

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

CASE REFERENCE NUMBER : 46/14

JOHN PATRICK

APPELLANT

AND

COMMISSIONER OF VALUATION

RESPONDENT

Northern Ireland Valuation Tribunal
Chair: Ms. Monica McCrory
Members: Mr. Tim Hopkins FRICS and Mr. Alan Martin

Hearing 22nd June 2015

DECISION

The unanimous decision of the tribunal is that the Commissioner of Valuation for Northern Ireland's Decision of Appeal is upheld and the appellant's appeal is dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order").
2. The appellant by Notice of Appeal dated 2nd April 2015 appealed against the decision of the Commissioner on Appeal dated 23rd October 2014 in respect of the valuation of a hereditament situated at 7 Lislafferty Road, Lislafferty, Newtownstewart, County Tyrone ("the property") wherein the Commissioner had amended the capital valuation to £70,000.
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 (NI) 2007 and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

The Law

4. The statutory provisions are set out in the 1977 Order, as amended by the Rates (Amendment) (Northern Ireland) Order 2006 ("the 2006 Order"). The tribunal does not intend in this decision fully to set out the statutory provisions of Article 8 of the 2006 Order which amended Article 39 of the 1977 Order as regards the basis of valuation; these provisions have been fully set out in earlier decisions of the tribunal.

THE EVIDENCE

5. The following documents were before the Tribunal;
 - Notice of Appeal dated 6th December 2014 and attached thereto photographs of the exterior and interior of the property.
 - Copy letter dated 12th December 2014 from Ross M Hussey MLA to the Tribunal.
 - The Commissioner's Decision on Appeal dated 23rd October 2014.
 - Respondent's "Presentation of Evidence" dated 2nd April 2015.

The Facts

6. On the basis of the information before it the tribunal determined the following facts upon the balance of probabilities. The property:-
 - is a detached farmhouse built around 1860 of rubble and masonry construction with slate roof
 - has a gross external area ("GEA") of 191m²
 - has a lean to store of GEA 36m²
 - is situated in a rural location in a farmyard setting
7. The capital value was assessed as at 1st January 2005 (the antecedent valuation date, or "AVD") at a figure of £135,000 and as the property was occupied by a farmer and with the benefit of 20% agricultural relief entered the valuation list on 1st April 2007 with an adjusted capital value assessment of £108,000. On 2nd May 2014 an application was received requesting a revision of the valuation on the ground the property was not fit for purpose. The property remained on the valuation list but the capital value was reduced by the district valuer to £85,000 to reflect the poor external condition of the property. On appeal the decision of the Commissioner of Valuation was to amend the capital valuation to £70,000.

THE APPELLANT'S CONTENTIONS

8. The Appellant believes the property should be exempt from rates as the house is in disrepair. The Appellant in his Notice of Appeal with photographs attached of the interior and exterior of the property describes it as a “House in disrepair, roof leaking/no water no sewage. House has no services and uses no services. Used more as a store for farming”.

THE RESPONDENT’S CONTENTIONS

9. The Respondent’s contention is that the property should remain in the Valuation List. The Respondent accepts the property requires repair works to bring it to the required basic standard however the external envelope of the property is sound, services connections still in place with electric running from the house to service the farm.
10. The Respondent submitted that applying the hereditament test that the property was not a truly derelict property but rather a property that with a reasonable amount of repair works could be made fit for occupation.
11. The valuation figure of £70,000 reflects the tone established in comparison with comparable properties less the appropriate reductions/allowances already made to reflect the poor external repair of the property and location of the property in relation to the farmyard.

THE TRIBUNAL’S DECISION

12. Article 54 of the 1977 Order enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value.
13. In these matters there is a statutory presumption that, on appeal, any valuation shown in a valuation list with respect to a hereditament (in this case the property) shall be deemed to be correct until the contrary is shown. Thus, any Appellant must successfully challenge and displace the presumption of the correctness, otherwise the appeal will not be upheld.
14. Looking at the general approach taken by the respondent to the valuation of the property, the tribunal saw nothing to suggest that the matter had been dealt with in anything other than the prescribed manner provided for by Schedule 12 of the 1977 Order. The appellant did not seek to challenge the respondent’s comparables.
15. The question to be determined by the Tribunal is whether the property is derelict and incapable of being repaired and accordingly should be exempt from rates. This issue was examined in the Wilson –v- Coll (LO) 2011 by Mr Justice Singh who stated at paragraph 40:

“I accept that as a general matter of law the crucial distinction for the purposes of deciding whether there is , or continues to be, a hereditament should focus upon whether a property is capable of being rendered suitable for occupation (in the present context occupation as a dwelling) by undertaking a reasonable amount of repair works. The distinction, which is correctly drawn by the respondent, in my view, is between a truly derelict property, which is incapable of being repaired to

make it suitable for its intended purpose, and repair which would render it capable of being occupied for the purposes for which it is intended.”

16. It was evident from the photographs exhibited by the parties that the property had fallen into disrepair. There was evidence of a white bathroom suite and a range of kitchen units. The window frames appeared rotten. There was evidence of internal dampness and in one of the rooms the ceiling was partially collapsed exposing rafters and an opening in the roof where slates were missing.
17. The tribunal having examined all of the evidence and all of the arguments in this case finds that there is insufficient evidence to support the contention that the property is incapable of being repaired to make it suitable for occupation. The Tribunal is mindful of the comments of Mr Justice Singh at paragraph 41 that “the crucial distinction is that regard is not between repairs that which would be economic to undertake or uneconomic to undertake”.
18. There was no evidence to suggest the property did not benefit from the usual services albeit that those services may not be in use and disconnected. Similarly there was no evidence supporting the Appellant’s contention that the property was used as a store for farming. It was noted by the tribunal that the Respondent treated the single storey lean to block as ancillary storage space.
19. The Appellant has not displaced the statutory presumption that the valuation shown in the valuation list in respect of the subject property shall be deemed to be correct until the contrary is shown. The tribunal is of the view that the property is a hereditament capable of valuation and should remain on the Valuation List. The property is in poor repair but the Tribunal considered the property capable of being repaired to make it suitable for occupation.
20. The Appellant has not challenged the Respondent’s comparables and the capital valuation of £70,000 does reflect the tone less appropriate reductions to reflect the poor repair and location of the property. Indeed the Tribunal noted the property benefited from 20% agricultural relief and a further allowance of £15,000 to reflect the location of the property amidst an active farmyard setting.
21. Accordingly the tribunal’s unanimous decision is that the Commissioner’s Decision on Appeal dated 27th November 2008 is upheld and the appeal is dismissed.

**Ms Monica McCrory, Chair
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties - 6th July 2015