

**NORTHERN IRELAND VALUATION TRIBUNAL
THE RATES (NORTHERN IRELAND) ORDER 1977 (AS AMENDED) AND THE
VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007
CASE REFERENCE NUMBER: NIVT84/12**

**LYNNE DAVISON - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT**

Northern Ireland Valuation Tribunal

**Chairman: Alan Reid, LL.B.
Member: Chris Kenton BSc (Est.Man) FRICS**

Belfast, 20th March 2013

DECISION

The unanimous decision of the Tribunal is that the Appeal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 29th January 2013 is allowed and that the Capital Value of the property at 4 Glendoyle Cottages, Dunadry, County Antrim BT41 4RW be assessed at £180,000.00 and the Tribunal List to be amended accordingly.

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 18th February 2013 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 29th January 2013 in respect of the Valuation of a hereditament situated at 4 Glendoyle Cottages, Dunadry, County Antrim BT41 4RW .
- 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.

- 1.4 The Appeal was listed for determination by the Tribunal on 20th March 2014. On that date one of the Tribunal members was unavailable . Rule 4(3) of the Valuation Tribunal Rules (Northern Ireland) 2007 provides that an Appeal can be considered and determined in the absence of any one member other than the Chairman provided the parties consent. The Secretary to the Tribunal contacted the parties by telephone and the parties confirmed their consent to the Appeal being determined by two Tribunal members.

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 29th January 2013.
- 3.2 The Appellant’s Notice of Appeal dated 18th February 2013.
- 3.3 A written submission to the Tribunals Unit dated 19th February 2013 from the Appellant with attached appendices and photographs as referred to therein in support of her Appeal.
- 3.4 A document entitled “Presentation of Evidence” submitted on behalf of the Commissioner by Stewart Robinson MRICS of Land and Property Services and received by the Tribunals Unit on 18th September 2013.
- 3.5 A further letter dated 4th October 2013 submitted by the Appellant to the Tribunal in support of her Appeal.
- 3.6 A further letter dated 15th October 2013 submitted by the Respondent in response to the Appellant’s letter of 4th October 2013.
- 3.7 A final letter from the Appellant dated 17th November 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 three storey two bedroomed end terrace “town house” type property with no garage situated at 4 Glendoyle Cottages, Dunadry, County Antrim BT41 4RW (“the Subject Property”). It has a Gross External Area (“GEA”) of 157 m². 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 was built in 2012. It is located in a development on the edge of Dunadry and comprises three detached cottages and seven town houses accessed via a private tarmaced laneway with electric gates at the entrance and street lighting. The Subject Property is of modern construction with cut stone façade and a pitched hipped and tiled roof. The Subject Property has PVC double-glazing, gas fired central heating, mains electricity and water. It is served by a septic tank. The development is situated adjacent to the Six Mile Water River. Construction of further dwellings at the development is ongoing. The Subject Property has a current Capital Value Assessment of £190,000.00 at the Antecedent Valuation Date (“AVD”) that date being 1st January 2005.
- 4.3 In arriving at the Capital Value Assessment figure of £190,000.00 regard was had to the Capital Value Assessments of other properties in the Valuation List considered to be 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 five comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and all of the comparables.
- 4.4 The Capital Value Assessments of all of the comparable properties referred to on behalf of the Commissioner were unchallenged.

5. The Appellant's Submission

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

- 5.1 On comparing the Capital Value of the Subject Property with the Capital Value of other similar properties in the Dunadry area the Capital Value of the Subject Property has been overstated by at least £20,000.00.
- 5.2 The Appellant referred the Tribunal to three properties all within one mile of the Subject Property in support of her contentions and provided descriptions and photographs of each.

