

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: 50/13

MICHAEL TROUGHTON & RANDA TROUGHTON- APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

**DECISION OF PRESIDENT OF THE NORTHERN IRELAND
VALUATION TRIBUNAL ON APPLICATION FOR LEAVE TO
APPEAL TO THE LANDS TRIBUNAL**

I do not grant leave to the appellants to appeal to the Lands Tribunal for the reasons set out below.

REASONS

Introduction

1. The appellants, by Notice of Appeal appealed against the decision of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) dated 10 February 2014 in respect of the valuation of a hereditament situated at number 33 The Old Mill, Culcavy, Hillsborough, County Down BT26 6RA (“the property”).
2. The matter was dealt with at an oral hearing before the tribunal. By decision with reasons promulgated by the tribunal on 4 March 2015 (“the Decision”) the tribunal’s determination as set forth in the Decision was that the appeal should be dismissed, for the reasons stated.
3. On 17 March 2015 the appellants applied to the tribunal for a review of the Decision, under the statutory provisions in that regard. An oral hearing in regard to the request

for a review proceeded on 29 May 2015. By Decision on Review dated and issued on 22 June 2015 (“the Decision on Review”), the tribunal's determination was that no proper grounds had been made out by the appellants to enable the tribunal to review the Decision and thus the appellants’ application for review was dismissed and the tribunal's Decision was affirmed.

4. The appellants have has now requested leave to appeal. By letter dated 6 July 2015 sent to the office of the tribunal (“the appeal letter”), the appellants have applied to the President of the Northern Ireland Valuation Tribunal for leave to appeal the Decision (and by implication the Decision on Review) upon the grounds therein stated. A copy of the appeal letter is appended to this determination on leave.
5. Accordingly, I am now in a position to proceed with a determination of the matter, with reference to the appeal letter grounds as therein stated, the matter having been accordingly referred to me as President of the Northern Ireland Valuation Tribunal to determine whether or not to grant leave to appeal to the Lands Tribunal under the statutory provisions which are mentioned below.
6. The appellants’ appeal letter sets forth particulars of the grounds upon which such a request for leave to appeal is made. Upon reading the appeal letter, in summary I draw from the content thereof the following points made in submission in regard to the granting of leave to appeal in the matter:-
 - (a) The tribunal has made an error in its determination of the facts of the matter relevant to the issues to be determined.
 - (b) Specifically, the tribunal has not properly addressed the mistake in measurement made by LPS and how LPS did not, as a consequence of that mistake, amend or re-assess the valuation of the subject property correctly.
 - (c) Furthermore, in regard to the properties identified by LPS as comparables, no regard or insufficient regard has been had to alterations and to market values of comparable properties which are "improved" and those which are not "improved". Accordingly, LPS capital value assessments are not properly following or are failing to take proper account of trends in actual market values.

The appellants have provided further elaboration in respect of these specific issues and have sought to introduce additional evidence for the purposes of the review.

The Applicable Law

7. The statutory provisions relevant to my determination in the matter are to be found in the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”) and in the Lands Tribunal (Amendment) Rules (Northern Ireland) 2007 (“the Lands Tribunal Rules 2007”). These are as follows (in respect of the 2006 Order): -

“Appeal from decision or direction of Valuation Tribunal

54A. —(1) Any person who is aggrieved by any decision or direction of the Valuation Tribunal under Article.... 54(2) may, with the leave of—

- (a) the Lands Tribunal; or
- (b) the President of the Valuation Tribunal,

appeal to the Lands Tribunal. “

These are as follows (in respect of the Lands Tribunal Rules 2007): -

“ 4. In rule A1—

(a) -

(b) at the end there shall be added the following paragraphs—

“(4) an appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal shall be instituted by serving on the registrar a notice of appeal in accordance with Form AC within 28 days from the date of the grant of leave of appeal by the President of the Valuation Tribunal.

(5) A notice of appeal under paragraph (4) shall be accompanied by—

(a) a copy of the decision or direction of the Valuation Tribunal against which the appeal is made; and

(b) a copy of the decision of the President of the Valuation Tribunal granting leave to appeal.

(6) An application for leave to appeal under Article 54A of the Rates Order against a decision or direction of the Valuation Tribunal may be made to the Lands Tribunal only where the applicant has been refused leave to appeal by the President of the Valuation Tribunal. “

The Determination

8. I begin by noting that the Decision of the tribunal runs to some 28 paragraphs set out in nine pages and the Decision on Review runs to some 11 paragraphs set out in

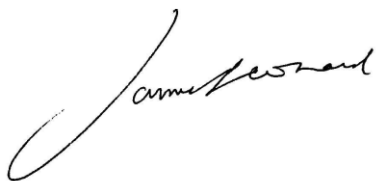
four pages. In the Decision, the tribunal has set forth succinctly the basic points of evidence and the essential facts to be derived from the evidence. The tribunal has summarised the arguments of the respective parties. Specifically, from paragraph 8 and following of the Decision, it will be noted that the tribunal has carefully and properly summarised the essential arguments advanced on behalf of the appellants in the case. This summary has included mention of the issue concerning measurement of the property and also of the extension which was carried out to the property towards the end of 2010. Furthermore, this summary includes mention of comparative sales evidence sought to be adduced by the appellants in the case. Quite clearly, this evidence and these submissions, having been so recited, have been taken account of by the tribunal in reaching its determination, which is set forth in the Decision. Other matters raised by the appellants, including the potential for loss of privacy and the detriment from the potential for flooding of the property have also been recited in the Decision and it is evident that such matters have been taken account of by the tribunal. In the appropriate part of the Decision, the tribunal has made mention of and has illustrated, with sufficient precision and clarity, its determination of the issues raised in the case. The tribunal has, in doing so, encapsulated the submissions. This is materially so in reference to the specific submissions made in the case by the appellants in regard to the various matters sought to be raised by them in the hearings. In doing so, the tribunal has, with sufficient clarity, set forth the tribunal's reasoning underlying its determination of the salient issues. These issues include the issues which the appellants now seek to present as grounds of appeal, such as are mentioned in the appeal letter.

9. As part of this process, under the relevant statutory procedures the appellants sought a review of the Decision. This they did by letter of 17 March 2015, which letter set forth grounds upon which the appellants felt that a review ought to have been afforded to them in regard to the Decision. This review request contained in the letter was confined to what might be referred to as the "measurement issue" (that relating to a disparity between a correct and an erroneous measurement which the appellants state was not properly reflected in the assessment of capital value). The appellants were duly afforded an oral review hearing by the tribunal and upon conclusion of that review hearing the tribunal, in paragraph 9 of the Decision on Review, succinctly summarised the history of the matter, again with the necessary

degree of clarity. However, noting the facts and the arguments advanced, the tribunal did not find any proper basis upon which to grant a review of the Decision.

10. In reaching this determination upon whether or not to grant leave to appeal, I have carefully examined the case, including the material sought to be adduced in evidence and the recording of the respective arguments advanced by the parties. I have particularly examined the manner in which the tribunal conducted its task of managing the oral hearings, both the initial case hearing and also of the review hearing. I have scrutinised the Decision and also the Decision on Review in the light of the matters sought to be put forward by the appellants as the basis for appeal to the Lands Tribunal and the application of the relevant law. Having done so, my determination is that the appellants have not put forward sufficiently cogent and compelling grounds upon which leave to appeal ought properly to be granted in the matter.
11. This being so and for these reasons, I do not grant leave to the appellants to appeal to the Lands Tribunal in the matter. As is mentioned above, in the event of my refusal to grant leave to appeal, any party aggrieved is entitled to apply to the Lands Tribunal for leave to appeal, under the pertinent statutory provisions in that regard.

Dated this 11th day of July 2015

A handwritten signature in black ink, appearing to read 'James V Leonard', written in a cursive style.

James V Leonard, President
Northern Ireland Valuation Tribunal