

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

**CASE REFERENCE NUMBER: 10/10**

**FLORENCE MOORE - APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr James V Leonard, President**

**Members: Mr Brian Sparkes FRICS and Mr Pat Cumiskey**

## **DECISION**

The unanimous decision of the tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland is upheld and the appellant's appeal is dismissed.

### **REASONS**

#### **Introduction**

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant indicated in her appeal that she was content for the appeal to be disposed of by written representations and accordingly there were no appearances at the hearing of the matter.
  
2. The appellant, by Notice of Appeal received by the Office of the Tribunal on 14 June 2010, appealed against the decision of the Commissioner of Valuation on appeal dated 25 May 2010 in respect of the valuation of a hereditament situated at 62 Kilnacart Road, Dunamony, Dungannon, County Tyrone BT70 1PD (" the property").

#### **The Law**

3. The statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The tribunal does not intend in this decision fully to set out the statutory provisions of Article 8 of the 2006 Order, which amended Article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in the matter.

### **The Evidence and Facts**

4. The tribunal heard no oral evidence as this was an appeal disposed of by written representations. The tribunal had before it the appellant's Notice of Appeal to the tribunal (Form 3) and various documents including the following:-
  - 4.1 The Commissioner's Decision on Appeal dated 25 May 2010.
  - 4.2 A document entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Mr Rodney McVitty MRICS and submitted to the tribunal for the purposes of the tribunal hearing.
  - 4.3 Written submissions submitted on behalf of the appellant to the tribunal by her son, Mr Gordon Moore.
  - 4.4 A supplementary submission made to the tribunal by the respondent in response to the appellant's submission.
  - 4.5 Correspondence between the tribunal and the parties.
5. The following facts were not in contention. The property consists of a detached bungalow residence constructed in or around 2009 at 62 Kilnacart Road, Dunamony,

Dungannon, County Tyrone BT70 1PD. The property was it seems built as a replacement dwelling for an old cottage which is situated adjacent to the front of the property. The appellant is understood to be the ratepayer. The property has a gross external area ("GEA") of 98 m<sup>2</sup> and is of cement render finish and has the benefit of oil-fired central heating, mains electricity and water; sewerage is to a septic tank. The property is situated in a rural location approximately 2 miles from the village of Eglish and 8 miles from Dungannon. The capital value was initially assessed as at 1 January 2005 (that being the antecedent valuation date, or "AVD") at a figure of £100,000 but that was then reduced to a figure of £90,000 in the Commissioner's Decision on Appeal made 27 May 2010.

6. The Commissioner's submission to the tribunal is that in arriving at the capital value assessment regard was had to the statutory basis of valuation and thus regard was had to the capital values in the valuation list of comparable hereditaments in the same state and circumstances. These "comparables" are set out in a schedule to the Commissioner's Presentation of Evidence, with further particulars given thereafter in respect of these comparables, including photographs of the comparables. There are seven comparables in total including the subject property, none of these including sales value evidence, with the evidence from the other six comparables consisting of stated unchallenged capital value assessments. Most of the comparables are in relatively close proximity one to the other in terms of geographical location. The respondent's listed comparables are the subject property number 62 Kilnacart Road, and numbers 52 Kilnacart Road, 50 Kilnacart Road, 42 Kilnacart Road, 46 Kilnacart Road, 66 Derrylatinee Road and 43 Derrylatinee Road, all Dungannon. Copies of the Commissioner's Presentation of Evidence and of the other documentation have been provided to the appellant (represented by her son Gordon Moore) and the appellant, via her son, has responded thereto in submissions to the tribunal.

## **THE SUBMISSIONS**

7. The appellant and the respondent, in brief, have included the following points in submissions. The appellant contends that the cost to build this small house was only £42,000; that the subject property has poor site location, no road frontage, is situated down a long lane with three rights of way, is surrounded by farm buildings and is looking into the back of an old house which is an "eyesore" but which has to be

retained for environmental heritage. The appellant also cites the slump in the housing market and the poor economy. For the respondent, it is contended that the appellant's submission in respect of build cost is properly to be disregarded as being irrelevant to the statutory basis for valuation. In respect of the stated poor site location, the only issue which is stated to be relevant is the close proximity to the former dwelling; in that regard a 10% reduction has been made to the capital value. Any other encumbrances mentioned by the appellant have to be properly disregarded for valuation purposes, it is submitted, as are any other arguments made by the appellant irrelevant to the proper basis for valuation.

