

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: NIVT 16/08

PHILIP ECKERSLEY – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman - Mr Michael Flanigan

Members – Mr David McKinney and Ms Pauline McCauley

Belfast 7th November 2008

Decision and Reasons

The Tribunal's unanimous decision is that the Commissioner's Decision on Appeal is upheld and the appeal is dismissed.

Hearing

1. Neither the Appellant nor the Respondent appeared and both parties relied on their written submissions only.

2. The subject property ("the property") in this appeal is situated at 15 Braeside, Newtownards BT23 4GA. The property is owned and occupied by the Appellant who purchased the property from the developer in March 2006. The property is a detached house with gardens front and rear, and the accommodation includes two reception rooms, kitchen, dining room, utility room, WC, four bedrooms and a bathroom.

3. On the 6th May 2008, the Commissioner's Decision on Appeal confirmed the capital valuation of the property in the sum of £300,000 as on the 1st January 2005. The Appellant appealed against that decision under Article 54 of the Rates (Northern Ireland) Order 1977 by way of Notice of Appeal dated 26th May 2008.

4. The following documents were before the Tribunal;

- 4.1 Notice of Decision dated 6th May 2008
- 4.2 Notice of Appeal dated 26th May 2008
- 4.3 Correspondence between Northern Ireland Valuation Tribunal and the parties
- 4.4 Appellant's presentation of evidence
- 4.5 Appellant's final account dated March 2006
- 4.6 Respondent's presentation of evidence

5. The Law

5.1 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")

5.2 The Tribunal considered the terms of 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.

7.2 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.

5.3 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.

6. The Evidence and Submissions.

6.1 The Appellant submitted a written statement of evidence.

6.2 The Appellants main contention was that the property had been purchased in March 2006 for £295,000 including PC allowances. The Commissioners' valuation of £300,000 related to the valuation of the property at 1st January 2005, and the Appellant submitted that property price inflation between January 2005 and March 2006 should have been taken into account and accordingly that the correct valuation of the property on 1st January 2005 should be £260,000. In addition the Appellant questioned the reliance that the Commissioners placed upon other valuations as evidence to support the instant valuation. The Appellant further submitted that no similar properties had been built in this development in January 2005.

6.3 The Appellant relied in his submissions upon the Bank of Ireland University of Ulster house price index for the relevant period.

6.4 The Appellant was aware of the relevance of comparators and indicated that he was happy to rely on one comparator, premises situate at 11 Braeside, Belfast Road, Newtownards, a house of identical design and build, which had been sold for £275,000 in May 2005.

6.5 The Respondent also relied upon the valuation of 11 Braeside, which was an identical house type to the subject property and had an unchallenged valuation of £300,000.

6.6 In relation to the argument that house price inflation could be used to calculate the value of the property on the earlier relevant date, the Respondent submitted that properties in the development had been slow to sell and that there had been no increase in capital value from 2005 to 2006. The Respondent further submitted that

house price inflation indices were general in nature and cannot be applied directly to a specific house.

7. Decision of Tribunal

- 7.1 The Tribunal at the hearing of an appeal is empowered to make any decision that the Commissioner might have made, and to make an alteration to the valuation list to give effect to its decision. The work of the Tribunal is bound by the provisions of Article 54 (3), which directs that any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.
- 7.2 The Tribunal notes that the Appellant had specifically raised the question whether a capital valuation was correct simply because a neighbour had not sought to appeal against that valuation. The provisions of Article 54 (3) are specific in that “any valuation in the list is deemed to be correct unless proved otherwise”. The phrase “any valuation” in this context includes not only the valuation of the property which is the subject of the appeal, but also any other valuations on the list that are relied upon. Undoubtedly this places a substantial onus on an Appellant to prove that the entry which relates to his premises is incorrect. The standard of proof in these proceedings is on the balance of probabilities; and that standard must be satisfied on the basis of evidence submitted to the Tribunal.
- 7.3 In dealing with the instant case the valuation of 11 Braeside by reason of Art54 (3) is therefore in law deemed to be correct. Its valuation does not become incorrect merely because an adjacent property, even one that is identical, is the subject of appeal.
- 7.4 The Appellant has relied upon the argument that general house price inflation can be arithmetically applied to his original purchase price in order to achieve a recalculation of the capital valuation of the property.
- 7.5 The Tribunal accepts that general house price inflation in the housing market in Northern Ireland took place during the relevant

period. However general house price inflation cannot be accepted as adequate evidence of the actual house price inflation that may have taken place in this development during the subject period. The Tribunal took the view that while an average for general house price inflation can be established it is an average only, and accordingly during any given period there will be differences in inflation rates between different properties e.g. urban and rural properties, new and second hand homes and different locations.

- 7.6 The Respondent submitted that house price inflation cannot be applied to a specific house. The Tribunal does not accept that evidence of house price inflation can never be used, and there may be occasions when such evidence would be of assistance to a Tribunal. In the instant case the Appellant submitted no evidence of specific house price inflation affecting this development, and while the Tribunal could appreciate the Appellants argument there must be adequate evidence before the Tribunal before the statutory assumption in favour of the accuracy of the valuation list could be overturned.
- 7.7 Examining the facts of the matter and submissions from both parties, the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal is upheld and the appeal is dismissed.

Mr Michael Flanigan, Chairman
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: