

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

CASE REFERENCE NUMBER: NIVT 23/09

**DR LINDA STEWART – APPELLANT
AND
COMMISSIONER OF VALUATION FOR NI - RESPONDENT**

Northern Ireland Valuation Tribunal

Date of hearing: 27th July 2009

**Chair: Ms Sarah Ramsey
Members: Mr David McKinney and Ms Noreen Wright**

DECISION AND REASONS

The Hearing

1. The Appellant, Dr Stewart, appeared at the Tribunal accompanied by her sister and represented herself. The Respondent was represented by Ms Claire White and Mr Peter Bell.
2. The property the subject of the appeal is 48 The Slopes, Ballydugan, Portadown (the subject property). It is a detached house with a gross external area (GEA) of 223 m² and a garage of 69 m². It is of block construction with a tiled pitched roof. It has mains electricity and water and septic tank sewage services and full oil central heating. The property is situated on a rural road approximately 3 ½ miles from Lurgan Town Centre and 7 ½ miles from Portadown Town Centre.
3. On 31 March 2009 the Respondent assessed the capital value of the property as £250,000 as at 1st January 2005, the relevant capital valuation date. The Appellant appeals against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").
4. The following documents were before the Tribunal;
 - Notice of appeal along with grounds of appeal;
 - Respondent's presentation of evidence;
 - Documentation submitted by the Appellant prior to and at the hearing;
 - Correspondence between the Tribunal and the parties.
5. The Tribunal heard evidence and submissions from Dr Stewart and from Ms White.

6. The Tribunal reserved its decision. This notice communicates the Tribunal's decision and contains the reasons for the decision in accordance with Rule 19 of The Valuation Tribunal Rules (NI) 2007.

The Law

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

8. 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.

9. 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 Tribunal's Findings

10. The Appellant relied on a number of submissions which we considered. We then went on to consider the comparable properties.

The Appellant's submissions

11. The Appellant submitted that the true value of her house in January 2005 should be in the region of £200,000. This was based on several methods of calculation which we deal with in turn.

12. The Appellant submitted orally and in her written grounds of appeal that regard should be had to a mortgage valuation carried out by Mr Patrick O'Reilly of O'Reilly property services in Newry in relation to the subject property which valued the property at £200,000. We note that this mortgage valuation was carried out on 20th September 2004 which was around three months prior to the capital valuation date of 1st January

2005. Despite fastidiously attempting to contact Mr O'Reilly and elicit from him any additional evidence as to the comparables or method he had used in obtaining his valuation, the Appellant had been unable to do so. There was therefore no evidence before the tribunal that the individual valuation of Mr O'Reilly or any comparables which he may or may not have used was more accurate than the system used by the Valuation and Lands Tribunal. We are satisfied however that a mortgage valuation is quite distinct from a market valuation being a limited inspection and report produced for Building Societies, Banks and other Lenders to enable them to make a lending decision. The definition of 'market value' is the estimated amount which a property might reasonably have been expected to realize at a specific date, were it sold on the open market between a willing buyer and a willing seller in an arms-length transaction after proper marketing wherein the parties had acted knowledgeably, prudently and without compulsion.

13. The Appellant argued that her house was built by her and her husband in 1994 and was unique. It consists of four bedrooms, with an en suite in the master bedroom, three reception rooms a conservatory a kitchen and utility room. There was a triple garage. She did not therefore feel a direct comparison could be made with the comparables submitted by the respondents. However when given the opportunity to provide comparables of her own, the Appellant declined to do so, making the point that she considered Mr Patrick O'Reilly, who had provided the valuation for re-mortgage purposes to be the expert evidence on which she intended to rely. We shall deal with the comparables provided by the respondents below.

The Comparables

14. The subject property is map position number 1 in the Presentation of Evidence. It is a detached house with a GEA of 223m² and a garage of 69m². It is of block construction with a tiled pitched roof. It has mains electricity and water and septic tank sewage services and full oil central heating. The property is situated on a rural road approximately 3 1/2 miles from the town of Lurgan. We firstly consider the comparables put forward by the Respondent in the Presentation of Evidence in the schedule of comparables at Appendices 1 and 2.

15. According to the map the closest property is number 7 in the schedule of comparables, 33 The Slopes, Ballydugan which is on the same road as the subject property. This is a larger property than the subject property at 248 m², although it has no garage. It is a detached house located on the same road as the subject property with the same access to amenities and it has a capital value of £250,000 which has not been challenged. We are satisfied that due to its proximity and size this is a reasonable comparable with the subject property.

16. Property number 6 on the schedule of comparables is the next closest to the subject property, being on the same road and with the same amenities. This is a detached two storey house with a GEA of 223 m² and a garage of 44 m². The house was therefore an identical size to the Appellant's property. The Appellant had spoken to the owner of this

property, although she was unaware as to the number of bedrooms it had. It had been built in 2003 and was situated on a 1 ½ acre site. We are satisfied that due to its proximity and size this is a reasonable comparable with the subject property.

17. Property 2 in the schedule of comparables is 37 Bleary Road Portadown. It is located on a main road approximately 2.5 miles from the subject property and has a GEA of 212 m² which is smaller than the subject property and it has a single garage of 27 m² which is less than half the size of the garage at the subject property. It has similar access to amenities. It was sold on 20 February 2005, almost a year before the date of valuation for £200 000. We are satisfied on the basis of its location and size that this is a similar property to the subject property and is therefore a reasonable comparable.

18. Property 3 on the schedule is 24 Deans Road, Bleary. This property is smaller than the subject property at 200 m². It is said to be a detached house located on a main road approximately 1.5 miles from the subject with similar access to amenities. It has mains electricity and water, septic tank sewage and full oil fired heating. It has a capital value at £200,000 which has not been challenged, and it was sold on 14 April 2004, some eight months before the capital valuation date for £187 500. We are satisfied that given the size and location that this is a reasonable comparable with the subject property.

19. Property 4 on the schedule is 15 Glass Moss Road, Bleary. This property, a chalet bungalow is smaller than the subject property at 215m², with a smaller garage of 42m². It is also a detached house and is located 1.5 miles from the subject property on a narrow rural road and has similar access to amenities. It also has mains electricity and water, septic tank sewerage and full oil fired heating. It has been valued at £250,000 which has not been challenged. It sold on 27 June 2005 for £259,000, £10 000 over its capital valuation some six months after the valuation date. We are satisfied on the basis of its size and location that it is a reasonable comparable to the subject property.

20. Property 5 on the schedule is 7 Sugar Island Road. This property has a GEA of 192 m² and an outbuilding of 79 m². It is a detached bungalow located on a main road some 1 ½ miles from the subject property. It has mains electricity and water, septic tank sewerage and full oil fired heating. It has a capital valuation of £250,000 which has not been challenged. There is sales evidence that it was sold on 27th August 2004 for £249,500. We are satisfied on the basis of its size and location that it is a reasonable comparable to the subject property.

21. Property 8 is 6 Ballydugan Road, a detached bungalow located approximately 1 mile away on a narrow rural road. It has a GEA of 222 m² with a garage of 43m² and has an unchallenged capital valuation of £250,000. We are satisfied on the basis of its size and location that it is a reasonable comparable to the subject property.

22. The Appellant produced an estate agent's internet page for a building site for sale at Plantation Road Craigavon and a derelict property at Bluestone Road Lurgan. The appellant made reference to the values of these sites and the costs to build a property on them. However there was no evidence of these as yet unbuilt properties' capital value and

we were satisfied that we could not take these properties or this proposed method of valuation into account.

23. The Appellant made the case that there was no information provided in the comparables as to the size of the plots surrounding the properties. It was accepted by Ms White that there was no hard and fast rule in relation to a site size and valuations. The Appellant's property extended to .99 of an acre. We considered this to be a valid point, however the appellant had provided in her evidence to the tribunal an aerial photograph of her own property which showed her own plot to be not insubstantial, in the circumstances the Tribunal considered there was a sufficient number of appropriate comparables to set the tone of the area.

24. The Appellant made the case that there was no information as to the age or the condition of the comparables. The Tribunal is bound to consider an average state of repair in considering valuations. In relation to the age of the properties the Tribunal did not consider the lack of this type of information to be particularly unhelpful in this case, there are circumstances where older houses will attain market values greater than younger houses and vice versa. The Tribunal considered without specific criticisms of the comparables provided, lack of information as to the date of construction of the properties was a valid argument in this case.

25. The Appellant made the case that the comparables were not sufficiently like her own home. She gave evidence to say her property had been built by herself and her husband in 1994. However, the Tribunal felt that a number of the comparables were sufficiently close to the Appellant's property and of similar age and design as to prove helpful in providing a comparison

26. Having considered all of the comparables before us we were satisfied that, in accordance with schedule 12 paragraph 7 set out above, the most appropriate comparable properties in the same state and circumstances as the subject property were properties 4, 5 and 6 in the Presentation of Evidence. These properties have been assessed as having capital values of £250,000 and £250 000 and £250,000 respectively. We take into account the difference in size as between these properties and the subject property and we find that the capital value of the subject property is consistent with these properties.

27. We also take account of properties numbered 2, 3, 7 & 8 in the Presentation of Evidence. We attached less weight to these properties but for the reasons set out above we are satisfied that these are appropriate comparables for the estimation of the capital value of the subject property. We find that these properties are consistent with the capital value of the subject property and support its capital value.

Decision

28. In all of the circumstances and in light of the findings above the Tribunal was satisfied that the valuation shown on the valuation list in relation to the subject property

is correct.

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

**Ms Sarah Ramsey, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: