

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

CASE REFERENCE NUMBER: 20/10

APPELLANTS – HUGO MCGLINCHEY AND MARTINA MCGLINCHEY

AND

**RESPONDENT - COMMISSION OF VALUATION FOR NORTHERN
IRELAND**

Northern Ireland Valuation Tribunal Chairman – Mr Michael Flanigan

Members – Mr Tim Hopkins, Mr Bob McCann

Date of Hearing – 21st March 2011

Decision and Reasons

The Hearing

1. Both the Appellants and Respondent appeared and both parties gave oral evidence in addition to their written submissions.
2. The subject property in this appeal was situate at 9 Artasoooley Close Benburb, BT71 7TT. The property is owned by the Appellants who purchased the premises from a Housing Association in November 2005 under the tenant purchase discount scheme. The property is a three bedroom semi-detached house with oil fired central heating and mains services. The property is situate in a development of similar properties off the Maydown Road in the hamlet of Artasoooley approximately two miles from Benburb.
3. On 15th November 2010 the Respondent issued the Commissioners Decision on Appeal and assessed the capital value of the property at £95,000 as on the 1st January 2005. The original valuation entry had been £100,000.
4. The Appellants appealed against that decision.

The Law

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

6. The Tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which states as follows:

“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.

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.”

7. 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 Evidence and Submissions

8. The Appellant’s evidence was comprised of a list of comparables and oral evidence. The Appellant’s case was that the subject premises had been incorrectly valued in comparison to private housing developments in the village and in comparison to other similar houses. The Appellant gave evidence that the subject premises had been purchased by them from the Housing Association landlord and that the premises had been

valued by the association's valuer at £71,000 at the time of sale. The Appellant's comparables included a range of properties from Artasooley, the general vicinity and from further afield. The comparables included 5 & 6 Killara Grange BT71 7JL which are two houses in a private housing development in Artasooley of similar size to the subject premises. At the time of the appeal these houses had capital valuations of £85,000. The appellants also sought to rely upon 12 Carrickaness Gardens, Carrickaness, which is a similar property of ex Housing Executive stock with a capital valuation of £77,500. The Appellant's evidence was that the village had few amenities, and that few if any of the other residents in the Artasooley Close development had elected to purchase their premises and that most had housing benefit assistance with their rates.

9. The Respondents for their part submitted that the capital valuation of the subject premises was in line with other unchallenged valuations from the village and rested comfortably within "the established tone of the list". The Respondent's evidence was that the original valuation of £100,000 had been revised downward by the Commissioner by £5,000 to take into account the fact that Artasooley Close was public housing. The Respondents challenged the relevance of the Appellant's comparables. In particular the valuations of 5 & 6 Killara Grange Artasooley had been reassessed following the appellant's original appeal. After the appeal the valuation of 5 & 6 Killara Close (£85,000) had been reassessed and increased and at the time of this hearing was now £100,000.
10. Other comparables relied upon by the Appellants were challenged on the basis of distance from the subject premises and age of property. For their own part the Respondents submitted three comparables from Artasooley hamlet. The Tribunal notes that of the three premises detailed in the Respondents Schedule of Comparisons two had been the subject of reassessment.

Tribunal Findings

11. This Appeal relates to the valuation of number 9 Artasooly Close, Artasooly, Benburb.
12. The Appellant's property is situate within a small Housing Association development in the hamlet of Artasooly. The hamlet consists of two private developments, Edenderry Drive and Killara Grange, together with two public housing developments, Artasooly Close and a small Housing Executive development of four houses in Artasooly Place. The Appellant's evidence was that their purchase of the premises had been agreed in November 2005 and at that time, before tenant discount, the property had a valuation of £71,000. While this was evidence of a sale near the relevant date it was not particularly persuasive being a private transaction between a landlord and tenant.
13. The Respondent in response to the Tribunal confirmed that the valuations for Artasooly had not been based on sales evidence and were unable to say on what basis the tone of the list for housing in Artasooly had been set. The Tribunal would have preferred to have been received evidence as to how the tone of valuations in this vicinity had been set particularly in circumstances where the Respondent was seeking to rely on the tone of the list.
14. The Tribunal felt it was significant that three of the properties in Artasooly had been the subject of recent reassessments and that of these reassessments two had been prompted by the Appellant's appeal. The reassessments were not the result of sales information but rather the result of the Respondent having noticed, in the case of the houses in Killara Grange, that they "were too low". In those circumstances the Tribunal took the view that contrary to the submission of the Respondent this was not a case where the Tribunal was dealing with an established tone of the list.

15. The general rule of capital valuation is comprised in Article 7(1) of the 2006 Order and states that “the capital value of a hereditament shall be the amount which 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”. The provisions of Art.7 (1) while subject to a number of assumptions are clearly directed towards establishing a market value for the premises on the relevant date, the 1st January 2005, in other words how much could the owner reasonably expect the property to sell for on that date.

16. The Tribunal took the view that the valuations of 5 & 6 Killara Grange were of limited assistance as comparables having been the subject of recent reassessments (still within their time for appeal). The Tribunal felt that the valuation of 12 Carrickaness Gardens at £77,500 was of some assistance being ex public housing stock and of similar size. The Tribunal rejected the respondent’s submission that, at two miles away, that the Carrickaness property was too distant to be relevant. The Tribunal was of the view that two miles in a rural area is within the range of properties which could be accepted as relevant comparables.

17. The Tribunal noted that the Commissioner had applied an allowance for public housing in relation to the subject premises in order to achieve a market capital valuation. The Tribunal was satisfied that it was correct to apply an allowance. On this occasion having regard to the valuation of other properties in the area the Tribunal was satisfied that the Commissioner had made insufficient differential between public and private housing stock in the assessment of the subject premises. The Tribunal decision is that having regard to the value of other hereditaments in the area, and in order to establish a market value for the subject premises on the relevant date, an allowance of £10,000 against the original capital valuation of £100,000 should have been applied. The Tribunal has therefore applied a further allowance of £5,000 to the valuation of £95,000 in the Commissioner’s Decision

resulting in a revised valuation of £90,000. The Tribunal directs that the valuation list be altered accordingly.

Mr Michael Flanigan

Chairman Northern Ireland Valuation Tribunal

Dated decision recorded and registered and issued to parties: 30 March 2011