

NORTHERN IRELAND VALUATION TRIBUNAL

CASE REFERENCE NUMBER: 41/15

ALISTAIR CHURCH and TWYLA CHURCH - APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Chairman - Garrett E. O' Reilly

Members - Eric Spence MRICS and Angela Matthews BL

Hearing - 1 September 2016

Background

1. The Capital Value of property situate and known as 1, Drinagh Manor, Belfast, County Down BT5 6ND (the Property) was revised in December 2015 by the District Valuer to £360,000.00.
- 2 The Appellant had purchased the Property in June 2015 and appealed the revision of the District Valuer to the Commissioner of Valuation for Northern Ireland.
3. As a result of the appeal the Commissioner of Valuation made the decision to reduce the Capital Value of the Property to £350,000.00 (the Capital Value).
4. Article 54 of the Rates (Northern Ireland) Order 1977 as amended (the 1977 Order) and the Valuation Tribunal Rules (Northern Ireland) 2007 (as amended) enable a person to appeal against a decision of the Commissioner of Valuation of Northern Ireland to the Northern Ireland Valuation Tribunal.
5. The Appellant has appealed the decision of the Commissioner of Valuation.

The Documents before the Tribunal

1. Valuation Certificate of Land & Property Services dated 16 December 2015 to become effective on 1 April 2016 (the Valuation Certificate) whereby the Commission of Valuation certified the Capital Value of the Property to be £350,000.00;
2. Notice of Appeal with attachments thereto dated 16 January 2016 (the Notice of Appeal) whereby the Appellant appealed the Capital Value;
3. Letter and attachments dated 10 February 2016 of Alistair Church (the Supplemental Letter) whereby the Appellant submitted a letter with attachments supplemental to the Notice of Appeal; and

4. Presentation of Evidence dated 18 May 2016 of Jonathan Maybin RICS for Commissioner of Valuation (the Presentation of Evidence).

Representation

Alistair Church of the Appellant appeared in person and Mr. Maybin and Mr. Neill of Land and Property Services appeared for the Respondent.

Submissions

The Appellant was invited to make his submissions. He stated that he had hoped Mr. Maybin would be first to make the Respondent's representations. Mr. Maybin readily agreed to this suggestion and in the spirit of the informality of the Tribunal the Members also agreed to permit the Respondents to proceed.

The Notice of Appeal was not received within the statutory time limits but the Respondent did not raise any issue in this regard.

Respondent Submissions

Mr. Maybin acknowledged that the Capital Value of the Property had been £275,000.00 for many years.

However Mr. Maybin explained that under rating legislation the District Valuer and the Commissioner of Valuation were obliged by statute to revise the Capital Value of any property when it seemed that its Capital Value in a valuation list is not correct and was out of tone. When it was noted that the Valuation of the Property was not correct the District Valuer was obliged to revise it and did so and that was what had happened in this case.

Mr. Maybin then referred to the Presentation of Evidence and expanded upon and clarified specified points therein.

The Respondent explained that he had come to the figure of £350,000.00 as the Capital Value for the Property having regard to capital values of comparable properties detailed in his Presentation of Evidence. He was required to do so by Schedule 12 paragraph 7(2) of the 1977 Order,

("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").

He explained that his Presentation of Evidence focussed on comparable properties in Shandon Ward in which the Property is situated and not in the adjacent Knock Ward. He had done so because a Capital Value valuation was a 1 January 2005

market value valuation and so it would not be appropriate to reflect property valuation changes, which may have come about over the years since 2005 and are now reflected in house prices in the two Wards. Mr. Maybin made it clear that any changes in house desirability for areas since 2005 would not, and should not, be reflected in Capital Values until there was a further Northern Ireland General Revaluation.

He acknowledged the accuracy of the Appellant's Sandown Park South properties as comparables in Knock Ward (as shown in the Supplemental Letter) but said that he placed little weight on them as comparables because of his obligation to have regard to this 2005 valuation factor.

He further acknowledged that some of the Appellant's comparables were useful. He specifically mentioned a property at 31, Kilhorne Gardens (an older but only slightly smaller dwelling close to the Property) with a Capital Value of £300,000.00. He had coupled it with 7, Drinagh Manor (a new build larger detached house within the Appellant's seven dwelling Drinagh Manor development) with a Capital Value of £425,000.00 to establish Lower and Upper Capital Value Limits for the Property. He then referred to the neighbouring dwelling of 8, Drinagh Manor (similar in every way except that it had a glass conservatory, area of 17 m.2) which has a Capital Value of £365,000.00 (£350,000.00 for the house and £15,000.00 for the conservatory).as being his preferred comparable. He also noted that he considered the Appellant's comparable situated at 47, Kilhorne Gardens with a Capital Value of £375,000.00 was another good comparable

He pointed out that the history of the Shandon Ward since 2007 showed it was well settled with very few challenges to its Capital Values.

He also stated that a new property will always achieve a higher price than an older house and the Property was being valued as a new house in 2005.

Mr Maybin submitted that the Graphs provided by the Appellant in the Notice of Appeal and the Supplemental Letter were not helpful for various reasons but principally because of an overreliance on property size and distance as the main determinants of valuation when this is not the case as there are many other determinants. However he stressed for illustration purposes and without conceding that the graph approach was a correct approach that a graph prepared taking into consideration other valuation factors might show that the Capital Value of the Property was in general compliance with the graphs.

The Respondent contended that on all the relevant evidence the Capital Value of £350,000.00 in respect of the Property was correct.

Appellant Submissions

When the Respondent completed his submission the Appellant then began his submission and referred to the Valuation Certificate and to the Notice of Appeal and the Supplemental Letter.

He explained to the Members when he bought the Property in June 2015 that a significant factor in that decision was the amount payable in respect of the rates of the Property and no amount of research or enquiry would have indicated that he could expect an overnight increase of over 27% and he submitted that such a situation could not be fair and correct.

He referred first to the Supplemental Letter and the new dwellings in Sandown Road South and he submitted that he did not accept the validity of the Respondent's Submissions in relation thereto as to the desirability in 2005 of a property in Knock Ward possibly not being just so desirable as a similar property in Shandon Ward and that as a result the Shandon Ward property might have a higher valuation.

Mr. Church then referred to the various properties which he had submitted and proposed as comparable properties in the Notice of Appeal and the Supplemental Letter. He refused to accept Mr. Maybin's comments as to many of them being not properly comparable. In fact he referred to some of the comparable properties proposed as comparables by the Respondent as being subject to challenge and not appropriate for use. However after some time and after seeking further clarification it was accepted that none of the properties offered as comparables by the Respondent were subject to appeal. It was established that one of the properties, which had also been revised in similar circumstances to the Appellant, had appealed its valuation but the appeal process had been completed and the Capital Value of that property remains unchanged and is as shown in the Respondent's comparables.

He said that he believed that too much weight had been attached to the valuations of the other properties in Drinagh Manor.

He also said that Mr. Maybin had told him there was a discounting rating process applied for older larger dwelling houses and the Appellant submitted that modern energy efficient dwellings should not be penalised by subsidising the rates for older larger dwellings. Mr. Maybin disputed this interpretation of what he said.

He then submitted that the Tribunal should take notice of University of Ulster data with regard to house prices in East Belfast.

He then moved to the "scatter" graphs which he had attached to the Notice of Appeal and he submitted that this was an alternative helpful approach to show values and was supportive of his submission that the Capital Value of the Property is not correct. He dismissed Mr. Maybin's response that some of the comparables therein are not appropriate and distort the graphs.

At the termination of his submission Mr. Church was asked what he now thought the Capital Value of the Property should be. He said £300,000.00.

Reasons and Decision

The Members carefully considered both the Appellants and the Respondents Submissions and the Law and they concluded that there were two issues upon which this appeal should be decided

1. Was the Capital Value of the Property revised in accordance with rating legislation?

The Appellant's first submission on this issue related to the unfairness and affordability of the revision. It is self evident that the result of the revision of the Capital Value of a property from £275,000.00 to £350,000.00 will substantially increase the financial liability of an owner/occupier for rates in respect of that property.

From the documentation prepared for the Hearing by Mr. Church it was obvious to the Members that he was a well organised individual. They readily understood that when he bought the Property in June 2015 he would have taken into consideration, and indeed calculated, his family's rating liability and that this calculation may well have been a factor in their purchase decision. The rating liability for the Property would have been based on the pre-revision Capital Value of £275,000.00. Further it was also clear and accepted by the Respondent at the time of purchase that a revision of the Capital Value of the Property could not have been foreseen by anyone.

In the circumstances of the revision the Members could only agree that such a procedure seems basically unfair and they were very sympathetic to the Appellant. However they could not see that unfairness or affordability in this situation is covered by any legislation as a valid reason for not revising the Capital Value of a property when it appeared that its Capital Value was not correct as being out of tone with other properties.

The Members had regard to Article 49 (1) (b) of the 1977 Order which provides that

"....where the district valuer, without such an application, considers that valuation list ought to be revised in relation to any hereditament, (a) he shall revise the list so far as it relates to that hereditament.....;"

Accordingly the Members decided that the Respondent had acted in accordance with the statutory duty and had duly carried out a revision of the Capital Value of the Property.

2. Have the Appellant's submissions to the Tribunal as to the valuation of comparable properties overcome the statutory presumption that the Capital Value is correct?

In Article 54(4) of the 1977 Order it is provided that

“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” .

Thus a Capital Value appeal will not be upheld unless an Appellant can successfully challenge the presumption of the correctness and satisfy the Tribunal that a Capital Value is not correct. The Valuation Certificate in respect of the Property shows that the valuation in the valuation list is therein certified at £350,000.00.

Accordingly for this appeal to succeed the Members consider that it is necessary for the Appellant to prove that the Capital Value of £350,000.00 as certified in the Valuation Certificate is not correct.

The Appellant submitted that the Capital Value is too high.

In summary his main submissions were that the Respondent had failed to take more consideration in his comparable properties to other older properties; to give too much consideration of properties in the Drinagh Manor Development; and had failed to give due consideration to properties outside the Shandon Ward.

He maintained that the entirety of Shandon Ward should be revalued. He said that the University of Ulster Price Data and also his graphs confirmed his submissions that the Capital Value was too high. In his further letter and graph he specifically highlights a new housing development in Sandown Road South for inclusion as a comparable property.

The Members considered the Respondent’s answers to the Appellant’s submissions.

He said that newly constructed properties will always achieve a higher price on the open market than older properties (and that would have been the case on 1 January 2005) and logically in assessing Capital Values for new properties then older property Capital Values should not carry the same weight as newer property Capital Values. This response was accepted by the Members as being correct.

The Members noted although following the confusion over the Appellant’s submission that the Respondent had included comparables which were subject to appeal and being challenged that the Appellant had accepted that there was no ongoing Capital Value challenge against any of the Respondent’s comparables.

The Respondent’s comments in relation to the change in the desirability of areas between the date for assessment of market value 1 January 2005 and December 2015 fully and logically explained why Shandon Ward might need to be revalued but this was not a matter of revaluation. Revaluation did not relate to an area of Northern Ireland and was a matter for the Northern Ireland Government. This hearing was a matter of revision of the Capital Value of one property. These comments also explained why Knock Ward property in 2005 (including the new build

property at Sandown Road South) might have been considered less desirable than similar property in Shandon Ward and therefore assessed with a lower Capital Value.

Further the Appellant's submission of the assistance to be gained from the University of Ulster House Price Data and Statistics as to general house prices for the area of East Belfast were not considered helpful in considering prices and values in a specified small vicinity.

The Members took into consideration the details of properties shown on the Appellant's maps and graphs which should not have been properly shown thereon; which were shown thereon but lesser or no great weight should be attached to them; and properties which the Appellant had failed to show in his documentation. They decided that the Appellant's own statistics may have pointed to a Capital Value in or about of £350,000.00.

In arriving at a decision the Members also took specific notice of the fact that Drinagh Manor was an exclusive development of only seven dwellings and that Number 8, Drinagh Manor (the virtual mirror image of the Property) had a Capital Value of £365,000.00 and further, and very significantly in the opinion of the Members, that Numbers 4 and 5, Drinagh Manor (the pair of semi-detached dwellings of similar size) had Capital Values of £290,000.00.

The Tribunal's decision is that it was not persuaded that the Appellant's submissions went any way close to clearing the high hurdle of proving that the Capital Value of £350,000.00 was not correct and unanimously dismissed the appeal.

Garrett E. O' Reilly – Chair

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 14 September 2016