

**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: 46/13**

**AIDEN McGOVERN - APPELLANT**  
**AND**  
**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr James V Leonard, President**

**Members: Mr Christopher Kenton FRICS and Mr Patrick Cumiskey**

**DECISION**

The unanimous decision of the tribunal is that the appeal is dismissed.

**REASONS**

**Introduction**

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant was content for the appeal to be disposed of by written representations. The matter was listed for hearing at Belfast on 27 April 2016 and was considered by the tribunal on the papers.
  
2. The appellant, by Notice of Appeal received by the Office of the Tribunal on 14 February 2014 appealed against the decision of the Commissioner of Valuation in a Valuation Certificate dated 3 February 2014 in respect of the valuation of number 29 Alderwood Road, Tattanellan, Fivemiletown BT75 0NA (" the subject property")

**The Law**

3. 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 fully 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, for the reason that these provisions have been fully set out in many decisions of this tribunal, which are readily available. All relevant statutory provisions and principles were fully considered by the tribunal in arriving at its decision in the matter. Antecedent valuation date or "AVD" is the date to which reference is made for the assessment of capital values in the Valuation List. Until a further domestic property revaluation occurs, capital values are, under the regime, notionally assessed as at 1 January 2005, that being the AVD for the purposes of the statutory domestic rating scheme.

### **The Evidence and Submissions**

4. The tribunal noted the papers in the matter and the documentation adduced in evidence, including evidence relating to the comparables (these being potentially comparable properties from which evidence of capital valuation may be drawn for statutory purposes) put forward in the matter. The tribunal had before it the appellant's Notice of Appeal to the tribunal (Form 3) and the following:-

- 4.1 The Valuation Certificate dated 3 February 2014.

- 4.2 A document dated 19 May 2014 entitled "Presentation of Evidence" prepared on behalf of the Commissioner as respondent by Ms Karen McCullagh MRICS and submitted to the tribunal.

- 4.3 A letter dated 8 January 2016 from the appellant to the tribunal attaching copy letter dated 15 April 2015 from the appellant to the Commissioner.

4.4 A document entitled "Response to Additional Letter" letter dated 14 January 2016 prepared on behalf of the Commissioner by Ms Karen McCullagh MRICS.

5. The subject property consists of a hereditament located at 29 Alderwood Road, Tattanellan, Fivemiletown BT75 0NA. The subject property, is described in the Presentation of Evidence (with which specific details the appellant does not take substantial issue) as being a well-finished dwelling of traditional brick/block construction with a tiled roof. There is no garage. It was built about 2012 and is stated to be in a state of average repair. It is located on a minor road approximately 2 ½ miles from Fivemiletown Village. It has a gross external area ("GEA") of 205.22 m<sup>2</sup>. The accommodation comprises a kitchen/dining room, a utility room and a living room. In addition, there are four bedrooms and one bathroom. There is full oil-fired central heating. It has mains electricity and is served by a septic tank. Photographs are supplied with the Presentation of Evidence showing the exterior of the subject property and there is a map showing the location. The rating history of the matter is that the subject property was first entered into the domestic Valuation List in January 2014 at a capital value of £170,000. On 13 January 2014, the appellant appealed to the Commissioner against the capital valuation and the subject property was inspected and, following a review, the decision was made not to amend the valuation. This is reflected in the Valuation Certificate dated 3 February 2014 in the matter. It is against this that the appellant now appeals to this tribunal.
6. The Commissioner's submission, as respondent, is that in arriving at the capital value assessment regard was had to the statutory basis of valuation and reference is made to schedule 12, paragraph 7, of the 1977 Order, as amended and thus it is submitted that regard was had, when valuing the subject property for the purpose of the Valuation List, to the capital values in the Valuation List of comparable hereditaments in the same state and circumstances as the subject property. The comparables identified are set out in a schedule to the Presentation of Evidence, with further particulars being given in respect of the comparables, including photographs. There are four comparables presented in total in addition to the subject property, all of these, in accordance with the map provided, being located in relatively close proximity to the subject property. The respondent's submitted comparables all have

unchallenged capital valuations. In addition to the subject property, the following properties, with brief material particulars being provided, are as follows:-

- 39 Alderwood Road, Cullentra, Fivemiletown BT75 0JE – modern detached chalet, average repair, GEA of 184 m<sup>2</sup>, four bedrooms, one bathroom, full oil-fired central heating, mains water and electricity, septic tank, capital value £155,000.
- 28 Garlaw Road, Clougher BT75 0TW – modern detached bungalow, average repair, GEA of 186 m<sup>2</sup>, three bedrooms, one bathroom, full oil-fired central heating, mains water and electricity, septic tank, capital value £155,000.
- 129 Screeby Road, Fivemiletown BT75 0LF – modern detached chalet, average repair, GEA of 201.20 m<sup>2</sup>, three bedrooms, one bathroom, full oil-fired central heating, mains water and electricity, septic tank, capital value £170,000. (There is a note to the effect that this property is to be revised by the District Valuer as an outbuilding is not included in the assessment)
- 45 Kell Road, Cullentra, Fivemiletown BT75 0JB – modern detached bungalow, average repair, GEA of 214.49 m<sup>2</sup>, four bedrooms, one bathroom, full oil-fired central heating, mains water and electricity, septic tank, capital value £170,000.

7. The appellant in his appeal has sought to challenge the capital valuation. Furthermore, on receipt of a copy of the Presentation of Evidence he has raised a number of issues. He observes that in the Presentation of Evidence the subject property has been described as having four bedrooms and that it has oil-fired central heating. The appellant states that the subject property has three bedrooms and that it has a solid fuel heating system. The appellant suggests that the capital valuation of the subject property ought to be “£90,000 – £100,000”. He contends that the house would not obtain the capital value ascribed if placed on the open market. In response to these submissions for the respondent it is submitted that in this instance the recorded number of bedrooms is not considered significant in valuation terms and that more reliance is placed upon GEA in capital valuation assessments. The respondent seeks to draw to the tribunal’s attention the second and third comparables (listed above - 28 Garlaw Road and 129 Screeby Road) where both have the same GEA and the second comparable has four bedrooms and the third comparable has three bedrooms. Both are assessed at a similar capital value of £155,000. Furthermore, it is submitted for the respondent that the type of heating system, whether oil-fired central heating or solid fuel, is not significant in valuation terms.

## THE TRIBUNAL'S DECISION

8. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner, being the respondent to this appeal, regarding capital value. Such an appeal may be heard "on the papers" in which case it is incumbent upon the parties to any appeal to put forward sufficient evidence effectively to establish any case sought to be made. In this case, the capital value at AVD of the subject property has been assessed at £170,000. The appellant contends that this figure ought properly to be much lower. On behalf of the respondent it has been submitted that the figure of £170,000 is fair and reasonable in comparison to other properties, taking into account the particular circumstances of the subject property. 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.
9. The tribunal notes the statutory presumption contained within the 1977 Order, Article 54(3). Thereby, any valuation shown in a Valuation List with respect to a hereditament shall be deemed to be correct until the contrary is shown. Accordingly, In order to succeed in an appeal, the appellant must either successfully challenge and displace that statutory presumption of correctness or perhaps the Commissioner's decision on appeal, objectively viewed, must be seen by this tribunal to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.
10. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner as is provided for in Schedule 12 of the 1977 Order.
11. In this appeal the appellant has sought to argue that the house would not obtain the capital value figure if placed on the open market. This "present day value" is a very common theme raised in capital value appeals. The tribunal in its decision-making regularly seeks to clarify the statutory position, which is regrettably commonly misunderstood. The law provides that Antecedent Valuation Date (AVD) is the date to which reference is made for the assessment of capital values in the Valuation List. Until a further domestic property revaluation occurs, capital values are notionally assessed as at 1 January 2005. This date is the ADV. The current market value of

the subject property carries no relevance. All domestic properties are assessed with reference to AVD and not on a contemporary basis. Accordingly, the tribunal cannot take account of any evidence of recent or contemporary open market sales or of recent or contemporary valuations.

12. The tribunal examined the essential issue of whether or not the appellant had put forward sufficient challenge to the respondent's schedule of comparables and sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the capital valuation.
13. Noting the arguments made on behalf of the appellant and the response thereto, the statutory provisions specify that the capital value of the property shall be the amount which (on the statutory assumptions) the property 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the subject property. The tribunal thus gave full consideration to all of the evidence and argument including an analysis of the appropriateness of selection and the weight to be attached to the properties put forward as comparables. It is noted that the appellant, in making his case, has not provided to the tribunal specific details of any other identifiable and assessable comparables. Accordingly, there is before the tribunal no evidence from the appellant upon which to base a proper comparative exercise. The tribunal is tasked with determining the appeal upon the evidence placed before it, in the light of any submissions and the proper application of the law.
14. The tribunal examined in detail the four stated comparables that have been put forward in evidence on behalf of the respondent. The tribunal conducted an analysis of the specific state and circumstances in respect of each of these contended comparable hereditaments, with reference to any material evidence emerging which might assist in the scrutiny of the assessment of the proper capital valuation of the subject property.
15. All of the selected comparables introduced into evidence on behalf of the respondent have some degree of comparability to the subject property, some being more useful

than others. There is certainly a valuable degree of usefulness and corresponding weight to be attached to the evidence emerging from the comparables selected on behalf of the respondent, which was helpful to the tribunal. In respect of the endeavour to challenge these comparables, without more, the tribunal is unable to uphold the appellant's contention that the capital value of subject property ought to be "£90,000 – £100,000", when applying the statutory principles of assessment of capital value. There is no evidence to support that suggestion. Accordingly, the tribunal's unanimous decision is that the appellant has not put forward sufficient evidence and argument effectively to displace the statutory presumption of correctness in respect of the capital valuation applied to the subject property. For that reason, the appeal cannot succeed and the appeal is dismissed by the tribunal.



**James V Leonard, President**

**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties: 20 June 2016**