

**NORTHERN IRELAND VALUATION TRIBUNAL  
THE RATES (NI) ORDER 1997 (AS AMENDED)  
AND THE VALUATION TRIBUNAL RULES (NI) 2007**

**CASE REF: 31/15**

**MR & MRS JAMES SAYERS - APPELLANT AND  
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND –  
RESPONDENT  
NORTHERN IRELAND VALUATION TRIBUNAL  
DATE OF HEARING: 20th JUNE 2016**

**CHAIRMAN: STEPHEN WRIGHT**

**MEMBERS: MR HUGH McCORMICK MRICS AND MR DAVID ROSE**

**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 not allowed.

**REASONS**

**Introduction**

1. The appellant Mr James Sayers and his wife Mrs Sayers attended the Hearing the respondent, the Commissioner for Valuation was represented by Ms Alison Elkin.
2. The property subject of the appeal is 3 Danton Manor Artigarvan, Strabane, Co Tyrone ("the subject property").
3. The subject property is a privately built detached two-storey house. The house was built in 2004. The subject property has double glazed windows; full central heating and all mains services are connected. The size of the property has a gross external area (GEA of 169m<sup>2</sup>).
4. The subject property was inspected on the 3 September 2015 and a certificate of valuation was issued on the 7th September 2015 that the subject property capital valuation was £125,000.
5. The appellant by Notice of Appeal against the decision of the Commissioner of Valuation on Appeal is dated 3<sup>rd</sup> October 2015. On the basis that they should be allowed 20% discount on the subject property because it is used for agricultural purposes.
6. The following documents have been considered by the Tribunal:-

- (a) The Notice of Appeal against Valuation for Rating Purposes (Form 3) dated the 3 October 2016.
- (b) A Valuation Certificate from Land and Property Services issued on 7<sup>th</sup> September 2015.
- (c) A document entitled “Presentation of Evidence” by Alison Elkin BSc MRICS on behalf of the Commissioner for Valuation with attached Appendices of photographs of the subject property and a list of valuations of comparable properties. The document was dated the 22 March 2016.
- (d) Correspondence from James and Jessica Sayers dated 19 April 2016
- (e) Hearing Notice dated 19<sup>th</sup> May 2016.

## **THE LAW**

7. The statutory provisions are set out in the Rates (Northern Ireland) Order 1977 (“the 1977 Order”) as amended by the Rates (Amendment) (Northern Ireland) Order 2006 (the 2006 Order”). Article 54 of the 1977 Order enables a person to appeal to this Tribunal against the decision of the Commissioner on appeal regarding the capital value.
8. Schedule 12 of the 1977 Order as amended states as follows:
  - “7(1) subject to the provisions of this schedule, for the purposes of this Order the capital value of a hereditament shall be the amount which, on the assumptions mentioned in Paragraphs 9-15, the hereditament might reasonably 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. ...
  - (4) in sub-paragraph (1) “relevant to capital valuation date” means 1st January 2005 or such date as the Department may substitute by order made subject to a negative resolution for the purposes of a new capital valuation list.”
  - (7) Article 54(3) of the 1977 Order provides that on appeal any valuation shown in a valuation list shall be deemed to be correct until the contrary is shown. Thus, any appellant must successfully challenge and displace the presumption of correctness otherwise the appeal will not be successful.
9. Also of relevance in this appeal is Schedule 12 Part II – Farmhouses

- “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 foresaid.
- 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 1) that the house will always be so occupied and used.”

### **THE EVIDENCE AND SUBMISSIONS OF THE RESPONDENT**

- 9.1 The Respondent referred to his presentation of evidence and attached schedule of comparable evidence and the photographs of comparable properties...
- 9.2 A brief history of the recent rating cases on the subject property is as follows;
- 9.3 On the 2nd February 2015, Mrs Sayers (then Ms Bomber) submitted an application to the District Valuer applying for agricultural allowance. The property was inspected and the issues raised by Mrs Sayers were considered by the District Valuer, who decided not to grant agricultural allowance. A certificate to that effect was posted on 31<sup>st</sup> July 2015.
- 9.4 On the 26th August 2015 Mrs Sayers lodged an appeal, against the District Valuer’s decision not to grant agricultural allowance. Ms Elkin dealt with the Appeal on behalf of the Commissioner of Valuation and in doing so she inspected the property on 3<sup>rd</sup> September 2015. Ms Elkin met with Mrs Sayers and explained the statutory basis of agricultural property and explained the policy of the 20% agricultural allowance. The Capital Value was considered fair and reasonable. The appeal case was closed on 7<sup>th</sup> September 2015. Agricultural allowance was not considered warranted.
- 9.5 On the 3rd October 2015 Mr and Mrs Sayers appealed the decision not to grant agricultural allowance to the NIVT.
- 9.6 The respondent summarises the Appellants appeal as follows:
- The appellant has chosen to live 3 miles from the farm.
  - The appellant’s sole income is from farming.
  - It would have been more expensive to build at the farm and the main farmhouse is occupied by the appellant’s mother.

- Mr and Mrs Sayers feel they are being unfairly discriminated against because we chose to live in a village for the benefit of our finances and our children.
- 9.7 The subject property is a detached house located within a development in Artigarvan, which is a small hamlet located 2-3 miles north of Strabane. Mr James Sayers is a full time farmer who works on his father's farm. The subject property is not contiguous to the farm; being located some three miles away. The appellant's main contention is that he believes an Agricultural Allowance should be applied to his house.
- 9.8 In order for an Agricultural Allowance to be granted, two criteria need to be met under Schedule 12 Part II – Farmhouses
- 1) The house needs to be occupied in connection with agricultural land and;
  - 2) The occupier's primary occupation is agricultural.
- 9.9 Ms Elkin accepts that Mr Sayers is a full time farmer who works on his father's farm. However, the house is not occupied in connection with agricultural land nor is it a farmhouse. The Rates Order does not define a farmhouse, however the Collins dictionary definition of a farmhouse is "a house attached to a farm, especially the dwelling from which the farm is managed."
- 9.10. The historical background of the Agricultural Allowance has been described by Lord Justice Coghlin in *Commissioner of Valuation v Doherty* [2009] NICA 30: "historically, the policy of Land & Property Services ("LPS") has been to apply rate relief in the form of a percentage allowance to property that is considered to be a farmhouse in order to reflect the fact that the traditional farmhouse typically would be a large two storey detached house located beside a working farmyard and be surrounded by its farmland. Such a "holding" is considered to be an entity in itself and could not be easily sold as separate lots. The assumption applied is that a prospective purchaser would bid less for such a house since they would be required to take on the land as well as the house. The relevant allowance also reflects the fact that living in a rural area comes with certain nuisance factors including noise, smell and traffic disruption to allow movement of animals or equipment. Such factors are reflected in the allowance of 20% which is applied to the capital value."
- 9.11 The subject property is not attached to agricultural land or outbuildings. The hypothetical purchaser would have no reason to bid less for the subject property, as there is no land, which they would be required to take on with the house. Therefore, the agricultural allowance described by Lord Justice Coghlin does not apply to 3 Danton Manor. Instead the property should be valued in line with comparable properties in the same state and circumstances as the subject property.

- 9.12 The Respondent further comments that the Capital Value is valued in tone with other similar properties within the same development see comparables below within Appendix 2. Number 1 & 7 Danton Manor are both very similar in terms of size and age compared to the subject. They are both valued at £125,000 which is the same as the subject's Capital Value.
- 9.13 Having regard to the particular attributes of the subject property compared to those of the comparables and on the basis of the legislation as set out above, Ms Elkin is of the opinion that a reasonable assessment of the Capital Value of the subject at 1<sup>st</sup> January 2005 is £125,000.
- 9.14 The Respondent finally contends that the valuation has been assessed in accordance with the provisions of the Rates (Northern Ireland) Order 1977. The Capital Value, as assessed (£125,000) is considered fair and reasonable in comparison to those similar properties in the Valuation List. Agricultural allowance is not considered warranted.

