

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

**CASE REFERENCE NUMBER: 01/10**

**MARTHEA O’KANE – APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Charles O’Neill**

**Members: Mr Philip Murphy FRICS and Ms Angela Matthews**

**Date of hearing: 25 June 2010, Belfast**

**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”). There was no appearance before the tribunal by or on behalf of the appellant and the respondent, both parties being content to rely on written representations.
2. The appellant by Notice of Appeal dated 22 February 2010, appealed against the decision of the Commissioner (on appeal) dated 26 January 2010.
3. This appeal is in respect of the valuation of a hereditament situated at 288A Finvoy Road, Rasharkin, Ballymena, County Antrim (‘the property’).

**The law**

4. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”).
5. The tribunal considered the terms of Schedule 12 to the 1977 Order as amended which states as follows:

“7. - (1) Subject to the provisions of this Schedule, for the purpose 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.”

6. 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**

7. The tribunal heard no oral evidence. The tribunal had before it the following documents:
  - (a) The Commissioners Decision on appeal dated 26 January 2010;
  - (b) The appellants' Notice of Appeal dated 22 February 2010;
  - (c) A document entitled 'Presentation of Evidence' prepared on behalf of the Commissioner by Mr Gareth Neill and submitted to the tribunal for the purposes of the hearing;
  - (d) Correspondence between the tribunal office and the parties.

### **The facts**

8. On the basis of such information as was before it, the tribunal determined upon the balance of probabilities the following facts:
  - (a) The property consists of a detached dwelling-house situated at 288A Finvoy Road, Rasharkin, Ballymena, County Antrim ('the property'). The property was built in 2008 and has a block/render construction with tiled pitched roof and pvc double glazed windows.
  - (b) The property has a gross external area of 251m<sup>2</sup>. It has a detached double garage with a gross external area of 46m<sup>2</sup>. The property has mains electricity and water, a septic tank and full oil central heating.
  - (c) The capital value was initially assessed at £205,000 and following an appeal to the Commissioner this assessment was not amended. The appellant appeals this decision to the tribunal.

9. The Commissioner's Presentation of Evidence to the tribunal is that in deciding the capital value of the property regard was had to capital values in the valuation list of comparable hereditaments in the same state and circumstances. Details of these comparable properties were set out in a schedule to the Presentation of Evidence, with further particulars of same, including in some instances photographs of the comparable properties. Five comparables were referred to in total. These were all capital value assessments only, the details of which are as follows:

(a) The first comparable referred to was 246 Finvoy Road, Rasharkin which is a detached two storey house built in 2003. It has a gross external area of 256m<sup>2</sup>. The property has mains electricity and water, a septic tank and full central heating. It also has a double garage. The assessed Capital Value is £205,000 and is unchallenged.

(b) The second comparable referred to was 236 Finvoy Road, Rasharkin which is a detached chalet bungalow built in 2008. It has a gross external area of 279m<sup>2</sup>. The property has mains electricity and water, a septic tank and full central heating. The assessed Capital Value is £205,000. This has been challenged and accepted.

(c) The third comparable referred to was 245 Finvoy Road, Rasharkin which is a detached two storey house built in 2007. It has a gross external area of 231m<sup>2</sup>. The property has mains electricity and water, a septic tank and is assumed to have full central heating. The assessed Capital Value is £195,000 and is unchallenged.

(d) The fourth comparable was 232 Finvoy Road, Rasharkin which is a detached two storey house built in 1999. It has a double garage. It has a gross external area of 227m<sup>2</sup>. The property has mains electricity and water, a septic tank and full central heating. It has a double garage. The assessed Capital Value is £185,000 and is unchallenged.

(e) The final comparable was 232A Finvoy Road, Rasharkin which is a detached chalet bungalow built in 2009. It has a double garage. It has a gross external area of 207m<sup>2</sup>. The property has mains electricity and

water, a septic tank and full central heating. The assessed Capital Value is £185,000 and is unchallenged.

### **The appellant's submissions**

10. The appellant submitted in her notice of appeal against a valuation for rating purposes that "Two houses within 1 mile of my house (on the Finvoy Road) are valued at 185,000. one of these houses is larger than mine". No reference was made to the identity of these dwelling-houses.

### **The Tribunal's Decision**

11. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. The submissions on behalf of the Commissioner contend that the capital value is fair and reasonable having regard to other properties and the statutory basis for valuation as set out in Schedule 12 to the 1977 Order in arriving at that assessment.
12. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown." It is therefore up to the appellant in any case to challenge and to displace that presumption, or perhaps for the Commissioner's decision to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.
13. The appellant referred to the fact that two houses within one mile of the property are valued at a capital valuation of £185,000 while one is larger than the property. Regrettably the appellant has not given any further evidence to identify any such properties in her submissions. Therefore it is a matter of speculation for the tribunal as to which these properties may be. It may be that they are the properties at 232 and 232A Finvoy Road, Rasharkin (comparable nos 4 and 5 respectively). If this is the case, according to the Commissioner's Presentation of Evidence these properties have a smaller gross external area than the subject property (227m<sup>2</sup> and 207m<sup>2</sup> as opposed to 231m<sup>2</sup>).

14. In contrast to this the Commissioner has provided comparables which are assessments in the valuation list albeit they are not sales evidence. In properties in rural locations it may not be possible to always obtain sales evidence in relation to a particular property. In such cases comparables must be used.

15. In this case the tribunal accepts that the best comparable available is 246 Finvoy Road which has a similar gross external area and a capital value assessment of £205,000. The other comparables do also support the valuation of the subject property.

16. The tribunal carefully considered the issue as to whether the appellant had provided sufficient challenge to the Commissioner's schedule of comparables. Taking all matters into account the conclusion of this tribunal is that the appellant has not placed before the tribunal sufficient evidence to displace the statutory presumption as to correctness of the capital value and therefore the appeal is dismissed.

**Mr Charles O'Neill**  
**Northern Ireland Valuation Tribunal**

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