NORTHERN IRELAND VALUATION TRIBUNAL

THE RATES (NORTHERN IRELAND) ORDER 1997 (AS AMENDED) AND

THE VALUATION TRIBUNAL RULES (NORTHERN IRELAND) 2007

CASE REFERENCE: 6234079-2

MR DAVID FAGAN

Appellant

-against-

COMMISSIONER FOR VALUATION FOR NORTHERN IRELAND

Respondent

Northern Ireland Valuation Tribunal

4th September 2013

Chairman: Francis Farrelly Esq. LLM
Members: Siobhan Corr, MRICS and Mr Patrick Cumiskey

Decision

The unanimous decision of Tribunal is that grounds to change its decision of 11th December 2012 have not been established. This decision on the review application should be read with the written reasons provided in respect of the original appeal.

The appeal was heard on the papers in accordance with Rule 11 (1) of the Valuation Tribunal Rules (Northern Ireland) (2007 on the 11th December 2012.

The property is 110 Church Road, Holywood, BT18 9BX. This is an end terrace house. The appellant had appealed the decision of the Commissioner for Valuation for Northern Ireland (The Commissioner) dated the 16th July 2012 that the capital value of the property was £230,000.00 to include a reduction of £100,000.00 in respect of structural defects in the property.

Schedule 12 of the Rates (Northern Ireland) Order 1977(as amended) provides at 7 (1) that the capital value of hereditament shall be the amount which it might reasonably make on the open market. Regard shall be had to the capital values in the Valuation List of comparable hereditaments in the same state and circumstances. Paragraph 12(1) deals with statutory assumptions, namely, that 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. Development potential is not a factor taken into account.

Capital value

The property is an end terrace in a row of nine properties. As comparators, the respondent has used the three adjoining properties. Appearance wise all are virtually identical. There is a very slight variation in size but nothing which would suggest the tone is significantly affected. The capital value placed upon the other properties is £330,000.00. There is no evidence that these values have been challenged successfully.

In the appellant's letter of the 7th December 2012, he refers to the other properties having substantial gardens. The only evidence we had to indicate gardens were the small portions shown to the front and rear of the houses as would be typical in terrace properties. This shows the appellant's property has a backyard that appears slightly smaller than his next-door neighbour's. However, the variation in size does not appear to be significant.

The respondent in an e-mail of 11th December 2012 indicated that the gardens were not found to be value sensitive and therefore the size of the garden is immaterial.

It was our view that in the case of a row of similar terraced houses none of which has a substantial garden, a slight variation in size is unlikely to make any significant difference to the overall tone.

In seeking a review, the appellant in his letter of 22 March 2013 suggests the Tribunal decision was reached in ignorance of a material fact, namely, that the properties used as comparators have substantial gardens. These are not adjoining the properties but are at separate locations to the rear. He has marked in green areas of land which he said are associated with numbers 104, 108 and 106. He estimates that this additional land increases the value of these properties by £50,000.

We agreed to a review because in our original decision we had taken it that the reference to gardens was the area of land immediately surrounding the respective houses. We did not make allowance for any separate parcels of land.

The appellant attended the review hearing. He said that the additional land he is referring to was acquired by the respective owners by adverse possession. He suggested that a `land grab' occurred a number of years ago.

As comparators, the respondent had used the adjoining house, number 108, the next house 106 and 104. The appellant has provided a location map on which he has marked in green the parcels of land which he says are the gardens of these houses. They are not sequential in that the garden he states belongs to number 104 is located at the back of a church hall between houses 90 and 94; adjoining that is a portion of land which he attributed to house number 108. Nearest to his own house is another strip of land which he attributed to house number 106 which in fact is located immediately behind house number 96. From the map there is a passageway from the rear of the terrace which leads into these parcels of land.

The respondent has produced a map from the Land Registry showing the terrace row. The respondent confirms that the assessment of the properties at 104, 106 and 108 do not make reference to any additional garden space. The view taken is that it would not be correct to include them in the assessment as they are not part of the hereditaments in question. This is on the basis they are neither contiguous nor within the same curtilage. Consequently, they would be viewed as separate entities. However, there is no record of them being listed in the Valuation List as separate hereditaments. For completeness, the respondent has also provided valuations of other properties in the row, namely the houses going from 102, 100, 98, 96 and 94. They have been valued respectively at £340,000, £320,000, £340,000, £330,000, and £325,000. The Department have also produced photographs which show the passageway to the rear of these properties which show one side consisting of the rear walls of the subject properties and on the other side, fencing. The passageway appears to lead onto the area said to be associated with number 104 and there is a photograph of a doorway leading into what is said to be the additional garden area of number 104.

The appellant has not been able to provide any corroborative evidence as to the ownership of these parcels of land. We appreciate given the economics of the appeal there are limitations on what he could reasonably do. However, we are left in the position of not knowing who owns these areas and the nature of the title. What is undisputed is that they are separate from the properties the appellant says they are associated with.

It is our conclusion that on the available evidence the respondent's valuation remains correct. Firstly, the appellant has not demonstrated the ownership of these parcels of land. If they have been obtained by adverse possession there is nothing to suggest that they are associated with the title documents of the terrace properties. No evidence has been presented that title to the strips of land have been registered. In correspondence dated 7 December 2012 the appellant refers to 108 having been recently placed on the market with its back garden being a pronounced asset. However, he has not produced any evidence to support this. Secondly, even if the parcels of land have been acquired by the owners of 108, 106 and 104 they are physically quite separate from the respective properties. Although they are not recorded on the Valuation List they would have an independent value from the properties used as comparators. Finally, the respondent has produced valuations for other properties in the terrace which are similar to the comparators. The appellant has not suggested they also have substantial gardens affecting their value.

In conclusion, we continue to find the comparators used are appropriate and do not find it established that they have associated gardens which make the valuations given unreliable.

A further point made by the appellant relates to a mortgage enquiry he made. We have an illustration provided by the potential lender on 26 January 2005. The appellant told the lender the property had a value of £200,000. Any mortgage would be subject to a valuation of the property. We do not find this document particularly helpful because it is not a valuation by an independent body but is the appellant telling the lender his opinion of his property’s value for the purposes of a loan. He has provided a copy of the valuation carried out for the lender by a Mr Graham

following an inspection on 14 February 2004. Mr Graham was unable to give a valuation figure because of the condition of the property and referred to structural movement and bowing of the gable wall and sidewall. The respondent has acknowledged the significant structural problems by discounting its valuation from the other properties by £100,000. The appellant has suggested this would not meet the cost but no alternative higher costing has been provided.

The valuation of the appellant property has been made easier by the fact it is in a row of terraced properties. We find the valuation carried out by the respondent of the other properties has been based upon the properties having a curtilage similar to the appellants. We do not find the reliability of these comparators undermined by the appellant's contention that other parcels of land are associated with three of the properties. The structural problems with the property have been acknowledged by the respondent and we have already dealt with this in our determination.

We have sympathy for the appellant given the fall in property values, aggravated in his case by the condition of his property. However, in terms of valuation we find ourselves in agreement with the respondent's decision. The unanimous conclusion of the Tribunal is that its decision of 11th December 2012 is maintained.

Francis Farrelly
Chairman
Northern Ireland Valuation Tribunal

13th March 2014