

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: 56/14

NICOLA K DONALD - APPELLANT
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND - RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr James V Leonard, President

Members: Mr Philip Murphy MRICS and Mr Peter Somerville

Hearing: 18 April 2016, Belfast

DECISION

The unanimous decision of the tribunal is that the Valuation Certificate of the Commissioner of Valuation for Northern Ireland 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"). The appellant, by Notice of Appeal (Form 9) appealed against the decision of the Commissioner of Valuation ("the Commissioner") in a Valuation Certificate dated 24 November 2014 in respect of the valuation of a hereditament situated at number 30 Tullynagardy Lane, Tullynagardy, Newtownards

BT23 4ZF (“the subject property”) whereby the domestic capital value of the subject property was confirmed at a figure of £140,000.

2. The appellant was content for the appeal to be disposed of by written representations. The case proceeded on 18 April 2016, with the tribunal considering the appeal upon the papers.

The Law

3. The statutory provisions 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 fully 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.

The Evidence and Facts

4. The tribunal noted the written evidence adduced and submissions made in the case. The tribunal had before it the appellant’s Notice of Appeal to the tribunal (Form 9). That was not the correct form for an appeal of this nature (Form 3 being appropriate) but nonetheless the tribunal had sufficient information to enable the matter to proceed and to reach a determination. The appeal was also submitted on 4 December 2014 and was re-submitted on 10 February 2015. Insofar as that is necessary, the tribunal orders time to be extended for the re-submission of the appeal. There were placed before the tribunal documents which included the following:-

- 4.1 A copy of the Commissioner’s Valuation Certificate dated 24 November 2014 (the copy introduced into evidence itself being unsigned, but presumed to be a true copy of the version which had been signed by the Commissioner

– it would be helpful if, in any future cases, the respondent would ensure that any copies submitted in evidence are properly signed).

4.2 A document entitled “Presentation of Evidence” dated 16 October 2015 prepared on behalf of the Commissioner by Ms Nicola Stewart MRICS and submitted to the tribunal for the purposes of the tribunal hearing.

4.3 A letter from the appellant dated 9 November 2015.

4.4 A document entitled “Response to Additional Letter” dated 9 December 2015 prepared on behalf of the Commissioner, with two appendices consisting of Geographical Information System (GIS) “screen shots”.

4.5 A copy email from the appellant (without transmission date or details on the copy submitted) containing the appellant’s submissions and annexed to that a copy Land & Property Services document relating to the subject property and a copy developer’s brochure page relating to the subject property.

5. This case relates to one discrete issue. The subject property consists of a semi-detached dwellinghouse situated at number 30 Tullynagardy Lane, Tullynagardy, Newtownards BT23 4ZF. The appellant is understood to be the ratepayer. The rating history is that on 22 October 2014 the subject property was valued as a new property and measurements were taken on site. The assessed Gross External Area (GEA) for the subject property was 124 square metres (m²). On 22 October 2014 the appellant submitted an application to the District Valuer for a revision of the Valuation List which was treated as an appeal to the Commissioner, the respondent to this appeal. The appellant contended that the relevant measurement of the subject property was 1,134 square feet. There was no other issue raised in that appeal. On 5 November 2014 the subject property was again measured on site on behalf of the respondent on a GEA basis in accordance with the RICS Code of Measuring Practice. The subject property was confirmed on that basis at GEA of 124 m². The subject property’s valuation was reviewed and the respondent decided to make no alteration to the

capital valuation. The respondent's Valuation Certificate dated 24 November 2014 was accordingly issued.

6. The appellant has appealed to this tribunal. The appellant's appeal is confined to one discrete issue. No express challenge is made to the comparables evidence contained in the respondent's Presentation of Evidence. The appellant seeks to challenge only the accuracy of the respondent's measurement of the subject property at a figure of 124 m². As that is the sole basis of appeal, the tribunal is only required to consider that specific issue. If the respondent's measurement of the subject property were found by the tribunal to be correct upon the evidence, or the converse, that finding by the tribunal shall have addressed the discrete issue that has been raised by the appellant in this appeal.

THE SUBMISSIONS AND THE TRIBUNAL'S DETERMINATION

7. The respondent's general submission to the tribunal is 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. It is contended that the comparables set out in a schedule to the respondent's Presentation of Evidence are all similarly circumstanced to the subject property and that these provide the best evidence of value. The tribunal considered these comparables. These stand (in express terms) unchallenged by the respondent. These comparables are the same or are relatively similar to the subject property to the extent that the tribunal was able to draw useful evidence as to similar state and circumstances, leaving aside the issue relating to the stated GEA of these comparables. The fundamental challenge however, in this appeal, is to the appropriateness of these as comparators, if the appellant were to succeed in effectively challenging the respondent's measurement of the subject property.
8. The appellant's challenge in this appeal is grounded upon the argument that DOE approved plans for the subject property show the area of the subject property as being 108 m² (1,164 square feet). The appellant has alluded in her submissions to the RICS NSA method of calculation relating to the gross internal area. The appellant has submitted brochure plans of the subject property indicating, as she submits, a

relevant area of 105.35 m². She asserts in her letter of 9 November 2015 that the respondent's representative has calculated matters incorrectly but would not admit that and has relied on other houses around the subject property to maintain the valuation.

9. The measurement issues raised by the appellant have been addressed in the respondent's further response dated 9 December 2015. There, the respondent, amongst other matters, has referred to the necessity to measure GEA in accordance with the RICS Code of Measuring Practice (6th Edition). The respondent has further checked the measurements using the Geographical Information System (GIS) and screen shots are included to assist the tribunal. It is contended that this GIS information confirms the earlier calculations.
10. Accordingly, in the determination of the issue, the tribunal observes, firstly, the respondent's assertion that the subject property must be measured with reference to its GEA. The tribunal accepts that this is the appropriate, established and accepted practice for the measurement of individual dwelling houses as hereditaments for the purposes of the Valuation List (which do not consist of apartments). Secondly, the evidence is that the subject property was measured on 22 October 2014 on a GEA basis and again, on 5 November 2014, the subject property was measured on that basis. Both of these exercises confirmed to the respondent the relevant figure of 124 m². Furthermore, that assessed figure was then re-checked using the GIS system and screen shots have been provided to assist the tribunal. The information available from this evidence, the tribunal determines as very clearly supporting and confirming the earlier assessment of GEA made on behalf of the respondent.
11. Rating appeals to the Valuation Tribunal under the capital valuation regime are properly to be assessed on the basis that, for the appellant to succeed, any appellant must displace an essential presumption of correctness. That is an important issue. There is a statutory presumption that is contained within the 1977 Order, Article 54(3), whereby any valuation shown in a Valuation List shall be deemed to be correct, until the contrary is shown. It occurs that the appellant might, perhaps, have arranged to have the subject property independently assessed by a competent professional or other person in order to challenge the GEA assessment. She has chosen not to do

so. Instead, the appellant has relied upon making references to brochure plans and gross internal area measurements.

12. The clear weight of the evidence is with the respondent in the matter. The GEA has been measured on behalf of the respondent in accordance with the RICS Code of Measuring Practice (6th Edition) and has been re-checked and then verified using GIS. This evidence leads the tribunal to the conclusion that the correct GEA for the subject property is a figure of 124m². The appellant has not produced any evidence of sufficient weight effectively and conclusively to challenge that figure.

13. Having conducted an assessment and analysis of the evidence, in summary, the tribunal's unanimous view is that the appellant has not raised sufficiently persuasive evidence or argument in this case to displace the statutory presumption of correctness in respect of the respondent's decision in the matter as to the appropriate capital value in respect of the subject property, that being determined at a figure in the Valuation Certificate of £140,000. This being so, the tribunal does not determine the appeal in favour of the appellant. Accordingly, this appeal cannot succeed and the appellant's appeal is dismissed by the tribunal.

James V Leonard, President
Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 25 April 2016