

NORTHERN IRELAND VALUATION TRIBUNAL

**THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007**

CASE REFERENCE NUMBER: NIVT 58/14

CHRISTOPHER O'NEILL – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NI - RESPONDENT

Northern Ireland Valuation Tribunal

Chair: Ms Sarah Ramsey

Members: Mr Philip Murphy (Valuer) and Ms Noreen Wright (Lay)

Belfast 6 July 2015

DECISION AND REASONS

The Hearing

1. The Appellant, Mr O'Neill, appeared at the Tribunal and represented himself. Ms Sonia McIntyre MRICS represented the Respondent.
2. The property the subject of the appeal is 16A Kilfarn Road, Madden, County Armagh BT60 3LZ ("the subject property"). The Respondent's Presentation of Evidence describes the subject property as a privately built detached 1.5 storey dwelling of block construction with a pitched tiled roof located off a minor road approximately 6.5 miles from Armagh city Centre. The property has a GEA of 380m².
3. The Land and Property Services (LPS) initially assessed the capital value (CV) of the property arising out of building control reference ON/2012/0012 as £350 000. The property was constructed in 2014. The Appellant applied for a reduction in his rates and the CV was reduced to £325 000. The Appellant made a subsequent application seeking a further reduction but the LPS decided that no reduction was warranted. The Appellant appealed this decision to the Commissioner of Valuation who upheld the decision and decided that the CV should remain at £325 000. The Appellant appeals against that decision under Article 54 of the Rates (Northern Ireland) Order 1977, as amended (hereinafter the 1977 Order).
4. The following documents were before the Tribunal;
 - Commissioner's decision on appeal dated 25 February 2015;
 - Notice of appeal along with grounds of appeal;

- Respondent's presentation of evidence;
 - Copy GEA Survey dated 23 June 2015;
 - Copy Floor Plan from house drawings provided by Mr O'Neill
 - Correspondence between the Tribunal and the parties including letter from Mr O'Neill dated 15 June 2015 and response to this letter from Sonia McIntyre MRICS
 - Valuation report from Peter Cullen & Son Estate Agents dated 29 January 2015
 - Correspondence from Hughes Insurance dated 2 April 2015;
 - Mortgage offer from Ulster Bank dated 18 March 2014
5. The Tribunal heard evidence and submissions from Mr O'Neill and Ms McIntyre. The Tribunal reserved its decision.
 6. This notice communicates the Tribunal's decision and contains the reasons for the decision in accordance with Rule 19 of the Valuation Tribunal (NI) Rules 2007.

The Law

7. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (hereinafter the 2006 Order).
8. For the purposes of this appeal the relevant provisions of Schedule 12 of the 1977 Order are as follows;

7. — (1) Subject to the provisions of this Schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9 to 15, the hereditament 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.

(2) 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 hereditament whose capital value is being revised.

(3) The assumptions mentioned in paragraphs 9 to 15 shall apply for the purposes of determining whether one hereditament is a comparable hereditament in the same state and circumstances as another with the omission of sub-paragraphs (2) and (3) of paragraph 12.

(4) In sub-paragraph (1) "relevant capital valuation date" means 1st January 2005 or such date as the Department may substitute by order made subject to negative resolution for the purposes of a new capital value list.

Capital value – the assumptions

12. — (1) The hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.

(2) The hereditament is otherwise in the state and circumstances in which it might reasonably be expected to be on the relevant date.

9. Article 54(3) of the 1977 Order provides that, on appeal, any valuation shown in a valuation list with respect to a hereditament shall be deemed to be correct until the contrary is shown.

The Tribunal's Findings

10. The presumption in Article 54(3) of the 1977 Order that any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown means that the burden is upon the Appellant to show that the capital valuation is not correct.
11. The LPS presentation of evidence sets out details of four comparable properties. The comparable properties are in the nearby area given the rural location and the relevant details are as follows;
- 74 Kilcreevy Road, this property is 1 mile from the subject property and is a 1 3/4-story house. It is described as having a GEA of 318m² outbuildings of 73m² and had a capital value of £320 000. It had a double detached garage and a shorter access laneway than the subject property. The site size was similar to the subject property;
 - 177 Crosskeys Road, this property is 2.9 miles from the subject property and is a 1 3/4-story house. It is described as having a GEA of 366m², outbuildings of 55 m² (plus 27m² first floor) and has a capital value of £345 000. It had a double garage with additional space above. It had a private laneway to the road. The site size was similar to the subject property;
 - 40 Iskymeadow Road, this property is 2.2 miles from the subject and has a GEA of 391 m² and outbuildings of 98m² with a capital value of £350 000. It is a 1 3/4 story house. It had a more substantial garage than the subject property and was closer to the road;
 - 105 Monaghan Road, this property is 2.5 miles from the subject property and is a 1 3/4-story house. It has a GEA of 398 m² with outbuildings of 88m² and a capital value of £375 000. It had a double garage and was closer to the road than the subject property.
12. The appellant contends that he disagrees with the Capital value as assessed. In his notice of appeal he stated that a recent independent Valuer valued the subject property at £240 000. For mortgage and insurance policies the subject property was valued at £250 000. Mr O'Neill contended that his new value on a "per square metre" value, although cheaper than that of his neighbours, was still too high. He further outlined that the subject property had a poor road network, no footpaths or street lighting, no salting of roads or bus networks.

14. Paragraph 7 (4) of Schedule 12 of the 1977 Order provides that the relevant capital valuation date for the purposes is 1 January 2005. This means that the capital value for a property is the amount it would reasonably have been expected to realise if a willing seller had sold it on the open market on 1 January 2005.

15. As the subject property, like many other properties on the Valuation list, was not sold on the open market on 1 January 2005 we must estimate the capital value of the subject property by having regard to the capital values in the valuation list of comparable properties in the same state and circumstances as the subject property. We must assume that the subject property is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality (schedule 12 paragraph 12 of the 1977 Order). That means we cannot take account of any internal disrepair in comparing the properties.

15. Ms McIntyre submitted that the comparables put forward in the LPS presentation of evidence are valid comparables as they are properties of a similar age and in a similar area to the subject property. She said that it was presumed that all the comparables had central heating. The subject property was a bungalow with a roof space conversion. Ms McIntyre had been unable to find similar detached bungalows in the vicinity, she stated in evidence that bungalows can have their own tone and at times may command a higher capital value.

16. Mr O'Neill acknowledged he did not take issue with the LPS assessment of the GEA of the subject property. He submitted that his Ulster Bank Mortgage had valued the property at £250 000 on 18 March 2014. Such a valuation however is not relevant in determining the capital value.

17. Mr O'Neill had provided documentation from Hughes Insurance Company in correspondence dated 2 April 2015. Hughes had upon request insured the property at a rebuild cost of £250 000. This rebuild cost is not a factor the Tribunal takes into account when considering the statutory criteria.

18. The Tribunal acknowledged that Mr O'Neill had provided a valuation dated 29 January 2015 from local estate agent Peter Cullen & Company of £240 000. He made reference to his personal circumstances and his ability to afford to pay his rates bill. However, regardless of whatever sympathy the Tribunal may have in relation to Mr O'Neill's financial circumstances the surveyor and the panel must apply the statutory test in relation to capital valuations as set out above. We must consider whether there is evidence such as to displace the presumption that the CV is correct. We must look at comparable properties.

17. In evidence Mr O'Neill declined to take any issue with the comparables provided by LPS in presenting their case.

18. Having considered all of the comparables the panel was satisfied that, in accordance with schedule 12 paragraph 7 set out above, the comparable properties put forward by the Respondent in the Presentation of Evidence are appropriate as they are similar in age and in the in the same state and circumstances as the subject property. The panel is satisfied that the capital value of the subject property is consistent with these properties.

Decision

19. The Appellant has not discharged the burden upon him to show that the capital value assessed for the subject property is not correct in accordance with paragraph 7 of Schedule 12 of the 1977 Order. In all of the circumstances and in light of the findings above the Tribunal is satisfied that the valuation shown on the valuation list in relation to the subject property is correct.

20. The unanimous decision of the Tribunal is that the appeal is dismissed.



**Ms Sarah Ramsey, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties:

20th August 2015