

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

**CASE REFERENCE NUMBER: 2/09**

**DAVID MCCAMBLEY – APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mrs Barbara Jemphrey**

**Members: Philip Murphy and Garry McKenna**

**Belfast, 19<sup>th</sup> June 2009**

**DECISION**

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 12<sup>th</sup> December 2008 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 7<sup>th</sup> January 2009 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 12<sup>th</sup> December 2008 in respect of the Valuation of a hereditament situated at 24 Beechfield Avenue, Conlig, Bangor, BT19 7ZY.
- 1.3 All parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Rules and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

## 2 **The Law**

The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).

- 2.1 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.

- 2.2 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 no oral evidence but had before it the Appellant’s Notice of Appeal dated 7<sup>th</sup> January 2009 and copies of various documents including the following:-

- 3.1 The Commissioner’s Decision on Appeal dated 12<sup>th</sup> December 2008.  
3.2 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Claire White of Land and Property Services.  
3.3 Correspondence between the Tribunal and the Parties.  
3.4 Letter dated 23<sup>rd</sup> March 2009 detailing Appellants grounds for appeal together with copies of Valuation list entries and Homebuyer report dated 23<sup>rd</sup> June 2005.

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

## 4. **The Facts**

- 4.1 The hereditament is a detached house situated at 24 Beechfield Avenue, Bangor (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 brick construction with tiled pitched roof. It has a gross external area (GEA) of 155m<sup>2</sup>. The Subject Property has a full oil heating single garage of 21m<sup>2</sup>, and garden.
- 4.3 The Capital Value Assessment of the Subject Property is £190,000. 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. These comparables are set out in the Schedules to the "Presentation of Evidence" submitted on behalf on the Commissioner. There were a total of 5 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided with the exception of one comparable.
- 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 Elevated valuations for the Beechfield area are due to a high sale price achieved for one house in Beechfield Drive.
- 5.2 Three similar properties in the locality but outside the Beechfield area had higher asking prices than the Subject Property but were assessed with lower Capital Values than the Subject Property. Each of these properties did not benefit from the industrial and transport discount that Beechfield has been given.
- 5.3 The Subject Property was purchased by the Appellant in July 2005 for £185,000.
- 5.4 A property at 10 Ardvanagh Park was assessed with a Capital Value of 160,000, but had an asking price of £185,000 in July 2005.
- 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 of 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 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 sale in Beechfield Drive to which the Appellant refers is one of the three sales of properties in the area that the District Valuer would consider comparable to the Subject Property. The sale of 31 Beechfield Drive has not been used in isolation to set valuations in the area. It has been examined in the context of the two other sales of comparable properties in the area.
- 6.3 The Appellant refers to three sales at 25, 26 and 109 Beechfield. The Land and Property Services database indicates Numbers 25 and 26 Beechfield Avenue were sold in April 2006 and 109 Beechfield Avenue sold in October 2006. These sales are considered too far removed from the valuation date of 1<sup>st</sup> January 2005. Similarly the property in Beechfield Drive was sold in March 2004. They are therefore considered not to be suitable comparators.
- 6.4 The Appellant refers to an “industrial and transport discount” given to Beechfield properties. This is a mechanism used by the Inland Revenue and has no bearing on property values.
- 6.5 The Land and Property Services database does not show the property at 10 Ardvanagh Park being sold in 2005. It indicates a sale in December 2006. The Appellant states that the asking price was £185,000 in July 2005. Asking price does not constitute sales evidence.
- 6.6 The Appellant refers to three similar properties in the locality, these were set out in a letter dated 21<sup>st</sup> July 2005 as 2 Hanover Road, 9 Regency Park, 21 Tadworth. In each case the Appellant has submitted asking prices of the properties. In each case the properties sold for less than the asking price. The Appellant contends these three properties are “of similar standing” to the Subject Property.

The three properties identified by the Appellant are in developments approximately 2½ miles from the Subject Property.

The best evidence of the Capital Value of the Subject is provided by sales within the Beechfield Development.

- 6.7 The sale of one property, in this case the sale of the Subject Property is never looked at in isolation. In order to make a fair assessment of Capital Value all the relevant sales information on similar properties in the immediate area is examined and a judgement is made on value.

## **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 1<sup>st</sup> January 2005 as a figure of £190,000. 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 12<sup>th</sup> December 2008 is upheld and the Appeal is dismissed.

**Mrs Barbara Jemphrey**  
**Northern Ireland Valuation Tribunal**

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