Grove had already been valued and that there were currently active cases on No's 4 and 9 Hanover Grove with a view to value the alterations. The Appellant had also referred to extensions to 14 Hanover Chase and 5 Hanover Glen and the Respondent confirmed that there was an active case in respect of 14 Hanover Chase and that a file would be opened to consider the value of the extension at 5 Hanover Glen. The Respondent confirmed and the Tribunal accepted that there were a number of properties in the Hanover Development which had been extended but the extensions had not yet been valued. The Respondent contended and the Tribunal accepted that these properties were all assessed at £175,000 which was considered to be a fair and reasonable estimate of capital value based on the property details currently held by LPS. The Respondent confirmed that action was currently being taken to have these properties inspected and the capital values amended, where appropriate.

THE TRIBUNAL'S DECISION

14. 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. In this case the Capital Value has been assessed at a figure of £195,000. On behalf of the Commissioner it has been contended that that figure is both fair and reasonable in comparison to other properties. This statutory basis for valuation has been referred to and reference has been made to Schedule 12 of the 1977 Order in arriving at the assessment (Schedule 12 being the statutory basis of Assessment of the Capital Value - that is to say the amount, taking into account certain assumptions, which the property 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”).
15. In these matters there is a statutory presumption 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. Thus any Appellant must successfully challenge and displace the presumption of the correctness; otherwise the appeal will not be upheld.
16. Looking at the general approach taken by the Respondent to the valuation of the property, the Tribunal saw nothing to suggest that the matter had been dealt with in anything other than the prescribed manner provided for by Schedule 12 of the 1977 Order.
17. In determining this case, the Tribunal has considered and taken into account the essential issue of whether or not the Appellant has put forward sufficient challenge to the Commissioner's Schedule of Comparables and advanced sufficient evidence or argument effectively to displace the statutory presumption of correctness in regard to assessment of Capital Value.
18. The Tribunal having considered the written and oral submissions from both the Appellant and the Respondent and having considered at length the comparables before it and the evidence presented are satisfied that in accordance with Schedule 12 to the 1977 Order that the most appropriate comparable properties in the same state and circumstances as the subject property are properties 2, 3, 4 and 5 listed in the Appendix to the "Presentation of Evidence" provided by the Respondent. The Tribunal finds that the Capital Value of the subject property is consistent with the values assessed for those properties. In all of the circumstances and in light of the evidence currently available and the findings above the Tribunal are satisfied that the valuation shown on the valuation list in relation to the subject property is correct.
19. The unanimous decision of the Tribunal is that this appeal is dismissed.

Mary O'Neill
Northern Ireland Valuation Tribunal

Date Decision recorded in Register and Issued to Parties: