

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT 1/12**

**SAMUEL FELSON
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

Northern Ireland Valuation Tribunal

Chairman: Nessa Agnew LL.B. Members: Siobhan Corr and Alan Martin

Belfast, 24th July 2013

DECISION

REASONS

1. Introduction

- 1.1 This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977 as amended (“the 1977 Order”).
- 1.2 By a Notice of Appeal received by the Tribunal Unit on 7th January 2013 the appellant appealed to the Northern Ireland Valuation Tribunal (“the tribunal”) against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the commissioner”) dated 21st December 2012 in respect of the Valuation of a hereditament situated at 41 Craigs Road, Cluntydoon, Cookstown, County Tyrone BT80 9LD.
- 1.3 The parties to the appeal had indicated that they were each content that the appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 (“the Rules”) and accordingly there was no appearance before the tribunal by or on behalf of any of the parties.

2. **The Law**

The relevant statutory provisions are to be found in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (“the 2006 Order”). The statutory provisions regarding the basis for valuation are contained in Article 8 of the 2006 Order which amended Article 39 of the 1977 Order and have been fully set out in numerous previous decisions of this tribunal. The tribunal does not therefore intend in this decision to fully set out the statutory provisions of Article 8.

3. **The Evidence**

The tribunal heard no oral evidence but had before it copies of various documents including the following:-

- 3.1 The commissioner’s Decision on Appeal;
- 3.2 The appellant’s Notice of Appeal ;
- 3.3 A document entitled “Presentation of Evidence” dated 29th April 2013 submitted on behalf of the commissioner by Karen McCullagh of Land and Property Services and received by the Tribunal on 2nd May 2013
- 3.4 Correspondence from the Tribunal to the appellant providing the appellant with the Presentation of Evidence.

All of these documents had been provided to all of the parties who had each been given an opportunity to consider and respond to them before being considered by the tribunal.

4. **The Facts**

Based upon the information before it the tribunal determined, upon the balance of probabilities, the following facts.

- 4.1 The hereditament is a dwelling house situated at 41 Craigs Road, Cluntydoon, Cookstown, County Tyrone BT80 9LD (“the Subject Property”). The Subject Property was stated to be owned by the appellant who the tribunal understood to be the rate payer.
- 4.2 The Subject Property is a two-storey detached house with garage built post 1990. It is of block construction and tiled roof. It has a gross external area (“GEA”) of 336.94 m² and the garage GEA is 97.11m². It has oil fired central heating and uPVC double glazed windows. The Subject Property has mains water and electricity and a septic tank for sewerage. The property accommodation comprises a kitchen/dining room, reception room, utility room and bathroom on the ground floor with four bedrooms

and main bathroom on the first floor. The property is situated in a rural area, approximately 8 miles outside Cookstown, off the Craigs Road, a minor country road. The land and buildings are owned by the appellant. It currently has a Capital Value assessment of £255,000 at the Antecedent Valuation Date (“AVD”) that date being 1st January 2005. This property was first entered on the Valuation List in November 2012 at £255,000.

- 4.3 The appellant appealed this revised Capital Value assessment to the commissioner of valuation on 26th November 2012 resulting in the commissioner’s decision on appeal dated 21st December 2012; now the subject of this appeal before the tribunal. The commissioner stated that there was no change to the Capital Value of £255,000 which is fair and reasonable in comparison to similar sized properties in the area.

5. The Appellant's Submissions

The appellant, in summary, made the following submissions:-

- 5.1 That the Capital Value is excessively high at £255,000. The house is situated 6 miles from Cookstown and 2 miles from a “B” road.
- 5.2 There is a property situated half a mile from the Subject Property which has a similar square footage and has been up for sale for 2 years with an asking price of £180,000.
- 5.3 The valuation date of 2005 is now 7 years out of date. The appellant is concerned about the comparables noted due to the current downturn in house prices in Northern Ireland. Comparables have no relation to 2012/2013 market value The appellant would like the valuation of the Subject Property brought in line with current trends.

6. The Respondent’s Submissions

In summary, the following submissions were made on behalf of the commissioner.

- 6.1 The CV of the Subject Property has been assessed on the basis of the statutory assumptions contained in paragraphs 9 to 15 and is essentially an assessment of what the property might have been expected to realise if it had been sold on the open market by a willing seller on the relevant CV date which is 1st January 2005. When entering a new property on the

Valuation List regard has to be had to the CV of other comparable properties in the same state and circumstances which are already in the Valuation List. On this basis the comparable properties identified and referred to in more detail below are also in rural locations and are similarly disadvantaged. There is clearly a demand to live in rural areas and people buy houses in the knowledge that the services available may not be as convenient as those in more densely populated areas.

- 6.2 The property which has been for sale for 2 years is No 89A Feegarron Road, Cookstown and is situated 0.7miles from the subject property. It is for sale with an estate agent with an asking price of £179,000. It is a detached chalet bungalow of 232.36m² with a 51.4m² garage and 29.6m² outbuilding. Its current CV is £195,000. The property is 104.58m² smaller than the subject property with a considerably smaller garage. On that basis the respondent submitted that it is not a particularly good comparable, due to the size difference.
- 6.3 The capital valuation assessment must be made on 1st January 2005. All domestic properties are valued at that date and it is not possible to reflect changes in general economic conditions such as a falling housing market in between valuations.
- 6.4 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 that “regard shall be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances” was duly observed.
- 6.5 The Respondent put forward eight comparable properties. Of those, five of the comparables had similar GEAs ranging from 312.59m² to 359.31m². The CVs also varied in range from £245,000 to £265,000. The comparables listed in the Presentation of Evidence also dealt with 3 smaller properties numbered 2 to 4. The tribunal did not consider those 3 properties to be particularly good comparables. In relation to the further comparables numbered 5 to 9 they were all detached properties built post 1990 and which were served by mains water and mains electricity and had septic tanks. The CV of the subject property appears to be in tone with the properties numbered 5 to 9 in the schedule of comparable properties identified by the respondent in the Presentation of Evidence.

7. The Tribunal's Decision

- 7.1.1 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 AVD at a figure of £255,000. On behalf of the commissioner it has been contended that that figure is fair and reasonable when compared to other properties. The statutory basis for valuation has been referred to and, in particular, reference has been made to Schedule 12 to the 1977 Order in arriving at that assessment.
- 7.2 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”*. The onus is therefore upon 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.
- 7.3 In this case 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 on anything other than the prescribed manner provided for in 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 noted the evidence submitted as to comparables. The tribunal accordingly concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.
- 7.4 The tribunal then turns to consider whether the evidence put before it or the arguments made by the appellant are sufficient to displace the statutory presumption. Those arguments have been summarised above. The appellant did not seek to challenge the Capital Value assessments of either of the comparable properties put forward on behalf of the commissioner nor did the appellant refer the tribunal to any specific alternative comparable properties.
- 7.5 Schedule 12 of the 1977 Order requires that in assessing the amount which the Subject Property might reasonably have been expected to realise if it had been sold on the open market by a willing seller on the relevant AVD (in this case 1st January 2005) regard must be had to the Capital Values in the Valuation List of comparable hereditaments in the same state and circumstances. The respondent has put forward eight

comparable hereditaments the details of which are referred to in paragraph 6.5 above.

- 7.6 Comparable 2 at 89A Feegarron Road is smaller than the Subject Property but is, like the Subject Property, a detached house and of similar age. It has a garage and outbuildings. The comparables numbered 5 to 9 from the limited information provided do appear to be comparable hereditaments as required by Schedule 12.
- 7.7 Accordingly, having carefully considered the particulars and Capital Values of the comparable properties put forward by the respondent and their unchallenged Capital Values the tribunal was satisfied, on the balance of probabilities, that the comparables did lend support to the respondent in his contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £255,000.00 as it presently appears in the Valuation List.
- 7.8 Accordingly, the unanimous decision of the tribunal is that the appeal against the decision on appeal of the commissioner of valuation for Northern Ireland dated 11th October 2011 is dismissed.

**Ms Nessa Agnew, Chairman
Northern Ireland Valuation Tribunal**

17th September 2013