

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977**

Case Reference NIVT 5/20

Between:

KEVIN BLACK - APPELLANT

-and-

THE COMMISSIONER FOR VALUATIONS FOR NORTHERN IRELAND - RESPONDENT

Chairman: Mr Keith Gibson B.L.

Members: Mr Brian Reid FRICS and Ms Noreen Wright

Date of hearing: 17 May 2021

DECISION

Introduction

1. This is an appeal by Mr Black, as Appellant, in respect of the assessment of the capital value of his property situate at 1A Wynchurch Road, Belfast, BT6 0JH. The appeal is made pursuant to the relevant provisions as set out in the Rates (Northern Ireland) Order 1977, as amended.
2. For the purposes of this appeal the relevant capital valuation date is the 1st January 2005 (see Schedule 12, paragraph 7(4) of the Rates Order). The other point in time which is often referenced in the context of these appeals is the 1st April 2007 which is the date upon which the valuation lists for domestic properties became operative. What this means, in practice, is that for the purposes of any appeal the Tribunal can only consider whether or not the capital valuation was correct as of the 1st January 2005.
3. Self-evidently, this can cause a number of problems both for homeowners and valuers alike. The most obvious practical difficulty is in respect of properties which are built or constructed or substantially renovated post the 1st January 2005 valuation date. In those instances the valuer, using his or her skill and expertise, must try and assess the value of the new property with reference to similar properties already built and valued earlier (those similar properties are often referred to in valuation term as “the comparables”).

4. For homeowners, they face two significant problems in advancing their appeals; one is an evidential problem; the other, a legal one (what is known as the 'tone of the list' statutory presumption). In respect of the evidential problem, homeowners have to seek to establish to the satisfaction of the Tribunal (and the onus and burden is on them as Appellants) that other properties sold or agreed for sale at the relevant time (the 1st January 2005) demonstrate that their 1st January 2005 valuation was wrong. Gathering that evidence is often very difficult, even for professional valuers.
5. The second difficulty faced by Appellants is that contained at paragraph 7 of Schedule 12 to the Rates Order which states, in a fine example of legalese;

"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 hereditaments whose capital value has been revised."

6. This is what valuers know as the "tone of the list" or the "tone of the comparables". What this means in practice is that if within a relatively short period of time in a particular area (which in an urban setting, might well stretch only to one street, but in a rural setting may stretch to many miles) there are no or limited challenges to a number of valuations or, if challenges are abandoned or ultimately unsuccessful, then a point can be reached within a relatively short space of time although it would have to be said that a reliable tone of the list for the hereditaments (basically the buildings) in a location or category has been settled - see **A-Wear Limited -v- Commissioner of Valuation VR/3/2001**.
7. Whilst the presumption, as it pertains to the tone of the list, is not to be followed slavishly, if it can be established to the Tribunal's satisfaction that the tone has settled and has been settled for a considerable period of time (measured in years not months) then the prospects of displacing the presumption are significantly diminished.

The Appellant's Appeal

8. The starting point in valuing any property for the purposes of the Rates Order is a number of assumptions which the Valuer and indeed all parties to the appeal must make in respect of the subject property. They are contained in Schedule 12, paragraphs 9 - 15 of the Rates (Northern Ireland) Order 1977 and may be summarised as follows:
 - (i) That the property, if sold, was to be sold with vacant possession (i.e. no sitting tenants or difficulty in obtaining possession).
 - (ii) That title to the property is by way of Fee Simple or by way of long Lease (i.e. that the value to the property is not diminished by the fact that the title is in some way defective).
 - (iii) That the property is sold free from any rent charge or other encumbrance (again that the title is not diminished in value by some sort of obligation on the owner).

- (iv) That the property is in an average state of internal repair and fit-out, having regard to the age and character of the property and its location (this is more nuanced qualification – if a property has a serious defect, which is something distinct from similar properties of similar age and character then the assumption can be displaced).
 - (v) That the property is in the same circumstances it would have been expected to have been in on the relevant date, defined as the 1st April 2007 (i.e. that there has been no material change in the property from the 1st January 2005 to the 1st April 2007).
 - (vi) That Development value is not to be taken into account (i.e. planning hope is to be ignored).
 - (vii) That the property is 'legal' i.e. not in breach of any planning or building control requirements.
9. What this means in practice is that both the Valuer on behalf of the Respondent and indeed the Tribunal make a number of assumptions about all properties in the valuation list in an attempt to ensure conformity. Those assumptions can however be displaced.

The Appellant's Appeal

10. In this particular case the Appellant believes that the actual valuation of his property should be £205,000 and his grounds of appeal, as set out in his Appeal Notice, may be summarised as follows:
- a) That the capital value of his property, as assessed by the Respondent of £240,000, reflects the current market value rather than the value at 2005.
 - b) That, in comparison with other properties in the Wynchurch Road and surrounding Wynchurch area, they all had been assessed at lesser capital values, despite some having double storey extensions, attic conversions etc., none of which applied to the Appellant's property.
 - c) In particular, the Appellant sought to identify number 4 Wynchurch Road, which was a property larger than his with a significantly larger garden, outside space and which had a capital value of £205,000.
 - d) That the Respondent had significantly erred in using comparables to assess the Appellant's property which was appropriate, being comparables located in the Rosetta Road East and Downshire Road.
11. In support of the Appellant's appeal generally, he identified a number of comparables including the following, namely;
- (a) 2 Wynchurch Road with a capital value of £160,000 (with the benefit of a garage);
 - (b) 3 Wynchurch Road with a capital value of £170,000 (with an extension, larger garden and garage);
 - (c) 4 Wynchurch Road with a capital value of £205,000 (complete with double storey extension and attic conversion together with a larger garden);
 - (d) 5 Wynchurch Road with a capital value of £190,000 (again with a double storey extension, attic conversion and brick garage);

(e) 7 Wynchurch Road with a capital value of £160,000 (significantly larger garden and brick garage).

12. Pausing here, the Appellant is to be commended in the way in which his case was presented. All too often, there is no attempt by Appellants to identify suitable and appropriate comparables or to address the basis upon which LPS have made their assessment. That is not this case.
13. Doubtless the care which the Appellant had taken with his preparation of the case meant that the initial assessment on the 27th May 2020 by the District Valuer of £270,000 was reduced by the Respondent upon the Appellant's first challenge to some £240,000. The Appellant remained dissatisfied, however, and, as such, the decision of the Commissioner affirming an amended capital value assessment of £240,000 was further appealed on the 2nd September 2020 to this Tribunal.

The Respondent's Position

14. The Respondent identified the property as a post-1990 2.5 storey semi-detached house situated in the suburban location of approximately 2.5 miles from Belfast City Centre with a gross external area of 173.97m². The property is a four bed roomed house and none of the material details surrounding the description of the property were in dispute. The main point which the Respondent drew the Tribunal's attention to was the condition of the subject property in comparison with the properties identified by the Appellant as comparables.
15. The property which forms the basis of this appeal was constructed much more recently than the comparables produced by the Appellant. As highlighted by the Respondent, relying on the decision in **Church -v- Commissioner of Valuations NIVT 4/15**, newly constructed properties will always achieve a higher price on the open market than older properties. The reasons for this are fairly obvious. New properties are built to a much higher thermal standard than older properties and there is less maintenance associated with a new build property than there would be with a much older property. All of this leaves a newer property normally worth more than an older one. 16a-16d are all Privately built post - 1990
16. This is of course a presumption which can be rebutted but the Respondent called to its aid a number of comparables including:
 - (a) 10A Rosetta Road, a property of smaller size (141.7 m²), also being a semi-detached house. This property is located some 0.3 miles from the subject property and has a capital value of £230,000.
 - (b) 10B Rosetta Road. As might be expected, this is the sister property of 10A and the only distinguishing factor was the existence of a garage which led to an increase in the capital value to £250,000. Both these properties were of a lesser size than the subject property.
 - (c) 46A Downshire Road, Belfast – again, a semi-detached property some 0.3 miles from the subject property but of a lesser size – 130m². It had a capital value of £220,000.

(d) 694 Ravenhill Road, Belfast – Again, a semi-detached house, again of lesser size than the subject property (152.5m²), 0.5 miles away from the subject property and with a capital value of £235,000.

17. In compiling comparable evidence the compiler should ensure that the list of comparables is:

- a) Comprehensive (ideally a number of comparables rather than a single transaction or event).
- b) Physically very similar (ideally identical to the property being valued).
- c) Timeous, i.e. of the relevant time. Quite obviously, if a valuer is valuing a property for the purpose of private treaty sale today then property sales within the last number of months are considerably more relevant than property sales three to four years ago. As set out above, the relevant time is the 1st January 2005 for the purposes of this appeal.
- d) Sales or transfers at an arm's length transaction, i.e. property sales at public auction or properly marketed private treaty sales. By way of example, sales to family or friends or sales that have some added incentive or distorting effect are less relevant.
- e) Verifiable (the most easy and obvious example is sales which are recorded in Land Registry, where the amount paid is recorded).

18. In addition to the above comparables, the Tribunal also considered number 1 Wynchurch Road which has a capital value of £240,000 also. This valuation has not been challenged by that homeowner.

Tribunal Decision

19. What the Tribunal is looking for in assessing the merits of any appeal is whether or not the Respondent has failed to take into account something it should have when assessing the capital value or taken into account something it shouldn't. This is most readily done by assessing the value of the property with reference to comparables. What any competent valuer and what the Tribunal will look at is whether or not it can be said that values in a certain area have settled and are consistent.

20. This is most readily done when there is a buoyant property market and there are lots of open market transactions. In circumstances such as this, where one is not looking at the movement in the market to assess value, one turns to the capital values which have been assessed in the area to determine whether or not it can be said that the values have reached a consistent and ascertainable level – as set out above in paragraphs 5-7 what is known in valuer's terms as the "tone of the list".

21. Here, there is, quite obviously, a settled tone for semi-detached properties of a certain size in the subject area. The comparables produced by the Respondent are to be preferred to those produced by the Appellant, primarily because of the nature and character of the Appellant's property in comparison with that of the comparables identified by the Appellant.

22. The Respondent's comparables all match the subject property for age of construction and the property at 694 Ravenhill Road was the closest in terms of size. Given that it was valued without challenge at £235,000 and is slightly smaller than the subject property, the assessed value of £240,000 does not seem to be in any way misplaced.
23. Unfortunately, therefore, the Tribunal has unanimously decided to dismiss the Appellant's appeal. The capital value assessed by the Respondent is, in all the circumstances, appropriate and fair.

**Signed: Mr Keith Gibson, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 21 September 2021