

**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: 6/15**

**ANDREW McCLURE - APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

**Northern Ireland Valuation Tribunal**

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

**Members: Mr Philip Murphy MRICS and Mr Peter Somerville**

**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 18 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 16 April 2015 appealed against the decision of the Commissioner of Valuation in a Valuation Certificate dated 18 March 2015 in respect of the valuation of a hereditament situated at 87 Rosetta Road, Ballymaconaghy, Belfast BT6 0LR (" 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 Facts**

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 18 March 2015.

- 4.2 A document dated 4 November 2015 entitled "Presentation of Evidence" prepared on behalf of the Commissioner as respondent by Mr Jonathan Maybin MRICS and submitted to the tribunal.

- 4.3 A letter dated 1 April 2015 from the appellant to Mr Maybin and an e-mail dated 8 April 2015 from the appellant to Mr Maybin.

4.4 A document prepared by the appellant setting forth grounds of appeal in the matter (stating inter alia that the appellant contended that the subject property's valuation should be £61,500).

5. The subject property is a hereditament located at 87 Rosetta Road, Belfast, County Down BT6 0LR. It consists of a single level, self-contained, converted apartment, located at first-floor level. The appellant is understood to be the ratepayer. The subject property has a nett internal area ("NIA") of 57m<sup>2</sup>. and has a detached garage of 30m<sup>2</sup>. The subject property was further described in the Presentation of Evidence report (which statements of fact were not of themselves contested by the appellant) as having gas-fired central heating with connections to the main sewer, electricity and water supply. From the photographic evidence, the subject property has a front elevation situated upon Rosetta Road, Belfast, with a side and rear elevation facing onto or towards an alleyway leading from Rosetta Road to the detached garage, which is located at the rear of the subject property. The rating history of the matter is that on 20 January 2015 the appellant submitted an application to the District Valuer for a revision of the Valuation List on the grounds that there had been a change of use, which the appellant believed would affect the rateable value. The subject property was inspected on behalf of the District Valuer and the first-floor apartment was added to the Valuation List with a capital value of £105,000. On 18 March 2015, the appellant appealed against the capital valuation and the subject property was inspected on 20 February 2015. Following a review the Commissioner of Valuation, being the respondent to this appeal, confirmed the capital value at the figure of £105,000. It has been further clarified that a 5% end allowance has been applied on account of the subject property's location above a shop, thereby producing the (adjusted) capital value figure of £105,000. It is against that valuation that the appellant now appeals to this tribunal.
6. The Commissioner's submission, as respondent, to the tribunal 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 (2) of the 1977 Order, as amended and thus it is submitted that regard was had, when valuing the subject property for the purpose of any revision of the Valuation List, to the capital values in the Valuation List of comparable hereditaments in the same state and circumstances as the

hereditament whose capital value is being revised. The comparables identified are set out in a schedule to the Presentation of Evidence, with further particulars being given thereafter in respect of the comparables, including photographs. There are six comparables presented in total including the subject property, all of these being located in relatively close proximity to the subject property. The respondent's submitted comparables consist of the subject property and, in addition, the following properties, with brief material particulars being provided in respect of each of these:-

- Flat 5, 28 Rosetta Park, Belfast - NIA 59m<sup>2</sup>, consisting of a converted apartment located on the second floor, self-contained, assumed to have full central heating, capital value assessed at £110,000.
- Apartment 3, 37 Rosetta Park, Belfast - NIA 52m<sup>2</sup>, consisting of a converted apartment located on the second floor, self-contained, with full central heating, capital value assessed at £100,000.
- 68 Knockbreda Road, Belfast - NIA 46m<sup>2</sup>, consisting of a converted apartment located on the first floor, self-contained, with full central heating, capital value assessed at £95,000.
- 4B Rosetta Road, Belfast - NIA 45m<sup>2</sup>, consisting of a converted apartment located on the first floor, self-contained, with full central heating, capital value assessed at £85,000.
- 4C Rosetta Road, Belfast - NIA 42m<sup>2</sup>, consisting of a converted apartment located on the first floor, self-contained, with full central heating, capital value assessed at £85,000.

There was no evidence that the capital value assessments in respect of any of these foregoing were under current challenge. At this distance from AVD, the tribunal is entitled to draw evidential conclusions concerning "tone of the list" from unchallenged capital valuations of potentially comparable properties, to the extent to which any such might be evidentially comparable, in place of specific sales evidence with reference to AVD.

## **THE SUBMISSIONS**

7. The appellant in his written submissions to the tribunal in this appeal has essentially raised the discrete issue of proper comparability. The appellant contends that the capital valuation assessment of the subject property is "grossly excessive", as he puts it. He states that he is aware of similar flats, located in close proximity to the subject property at Banna Corner, Belfast, which he contends are larger than his flat. He submits that the flats at Banna Corner extend to 69m<sup>2</sup> (ground floor) and 65m<sup>2</sup> (first floor). He makes the case that the subject property is above a commercial premises which he contends would have a detrimental effect upon the capital value of the subject property. The flats at Banna Corner, he argues, are residential on the ground and first floor. The appellant has not specifically identified any of these Banna Corner properties by means of postal address, postcode or property reference numbers, nor has he supplied any additional specific evidence in respect of any properties which he wishes to put forward as comparators. He contends that the ground floor flats at Banna Corner are 69m<sup>2</sup> and have a capital value of £70,000 which he states equates to £1,014 per square metre. The appellant further contends that the first-floor flats at this Banna Corner location are 65m<sup>2</sup> with a capital value of £70,000, which equates to £1,077 per square metre. The appellant further states that a property which he owns at 25 Dromore Street, Belfast, being about one mile from Rosetta Road, consists of a three bedroom mid-terrace property extending to 99m<sup>2</sup>, with a capital value of £97,500, which he contends equates to £984 per square metre. On the basis of what the appellant argues to be direct comparability of the Banna Corner flats, the appellant contends that the capital value of the subject property ought to be £61,500.

## **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 £105,000. The appellant contends that that figure ought properly to be £61,500. On behalf of the respondent it has been

contended that that figure of £105,000 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. 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. The respondent's Statement of Case as set out in the Presentation of Evidence and the schedule of comparables was challenged by the appellant on the grounds mentioned above. The evidence available to the tribunal and the respective submissions are fully noted by the tribunal in determining the appeal.
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 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 identifiable and assessable comparables such as might be located at Banna Corner, Belfast. It is not for the tribunal to seek this evidence but rather it is for the appellant to put forward such evidence in an accessible form which can then be addressed by the tribunal. Likewise, the respondent has not endeavoured to make any comment nor sought to provide to the tribunal any evidence concerning hereditaments located at Banna Corner, Belfast. It is presumed, without more, that the respondent has taken the view that, without further specific identification on the appellant's part, it is not obliged to address these contentions. Nonetheless, it might have been helpful to the tribunal if the respondent had made some comment upon the appellant's contentions in respect of Banna Corner, Belfast. There is thus before the tribunal no evidence upon which to base a proper comparative exercise in that regard. The same applies to the other property mentioned in submissions by the appellant, this being his property located at 25 Dromore Street, Belfast. The appellant mentions that this latter property is about one mile from Rosetta Road, and consists of a three bedroom mid-terrace property. Again, it would have been helpful to the tribunal if the respondent has nonetheless made some comment upon the appellant's contention in regard to Dromore Street, even to dismiss the suggestion that this was a valid comparator. 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. In the absence of clear and cogent evidence of specific identifiable and valid comparable properties, carrying material weight, located at either Banna Corner or at Dromore Street, Belfast, the tribunal examined in detail the five 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 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. The 5% end allowance for the subject property being located above commercial premises has been taken into account by the tribunal in conducting that exercise. 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 assessment in respect of subject property is "grossly excessive" (as he puts it), when applying the statutory principles of assessment of capital value. 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, this appeal cannot succeed and the appeal is dismissed by the tribunal, by unanimous decision.

**James V Leonard, President**  
**Northern Ireland Valuation Tribunal**

**Date decision recorded in register and issued to parties: 26 April 2016**