

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

CASE REFERENCE NUMBER: 13/09

WILLIAM PRICE – APPELLANT

AND

COMMISSIONER OF VALUATION NI – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Michael Ranaghan

Members: Mr Sandy Moore MRICS and Garry McKenna

Belfast, 29 June 2009

DECISION

DECISIONS and REASONS

The Hearing

1. The Appellant appeared at the Tribunal and represented himself. The Respondent was represented by Mr Martin McGrath and Mr Peter Bell.
2. The property the subject of the appeal is 1 Croft Gardens Holywood BT18 OPD. The property comprises a house, a detached garage and a garden. The house is a detached single storey bungalow built in or around 1970. The property is situated on a corner site with direct access onto Croft Road, near to Holywood town centre. The gross external area of the property is 185m². The property is in good overall repair with full oil central heating and a uPVC conservatory.
3. The Respondent assessed the Capital Value of the property at £380,000 as at 1 January 2005, the relevant capital valuation date. [It was noted that the property had originally been assessed at £400,000 but had been reduced to the present valuation on 22 November 2008 and 22 December 2008]. 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 panel:
 - The Notice of Appeal dated 2 February 2009

- The Respondent's presentation of evidence including a location map and descriptions and photographs of properties used as comparables to the property under consideration.
- Further screen shots submitted by the Respondent showing an aerial view of the Appellants property and one situated at 4 Croft Gardens.
- Correspondence dated 20 September 2006, 29 March 2009 and 20 June 2009 submitted by the Appellant.

5. The Tribunal gave an oral decision allowing the appeal. This notice confirms that decision and contains the Tribunals reasons for its decision in accordance with Rule 1 of the Valuation Tribunal Rules (Northern Ireland) 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").

6.1 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 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.

6.2 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 evidence from Mr McGrath on behalf of the Respondent and oral evidence from The Appellant.

8. The Respondent's submission was that the valuation was based on sales evidence and the tone of the list. In his evidence the Respondent referred to a statistical model that purported to show that single storey dwellings situated in

areas such as the property under appeal attracted an uplift of between 8% and 10% in sales value. The Respondent referred the Tribunal to the sale of 9 Croft Gardens. This property sold for £322,500 in February 2005. 9 Croft Gardens is situated on a sloping site and is a two storey property with reception rooms on the upper level. The Respondent stated that although 9 Croft Gardens is a two storey property it is a good comparator for the subject property.

9. The Respondent gave evidence in relation to the sale of a bungalow situated at 9 Lemonfield Avenue, Holywood. This property, whilst situated at the other side of Holywood as compared to the Appellant's property, is of a similar type and a sufficiently similar area to be a reasonable comparator. The Respondent's evidence was that 9 Lemonfield Avenue was sold for £375,000 on 18 June 2003 and is approximately 28m² larger than the Appellants property, therefore comparable in size. This property has a Capital Value of £410,000. The Respondent relied on the sale value achieved for this property as evidence to support the capital value placed on both the Appellant's property and 9 Lemonfield Avenue.

10. The Respondent provided further sales evidence in relation to the following properties; 5 Croft Road, 10 Ardmore Terrace and 2 Browns Brae. The Respondent gave evidence of the market value placed on a further property at 37A Victoria Road. These properties were either sold or had a market value placed on them of between £322,500 and £365,000. The date of the sales and the market valuation were between July 2004 and April 2005. The Respondent stated that whilst all of these properties were two storey dwellings they were sufficiently similar to the Appellant's property to be reasonable comparators. The Respondent stated that the sales evidence around these properties all supported the reasonableness of the capital value placed on 1 Croft Gardens.

11. The Respondent's evidence therefore was that the available sales evidence supported the capital valuation placed on the Appellant's property and that it was in keeping with the tone of the list.

12. In his evidence to the Tribunal the Appellant stated that the Capital Valuation placed on his property relied solely on the gross external area of the property and failed to take into account the actual accommodation comprised within a property. The Appellant referred specifically to the capital valuation placed on 2 Croft Gardens which was £260,000 at the relevant Capital Valuation date. The Appellant accepted that whilst 2 Croft Gardens is approximately 50m² smaller than his property the accommodation contained within it was broadly similar to his own. The Appellant pointed out that the Capital Valuation placed on this property was £120,000 less than his own, approximately 46% less. The Appellant stated that given the difference in the Capital Values placed on the properties one or both must be wrong.

13. The Appellant also relied on the Capital Value placed on No 4 Croft Gardens. The Appellant gave evidence that this property was built at exactly the same time as his property and the original accommodation within it was the same as his property. The Appellant stated that 4 Croft Gardens had been converted some 20 years ago and now contained two extra bedrooms as compared to his property. The Appellant gave evidence to the panel that he had enquired into the price of such a conversion on his own property some 5 years ago and was told that it would have cost approximately £80,000. The Appellant stated that the fact that his property has the same Capital Value as number 4, which now comprises significantly more accommodation space, is inequitable.

14. The Appellant gave further evidence to the panel in relation to the Capital Valuation placed on 3 Croft Gardens which is £280,000. Whilst voicing his surprise that 3 Croft Gardens was actually some 50m² smaller than his own property the Appellant stated that the £100,000 difference in the Capital Valuation placed on his property and that placed on 3 Croft Gardens could not be right.

15. The Appellant gave evidence in relation to a further two properties, Numbers 16 and 18 Victoria Road, Hollywood. The Appellant stated that these properties were essentially the same as his property but had Capital Values placed on them of £310,000 and £320,000. (The Respondent later advised the Tribunal that these properties were in fact approximately 40m² smaller than the Appellant's property). The Appellant relied on the Capital Values placed on these properties to show that the Capital Value placed on his property was too high.

The Tribunal's Decision

16. Article 54 of the 1977 Order enables a person to appeal to the Tribunal against the decision of the Commissioner on appeal as to Capital Value. In this case the Capital Value has been assessed at the Antecedent Valuation Date of 1 January 2005 as a figure of £380,000. On behalf of the Commissioner it has been contended that figure is fair and reasonable in comparison to other properties and the statutory basis for valuation has been referred to and especially reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.

17. The Tribunal must begin its task by taking account of an important statutory presumption contained within the 1977 Order. Article 54(3) of the 1977 Order provides: "On an appeal under this Article, any valuation shown in a 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 on appeal to be seen to be so manifestly incorrect that the tribunal must take steps to rectify the situation.

18. The Tribunal saw nothing in the approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal, to suggest that the matter had been assessed in anything other than the prescribed manner provided for by Schedule 12, paragraphs 7 (and following) of the 1977 Order. The statutory mechanism has been expressly referred to in the Commissioner's Submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.

19. The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellants are sufficient to displace the statutory presumption.

20. The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is sufficient evidence to support the Appellant's Submissions. The Appellant's submissions are essentially that the Capital Value placed on his property has not taken into account the accommodation included within the property and he has pointed out what he believed to be discrepancies between the Capital Value placed on his property and other properties referred to above.

21. The Tribunal was not satisfied that some of the comparables used by the Respondent were in fact reasonable comparators. The Tribunal was persuaded to find in favour of the Appellant, not by the Appellants argument in relation to the accommodation contained within a property, but by an overall view of the Appellant's property as compared to those referred to in the Appellant's submissions.

22. The Tribunal was therefore satisfied on the balance of probabilities that a reduction of £10,000 in the Capital Valuation of 1 Croft Gardens, Holywood was appropriate and equitable.

M Ranaghan, Chairman
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: