

**NORTHERN IRELAND VALUATION TRIBUNAL**

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

**CASE REFERENCE NUMBER: 44/13**

**SEAMUS GRIBBEN – APPELLANT**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mrs Barbara Jemphrey**

**Members: Siobhan Corr and David Rose**

**Belfast, 30<sup>th</sup> April 2014**

**DECISION**

The unanimous decision of the Tribunal is that the Decision on Appeal of the Commissioner of Valuation for Northern Ireland dated 23<sup>rd</sup> April 2012 is upheld and the Appellant's appeal is dismissed.

**REASONS**

**1. Introduction**

1.1 The Appellant sought an appeal against the decision of the Northern Ireland Valuation Tribunal dated 15<sup>th</sup> May 2013, in respect of the valuation of a hereditament situated at Apartment 7, Lansdowne Court, 8 Lansdowne Road, Belfast, BT15 4DA.

1.2 The Lands Tribunal ordered by consent that the Appeal be remitted to the Northern Ireland Valuation Tribunal to:

1.2.1 Set out in the decision its consideration of the impact of the service charge on the capital value rating assessment, if any; and

1.2.2 Set out in the decision its consideration of the state and circumstances of the hereditament at the date of publication of the Valuation List, including the fact that the management company had gone into liquidation and the impact thereof on the capital value rating assessment, if any.

## **2. The Law**

The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order").

2.1 The Tribunal considered the terms of the Schedule 12 of the 1977 Order as amended which states as follows;

7.-(1) Subject to the provisions of this Schedule, for the purpose 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.

2.2 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.

## **3. The Evidence**

The Tribunal heard oral evidence from the Appellant and Michael McGrady on behalf of the Respondent. The Tribunal had before it the Appellant's Notice of Appeal dated 27<sup>th</sup> June 2012 and copies of various documents including the following:-

3.1 The Commissioner's Decision on Appeal dated 23<sup>rd</sup> April 2012.

3.2 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Ronan McKenna of Land and Property Services.

3.3 Correspondence between the Tribunal and the parties.

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**

4.1 The hereditament is a first floor apartment number 7 Lansdowne Court situated at 8 Lansdowne Road, Belfast, BT15 4DA (the Subject Property). The Subject Property was stated to be owned by the Appellant whom the Tribunal understood to be the rate payer. The Tribunal had no other information either regarding the title to the Subject Property or 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 purpose built first floor apartment of modern construction. It has a gross external area (GEA) of 70m<sup>2</sup>.

4.3 The Capital Value Assessment of the subject property was assessed as £135,000. In arriving at the Capital Value Assessment figure regard was had to the assessments in the valuation list of properties considered comparable and also to market sales of certain properties in the general locality. These comparables are set out in the Schedules to the "Presentation of Evidence" submitted on behalf of the Commissioner. There were a total of 5 comparables within the locality. Further particulars of the comparables and the Subject Properties were provided. Photographs were also provided.

4.4 The Capital Value Assessments of the comparables were all unchallenged.

## **5. The Appellant's Submissions**

5.1 The Appellant submitted that the fact the Subject Property was subject to a service charge was an encumbrance which should have been taken into consideration when the capital value was assessed and if it had been then the Capital Value of the Subject Property would be reduced.

5.2 The Appellant confirmed that a service charge was payable to Lansdowne Court Management Ltd in respect of the Subject Property. The Appellant stated that this management company had ceased to exist at the time he purchased the Subject Property in 2011 but had subsequently been re-incorporated. The evidence provided by the Appellant to the Tribunal consisted of a copy of a Company Registry Search which showed Lansdowne Court Management Ltd was incorporated on 31<sup>st</sup> January 2011. The Company Registry Search indicated the company was in existence at the date of issue of the Decision on Appeal of the Commissioner of Valuation for Northern Ireland for the Subject Property dated 23<sup>rd</sup> April 2012.

## **6. The Respondent's Submissions**

A summary of the following submissions were made on behalf of the Commissioner.

6.1 Management Companies are a normal feature of apartment developments.

6.2 The Capital Value Assessment of the Subject Property was carried out in accordance with the legislation contained in the 1977 Order and in particular paragraphs 7 and 9-15 inclusive of Schedule 12 of the 1977 Order. In doing so, the requirement in Schedule 12 of the 1977 Order that "regard shall be had to the Capital Values in the Valuation list of Comparable hereditaments in the same state and circumstances" was duly observed. Since Management Charges have not been shown to materially impact on the Capital Value of any particular development the associated costs are not recorded in the comparable properties quoted in the Presentation of Evidence.

6.3 The Subject Property has been valued free from any encumbrance or rent charge.

6.4 The Respondent stated the Subject Property had been valued in line with similarly sized, purpose built apartments in the same locality and was valued in tone with such properties on the valuation list.

6.5 The Respondent referred the Tribunal to the case of Marks & Spencer Plc v The Commissioner of Valuation for Northern Ireland 1990.

## **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 Antecedent Valuation Date of 1<sup>st</sup> January 2005 as a figure of £135,000. On behalf of the Commissioner it has been contended that this figure is fair and reasonable in comparison to other properties and the statutory basis for valuation has been referred to and especially 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*". It is therefore up to 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 As required by the Order from the Lands Tribunal, the Tribunal gave considerable consideration to the impact of the existence of the service charge on the Capital Value of the subject property. Capital Values for rating purposes are assessed under Schedule 12 Rates NI Order 1977. This outlines the assumptions which are to be made for all properties. The assumptions in the Rates NI Order 1977 states that hereditaments are to be valued on the basis that there are no encumbrances affecting the property. Therefore if the service charge was viewed as an encumbrance, for the purposes of assessing capital value for rating purposes it must be ignored. The fact that the management company had gone into liquidation would be irrelevant for the purposes of capital value assessment.

7.4 The Order from the Lands Tribunal required consideration be given to the state and circumstances of the hereditament at the date of the publication of the valuation list.

7.5 The date of publication of the valuation list is 1<sup>st</sup> January 2007. The relevant Capital valuation date is 1<sup>st</sup> January 2005.

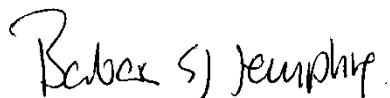
7.6 The Tribunal saw nothing in the Decision of the Commissioner on appeal to suggest that the matter had been assessed in anything other than the prescribed manner. The statutory mechanism has been expressly referred to in the

Commissioner's submissions to the Tribunal and the Tribunal notes the evidence submitted as to comparables and considers the comparables to be good. The Tribunal concludes that the correct statutory approach has been followed in this case in assessing the Capital Value.

7.7 The Decision of the Lands Tribunal in the case of Marks and Spencer Plc v The Commissioner of Valuation for Northern Ireland 1990 states that the valuation certificate must reflect the state and circumstances of the revised hereditament at the date of that certificate. As the Lands Tribunal stated in VR/12/1982 Northern Ireland Transport Holding Co Ltd v The Commissioner of Valuation for Northern Ireland under the rule rebus sic stantibus it is not permissible to assume the circumstances differ from actualities, relating whether to natural or physical facts or to legal rules and rights. The Tribunal is satisfied that in this instance where a revision of the Valuation List has taken place that due regard has been given to other Capital Values in the list of comparable hereditaments in the same state and circumstances as required by Schedule 12 and the assessed Capital Value is appropriate with the established tone.

7.8 The Tribunal having examined the facts of the matter and the arguments and submissions and having given due consideration of the issues as directed by the Lands Tribunal finds that there is insufficient evidence to support the Appellant's submissions. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 23<sup>rd</sup> April 2012 is upheld and the Appeal is dismissed.

**Barbara Jemphrey**



**Northern Ireland Valuation Tribunal**

**June 2014**