- 5.2.1 The Appellant's first comparable was at 14 The Old Station, Dunadry. Its GEA is noted in the Valuation List at 146.04 m² and as comprising a house and garage with a Capital Valuation of £165,000.00.
- 5.2.2 The Appellant's second comparable property was 31 Bleach Green, Dunadry which is a house without garage with a GEA of 174.6 m² and a Capital Value of £195,000.00.
- 5.2.3 The Appellant's third comparable is 14 The Old Mill, Dunadry which is a house without garage. Its GEA is 202.18 m² and its Capital Value is £200,000.00.
- 5.3 In addition to inviting the Tribunal to compare the respective characteristics, GEAs and Capital Values of the said comparables with those of the Subject Property, the Appellant contended that the following characteristics of the Subject Property supported a reduction in the Capital Valuation of the Subject Property –
1. The gas central heating is supplied from a storage tank rather than mains supply and is therefore expensive.
 2. Foul sewerage is by means of a septic tank rather than a mains sewer.
 3. The Subject Property has no garage or storage facilities.
 4. The Subject Property does not have a chimney flue and therefore only has an electric fire.
 5. The Subject Property has only two bedrooms
 6. The Subject Property is subject to an annual maintenance charge to cover costs of the security gates and private laneway.
- 5.4 The Appellant suggested that if her Appeal was unsuccessful and the Capital Value of the Subject Property was confirmed at £190,000.00 then the Capital Values of three dwellings referred to in the Commissioner's evidence – Nos 12B, 12C and 24 The Old Mill Development – should be increased.
- 5.5 The Appellant contended that the Capital Valuation of the Subject Property was "at least £10,000.00 too high" and in her Notice of Appeal indicated that she considered it should be £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 On behalf of the Commissioner, Mr Robinson sought to distinguish the comparables put forward on behalf of the Appellant in support of her Appeal as follows -
- 6.2.1 With regard to 14 The Old Station, Dunadry although he conceded that it was a similar age and size to the Subject Property and had a single

- garage it should be regarded as of being a lesser quality external finish and construction and that the Glendoyle Cottages development in which the Subject Property was located would be considered “somewhat more superior and more exclusive than that of The Old Station development”.
- 6.2.2 31 Bleach Green was of similar age to the Subject Property but was 17.6 m² larger. It should be considered as of being of inferior construction to the Subject Property having only a smooth cast render finish and the Bleach Green development would not be deemed to be “as desirable or as exclusive as the Glendoyle Cottage development”.
- 6.2.3 14 The Old Mill was of similar age and construction to the Subject Property and built with a similar finish by the same developers as the Subject Property. It was significantly larger than the Subject Property by 45 m² and had a Capital Value of £200,000.00 compared to the Subject Property’s Capital Value of £190,000.00. Mr Robinson conceded that this made the Capital Value of the Subject Property appear excessive but argued that when the Capital Values of all of the modern terrace houses in The Old Mill development is investigated the Capital Values of Nos 14-17 The Old Mill appear to be “out of tone with the rest of the development”. He cited No 21 The Old Mill which has a GEA of 187.36 m² and a Capital Value of £220,000.00 and 26 The Old Mill which also has a GEA of 187.36 m² with a garage and a Capital Value of £230,000.00. It was the Commissioner’s view that 4 Glendoyle Cottages should not be valued in comparison to the assessment of a property which was itself not “in tone”. It was indicated on behalf of the Commissioner that a reassessment of the Capital Values of some properties in The Old Mill development was under consideration.
- 6.2.4 It was submitted on behalf of the Respondent that the Capital Value of the Subject Property at £190,000.00 based upon its GEA of 157 m² was “in tone” with comparable properties in the area. Reference was made to the comparables submitted by the Respondent in support of this contention as follows –
- 6.3.1 The Respondent’s first comparables were properties at 12B and 12C The Old Mill development each built in approximately 1996 and of similar construction to the Subject Property. They each had GEA’s of 149 m² (8 m² smaller than the Subject Property) and had unchallenged Capital Values of £200,000.00.
- 6.3.2 The third comparable submitted by the Respondent was a property at 24 The Old Mill development which was built in approximately 2001 of similar construction to the Subject Property. Its GEA is 174 m² and is therefore 17 m² larger than the Subject Property. It has a Capital Value of £220,000.00.
- 6.3.3 The fourth comparable put forward by the Respondent was at 59 Bleach Green, Dunadry. This is a terrace house built in approximately 1999. On behalf of the Respondent it was contended that the property was of inferior construction to the Subject Property and situated in a larger and less attractive development in Dunadry. It has a GEA of 150 m² (7 m² smaller

than the Subject Property but has an integral garage. Its Capital Value is £180,000.00.

- 6.3.4 The final comparable put forward by the Respondent was No 14 The Old Station, Dunadry. This was a terrace house built in approximately 2005. Again the Respondent submitted that it was of inferior construction to the Subject Property. It has a GEA of 146.4 m² and a garage. It has a Capital Value of £165,000.00.
- 6.4 The Respondent was of the view that greater weight should be applied to the comparables at 12B, 12C and 24 The Old Mill because of the nature of the Subject Property's construction and the nature of the Glendoyle Cottages development including its attractive location with a river running at the rear of the properties there.
- 6.5 In response to the Appellant's contentions that the Subject Property had certain characteristics which should be taken into account as pointing to a reduction in its Capital Value the Respondent made the following submissions.
- 6.5.1 Gas central heating from a communal gas storage tank is common in small developments and has no impact on the Capital Value of a property.
- 6.5.2 Septic tanks are common in rural locations and would not reduce the value of a property.
- 6.5.3 In conducting the Capital Value Assessment of the Subject Property it was noted that it did not have a garage or outbuildings.
- 6.5.4 It was not uncommon for modern dwellings not to have a chimney flue or open fireplace.
- 6.5.5 Whilst the GEA of a property is relevant to its Capital Value assessment, the internal layout/accommodation and the use to which the property is put is a matter for the owner/occupier.
- 6.5.6 The electric gates and shared private laneway at the Glendoyle Cottages development enhance the security and privacy of the development as evidenced by the agreement of owners of dwellings in the development to pay the annual maintenance charge in respect of them.
- 6.6 The Respondent contended that, based upon the comparable evidence, the Capital Value of the Subject Property should remain unchanged at £190,000.00.

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 £190,000.00. 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.
- 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.
- 7.6 The Tribunal was referred by the parties to a number of comparable hereditaments the details of which have been referred to above.
- 7.7 The Tribunal has considered the submissions of the parties in relation to each of the suggested comparables.
- 7.8 On the balance of probabilities, the Tribunal is not persuaded that differences in the external finish of the Subject Property and comparable properties are significant factors in distinguishing their respective Capital Values. The evidence on behalf of the Commissioner was that the developments at The Old Station and at Bleach Green were regarded as less prestigious than the developments at The Old Mill and Glendoyle Cottages. The Appellant did not challenge the Commissioner’s evidence on this point and on the balance of probabilities the Tribunal accepts the Respondent’s evidence in this regard.
- 7.9 The Tribunal was further satisfied on the balance of probabilities that the gas central heating from a communal gas storage tank at the Subject Property, its septic tank sewerage arrangement, its lack of a chimney flue or open fireplace and the electric gates and shared private laneway to the Subject Property are not factors which should be regarded as lessening the value of the Subject Property. However, the Tribunal was not persuaded by the Commissioner’s submission that the internal layout of

accommodation should necessarily be ignored in assessing the Capital Value of a property.

- 7.10 Whilst the Tribunal found assistance in considering the Capital Value of the Subject Property from all of the comparables put forward by the parties it was noted that some individual properties in The Old Mill development appear to have Capital Values which may be “out of tone” with other properties within The Old Mill development. It is noted that some of the Capital Values in The Old Mill development may therefore be the subject of reassessment and, for that reason, the Tribunal has been cautious to ensure that no undue weight is given to the Capital Values of properties at The Old Mill in considering the appropriate Capital Value for the Subject Property. In determining the Capital Value for the Subject Property, it is not part of the Tribunal’s function to determine the Capital Valuations of any other properties which are not the subject of an Appeal to the Tribunal. If, as a result of any reassessments of any of the comparable properties which may be carried out any future Appeal comes before the Tribunal in relation to any such properties the Tribunal will at that time have to consider such Appeals based upon the evidence presented to it at that time.
- 7.11 Having carefully considered the particulars and Capital Values of all of the comparable properties put forward by the Appellant and the Respondent in evidence and the submissions of each party in relation to them, the Tribunal is satisfied on the balance of probabilities that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £180,000.00.
- 7.12 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 29th January 2013 is allowed and that the Capital Value of the property at 4 Glendoyle Cottages, Dunadry, County Antrim BT41 4RW be assessed at £180,000.00 and the Tribunal directs that the Valuation List be amended accordingly.

**Mr Alan Reid, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: