

Northern Ireland Valuation Tribunal Case Ref: 43/13

McGarvey - Appellant

Commissioner of Valuation for Northern Ireland – Respondent

Chairman – Mr Michael Flanigan

Members – William Moore & Peter Somerville

Address: 26 Church Dale Meadows, Gortin Omagh Co Tyrone

Hearing: 10th June 2014.

The subject property (“the property”) is situated at 26 Church Dale Meadows, Gortin, Omagh Co Tyrone. The property is a semi detached two storey house in an unfinished development on the outskirts of Gortin.

The appellant and respondent were content for the appeal to be disposed of by written representations only and there were no appearances at the hearing of the matter.

The Law:-

The statutory provisions are to be found in the Rates (NI) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (NI) Order 2006 (“the 2006 Order”). It is not proposed to set out the legislative provisions here in full and all relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in this case.

Evidence and submissions

The submission of the appellant was that the property should be given a nil capital value by reason of the extent of outstanding works in the development which in his submission were such that the house had no value. The development had only

been partially completed when the building contractor had stopped work. The difficulties in the partially completed development may be summarised as follows:-

- 1) Footpaths and roads unfinished
- 2) Water Services unfinished and defective.
- 3) Extensive fly tipping problems
- 4) Unused building materials deposited around the development
- 5) General safety issues for children and adults arising from the condition of the site
- 6) Absence of street lighting

The appellant has for the past number of years tried to have the estate completed by bringing the problem to the attention of various bodies included local council and public representatives. Certain works are the subject of bonds however the appellant has been advised by Northern Ireland Water that the bond which the builder entered into at the start of the development was inadequate to permit them to undertake the necessary works to complete the development to standard.

As part of the appeal papers, the appellant submitted a petition signed by residents of the development which urged the local council and elected representatives to address the problems in the estate. The presentation of evidence from the respondent confirmed that the property had been initially assessed in April 2010 and at that time, while works were outstanding the capital valuation was assessed at £95,000. On the 3rd January 2014, the Commissioner of Valuation had given an allowance of 10% as "a temporary reduction reflecting the unfinished nature of the site". The submission of the respondent was that an allowance of 10% was in line with the approach adopted by the Commissioner of Valuation in other similar situations. The respondent referred to the decision of the Northern Ireland Valuation Tribunal in *Trimble and McCusker v the Commissioner of Valuation* (NIVT 3/11) ("the Trimble Appeal").

Decision

The appellant has purchased a newly built property in a development in which the building contractor has gone out of business and is not in a position to complete the development. It is not clear when the building contractor stopped work however what is clear is that a lot of site works necessary to complete the development have not been carried out and some of those that have been carried out, have been carried out badly. The list of outstanding works and difficulties experienced at this site have been summarised above and accordingly need not be repeated in full. The practice of the Commissioner of Valuation when dealing with an unfinished development where the completion of outstanding works is likely within 12 months is to apply an allowance of 10% to the capital valuation. This practice was examined in some detail in the Trimble Appeal in a case concerning a development in Cedar Wood Portadown. The approach taken by the NIVT in that case, in a decision from the Tribunal President Mr James Leonard, supported the allowance approach but stressed that the amount of the allowance should reflect the circumstances of the property and that where the problems were greater "the tribunal's determination is that a larger more enhanced allowance ought properly to be applied to take account of the effect upon the capital value of the property".

In that case the Tribunal reduced a capital valuation of £95,000 to £80,000 which equated to an allowance of almost 16%. In the instant case the tribunal notes that it is now over four years since the property was completed and there appears to be no reasonable prospect of the outstanding works being completed in the near future. The assessment of the tribunal is that the outstanding works affecting this development are greater than those set out in the Trimble Appeal. Taking into account the level of difficulties that affect the property the Tribunal has determined that the appropriate allowance is to reduce the capital valuation from £95,000 to £75,000 being an allowance of just over 20%. The Tribunal granted the appeal and directs that the entry in the valuation list be amended accordingly.

Signed: Michael Flanigan

Legal Chairperson

Northern Ireland Valuation Tribunal