

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

CASE REFERENCE NO: 5/10

MR WILLIAM McKENNA – APPELLANT

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

**Date of Hearing 25th August 2011
Belfast**

Chair: Ms Alison Stewart

Members: Mr Bill Deddiss MRICS and Mr Garry McKenna

Appearances :

For the appellant – in person

For the respondent – Ms Gail Bennett BSC (Hons) MRICS

DECISION AND REASONS

Introduction

1. This is an appeal against a valuation of a private house at 7 Aghindarragh Road, Augher, County Tyrone, BT77 0EU.
2. The valuation by the respondent as at 1 January 2005 is £180,000. There have been a number of changes to this valuation as the original valuation in April 2007 was £130,000 but this was changed in February 2009 to £230,000 as a large extension had been added to the premises. The appellant appealed to the Commissioner of Valuation in March 2009 and in March 2010 the rateable value was reduced to £180,000. The appellant also applied for and was successful in obtaining a 25% reduction in his rates in respect of a disabled persons allowance (DPA). The appellant now appeals this last re-valuation.
3. The following documents have been considered by us:
 - i. The Notice of Appeal against the Valuation for rating purposes from the appellant and received by the Tribunals Unit on 23 April 2010 and the grounds of appeal;

- ii. A copy of the Commissioner's decision on appeal;
 - iii. A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Ms Gail Bennett BSc (Hons) MRICS;
 - iv. An aerial photograph of the property supplied by the appellant on the day of hearing;
 - v. A letter from Pollock Estate Agents dated 4 August 2011 supplied by the appellant on the day of the hearing.
4. The respondent did not raise any issue with the late submission of evidence by the appellant. The Tribunal heard evidence and submissions from the appellant and Ms Bennett and reserved its decision.

The Law

5. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (NI) Order 2006 ("the 2006 Order"). Article 54 of the 1977 Order enables a person to appeal to this Tribunal against the decision of the Commissioner on appeal regarding the Capital Value.
6. Schedule 12 of the 1977 Order as amended states:
- (1) Subject to the provisions of this Schedule, for the purposes of this Order the Capital Value of the hereditament shall be the amount which, on the assumptions mentioned in Paragraph 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 the valuation list, regard shall be had to the Capital Values in the 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 shall be deemed to be correct until the contrary is shown. Thus, any Appellant must successfully challenge and displace the presumption of the correctness; otherwise the appeal will not succeed.

The Appellant's House

8. It was agreed that the appellant's property is a detached bungalow built in or around 1987. The original area of the property was in or around 135m². The appellant gave evidence regarding the history of the property and the need for the very large extension which was completed in or around 2004 increasing the area of the property from 135m² to 303m². The appellant gave quite a moving account of the need for this extension being for the care of his daughter Regina who was very badly injured in a car accident and who will need constant care for the rest of her life.
9. It is agreed by the parties that the entire ground floor of the extension is used as a bedroom and bathroom for Regina. These rooms must be larger than normal as

Regina requires at least two carers and the rooms have been fitted with a tracking system to allow easier movement from the bed to the bath.

10. The first floor of the extension is used as living quarters for the carers. The respondent was not aware of this floor and has noted that this may mean an increase in rates from April 2012.
11. It is agreed by the parties that the capital value was reduced by the Commissioner of Valuation from £230,000 down to £180,000 because of the effect that the additions to the extension would have on the capital value. These effects were described by the respondent as having a huge negative effect on the capital value compared to a similar sized property in the area.

The comparables

12. The respondent supplied a number of comparable properties and it was agreed that none would be exact comparables due to the nature of the additions required for Regina's care. It was also noted that a number of the comparables were not bungalows but it was accepted by the appellant that this was because there were very few bungalows with the floor area of his property.
13. The appellant understood the need for comparables and the difficulty in this instance. He stated that there were 14 other bungalows on the subject road but did accept that they could not be considered as comparables due to the size of the subject property.
14. The comparables were provided by the respondent and were all on the same road bar two. The rateable values were generally comparable to the subject property when the size was taken into consideration although it was agreed that most of the comparables were two storey premises rather than bungalows.

The arguments

15. The appellant's main argument did not appear to rest with the comparables but rather that the extension was only there because of Regina's care and it should, therefore, be discounted from his rates altogether. The appellant was advised that he did receive a 25% relief on his rates and that this was the maximum rateable allowance for the DPA.
16. The appellant argued that if he and his family had not taken care of Regina then the state would have to look after her which would cost considerably more than the rate reduction he sought. Whilst the Tribunal has every sympathy for the appellant's predicament it is not possible within the present legislative framework to consider a reduction on this basis.
17. The appellant also referred to the letter from Pollock Estate Agents dated 4 August 2011. Essentially it was their view that the additions required in the extension had a huge negative impact on capital value so much so that in their view the valuation should be reduced by around 50% rather than the reduction of 21.7% decided on by the Commissioner of Valuation in March 2010.

18. The respondent argued that the comparables provided gave a fair and accurate picture of the rating within the vicinity of the subject property.

Our conclusions

19. The Tribunal started from the point that the rateable value would be fair given the location and size of the subject property. The question to be decided by the Tribunal was the effect of the extension on the capital value.
20. The Tribunal considered Pollock's argument that the valuation should be reduced by 50% rather than 21.7%. This would absurdly provide a valuation of £115,000 which would be less than the valuation for the property prior to the extension. The tribunal did not accept that this would be the correct valuation as there clearly had been an enhancement of the premises because the extension more than doubled the size of the existing property.
21. It is agreed by all parties that due to the design and layout of the property it is considered that there would be less demand if offered for sale on the open market at the Antecedent Valuation Date. The Tribunal considered that a reduction of £50,000 would be sufficient to entice a willing buyer to take the property with the additions/extension.
22. The appellant stated that he has not paid his rates for anything above £130,000 which was the original valuation and the valuation prior to the extension. The Tribunal noted that with the reduction of £50,000 of the rateable value due to the extension and the 25% rate relief that the appellant should in effect be paying rates on a rateable value of £135,000.
23. Undoubtedly our conclusion is a disappointment to the appellant who presented his points well and frankly but we hope that he will see that, in reality, he has achieved the rate reduction which he originally believed was due albeit by a slightly roundabout route.

THE TRIBUNAL'S DECISION

24. The Tribunal is satisfied that the valuation shown on the valuation list in relation to the subject property is correct and the appeal is dismissed.

Ms Alison Stewart Chair

Northern Ireland Valuation Tribunal

Date Decision recorded in Register and Issued to Parties: