

**NORTHERN IRELAND VALUATION TRIBUNAL**

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

**CASE REFERENCE NUMBER: 69/12**

**KEVIN RAFFERTY – APPELLANT**

**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 not upheld and the Tribunal determines that the property is correctly identified in the valuation list as 79 Windmill Road, Cranfield, Kilkeel, Co Down and that the Capital Value List is properly to be amended to a figure of £200,000 and the Tribunal order the list to be amended accordingly.

**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 dated 27<sup>th</sup> November 2012 the Appellant appealed to the Northern Ireland Valuation Tribunal against the Decision on Appeal of the Commissioner of Valuation for Northern Ireland (“the Commissioner”) dated 29<sup>th</sup> October 2012 in respect of the Valuation of a hereditament situated at 81 Windmill Road, Cranfield, Kilkeel.
- 1.3 A hearing was held on 28<sup>th</sup> August 2013 and was adjourned to facilitate the investigation and clarification of the identification of the subject property of this appeal. The case was relisted for hearing on 20<sup>th</sup> March 2014.
- 1.4 The chain of events leading to this hearing are outlined in the record of proceedings of the Tribunal held on 20<sup>th</sup> March 2014 and Order of the Tribunal.

1.5 The Appellant appeared in person and the Respondent was represented by Michael McGrady.

## **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 the 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**

The Tribunal heard oral evidence from the Appellant and Michael McGrady on behalf of the Respondent. The Tribunal had before it the Appellants' Notice of Appeal dated 27<sup>th</sup> November 2012 and copies of various documents including the following:-

3.1 The Commissioner's Decision on Appeal dated 29<sup>th</sup> October 2012.

3.2 A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner by Gordon Bingham of Land and Property Services.

3.3 Correspondence between the Tribunal and the Parties.

3.4 Record of Proceedings of the Tribunal held on 20<sup>th</sup> March 2014 and Order of the Tribunal.

3.5 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 At the outset of the hearing Mr McGrady confirmed and the Appellant accepted that the property which is to be the subject property for the purposes of this appeal had been incorrectly identified as 81 Windmill Road, Cranfield when the property should be number 79 Windmill Road, Cranfield.
- 4.2 The parties accepting this fundamental issue and accepting that the Presentation of Evidence submitted on behalf of the Respondent should refer to number 79 and not number 81 Windmill Road, the hearing proceeded.
- 4.3 The hereditament is a detached chalet type dwelling situated at number 79 Windmill Road, Cranfield, BT34 4LP (the Subject Property). The Subject Property was stated to be owned by the Appellant whom the Tribunal understood to be the rate payer. The Tribunal had no other information neither 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.
- 4.4 The Subject Property is a detached chalet dwelling of block built construction. It has a gross external area (GEA) of 127m<sup>2</sup>, outbuildings 27m<sup>2</sup> and garage of 23m<sup>2</sup>.
- 4.5 The Capital Value Assessment of the subject property was initially £270,000. This was reduced on appeal to £245,000. A valuation certificate was issued on 27<sup>th</sup> January 2012. On 5<sup>th</sup> March 2012 the Appellant submitted an appeal and the capital value was subsequently reduced to £235,000 and a valuation certificate issued on 31<sup>st</sup> May 2012. The Appellant appealed this decision and after due consideration a certificate of valuation was issued on 29<sup>th</sup> October 2012 with a Capital Value Assessment of £235,000.
- 4.6 Upon investigation by the Respondent it was concluded there had been a series of administrative errors and all of the assessments for the Subject Property had been recorded incorrectly as referring to number 81 Windmill Road, Cranfield. On 27<sup>th</sup> September 2013 an inspection of the subject property (number 79 Windmill Road) took place and the Respondent indicated the capital value of that property should be £200,000. 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.
- 4.7 The Capital Value Assessments of the comparables were all unchallenged.

#### **5. The Appellant's Submissions**

5.1 The Appellant was concerned that the property next door to number 79, i.e. number 81, had not been included as a comparable property and expressed his view that the values attributed to one of the comparable properties was inaccurate as this property had recently sold at auction for £180,000.

## **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 The Respondent expressed the view that the tone of the list was now well established and the relevant legislation did not require the recent sale to be considered for the purposes of Capital Valuation assessment.

## **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 £200,000. 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 of 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 approach adopted to achieve the initial assessment as to Capital Value, nor in the Decision of the Commissioner on appeal, to suggest that the matter had been assessed in anything other than the prescribed manner provided for by Schedule 12, paragraphs 7 (and following) of the 1977 Order. 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 concludes that the comparables were all good comparables and as they were situated on the same road as the Subject Property within a short distance of the subject property and with a similar view of the Irish Sea. 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. The Tribunal appreciates the considerable protracted issues the Appellant has suffered as result of the administrative error by the Respondent.

7.5 The Tribunal have examined the facts of the matter and the arguments put forward by both parties. The entry in the valuation list should be amended to reflect the correct address of the property which is 79 Windmill Road, Cranfield, Kilkeel and in respect of that property the capital value assessment should be recorded as £200,000.

**Barbara Jemphrey**

**Northern Ireland Valuation Tribunal**

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