

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: 33/14

BETWEEN:

PATRICK NICHOLL

Appellant:

-and-

THE COMMISSIONER OF VALUATION

Respondent:

NORTHERN IRELAND VALUATION TRIBUNAL

CHAIRMAN: MR KEITH GIBSON B.L.

MEMBERS: MR BRIAN SPARKES FRICS; MR ALAN MARTIN

INTRODUCTION

1. This appeal was heard on the 25th March 2015 at Bedford House, Bedford Street, Belfast by way of consideration of the written submissions by the aforementioned Panel Members. The appeal relates to premises situate at 161 Donaghadee Road, Bangor, a property constructed in or around the 1930s. The property is a semi-detached house with a gross external area of 72m². There is no garage or other outbuildings and the property is of block construction with a dash render finish and pitch slate roof. The property has two bedrooms and is situate in a residential area. The capital value was assessed at £110,000 with effect from the 1st April 2007 and the assessment remained unchallenged until October 2013 when an application was made by the Appellant seeking to have the list entry removed due to the poor state of repair of the property. The application to have the property removed was refused and the Appellant appealed to the Commissioner of Valuation who in July 2014 reduced the capital value of the property from £110,000 to £105,000 to better reflect the tone of the list. The decision in respect of the reduction to £105,000 was issued on the 5th September 2014 and on the 15th October 2014, the Appellant appealed.
2. Ab initio, the Appellant's appeal is out of time, given that the period afforded for an appeal is 28 days pursuant to the relevant provisions of the Rates

(Appeals) Regulations 2007. The Tribunal has a discretion pursuant to Article 9(7) of the 2007 Rules and the explanation for the failure to lodge within time was that the decision was not posted to a correspondence address and was not received by the Appellant until late September. In the circumstances, given the fact that no prejudice has been occasioned to the Respondent (of which the Tribunal is aware) and that the Appeal Notice was only some 7 – 8 days outwith the stipulated time period, the Tribunal is minded to exercise, and does exercise, its discretion to allow the appeal to be admitted.

THE APPELLANT'S CASE

3. The grounds for the Appellant's appeal are that the property (presumed as of the date of the Appeal Notice) is not worth £110,000 and that the Appellant had previously tried to sell the property, however, three valuations put it as between £35,000 - £45,000 (no dates were given and the valuations were not supplied). The Appellant went on to indicate that the property had been empty for some 3 years and that there was no heating in the property as the boiler needed repairs.
4. Implicit in the submissions of the Appellant was the notion that the valuations of £35,000 - £45,000 related to the present value of the property.

THE RESPONDENT'S SUBMISSIONS

5. The Respondent's submissions may be summarised as follows:
 - a) The relevant capital valuation date is the 1st January 2005.
 - b) The property was found to be in an average state of external repair having regard to its age and the state of internal fit out and decor was fair and, whilst the property could be considered in need of improvements and redecoration, the internal repair of the property must be disregarded for the purposes of the estimate of capital value.
 - c) The tone of the list was firmly fixed at £105,000.
6. In support of same the Respondent referred to four comparables, namely:
 - a) 163 Donaghadee Road, again a 1930 semi-detached house with a GEA Of 70m².
 - b) 167 Donaghadee Road, again a 1930 semi-detached house with a GEA of 67m².
 - c) 169 Donaghadee Road, again a 1930 semi-detached house with a GEA of 67m².

d) 173 Donaghadee Road, again a 1930 semi-detached house with a GEA of 67m².

7. The capital value of all of the aforementioned properties was in the sum of £105,000.

DECISION

8. For the purposes of assessment the relevant capital valuation date is the 1st April 2005. Paragraph 7(2) of the 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"). The grounds of appeal as set forward by the Appellant are fundamentally flawed. The assessment of the capital value is as of the 1st January 2005 and the current market value of the property is utterly irrelevant for that reason. The assumptions must be that the property is of an average state of internal repair and fit out and there is no discretion afforded to either the Respondent or the Lands Tribunal to vary this statutory assumption. The submission then as to the internal state of the property is irrelevant, as is the fact that the boiler requires repair.

9. In all the circumstances, the unanimous decision of the Tribunal is that the appeal must be refused.

Keith Gibson Chair
Northern Ireland Valuation Tribunal
Date 13th May 2015