

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: 16/14

MICHAEL BALLENTINE – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Charles O’Neill

Members: Mr David McKinney FRICS and Dr Peter Wardlow

Date of hearing: 16 January 2015, Belfast

DECISION

The unanimous decision of the tribunal is that the Decision of the Commissioner of Valuation for Northern Ireland is not upheld and the appellant’s appeal is allowed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”). The appellant, Mr Michael Ballentine attended the hearing with his wife and represented himself. The respondent was represented by Mr Andrew Magill and Mr Michael McGrady.
2. The appellant by Notice of Appeal appealed against the decision of the Commissioner dated 13 June 2014.
3. This appeal is in respect of the valuation of a hereditament situated at 49 Sharman Road, Belfast, BT9 5FX (“the subject property”).

The law

4. The statutory provisions are to be found in the 1977 Order as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The tribunal does not intend in this decision to set out the statutory provisions of article 8 of the 2006 Order, which amended article 39 of the 1977 Order as regards the basis of valuation, as these provisions have been fully set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in this matter.

The evidence

5. The tribunal heard representations from Mr and Mrs Ballentine and from Mr Magill and Mr McGrady on behalf of the respondent. The tribunal had before it the following documents:
 - (a) The Commissioners Decision dated 13 June 2014;
 - (b) The appellants’ Notice of Appeal received by the tribunal office on 16 July 2014;
 - (c) A document entitled ‘Presentation of Evidence’ dated 30 September 2014 and prepared on behalf of the respondent Commissioner by Mr Andrew Magill and submitted to the tribunal for the purposes of the hearing;
 - (d) Copy comments from the appellant in relation to the respondent’s comparable properties and which were presented at the hearing and copies given to the respondent.

The facts

- (1) The subject property consists of a semi-detached house situated at 49 Sharman Road, Belfast BT9 5FX (‘the subject property’). The property was built within the period of 1946 -1965. The property has a garage.

The respondent’s submissions in relation to comparable properties

6. The Commissioner’s Presentation of Evidence to the tribunal is that in deciding the capital value of the property regard was had to capital values in the valuation list of comparable hereditaments in the same state and circumstances. Details of

these comparable properties were set out in a schedule to the Presentation of Evidence dated 30 September 2014, with further particulars of same, including in some instances photographs of the comparable properties. Five comparables were referred to in total. These were capital value assessments, the details of which are as follows:

- (a) The first comparable referred to was 92 Sharman Road, Belfast. This is a semi-detached house. It has a gross external area of 148m² and a garage of 16m². The assessed Capital Value is £240,000. There is no sales evidence for this property.
- (b) The second comparable referred to was 40 Sharman Road, Belfast. This is a semi-detached house. It has a gross external area of 151m². The assessed Capital Value is £235,000. There is no sales evidence for this property.
- (c) The third comparable referred to was 104 Sharman Road, Belfast. It is a semi-detached house. It has a gross external area of 153m².and a garage of 17m². The assessed Capital Value is £240,000. There is no sales evidence for this property.
- (d) The fourth comparable referred to was 24 Cricklewood Crescent, Belfast. This is a semi-detached house and garage. It has a gross external area of 131m² and a garage of 20m². The assessed Capital Value is £240,000. There is no sales evidence for this property.
- (e) The fifth comparable referred to was 6 Cricklewood Crescent, Belfast. This is a semi-detached house and garage. It has a gross external area of 130m² and a garage of 18m². The assessed Capital Value is £240,000. There is no sales evidence for this property.

7. The respondent in the Presentation of Evidence and at the hearing made submissions in relation to the arguments forwarded by the appellant. There are referred to below.

The appellant's submissions

8. The appellant submits that the capital valuation of the property is incorrect. He relies on several grounds to assert this as outlined in the paragraphs below.
9. There was a dispute as to the history of review/applications by the appellant to have the capital value of the subject property reviewed. The appellant further contended that the GEA had been measured by the respondent on three occasions and three different figures had been found being 148m², 145m² and 146m² respectively. This pointed to an inaccuracy and inconsistency in the evidence presented.
10. The appellant made submissions relating to the comparables presented by the respondent. The tribunal was advised that about two years ago Mr and Mrs Ballentine had demolished their existing garage and extended their kitchen and living room and created a small utility room.
11. The comparables used by the respondent similarly consisted of properties which had been extended. However Mr and Mrs Ballentine contended that the alterations/extensions were not similar in nature to their own. They helpfully provided the tribunal with a document listing the alterations to these properties. The main arguments relied on were that the extension to the properties listed were as follows (in summary form):
 - 92 Sharman Road – extended kitchen, extended living room, created a utility room, extended third bedroom (large), extended bathroom (large), creation of fourth bedroom with ensuite.
 - 40 Sharman Road – extended kitchen, extended living room, created a utility room, extended third bedroom, extended bathroom, created a fourth bedroom with ensuite.

- 104 Sharman Road – extended kitchen, created a utility room, extended bathroom, creation of an extra bathroom (toilet and shower), created a fourth bedroom, created a fifth room currently used as a lounge with potential to use as a bedroom.
- 6 Cricklewood Crescent – extended kitchen, extended living room, creation of a utility room, extended third bedroom with ensuite, extended bathroom, created a fourth attic bedroom, created a large conservatory.

12. In addition Mr and Mrs Ballentine referred to 47 Sharman Road, which had an extended kitchen, extended living room and created a utility room. In relation to this property it was confirmed that while it has a capital value of £200,000 it has not been valued as yet for capital value purposes with the extension.