### **THE TRIBUNAL'S DECISION**

8. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed at AVD at a figure of £90,000. On behalf of the Commissioner it has been contended that that figure is fair and reasonable in comparison to other properties; 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.
9. The tribunal notes the statutory presumption contained within the 1977 Order, Article 54(3). Thereby, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown. In order to succeed in an appeal, the appellant must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.
10. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner as provided for in Schedule 12 of the 1977 Order.
11. The Commissioner's Statement of Case as set out in the Presentation of Evidence and the schedule of comparables has been generally challenged as to the

appropriateness of the comparators by the appellant. It is contended that the comparable properties are all larger and some of them have garages attached or detached. It is stated that all have elevated sites and all but one have road frontage, which it is contended has a significant influence on valuation. Only one property, number 46 Kilnacart Road, is stated to be accessed by a long lane but it is contended that this property was on the market for some 10 years before being sold. The subject property is stated by the appellant to be accessed by a lane of 181 m long which no one wants to maintain. Save in respect of the foregoing observations, the appellant did not put forward any alternative comparables but rather sought to challenge directly the validity of the comparisons.

12. The tribunal examined the essential issue of whether or not the appellant had put forward sufficient challenge to the Commissioner's schedule of comparables and sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation.
13. The arguments made by the appellant have been summarised as mentioned above. In this case, as in all such cases, the statutory provisions state that the capital value of the property shall be the amount which (on the statutory assumptions) 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the property. The tribunal thus gave full consideration to all of the evidence and argument including the analysis of the appropriateness of selection and the weight to be attached to the properties put forward as comparables both by the respondent and also by the appellant, insofar as these related to the statutory basis of valuation.
14. The appellant's contention is that the respondent's selected comparables are inappropriate and not well chosen. The appellant seeks to distinguish the subject property from the comparables. Looking at the schedule of comparables it is apparent to the tribunal that, without exception, all these bear a higher (but unchallenged) capital value in comparison with the subject property. The tribunal notes the respondent's argument that the specific location of the subject property has been reflected in a reduction of 10% in the originally attributed capital value, in other words from £100,000 to £90,000. Examining the comparables the closest in gross

external area is number 66 Derrylatinee Road which is an older detached bungalow with a garage, in regard to which the unchallenged capital value is £115,000. Whilst this property is situated some 1 1/2 miles from the subject property, the tribunal considered this to be quite useful evidence in this rural area. The appellant's case confirms that number 46 Kilnacart Road is, like the subject property, also approached by a long laneway. 46 Kilnacart Road is a considerably older and much larger detached bungalow, with an unchallenged capital value of £130,000. The other comparables are of greater or lesser value evidentially, all being larger in size and with a higher capital value than the subject property. There is no sales evidence to assist. Taking into account all of the evidence emerging from the comparables, the tribunal's conclusion is that the reduced capital valuation deriving from the Commissioner's determination appears to be correct and is not properly to be displaced by any argument presented on behalf of the appellant in this appeal.

15. Thus the tribunal's conclusion is that the appellant has not placed before the tribunal sufficient evidence, information and argument to enable the statutory presumption of correctness in respect of the capital value assessment to be displaced. The tribunal concludes that the Commissioner's assessment of capital value in respect of the property at a figure of £90,000 is not self-evidently or manifestly incorrect. Examining the evidence of the comparable properties and the other evidence and arguments put forward by the appellant, the tribunal on balance sees nothing of sufficient weight to displace the statutory presumption of correctness in respect of the Commissioner's capital value assessment. Thus the appeal cannot succeed. The Commissioner's Decision on Appeal is upheld and accordingly the appeal is dismissed.

**Mr James V Leonard, President**  
**Northern Ireland Valuation Tribunal**

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