

**NORTHERN IRELAND VALUATION TRIBUNAL**

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

**CASE REFERENCE NUMBER: 73/12**

**ROBERT LINDSAY AND DAWN LINDSAY – APPELLANTS**

**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 is upheld and the Appellant's appeal is dismissed.

**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 on 18<sup>th</sup> December 2012 the Appellants appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated 3<sup>rd</sup> December 2012 in respect of the Valuation of a hereditament situated at 193 Dunmore Road, Dunturk, Castlewellan, BT31 9PG.
- 1.3 There was no appearance before the Tribunal by or on behalf of the Appellants who had indicated that they were content to rely on written representations. The Respondent was represented by Andrew Magill.
- 1.4 The Tribunal previously sat on 24<sup>th</sup> July 2013 to consider this case but was unable to make a determination as it was considered the photographs provided in the Presentation of Evidence on behalf of the Respondent were of very poor quality and there was no photograph of one comparable property. The Tribunal ordered the Respondent to submit further photographs of comparables B, C and

D as set out in its Presentation of Evidence together with any further evidence to support its position.

- 1.5 The Tribunal also ordered the Respondent to submit photographs of properties at 60 Drumaness Road, 117 Drumnaquoile Road and 4 Drumnaquoile Road being properties referred to by the Appellants and a map showing the location of these comparable properties.

## **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 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**

Whilst Andrew Magill attended the Tribunal his only evidence was in relation to the production of the photographs consequently the case proceeded on the basis of written representations. The Tribunal had before it the following documents:-

- 3.1 The Commissioner's Decision on Appeal dated 3<sup>rd</sup> December 2012.
- 3.2 The Commissioner's Decision on Appeal dated 31<sup>st</sup> October 2012.
- 3.3 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Andrew Magill of Land and Property Services.
- 3.4 Notice of Appeal.
- 3.5 Correspondence between the parties.
- 3.6 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 detached cottage situated at 193 Dunmore Road, Castlewellan, BT31 9PG (the Subject Property). The Subject Property was stated to be owned by the Appellants whom the Tribunal understood to be the rate payers. The Tribunal had no other information either 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 is of rubble masonry construction with slate roof. It has a gross external area (GEA) of 88.85m<sup>2</sup> for the dwelling with additional outbuildings of 56.2m<sup>2</sup>.
- 4.3 The Capital Value Assessment of the subject property is £100,000.
- 4.4 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 3 comparables within the locality. Further particulars of the comparables and the Subject Property were provided. Photographs were also provided.
- 4.5 The Capital Value Assessments of the comparables were all unchallenged.

#### **5. The Appellants Submissions**

- 5.1 The Appellants received a valuation certificate dated 31<sup>st</sup> October 2012 from the Respondent which indicated the capital value had been increased from £58,000 to £100,000 with the explanation "extension valued".
- 5.2 The Appellants had conversations with representatives of the Respondent in which it was indicated there had been no extension to the subject property. Subsequently on 3<sup>rd</sup> December 2012 the Appellants received a valuation certificate from the Respondent in which was stated. "No extension has been added to this property. The gross external area however appears to be correct and the capital value appears to be in tone with properties of a similar state and circumstance. No change to capital value".
- 5.3 The Appellants contends that from their measurements the internal area of the property is circa 55m<sup>2</sup>. The difference between the external and internal area can be attributed to the stone walls which are 0.8m (2.5 feet) thick and consequently make the internal living area of the subject property considerably less than the external area.

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

- 6.1 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.
- 6.2 At the coming into effect of the domestic revaluation to capital values on 1<sup>st</sup> April 2007, the capital value of the Subject Property was assessed at £58,000. The figure being assessed on the basis of data held by the Respondent which recorded the GEA to be 41m<sup>2</sup>.
- 6.3 In 2010 the District Valuer reviewed the valuation on the basis that there were possible alterations. The case was completed on 31<sup>st</sup> October 2012. The subject property had been inspected and the GEA was amended to 88.85m<sup>2</sup> with outbuildings of 56.2m<sup>2</sup>. The capital value was amended to £100,000. The inspection revealed that no extension had been carried out. One explanation is that part of the property within the current foot print was at one time an outbuilding and that this is now encompassed within the dwelling. It is also accepted that it is possible that details held by the Respondent were always incorrect and it is only on the recent survey that these incorrect figures were amended to accurately reflect the correct position.
- 6.4 The Respondent accepts that the comment "extension valued" as appears on the District Valuers Certificate may have been somewhat misleading.
- 6.5 In relation to the Appellants contentions about the internal measurements of the property, the Respondent states that for rating purposes, all domestic properties of this nature are measured on a GEA basis in accordance with the RICS code of measuring practice.
- 6.6 The comparables strongly support the capital valuation.

## **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 £100,000. On behalf of the Commissioner it has been contended that 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 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.
- 7.4 The Tribunal then turns to consider whether the evidence put before the Tribunal or the arguments made by the Appellant are sufficient to displace the statutory presumption. The Appellant's arguments have been summarised above.
- 7.5 The Tribunal having examined the facts of the matter and the arguments and submissions finds that there is insufficient evidence to support the Appellant's submissions. The Appellants have 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. Accordingly the Tribunal's unanimous decision is that the Commissioner's Decision on Appeal dated 3<sup>rd</sup> December 2012 is upheld and the Appeal is dismissed.

**Barbara Jemphrey**

**Northern Ireland Valuation Tribunal**

**Date 18<sup>th</sup> June 2014**