

**NORTHERN IRELAND VALUATION TRIBUNAL**

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE**

**VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

**CASE REFERENCE NUMBER: NIVT 10/09**

**DAVID ROBINSON – APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NI – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Date of hearing: 19<sup>th</sup> June 2009 Belfast**

**Chair: Mrs Barbara Jemphrey**

**Members: Mr Philip Murphy and Mr Garry McKenna**

**DECISION AND REASONS**

**The Hearing**

1. The Appellant Mr Robinson appeared at the Tribunal and represented himself. The Respondent was represented by Mr Harry Lester.

2. The property the subject of the appeal is 260 Killaughey Road, Donaghadee (the Subject Property). It is a detached bungalow with a gross external area (GEA) of 137m<sup>2</sup> and a garage of 36m<sup>2</sup>. It has mains electricity and water and sewage services and full oil central heating. The property is situated in a rural area mid point between Donaghadee and Millisle on a road leading to Donaghadee.
3. The Respondent initially assessed the capital value of the property as £250,000 but revised the assessment to £200,000 as at 1<sup>st</sup> January 2005, the relevant capital valuation date.

The Appellant appeals against that decision under Schedule 12 Part II of the Rates (Northern Ireland) Order 1977.

4. The following documents were before the Tribunal;
  - 4.1 The Commissioners Decision on Appeal dated 5<sup>th</sup> January 2009;
  - 4.2 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Harry Lester of Land and Property Services;
  - 4.3 Correspondence between the Tribunal and the parties;

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

### **The Law**

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

Schedule 12 Part II relates to Farmhouses and states as follows –

10. The net annual value of a house occupied in connection with agricultural land or a fish farm and used as the dwelling of a person –

- (a) whose primary occupation is the carrying on or directing of agricultural or, as the case may be, fish farming operations on that land; and
- (b) who is employed in agricultural or, as the case may be, fish farming operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed, shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid.

11. The Capital Value of a house used and mentioned in paragraph I shall be estimated on the assumptions (in addition to those mentioned in Part I) that the house will always be so occupied and used.

### **The Tribunal's Findings**

6. The issue before the Tribunal was whether the Subject Property was used as a dwelling house of a person whose primary occupation was the carrying on or directing of agricultural operations on the land.

### **The Appellant's Submissions**

7. Mr Robison outlined the history to this appeal. The Subject Property had initially been given a Capital Value Assessment of £250,000 which was revised to £200,000 after appeal to the Commissioner of Valuation.

8. The Appellant submitted that the Capital Value Assessment of £200,000 was not in dispute. His appeal related solely to the issue of agricultural relief that he stated should apply to the Subject Property.

9. The Appellant stated that he was currently employed full time as a Civil Servant. He had been in full time employment as a Civil Servant since

1980. He was currently at Deputy Principal grade and was working in the Department of Social Development.

His gross salary was £34,000 and his annual holiday entitlement was 30 days holidays and 12 public holidays. He was able to work availing of flexible working hours and accordingly began work each day at 7.30am and left at 3.30pm. He was contracted to work 37 hours a week.

10. The Appellant stated that he had owned the Subject Property since 1990. He had bought various parcels of land over the years and now owned approximately 25 acres. Only two acres are attached to the Subject Property. There is no direct access to these additional lands from the Subject Property.
11. The Appellant stated that he currently had 29 beef cattle and one field which was not in permanent grass.
12. The Appellant stated that he considered his primary occupation to be that of a farmer. He stated that the flexible working hours of his Civil Service job enabled him to spend the majority of his time on the farm.

He stated in the winter months he began his Civil Service job at 7.30am and left at 3.30pm. He worked on the farm from 4.30pm. He stated in the winter he spent approximately 4 hours each evening feeding and tending cattle.

13. In the Summer the Appellant stated he began work on the farm at 5.15am and then commenced his Civil Service job at 7.30am. On returning from his civil service job which finished at 3.30pm he worked each day until 11.00pm on the farm.

The Appellant stated that these long hours were necessary to effectively run the farm. He contented that his indicated farming was his primary occupation.

14. The Appellant submitted that his income from the farm for tax year 2007/08 was £24,000 gross. He stated this was in part due to the sale of a number of cattle. In previous years his best income from the farm was

approximately £17,000 gross (with approximately £8000 to £9000 after Tax).

### **The Respondent's Submissions**

15. Mr Lester for the Respondent submitted that he did not consider the Appellant's primary occupation to be that of farming and contented that the Appellant's primary occupation was that of a Civil Servant. Mr Lester contented that the Appellant was committed to his job as a Civil Servant, received a significant salary from that job and was required to be at his post during core hours each day.

Mr Lester cited the recent Court of Appeal case *Ian Wilson v The Commissioner of Valuation* 2009 NICA.

### **The Decision**

16. The Tribunal having considered all of the evidence accepted that that whilst the Appellant contributes a considerable amount of his time and energy to the running of his farm however the recent Court of Appeal case *Ian Wilson v The Commissioner of Valuation* 2009 NICA sets out clearly the parameters to be considered in cases where agricultural relief is being sought.
17. In all of the circumstances and in light of the findings above the Tribunal is satisfied that the Subject Property whilst it consists of a dwelling house and agricultural land, the Appellant makes his living as a Civil Servant and not primarily from the carrying on or directing of agricultural operations on that land.

Accordingly the Subject Property is not one to which agricultural relief as set out in Schedule 12 Part II of the Rates (Northern Ireland) Order 1977 applies.

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

**Mrs Barbara Jemphrey**

**Northern Ireland Valuation Tribunal**

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