**THE EVIDENCE AND SUBMISSIONS BY THE APPELLANTS JAMES AND JESSICA SAYERS**

- 10.1 Mrs Sayers presented the case and Mr Sayers gave evidence. They referred to the Notice of Appeal which states, "we have chosen to live three miles from the farm, our sole income is Farming. It was going to be more costly to build at the farm and the main farmhouse is occupied by Mr Sayers mother. Reference is made to others who have been given a reduction in their rates because their house is surrounded by fields. The appellants indicated that they feel unfairly discriminated against because they choose to live in a village for the benefit of our finances and our children. They further state that there seems to be a large discrepancy and variation in this allowance and we would value some clarity."
- 10.2 In a letter dated the 19<sup>th</sup> April 2016 the Appellants further elaborated on the basis of their appeal namely that "Mr Sayers father is deceased and that Mr Sayers and his brother run the farm. They acknowledge that the application to the Tribunal was not in relation to the resale of the subject property; it was in relation to the monthly bills that we face and the economic climate for farmers. I had wrongly assumed that the reduction for farmers was because of the poor incomes....I struggle to see why clergy were entitled to it when most manses are not in church grounds. The main reason for applying is economic however if it is based on resale value I agree we are at no disadvantage".
- 10.3 During their oral presentation Mr and Mrs Sayers ably articulated these points outlined above. They indicated that they have a special needs child who the subject property is better suited to. They again inquired as to why the clergy received a 20% discount. In relation to the subject property and its comparison to other properties Mrs Sayers stated that the subject property did not have a garage but overall they were not questioning the capital valuation of the house. What they were seeking was clarity.

## **DECISION OF THE TRIBUNAL**

- 11.1 The Assessment of the Valuation of property is based on Statute as particularly set out in Schedule 12 of the Rates (Northern Ireland) 1977 Order. Article (7) (2) states, “in estimating the capital value of the hereditament for purposes of any revision of a valuation list, regard shall be had for the capital values in the valuation list of comparable hereditaments in the same state and circumstances as the hereditament whose capital value is being revised.”
- 11.2 The Tribunal holds that the subject property does not attract an Agricultural allowance, notwithstanding the economic and domestic hardships of the defendant.
- 11.3 The subject property is not attached to agricultural land or outbuildings. The subject property is a detached house located within a development in Artigarvan, which is a small hamlet located 2-3 miles north of Strabane. Mr James Sayers is a full time farmer who works on his father’s farm. The subject property is not contiguous to the farm; being located some three miles away. The hypothetical purchaser would have no reason to bid less for the subject property, as there is no land, which they would be required to take on with the house. Therefore, the agricultural allowance described by Lord Justice Coughlin in *Commissioner of Valuation v Doherty* [2009] NICA 30: does not apply to 3 Danton Manor. Instead the property should be valued in line with comparable properties in the same state and circumstances as the subject property.
- 11.4 For the purposes of assessment the relevant capital valuation date is the 1<sup>st</sup> April 2005. Paragraph 7(2) of the 1977 Order makes clear that, 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 has been revised (“the tone of the list”).
- 11.5 Number 1 & 7 Danton Manor are both very similar in terms of size and age compared to the subject. They are both valued at £125,000 which is the same as the subject’s Capital Value.
- 11.6 In relation to the matters raised by the appellants whilst this comment is obiter and not part of the actual decision but by means of clarification Mr McCormick the Valuation expert on the Tribunal by way of observation inter alia stated that full time clergy attract the 20% discount on their rates because their home is used in fact for their profession for work purposes. Further the Tribunal encouraged Mr and Mrs Sayers to explore all avenues of potential financial support in respect of their family circumstances and in particular the special needs of their son.

## **DECISION**

12. The Tribunal is very grateful to the appellant and the respondent for the time and effort they have expended in preparing their submissions both in written evidence and in the oral presentation of their respective cases. In this case the Tribunal did not find that the appellant had produced sufficient evidence to displace the statutory presumption that, “any valuation shown in the valuation list with respect to a hereditament shall be deemed to be incorrect until the contrary is shown”. The Tribunal’s unanimous decision is that the Commission for Valuation decision is correct and the appellant’s appeal is dismissed.

**Signed: Stephen Wright (Chairman of Northern Ireland Valuation Tribunal)**

**Date Decision Recorded in Register and issued to Parties: 13 October 2016**