

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

CASE REFERENCE NUMBER: 8/08
MR C SHEARER & DR SFC O'ROURKE - APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND-
RESPONDENT

Northern Ireland Valuation Tribunal

Date of hearing: 15th September 2008

Chair: Ms Anne Grimes

Members: Mr Tom Matthews and Ms Olga McGettigan

DECISION AND REASONS

The Hearing

1. The appellants appeared at the Tribunal and represented themselves. The respondent was represented by Mr Martin McGrath and Ms Deirdre Shiels.
2. The property the subject of the appeal ('the property') is 5 Upper Malone Road, Belfast, BT9 6TD. It comprises a house, outbuilding and garden. It is a detached two-storey house located on one of South Belfast's main arterial roads. It has a gross external area of 178 m². The house has a cloakroom, kitchen, three reception rooms, four bedrooms, a bathroom and a WC. There is full central heating and a single garage.
3. On 18th March 2008 the Respondent assessed the capital value of the property as £390,000.00 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;
 - Notices of appeal dated 27th April 2008 and 30th June 2008
 - Notice of extension of time dated 20th June 2008
 - Commissioner's decision dated 18th March 2008

- Respondent's presentation of evidence
 - Letter dated 18th August 2008 from James Doran & Co solicitors confirming that the property was purchased by the appellants on 17th February 2005 for £360,000
 - Correspondence between the Tribunal and the parties.
5. The tribunal gave an oral decision allowing the appeal. This notice confirms that decision and contains the tribunal's reasons for the decision in accordance with Rule 19 of The Valuation Tribunal Rules (NI) 2007.

The Law

6. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order").
7. 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.
8. 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

9. The tribunal heard evidence from the appellants and from Ms Shiels and Mr McGrath on behalf of the respondent.
10. Dr O'Rourke said that she and her husband purchased the property on 17th February 2005 for £360,000 through Daniel McGeown estate agent. The property had been on the market for a while. The previous spring a sale had fallen through. The asking price was £360,000. The couple put in an offer of £355,000 but this was not accepted. They were not related to the sellers; they do not know them and never saw them throughout the sale process. The property had been let in the past but was vacant when they purchased it. The property was in a reasonable state of repair. The only work they have done

11. Dr O'Rourke submitted that Schedule 12 paragraph 7 (1) of the 1977 Order came before 7(2) which refers to the values of comparable properties. She submitted therefore that in this case the actual purchase price should be considered before looking at comparables.
12. In relation to the comparables put forward by the respondent Dr O'Rourke said that 184 Malone Road is derelict and is not the property photographed in the respondent's presentation of evidence. She said that it was sold to a developer and went for a higher price which means that it is not a reasonable comparable. It is also bigger than the appellants' property. The property at 21 Dorchester Park was sold in May 2005, 3 months after the appellants purchased their property, for £380,000 which would probably reflect its value at that time. She said that the properties at Harberton Park and Bristow Park are not reasonable comparables as they are in more desirable streets than the appellants' property.
13. Dr O'Rourke suggested that there were other relevant comparables details of which she had obtained from the LPS website. These included 20 Dorchester Park at 185 m² valued at £350,000; 7 Dorchester Park at 165 m² valued at £370,000; 13 Mount Eden at 177 m² valued at £390,000. She submitted that all of these properties are in better locations to the appellants' property being located in more desirable side streets off the main Malone Road.
14. The appellants said that there were inconveniences associated with the location of their property on the main road and on a large roundabout. In particular there have been several cars crashed into neighbouring properties. Also there was disruption from passers by with rubbish being dumped at times and graffiti. These issues were reflected in the purchase price.
15. The respondent's presentation of evidence contained details of a number of comparables. These were 184 Malone Road at 201 m² valued at £470,000; 21 Dorchester Park at 165 m² valued at £420,000; 41 Harberton Park at 175m² valued at £420,000; 56 Bristow Park at 172 m² valued at £420,000 and 4 Malone Court at 171 m² valued at £450,000.
16. Ms Shiels submitted that the comparables she put forward in the presentation of evidence were reasonable. The value assessed reflects the busy road. She accepted that the photograph for 184 Malone Road was not correct but said that the other details were accurate. The appellants' property lay vacant for a time, this would reflect the price of the property. Mr McGrath submitted that in assessing the valuation the respondent looks at a basket of sales in the area, individual prices may vary for a number of reasons therefore the respondent

The Tribunal's Findings

17. The tribunal considered the circumstances of the purchase of the property. The tribunal was satisfied that the sale was on the open market, the sale was at arms length, there were no complicating factors in the sale and the property was in an average state of repair.
18. The tribunal considered the assumptions set out in paragraphs 9 to 15 of Schedule 12 and was satisfied that these were all satisfied in relation to the property.
19. The tribunal considered that the actual purchase price of the property, being around a month after the capital valuation date and being an arms-length sale was strong evidence as to the capital value of the property under paragraph 7(1).
20. The tribunal considered the comparables put forward by the respondent. The closest comparable in terms of distance in 21 Dorchester Park. The tribunal considered that Dorchester Park is a tree-lined, quiet street and therefore not a direct comparable to the property in terms of location. The tribunal considered that the comparables put forward by the respondent were not sufficiently close or similar to the property to displace the presumption created by the purchase price.
21. The tribunal felt that the appellant's evidence along with the respondent's own valuations and comparables were sufficient to displace the presumption that the valuation on the register is correct.

Decision

22. In all of the circumstances and in light of the findings above the tribunal felt that the most accurate assessment of the capital value of the property is the actual purchase price as of 17th February 2005, that is £360,000.
23. The unanimous decision of the tribunal is that the appeal is allowed. The tribunal directs that the valuation list be altered accordingly.

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

Date decision recorded in register and issued to parties: