

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT62/12**

**ROD CAMPBELL - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Alan Reid, LL.B.
Members: Sandy Moore and Pat Cumiskey**

Armagh, 26th March 2013

DECISION

The unanimous decision of the Tribunal is that the Notice of Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 22nd October 2012 is upheld and the Appellant's Appeal is dismissed.

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 dated 31st October 2012 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 22nd October 2012 in respect of the Valuation of a hereditament situated at 32 Primrose Park, Magheramenagh, Portrush BT56 8TD.
- 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 Valuation Certificate issued by the Commissioner of Valuation on 5th November 2012
- 3.2 The Appellant’s Notice of Appeal dated 31st October 2012
- 3.3 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Stephen Stuart of Land and Property Services and received by the Tribunals Unit dated 11th February 2013
- 3.4 Correspondence between the Tribunal and the parties including email correspondence as follows –
 - 3.4.1 From the Appellant dated 25th February 2013
 - 3.4.2 From Michael McGrady for the Commissioner of Valuation dated 1st March 2013
 - 3.4.3 From the Appellant dated 12th March 2013 and 13th March 2013

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 32 Primrose Park, Magheramenagh, Portrush BT56 8TD (“the Subject Property”). The Subject Property was stated to be owned by the Appellant who the Tribunal understood to be the rate payer. The Tribunal had no other information regarding the title to the Subject Property nor regarding its physical construction and characteristics save as mentioned in the papers before the Tribunal and referred to herein.

- 4.2 The Subject Property is a detached chalet style bungalow built subsequently to 1990. It has a gross external area ("GEA") of 195 m² and a garage measuring 19 m². It comprises three reception rooms, a utility room, four bedrooms and a bathroom. It has full oil central heating, UPVA double glazed windows and mains water, electricity and sewerage. The house is of block cavity construction with a pitched tile roof and dry dash render. It is located in a cul-de-sac of other dwellings in Primrose Park, Portrush and currently has a Capital Value Assessment of £195,000.00 at the Antecedent Valuation Date ("AVD") that date being 1st January 2005.
- 4.3 The Subject Property had previously been assessed in the Valuation List on 1st April 2007 as having a Capital Value Assessment of £130,000.00 at the AVD. Subsequently the Capital Value was reassessed to take account of an extension which had been added to the Property and the construction of a garage bringing the GEA of the bungalow to 195 m² together with the garage of 19 m². As a consequence the Capital Value was reassessed on 24th September 2012 at £195,000.00 as at the AVD.
- 4.4 In arriving at the Capital Value Assessment figure of £195,000.00, regard was had to the Capital Value Assessments of other properties in the Valuation List considered comparable. These comparables were set out in a Schedule to the "Presentation of Evidence" submitted on behalf of the Commissioner. There were a total of six comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and of all of the comparables.
- 4.5 The Capital Value Assessments of all of the comparable properties were unchallenged.

5. The Appellant's Submission

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

- 5.1 Other similar properties in the area are valued at considerably less than the Capital Value Assessment of the Subject Property.
- 5.2 In particular, the Appellant referred to adjacent hereditaments at 30 Primrose Park with an AVD in the Valuation List of £135,000.00 and at 34 Primrose Park with an AVD in the Valuation List of £155,000.00. The Appellant contended that No 34 Primrose Park was a bungalow with a conversion and garage and that the Subject Property differed only from No 34 Primrose Park because of the extension to the Subject Property.
- 5.3 The Appellant also contended that the Subject Property had been valued in 2007 by two Estate Agents at £165,000.00-£175,000.00 and contended that therefore the AVD of the Property at 1st January 2005 would have been less due to house price inflation between 2005 and 2007. The Appellant did not provide details of the Estate Agents' Valuations in support of his contention.
- 5.4 The Appellant contended that the properties put forward by the Respondent as comparables were not valid comparables because they

- were all “full two storey buildings” whereas the Subject Property was a bungalow in the upstairs of which it was not possible to stand upright.
- 5.5 The Appellant pointed to the recorded sale of No 24 Primrose Park in December 2005 for £195,000.00 and 42 Primrose Park in November 2005 also for £195,000.00 and contended that the Capital Value Assessment as at the AVD of the Subject Property at £195,000.00 was excessive.
 - 5.6 The actual Capital Valuation of the Subject Property as at the AVD should be £165,000.00-£170,000.00

6.The Respondent’s Submissions

In summary, the following submissions were made on behalf of the Commissioner -

- 6.1 The Capital Value Assessment of the Subject Property had been carried out in accordance with the legislation contained in the 1977 Order. In particular, as required by Schedule 12 of the 1977 Order regard was had to the Capital Values in the Valuation List of other properties.
- 6.2 The first comparable property put forward by the Respondent was No 28 Primrose Park. This is a post-1990 detached house with a GEA of 198 m². It has an unchallenged Capital Valuation of £185,000.00.
- 6.3 The second comparable put forward by the Respondent was No 24 Primrose Park which again is a post-1990 detached house with a GEA of 198 m² and an unchallenged Capital Valuation of is £185,000.00.
- 6.4 The third comparable put forward by the Respondent was No 46 Primrose Park. Again this was a post-1990 detached house with a GEA of 194 m² and also a garage of 22 m². Its unchallenged Capital Value is £195,000.00.
- 6.5 The fourth comparable put forward by the Respondent was at 48 Primrose Park. Again this is a post-1990 detached house with a GEA of 181 m² and a garage of 23.4 m². Its unchallenged Capital Value is £185,000.00.
- 6.6 The fifth comparable put forward by the Respondent was at 10 Magheramenagh Drive. This was a post-1990 dwelling described as a “detached chalet” with a GEA of 195 m² and a garage of 32 m². Its unchallenged Capital Value was £205,000.00
- 6.7 The sixth comparable put forward by the Respondent was at 65 Magheramenagh Drive. It is described as a post-1990 detached chalet with a GEA of 195 m² and a garage of 37.4 m². Its unchallenged Capital Value is £205,000.00.
- 6.8 The Respondent’s evidence also referred to a further property at 42 Primrose Park. A description of the property was not provided but its GEA was stated to be 172 m² and garage of 24 m² with what was described as “ancillary space” of 13 m². Its Capital Value was not confirmed to the Tribunal but the Respondent contended that it had been sold on 25th

- November 2005 for £195,000.00 and this evidence was not challenged by the Appellant.
- 6.9 The Respondent contends that having had regard to the other Capital Values of properties in the Valuation List the Capital Value of £195,000.00 assessed for the Subject Property rests comfortably within the established tone of the Valuation List and “fits well” with properties of a similar size in Primrose Park and the general neighbourhood.
- 6.10 Dealing with the Appellant’s contention that the Subject Property was in fact a bungalow and that it was not possible to stand upright upstairs in it, the Respondent contended that for domestic rating purposes floor space in chalet type dwellings is measured to include only areas with a minimum of 1.5 metres in ceiling height so that any part of the floor area which does not allow standing room of at least 1.5 metres in height is effectively ignored in the assessment in accordance with the RICS Code of Measuring Practice.
- 6.11 The Respondent accordingly challenged the comparables at numbers 30 and 34 Primrose Park put forward by the Appellant on the basis that they were not in fact similarly sized to the Subject Property as the Subject Property had a first floor which was included within its measured GEA.

7. The Tribunal's Decision

- 7.1 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 £195,000.00. 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 any of the Capital Value Assessments of any of the comparable properties put forward on behalf of the Commissioner. He did however contend that the Subject Property differed from some of the comparables in that it did not effectively have a first floor in which one was capable of standing and therefore by implication the GEA of the Subject Property had not been calculated correctly. The Tribunal was satisfied on the balance of probabilities that the RICS Code of Measuring Practice had been properly applied in calculating the GEAs of both the Subject Property and the comparable properties put forward in evidence by the parties.
- 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 a number of comparable hereditaments the details of which are referred to in paragraphs 6.2 to 6.8 inclusive above.
- 7.6.1 The comparables numbers 28 and 24 Primrose Park whilst being of different styles to the Subject Property are located nearby and have similar GEAs at 198 m². Neither of them have garages. Their Capital Values are each £185,000.00.
- 7.6.2 The comparable at 46 Primrose Park whilst again of a differing style has an almost identical size GEA and garage. Its Capital Value is £195,000.00.
- 7.6.3 The comparable at 48 Primrose Park whilst again of a different style to the Subject Property has a smaller GEA at 181 m² and a slightly larger garage at 23.4 m². Its Capital Value is £185,000.00.
- 7.6.4 The comparables at 10 Magheramenagh Drive and 65 Magheramenagh Drive are detached chalet type dwellings each with GEAs of 195 m² and garages measuring 32 m² and 37.4 m² respectively. Both of these comparables have Capital Values of £205,000.00
- 7.8 The Appellant put forward two alternative comparables at Nos 30 and 34 Primrose Park. These properties are significantly smaller than the Subject Property having GEAs of 112 m² and 149 m² respectively. They have garages similar to the Subject Property measuring 22 m² and 19 m² respectively. Their respective Capital Values are £135,000.00 and £155,000.00.
- 7.9 None of the Capital Values for the comparable properties put forward by either the Appellant or the Respondent were challenged. Having carefully

- considered the particulars and Capital Values of all of the comparable properties put forward by the parties, the Tribunal is satisfied on the balance of probabilities that those comparables support the Respondent's contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £195,000.00 as it presently appears in the Valuation List.
- 7.10 The Tribunal also took account of the details of sales of two of the properties referred to in the evidence of the parties. The Tribunal did not consider evidence of sales of any properties in 2007 to be relevant in assessing the Capital Value of the Subject Property at the AVD of 1st January 2005 but did consider the evidence of the sales of No 24 Primrose Park and 42 Primrose Park in late 2005. Both properties had been sold for £195,000.00. 24 Primrose Park had a slightly larger GEA than the Subject Property but, unlike the Subject Property did not have a garage. 42 Primrose Park had a somewhat smaller GEA of 172 m² but did have a garage. The Tribunal considered that, on the balance of probabilities, the recorded sale prices of these two properties lent further support for the contention that the Capital Value of the Subject Property at the AVD should be £195,000.00.
- 7.11 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 22nd October 2012 is dismissed.

Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal

23rd April 2013