13. In relation to the comparable properties Mr and Mrs Ballentine argued that the comparable properties all had more accommodation than their property with the extension to their property. Therefore the subject property should have a lower capital value than the comparables used.

14. In relation to the area of the subject property Mr Ballentine confirmed that his architect said that the property was about 138m². When asked as to how this had been measured he confirmed that the architect would have measured it from the detailed drawings and measuring the outside walls of the property. He did not produce evidence from the architect as to how the subject property had been measured by his architect.

15. The appellant referred to the Nationwide House Price Index. He appreciated that such indices are not an exact science in that the price of every house can be an emotive fact. He did indicate that the capital value of the property should be between £210,000 to £220,000 based on this index and therefore a mid-range is an appropriate approach.

16. Finally the appellant referred to the fact that the garage created at the subject property during the renovation was one half the size of the previous garage and this should be taken into account in the valuation.

The respondent's submissions

17. The respondent relied on its comparable properties submitted in the Presentation of Evidence.
18. In relation to the comparable evidence forwarded the respondent contended that the properties had similar GEA and that in establishing the capital value not great emphasis should be placed on the accommodation contained the subject property as there is an assumption that the property is in an average state of internal repair and fit out.
19. In relation to the measurement of the property, Mr Magill for the respondent confirmed that he had measured the property on the ground and his survey matched the building control survey.
20. In relation to the reference to the Nationwide House Price Index the respondent submitted that the correct basis of valuation is to compare the subject property with other properties which are already listed in the Valuation List that are in the same state and circumstance.
21. The respondent contended that garages are not given separate capital values but make up part of the overall assessment.

The Tribunal's Decision

22. Article 54 of the 1977 Order enables a person who is dissatisfied with the Commissioner's valuation as to capital value to appeal to this tribunal. In this case the capital value has been assessed at a figure of £240,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties. The appellant's contentions are as stated above and the appellant contends in the written appeal that the proper valuation should be £215,000.

23. At the hearing of this matter there was a dispute as to the history of valuation in relation to the subject property, with the appellant disputing the number of applications for review/appeal in relation to the valuation and the respondent countering that the information was taken from the Land and Property Services computer system. It is not necessary to go into this in detail save to say that the tribunal has not considered the number of reviews/appeals of valuation submitted by the respondent as material to this case.

24. It is appropriate to remember that there is a statutory presumption in Article 54(3) of the 1977 Order in terms that "On an appeal under this Article, any valuation shown in the 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 to be self-evidently so manifestly incorrect that the tribunal must amend the valuation.

25. The general rule as to the basis of the value to be taken into account is contained in article 7(1) of the 1977 Order (as amended) in that

"(a) Subject to the provisions 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.
(b) 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."

26. The relevant capital valuation date is 1 January 2005.

27. In this case there is a dispute as to the gross external area of the subject property. The appellant contends that the GEA is 138m². This is as advised to him by his architect who, according to Mr Ballentine, took physical measurements of the property in addition to measurements from drawings. For the respondent Mr Magill gave evidence that he had measured the subject property at 145.91m² which was in line with the building control survey of the

property. In the circumstances the tribunal accepts the evidence of Mr Magill and that the GEA of the property is 145.91m² with a garage of 16m².

28. The appellant made reference to the Nationwide House Price Index to argue that the property should have a capital valuation of between £210,000 and £220,000. However it cannot be said that it is just a matter of a simple calculation involving the taking a valuation figure at a point in time and applying a figure for house price inflation to it to arrive at another valuation at another defined point in time. Rather, the capital valuation must be based on the statutory provisions as outlined in the 1977 Order.
29. In relation to the garage constructed on the property, this must be incorporated into the capital valuation of the property on the basis of the legislation, rather than considered separately.
30. In relation to the comparable properties provided the tribunal is grateful to the respondent for the information contained in the Presentation of Evidence. the tribunal is also grateful to the time taken by Mr and Mrs Ballentine in preparing information on the nature of the extensions which had been carried out to the comparable properties.
31. In relation to the comparable properties, Mr and Mrs Ballentine confirmed that the extension at 92 Sharman Road involved (among other things) an extension to the third bedroom and the creation of a fourth bedroom, whereas their own extension had extended their kitchen and living room and created a small utility room. Therefore it would appear that the property at 92 Sharman Road now has a larger third bedroom and an additional bedroom. The GEA of this property is larger than that of the subject property and the garages have the same GEA.
32. 104 Sharman Road had an extension carried out to create a fourth bedroom and a fifth room (which could be used as a bedroom). It has a larger GEA than the subject property and has a slightly larger garage. The tribunal prefers these comparables (i.e. 92 Sharman Road and 104 Sharman Road) to 24 Cricklewood

Crescent and 6 Cricklewood Crescent which are substantially smaller than the subject property.

33. Similarly in this case reference was made to the property at 47 Sharman Road. However the capital value of this property with the extension has not been assessed as yet and therefore the tribunal is not in a position to take this property into account.

34. Given the fact that 92 Sharman Road and 40 Sharman Road have greater GEA than the subject property (in addition to the fact that they appear to have more living accommodation than the subject property) the tribunal finds it appropriate to amend the valuation of the subject property. Therefore in this instance the tribunal finds that the capital valuation of the subject property should be amended to £235,000. Therefore the appeal in this case is allowed and the valuation list should be amended so that the capital valuation of the property at 49 Sharman Road, Belfast should be reduced to £235,000.

35. The tribunal is very grateful to both the Commissioner's representatives and the appellant for the skilfully prepared presentations to the tribunal both in written evidence and in oral presentation at the hearing of this matter.

Mr Charles O'Neill
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 9th March 2015