

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

CASE REFERENCE NO: 14/10

STEPHEN CARROLL AND MAIREAD CARROLL – APPELLANTS

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

**Date of Hearing 26th January 2011
Belfast**

Chairperson: MR FRANCIS J FARRELLY (CHAIR)

Members: Mr BILL DEDDIS MRICS and Mr ALAN MARTIN

Appearances :

For the appellants – themselves

For the respondent – Mrs Deborah Rice

DECISION AND REASONS

Introduction

1. This is an appeal against a valuation of a private house at 65 Schomberg Avenue, Ballycloguan, Belfast, BT4 2JR for domestic rating purposes.
2. The valuation by the respondent as at 1 January 2005 was £290,000. This was reduced by the Commissioner of Valuation on appeal to £285,000. The appellants have appealed this and suggest the valuation should be £250,000.
3. The following documents have been considered by us:

- The Notice of Appeal against the Valuation for rating purposes from the Appellant and received by the Tribunal Office on 31st August 2010 and the grounds of appeal.
 - A copy of the Commissioner's decision on appeal
 - A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Mrs Deborah Rice BSc MRICS.
 - A letter of response from the appellants received on the 29th November 2010.
 - A further letter from the appellants dated 10th December 2010 and an analysis of comparables.
 - A letter from the appellants dated 28th December 2010 including a plan of the first floor of their house.
 - A letter of the 6th January 2011 from Mrs Rice on behalf of the respondent.
4. The Tribunal heard evidence and submissions from the appellants and Mrs Rice. We reserved our 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:
- 7-(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 Appellants' House

8. This is at number 1 in the Schedule of Comparisons prepared by Mrs Rice for the respondent. A photograph is included and it is described as a detached house built in 1987 which has mains electricity, water and sewerage services and full oil fired central heating. It is said to have a gross external area (GEA) of 174.7m² and a double garage of 44². Mrs Rice has elsewhere indicated that in assessing the capital value she had, as required, considered assessments in the valuation list of properties which she considered to be comparable. She confirmed that the comparables she used are located in Schomberg Avenue and are of a similar type and size to the subject

property. She also confirmed that none of the comparable assessments has been challenged.

The comparables

9. Four properties are identified as comparators. Their details are contained in the schedule. Mrs Rice feels that 67 and 29 Schomberg Avenue are the best comparables. Number 67 has the same valuation as the appellant's home and this has not been challenged. It has a GEA of 171m². Number 29 has a valuation of £270,000, which has also not been challenged. It does not have a garage. It has a GEA of 175m².
10. In the appellant's grounds of appeal they say that the respondent inaccurately calculated the size of their house at 179m², whereas it was 174.9m² and it was this that resulted in the valuation being reduced by £5000 by the Commissioner for valuation.

The arguments

11. The appellants in their Notice of Appeal make four points. Firstly, they referred to an increase in their capital valuation of £70,000, which they say is disproportionate to the extension works they carried out to their home. Secondly, they state their house was originally estimated by the respondent to have a GEA of 179m², whereas the respondent accepts it is 174.9m². However, they argue that the reduction of £5000 by the valuation Commissioner is inadequate on a pro rata basis. Thirdly, they have compared the GEA's of various properties in the area with the capital valuations and state they are paying more than the average. Finally, they say, the respondent has overestimated the size of their extension, putting it at 49.9 m², whereas in fact it is 38 m², as shown on the architects plans submitted. These matters are pursued along with additional points raised in the course of correspondence as per the appeal papers.
12. Mrs Rice in her statement described the various comparators used and comments on the other properties referred by the appellants. One of those properties is 28 Schomberg Park and she advises that the valuation was reduced on an informal review due to noise pollution and vandalism. Vandalism and noise pollution also factored in the valuation of number 27 Schomberg Park. She also points out in commenting on 67 Schomberg Avenue that site size is not taken into account when the capital value is assessed.

Our conclusions

13. A valuation is a statement of opinion whereas price is a matter of fact. In the present appeal the parties do not have the advantage of sale results to show actual market value but must resort to the assessed valuation of the other properties which have not been challenged. In doing so, we are mindful of the statutory presumption that a value on the valuation list is correct unless the contrary is established.

14. We start by looking at the map provided at page 10 of the respondent's statement of case. The houses in Schomberg Avenue were built by the same developer around the same time, 1986/7. The houses to the north of the avenue (which is where the appellant's house is) follow a pattern of being built around a series of three cul-de-sacs. Whilst there are individual variations in terms of size and layout they all follow a similar design pattern. The houses in Schomberg Park are quite different. They are approximately a decade older and follow a design typical of the period and are set out along the Park in a traditional manner. The difference in style between the two periods can be seen by comparing the photograph at page 7 of 28 Schomberg Park with any of the houses in the schedule of comparisons.
15. From the map the appellants' house is marked as number one. It is adjacent to the Parkway. Closer to the Parkway and the nearest house to theirs is 67 Schomberg Avenue. South of the Parkway can be seen 27 and 28 Schomberg Park, which have had a 5% reduction on the basis of noise pollution. Mrs Rice said that they were considerably closer to the main road than the appellants' property and they were the only two properties given a discount because of their location. Regarding the vandalism described this was not a significant problem. From the map we agree these properties are closer to the Parkway than the appellant's house and in terms of closeness to the Parkway number 67 Schomberg Avenue would be more akin to the position of those houses.
16. The argument pursued on behalf of the appellant with the most vigour related to a comparison of the size of the various properties. Mrs Rice indicated that while size is taken into account a valuation was not performed on the basis of square meters.
17. Ultimately, what we must do is try and assess on the legislative presumptions the market value of this property. As a general point where a detached house is being sold its size is relevant. However, unlike commercial properties houses are not marketed at so much a square metre.
18. We would agree that there is variation between the various properties cited if valuation is carried out on the basis of square metres. The appellants cited various properties in Schomberg Avenue and Park. A smaller property is 14 Schomberg Avenue and the valuation in relation to the size equates to £1456 per square metre, whereas the valuation on their property equates to £1629 per square metre. However, if the same calculation is performed on 67 Schomberg Avenue at 171m², being smaller than the appellants' house yet with the same valuation the resulting figure is £1666.
19. There has been a dispute about the size of the conversion. The difficulty with the architects plan is that this is relating internal measurements. Whilst there may be some inaccuracies in the measurements our conclusion is that the respondents' measurements whilst not exact given the conditions under which they are taken can be relied upon.
20. Our conclusion is that the capital valuation cannot be derived from a simple calculation of the size of the property. We repeat this in respect of the appellants' complaint that the acceptance that the original valuation was based on a miscalculation of the GEA was not reflected in a pro rata reduction in the valuation.

21. We find that number 67 Schomberg Avenue is the best comparator being visibly the closest property which is also of similar size and style. We also find the comparators used in the respondents list to be fair and proximate comparators. Certainly, there are individual variations, but the whole point of comparators is to seek to achieve an overall tone.
22. Having considered the comparators and the arguments advanced we find ourselves in agreement with the respondents valuation. The unanimous decision of the Tribunal is that this appeal is dismissed. Undoubtedly our decision is a disappointment to the appellants. It is clear they have put much energy into the preparation of their appeal and they have attended and presented their appeal to a high standard. We would also commend Mrs Rice, who, in our view has responded to the points raised by the appellants as the arguments developed before the hearing.

THE TRIBUNAL'S DECISION

23. 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.

Francis Farrelly, Legal Chairman
Northern Ireland Valuation Tribunal

Date Decision recorded in Register and Issued to Parties: