

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

CASE REFERENCE NUMBER: 71/12

JOHN MACORMAC - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr Tim Hopkins MRICS and Ms Angela Matthews

Hearing: 29 May 2013, Belfast

DECISION

The unanimous decision of the tribunal is that the capital valuation for the subject property of this appeal, the hereditament situated at number 52 Craigantlet Road, Newtownards, County Down BT23 4TE, is properly assessed at £280,000 in the Commissioner's Valuation Certificate dated 22 November 2012. Accordingly, the tribunal Orders the appellant's appeal to be dismissed.

REASONS

Introduction

1. This is a reference under Article 54 of the Rates (Northern Ireland) Order 1977, as amended ("the 1977 Order"). The appellant had requested, at the time the appeal was instituted, that his appeal should be dealt with by oral hearing. The appellant appeared at hearing and represented himself. The respondent to the matter, the Commissioner of Valuation for Northern Ireland ("the Commissioner"), was represented at hearing by Ms Collette Harte MRICS, together with Mr Michael McGrady MRICS.
2. This appeal concerns a hereditament situated at number 52 Craigantlet Road, Newtownards, County Down BT23 4TE ("the subject property"). The background to the matter is that the subject property was first entered in the Valuation List on 1 April 2007 at a capital valuation of £400,000. Upon application to the District Valuer in November 2007 that figure was reduced to £350,000. The latter figure was reduced to £280,000, taking account of the status of the property as a farmhouse. The appellant made subsequent applications to the District Valuer in August 2008 and again in June 2012. There was no alteration made to the capital value. An appeal was instituted by the appellant to the Commissioner in November 2012 which resulted in the Commissioner's Valuation Certificate dated 22 November 2012 against which an appeal now lies to this tribunal. By Notice of Appeal dated 13 December 2012 the appellant appealed against the Commissioner's Valuation

Certificate in regard to the subject property whereby the non-exempt domestic capital value was affirmed by the Commissioner at a figure of £280,000.

The Law

3. The statutory provisions concerning the capital value issue are to be found 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, as these provisions have been comprehensively set out in earlier decisions of this tribunal. All relevant statutory provisions were fully considered by the tribunal in arriving at its decision in the matter in regard to the capital value issue. In regard to the agricultural use issue, briefly, the relevant statutory provisions are as follows. The 1977 Order (as amended) at Schedule 12, Part II, relates to farmhouses and provides as follows:-

“1. The net annual value of a house occupied in connection with agricultural land or a fish farm and used as the dwelling of a person-

(a) whose primary occupation is the carrying on or directing of agricultural or, as the case may be, fish farming operations on that land; or

(b) who is employed in agricultural or, as the case may be, fish farming operations on that land in the service of the occupier thereof and is entitled, whether as tenant or otherwise, so to use the house only while so employed, shall, so long as the house is so occupied and used, be estimated by reference to the rent at which the house might reasonably be expected to let from year to year if it could not be occupied and used otherwise than as aforesaid.

2. The capital value of a house occupied and used as mentioned in paragraph 1 shall be estimated on the assumption (in addition to those mentioned in Part I) that the house will always be so occupied and used.”

The foregoing reference to “Part 1” refers to Schedule 12, Part 1, which Part provides for the general rules relating to the basis for valuation, including the basis of capital valuation. The tribunal would wish to stress the importance of noting, for the specific purposes of this appeal, that the concept of statutory prescribed capital valuation is of fundamental significance to this appeal as providing for the method of rating of the subject property. It was accepted by the Commissioner and is not in issue that the subject property fulfils the foregoing statutory definition as a farmhouse and the tribunal made no further enquiry into that.

The Evidence and Facts

4. The tribunal noted the written evidence and submissions and the oral submissions and arguments advanced at hearing. The tribunal had before it the appellant's Notice of Appeal to the tribunal (Form 3) and various documents including the following:-
- The Commissioner's Valuation Certificate dated 22 November 2012
 - A document entitled "Presentation of Evidence" prepared on behalf of the Commissioner by Ms Collette Harte MRICS and submitted to the tribunal for the purposes of the hearing.
 - A number of written documents prepared by the appellant advancing various aspects of his contentions in the appeal.
 - Correspondence between the tribunal and the appellant and Land and Property Services and also between the appellant and the Commissioner, Ulster Farmers' Union, and also the Rating Policy Division of The Department of Finance and Personnel.
 - Correspondence between the appellant and the tribunal received after the tribunal hearing and copied to the respondent and any further response received in regard thereto from Land and Property Services.
5. The following facts were not substantially in contention. The subject property is a hereditament consisting of a farm dwellinghouse situated at number 52 Craigantlet Road, Newtownards, County Down BT23 4TE. The appellant is the ratepayer. The subject property is described in the Presentation of Evidence as being a detached two-storey farmhouse, originally constructed pre-1919, of rubble masonry construction with a standard pitched slate roof. There is a flat felted roof on the front porch. It is described as being of average external repair for its age. The gross external area ("GEA") of the subject property stated in the Presentation of Evidence is GEA 243m². The subject property has mains electricity and water and is served by a septic tank. Departing from the more customary practice, there is no mention made in the evidence of any heating system or window glazing or internal accommodation and suchlike detail. The history of the capital valuation is as above mentioned. Domestic dwelling capital valuations are notionally assessed as at 1 January 2005 (that being the antecedent valuation date, or "AVD") for the purposes of the statutory rating scheme.

THE SUBMISSIONS

6. The tribunal noted the relatively extensive written submissions made by the appellant in the matter and also the appellant's well-articulated oral submissions made in the course of the hearing. The appellant raised a number of issues, somewhat at length and in considerable detail, which can be best summarised as follows:-

- 6.1 The capital valuation of the subject property has not been assessed in accordance with the applicable rules. The appellant contends that the subject property is being “overcharged” (to rates).
 - 6.2 The proper interpretation of the rules relating to “development potential”, as the appellant describes it, are not being properly followed. Development potential has been ignored. The tribunal's interpretation of this contention is that the statutory assumption that the subject property has no development value other than that attributable to a permitted development is not being properly interpreted.
 - 6.3 There is a disparity between the allowances afforded by HM Revenue & Customs in respect of agricultural relief and those afforded in rating matters and that is not fair or correct.
 - 6.4 The capital value system is unfair and is inapplicable to farm dwellinghouses and a fair and proper method of rating must of necessity be related to fair and realistic letting values in respect of the agricultural lands associated with any farm dwellinghouse. (In that respect it is noted that the appellant commenced his oral argument to the tribunal with the statement that he did accept the capital value system of rating as being properly applicable).
 - 6.5 In proportionate terms the level of rates relating to farmhouses had escalated very sharply over the years and that was unfair and unrealistic and took no proper account of real farm incomes earned and of the growing demand generated by wealthy individuals who wished to purchase agricultural dwellings with a view to immediate demolition of such dwellings and replacement of any such by substantial country residences.
 - 6.6 The respondent states that a 20% allowance has been afforded and included in the capital value, but that is not the case.
7. The submission made on behalf of the Commissioner, as respondent, in regard to the capital value issue was that, in arriving at the capital value assessment of the subject property, regard was had to the statutory basis of valuation. Thus regard was had to the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the subject property. A reference was made to Part 11 of Schedule 12 to the 1977 Order which sets out that the valuation of a house occupied in connection with agricultural land and used as a dwelling of a person whose primary occupation is carrying out or directing of agricultural operations on that land shall be assessed on the basis that the house could not be occupied and used otherwise. Thus a farmhouse is to be considered as essentially “tied” to a working farm. This was originally intended to give a degree of protection and relief to farmers in areas where the market was possibly influenced by the higher bids of non-farmers. It was accepted that the subject property could be sold apart from the land. However, the rating hypothesis was that it would always be tied to the land. In assessing capital valuation that was done firstly by comparing the house to other similar houses not tied to the land. An appropriate discount was then applied to reflect a reasonable adjustment to the property reflected in the restricted value envisaged by the legislation. In the case of the subject property a 20% allowance had been deducted from the assessed capital valuation of £350,000, resulting in the capital valuation of £280,000.

8. Reference was made to the “comparables”, set out in a schedule to the Presentation of Evidence. None of the comparables had challenged their assessments. No direct sales evidence was put forward by the respondent. In the Presentation of Evidence there were four properties (referred to as “comparables”) identified in total, including the subject property, with brief particulars stated and map location provided, and with some photographic evidence in two out of the three other comparables. The comparables were all located in relatively close proximity to the subject property in this rural location. The respondent’s listed comparables with respective details and capital value assessments, in addition to the subject property, were as follows:-
1. Number 50 Craigtlet Road, Newtownards, County Down. GEA 238m² (Outbuilding GEA 68m²). Pre-1919 detached 2 storey house. Capital Value £375,000.
 2. Number 70 Craigtlet Road, Newtownards, County Down. GEA 191m². Pre-1919 detached 2 storey farm house (poor external repair). Capital Value (unadjusted) £375,000, after agricultural adjustment £256,000.
 3. Number 120 Ballybarnes Road, Newtownards, County Down. GEA 236m² (Outbuilding (MHD)) GEA 49m²). 1946-1965 detached 2 storey house with double garage. Capital Value £390,000.
9. The appellant did not seek directly to challenge these comparables individually. The tribunal thus made its assessment as to the evidential value of and relative weight to be attached to these comparables in the determination of the case.

THE TRIBUNAL'S DECISION

10. Article 54 of the 1977 Order (as amended) enables a person to appeal to this tribunal against the decision of the Commissioner on appeal regarding capital value. In this case the capital value has been assessed at AVD (consequent upon the Commissioner’s Decision on Appeal) at an adjusted figure of £280,000. On behalf of the Commissioner it has been contended that that figure is fair and reasonable in comparison to other properties; the statutory basis for valuation has been referred to and especially reference has been made to Schedule 12 to the 1977 Order (as amended) in arriving at that assessment. The appellant's contentions are as outlined above.
11. There is no need for the tribunal to make any determination in respect of the agricultural use issue, for the reason that this has been fully conceded by the respondent. Whilst it is noted that the appellant takes issue with this and indeed contends that there has been no proper allowance made, the respondent's position is that a 20% allowance has been afforded in reducing the assessed capital value which latter is stated to have been assessed in accordance with the “tone of the list”, in reference to the evidence available to the Commissioner from comparable properties in the same state and circumstances as the subject property, whereby a base capital valuation, before reduction, of £350,000 was determined.
12. The tribunal notes the statutory presumption contained within the 1977 Order, Article 54(3). This is an important matter for, on account of this statutory presumption, any valuation shown in a valuation list with respect to a hereditament shall be deemed to

be correct until the contrary is shown. This means that in order to succeed in the appeal, the appellant in this case must either successfully challenge and displace that statutory presumption of correctness, or the Commissioner's decision on appeal, objectively viewed, must be seen to be so incorrect that the statutory presumption must be displaced and the tribunal must adjust the capital value to an appropriate figure.

13. The tribunal saw nothing in the general approach taken to suggest that the matter had been approached for assessment in anything other than the prescribed manner as provided for in Schedule 12 of the 1977 Order, as amended.

14. The Commissioner's Statement of Case as set out in the Presentation of Evidence and the schedule of comparables, again, was not specifically challenged by the appellant. Instead, the appellant sought to introduce various arguments which have been summarised above. Dealing with these arguments in turn, the tribunal's determination is as follows:-

14.1 The appellant seeks to argue that the capital valuation of the subject property has not been assessed in accordance with the applicable rules. The tribunal's focus must be upon the applicable statutory provisions of the 1977 Order, as amended to introduce the system of capital valuation. The appellant's general contention that the subject property is being "overcharged" (to rates) may only be properly assessed in the light of the tribunal's examination of the application of the statutory provisions to the rating assessment by the respondent. As has been mentioned, the general approach taken to the matter on behalf of the Commissioner appears to be correct, in terms of the applicable law. There is nothing inherently wrong in the general approach adopted.

14.2 The appellant's case includes the contention that the proper interpretation of the rules relating to "development potential", as the appellant describes it, are not being properly followed; that development potential has been ignored. This appears to suggest that the statutory assumption that the property has no development value other than that attributable to a permitted development is not being properly interpreted. The statutory provisions in that regard are entirely clear. The capital value system includes certain statutory assumptions which are required to be followed. One such statutory assumption (see the 1977 Order, Schedule 12, Part 1, (8) "Capital value - the assumptions" and specifically at Schedule 12, Part 1 (13)) is the assumption which provides that the property under examination is to be treated upon the basis that the hereditament has no development value other than value attributable to permitted development. The appellant's argument is that a burgeoning demand exists amongst persons of substantial means to buy up agricultural dwellings and to demolish any such dwellings and to build substantial country residences in their place. This demand had resulted, he argues, in a "disconnect" between real farm incomes and the demand-driven pricing of these farm dwellinghouses. The appellant has argued that the rating system does not take proper account of these social and economic factors. Having considered the appellant's submission the tribunal's determination is that it cannot uphold this contention. That is so for the reason that the system very clearly prescribes the forgoing statutory assumption which must be applied in all cases. The tribunal is not permitted by the statutory regime to take account of development potential (other than in the manner stated). The appellant's argument in that respect therefore cannot succeed.

- 14.3 The appellant's next contention was that there existed a disparity between the allowances afforded by HM Revenue & Customs in respect of agricultural relief and those afforded in rating matters and that this was neither fair nor correct. In this matter the tribunal is tasked with the interpretation and the application of specific statutory provisions. The tribunal is not entitled to take into consideration nor to apply taxation law as that might otherwise exist and might be applicable in any dealings between HM Revenue & Customs and the owners of any farms or farm dwellinghouses or any associated agricultural businesses. Any disparity in statutory regimes is of no relevance to this appeal and thus cannot be taken into consideration.
- 14.4 The appellant also argued that the capital value system is unfair and is inapplicable to farm dwellinghouses and that any fair and proper method of rating must of necessity be related to fair and realistic letting values in respect of the agricultural lands associated with any farm dwellinghouse. In considering this argument, as mentioned, it is noted that the appellant had commenced his oral presentation to the tribunal with the statement that he did accept the capital value system of rating as being properly applicable. The tribunal's task is to determine appeals within the statutory regime prescribed for capital valuation and the appellant's contentions in this respect can properly have no bearing upon that essential focus. This argument cannot therefore succeed.
- 14.5 The appellant also advanced the argument that, in proportionate terms, the level of rates relating to farmhouses had escalated very sharply over the years and that this was unfair and unrealistic and took no proper account of real farm incomes earned and of the growing demand generated by wealthy individuals to purchase agricultural dwellings with a view to immediate demolition of such dwellings and replacement of any such by substantial country residences. The statutory assumption mentioned above does not need to be repeated at this point and has been addressed. Matters of social policy and of the assessment of the level of rating exist outside the remit of the appellant function of the tribunal, the function of which is to adjudicate upon the proper interpretation and application of the law to the determined facts of any given case. The tribunal thus cannot make any determination in that regard in favour of the appellant.
- 14.6 The appellant's final argument was that the subject property had not been afforded the 20% allowance stated by the respondent nor indeed any proper allowance. Looking at the mechanism for the assessment of the capital value and the application of the allowance afforded, the tribunal cannot accept that there is any substance in this claim by the appellant and this contention is not upheld by the tribunal.
15. In the light of the evidence and the submissions the tribunal examined the essential issue as to whether the appellant had put forward anything of sufficient weight effectively to challenge the evidence in the case emerging from the comparables, or other sufficient evidence or argument effectively to displace the statutory presumption of correctness in respect of the valuation or to lead the tribunal to the conclusion that the respondent had misapplied the law to the facts of the matter.
16. The statutory provisions state that the capital value of the property shall be the amount which (on the statutory assumptions) the property 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. Further, in estimating the capital value regard shall be had to the capital values of comparable properties in the same state and circumstances as the subject property. The tribunal conducted an analysis of the appropriateness of selection and the weight to be attached to the various comparables, insofar as this related to the statutory basis of valuation.

17. The tribunal's analysis of the evidence from the respondent's selected comparables was that these were not inappropriate and that these were useful, to an extent in each case, in assisting with the determination of the appropriate capital value for the subject property. The appellant, as mentioned, did not seek to challenge this evidence, relying instead upon the arguments advanced, as mentioned above.
18. Taking the evidence as presented to the tribunal, weighing this as to value and appropriateness and noting the arguments and submissions, the tribunal's conclusion is that the appellant has not placed before the tribunal sufficient evidence, information and argument to enable the statutory presumption of correctness in respect of the capital value assessment to be displaced. The tribunal concludes that the Commissioner's assessment of capital value, as adjusted, in respect of the subject property at a figure of £280,000 is not self-evidently or manifestly incorrect. The unanimous decision of the tribunal is that the capital valuation for the subject property of this appeal, the hereditament situated at number 52 Craigantlet Road, Newtownards, County Down BT23 4TE, is properly assessed at £280,000 in the Commissioner's Valuation Certificate dated 22 November 2012. Accordingly, the tribunal Orders the appellant's appeal to be dismissed.

**Mr James V Leonard, President
Northern Ireland Valuation Tribunal**

Date decision recorded in register and issued to parties: