

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

CASE REFERENCE NUMBER: NIVT 1/12

ELIZABETH HOLMES - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Nessa Agnew LL.B.
Members: Brian Sparkes and Noreen Wright

Belfast, 31st October 2012

DECISION AND REASONS

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 received by the Tribunal Unit on 12th April 2012 the Appellant appealed to the Northern Ireland Valuation Tribunal (“the Tribunal”) against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) dated 23rd March 2012 in respect of the Valuation of a hereditament situated at 30 Ballynameen Road, Garvagh, County Londonderry BT51 5PL.
- 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 The Commissioner’s Decision on Appeal
- 3.2 The Appellant’s Notice of Appeal
- 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 on 6th September 2012
- 3.4 Correspondence from the Tribunal Unit to the Appellant acknowledging receipt of the appeal papers, providing the Appellant with NIVT guidance leaflets, the Presentation of Evidence and the date for hearing.

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 30 Ballynameen Road, Garvagh, County Londonderry BT31 5PL (“the Subject Property”). The Subject Property was stated to be owned by the Appellant who the Tribunal understood to be the rate payer.
- 4.2 The Subject Property is a two storey detached house built between 1946 and 1965. It has a gross external area (“GEA”) of 175 m² and has oil central heating. The Subject Property has undergone considerable modernisation over a considerable period of time. The property is situated in a rural area approximately 2 miles south of Garvagh village. The property is accessed by a concrete driveway which is shared with

agricultural lands and farm buildings. The land and buildings are owned by the appellants and currently let. It currently has a Capital Value Assessment of £135,000 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 £80,000 at the AVD. On 11th February 2012 the capital value was reassessed at £155,000 as the property was then valued as a two storey house. On 25th March 2012, the appeal decision issued and reduced the CV from £155,000 to £135,000. The capital value assessed to be the Subject Property's tonal value was taken to be £150,000 but allowance was then made for close proximity of active agricultural buildings, the issue of the shared laneway with agricultural laneway and removal of outbuildings from the domestic valuation that were used for agricultural purposes. The revised (and now current) Capital Value Assessment is accordingly now £135,000.
- 4.4 The Appellant appealed this revised Capital Value Assessment to the Commissioner of Valuation resulting in the Commissioner's Decision on Appeal dated 23rd March 2012 - now the subject of this Appeal before the Tribunal.
- 4.5 In arriving at the Capital Value Assessment figure of £135,000, 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 three comparables. Further particulars of those comparables were provided together with photographs of the Subject Property and of the comparables.
- 4.6 The Capital Value Assessments of the three comparable properties were unchallenged.

5. The Appellant's Submissions

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

- 5.1 That there had not been any changes to the Subject Property for over 30 years. The back return was made larger at that time.
- 5.2 The lower half of the house is over 200 years old with stone gables and no foundations, therefore there is damp in the ground floor and one floor.

- 5.3 There is no mains water supply and the Appellant has to provide an electric pump to bring water from a well.
- 5.4 It is unfair to double the capital value of the subject property with house prices falling so much.

6. The Respondent's Submissions

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

- 6.1 The subject property has been wrongly assessed as a single storey property with a capital value of £80,000 and a GEA of 75m² until 11th February 2012. Clearly major alterations to the property had been made 30 years previously and on that basis an increase in Capital Value has been avoided over this period of time.
- 6.2 No damp areas of the subject property were shown to the Respondent on inspection. Neither was any damp visible. The issue of damp was not raised. The Respondent acknowledges that part of the subject property has walls constructed of stone/rubble masonry whilst new properties have block cavity walls. The Respondent submits that the Subject Property was valued in tone and that the comparables used to obtain the Capital Value of the Subject Property were buildings of similar life and construction. No evidence of deterioration was shown to the Respondent or was apparent.
- 6.3 In relation to obtaining water from the well, one of the comparable properties at 97 Carhill Road is also supplied with well water and is unlikely to be a major (if any) influence on the Capital Value.
- 6.4 In response to the Capital Value of the property doubling the date for valuation is 1st January 2005. The reason for the increase in CV was that the size of the property had increased from 75m² to 175m² and this had gone undetected for a considerable length of time. It is that increase in size that warrants the increase in the CV.
- 6.5 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 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.

- 6.6 The Respondent put forward 3 comparable properties. As shown at 6.2 above 97 Carhill Road is a comparable size with a GEA of 174m², was built in the same era and has a well water supply. It has an unchallenged CV of £150,000. 41 Kilrea Road is a bungalow built in the same era and of a similar size with an unchallenged CV of £145,000. 116 Carhill Road is a larger property of the same era with an unchallenged CV of £165,000.

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 £135,000. 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 the Capital Value Assessments of either of the comparable properties put forward on behalf of the

Commissioner nor did the Appellant refer the Tribunal to any specific alternative comparable properties.

- 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 three comparable hereditaments the details of which are referred to in paragraph 6.6 above.
- 7.6 Comparable 3 at 116 Carhill Road is larger than the Subject Property but is, like the Subject Property, a detached house and of similar age. It has a garage. It is located approximately 2.7 miles from the Subject Property. Comparables 1 and 2 from the information provided do appear to be comparable hereditaments as required by Schedule 12.
- 7.7 Accordingly, having carefully considered the particulars and Capital Values of the comparable properties put forward by the Respondent and their unchallenged Capital Values the Tribunal was satisfied, on the balance of probabilities, that the comparables did lend support to the Respondent in his contention that the appropriate Capital Value Assessment of the Subject Property at the AVD of 1st January 2005 is £135,000.00 as it presently appears in the Valuation List.
- 7.8 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 11th October 2011 is dismissed.

**Ms Nessa Agnew, Chairman
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: 8 February 2013