

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

**APPLICATION FOR AN INTERIM ORDER UNDER RULE 9 OF THE VALUATION**  
**TRIBUNAL RULES (NORTHERN IRELAND) 2007(AS AMENDED)**

**CASE REFERENCE NUMBER: 24/08**  
**MR JONATHAN WHITE - APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND- RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chair: Ms Anne Grimes**

**Members: Mr David McKinney and Mr Garry McKenna**

1. This is an application by the appellant for an interim order under Rule 9 of the Valuation Tribunal Rules (Northern Ireland) 2007 (as amended) ('the Rules').
2. The application relates to an appeal by the appellant under Article 54 of the Rates (Northern Ireland) Order 1977 (as amended) against the decision of the Commissioner for Valuation in respect of the valuation of a property situated at 23C Tobergill Road, Templepatrick, Ballyclare, County Antrim BT39 0DT.
3. Rule 9 (7) of the Rules states;

*9. (7) An application for an interim order (otherwise than during a hearing) shall be made to the Secretary in writing and shall set out the reasons for the application.*
4. The appellant requested a interim order by email correspondence on 25<sup>th</sup> and 27<sup>th</sup> January 2011 in the following terms;
  - There is still no response from LPS on my request for full explanation of the decision making process on 15 and 23E Tobergill Road (email of 25<sup>th</sup> January);
  - I have been trying to get an answer why these 2 properties were changed. The methodology for the initial calculations and full explanation as to why the changes were made. To state that they recognised they were wrong is a statement of fact not an explanation (email of 27<sup>th</sup> January).

5. A notice containing these grounds was sent to the respondent by the Tribunal on 27<sup>th</sup> January 2011.
6. The respondent replied on 1<sup>st</sup> February 2011. The respondent set out a list of documents numbering 24 pages which had already been provided to the appellant in respect of properties at 15 and 23e Tobergill Road, further copies were supplied. These included documents provided to the appellant pursuant to a previous request under the Freedom of Information Act 2000. These redacted documents included screen printouts from the respondent's internal systems relating to both properties and internal documents relating to both properties. The respondent indicated in the covering letter that he believed that all the information requested by the appellant in respect of 15 and 23e Tobergill Road had been provided including the reasons for the change in their respective assessments. The respondent indicated that he was willing to provide any further information identified by the Tribunal in relation to these two properties.
7. The respondent's reply was sent to the appellant. The appellant responded by email dated 3<sup>rd</sup> February 2011 (13:51) in the following terms;
  - Thank you. This response is not useful. This is not an FOI application. It is an application for legal disclosure to identify the flaws in the valuation process. 23E Tobergill Road has been given 3 valuations. I want an explanation for this. LPS benefits from a statutory presumption which I have suggested contradicts the prevailing Tribunal Rules and the Human Rights Act.
8. We remind ourselves of the role of the Tribunal in considering an appeal against a capital valuation as 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").
9. Schedule 12 of the 1977 Order as amended 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.*
10. 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. This presumption means that the burden of proof is upon the appellant to demonstrate that the valuation on the list in respect of the property.

11. The Tribunal considered the request for an interim order. The Tribunal was satisfied that the respondent had provided a significant amount of internal documentation relating to properties at 15 and 23c Tobergill Road under the Freedom of Information Act 2000. The Tribunal had regard to the statutory provisions and was satisfied that the information and documentation provided by the respondent was sufficient for the purposes of the appeal. The appellant had been given an opportunity to consider these documents when initially provided by the respondent on 13<sup>th</sup> March 2009 and again when provided in response to the application for an interim order.
12. The appellant has not identified any further specific documents or types of documents he requires in order to prepare his appeal. The Tribunal considered this matter and was unable to identify any further specific documents or types of documents in relation to which it would be 'necessary or desirable' to issue an interim order under Rule 9 (1).
13. As set out above the burden of proof is upon the appellant. He raised a number of issues in his email of 3<sup>rd</sup> February 2011. These are matters which can be raised by him at the hearing as part of his evidence and submissions to discharge the burden upon him. It is incumbent on him to produce the necessary evidence to support his appeal. It is open to him to produce evidence and make submissions in relation to the statutory presumption and its compatibility with the Rules and the Human Rights Act 1998. These are issues which can be raised at the hearing. It is inappropriate and contrary to the interests of justice to engage in a debate about the merits of the appeal prior to the hearing.
14. For the reasons set out above the application for an interim order is refused.

Dated this 7<sup>th</sup> day of February 2011

**Ms Anne Grimes, Chair  
Northern Ireland Valuation Tribunal**