

**NORTHERN IRELAND VALUATION TRIBUNAL**

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

**CASE REFERENCE NUMBER: 38/13**

**STANLEY WEATHERUP – APPELLANTS**

**AND**

**COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT**

**Northern Ireland Valuation Tribunal**

**Chairman: Mr Eamon O' Connor**

**Members: Mr Eric Spence and Mr Patrick Cumiskey**

**Belfast, 23rd September 2014**

**DECISION**

The unanimous decision of the Tribunal is that the appellant's appeal is dismissed and the capital value is affirmed at £10,000 (before agricultural allowance).

**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 the 20<sup>th</sup> December 2013 the Appellant appealed to the Northern Ireland Valuation Tribunal against the decision of the Commissioner of Valuation for Northern Ireland ("the Commissioner") dated the 26<sup>th</sup> November 2013 in respect of the valuation of a hereditament situated at 48A Slievetrue Road, Carrickfergus BT38 8QH("the subject property"). The decision of the Commissioner was that the capital value of the property would remain unaltered at £10,000.

1.3 The parties to the Appeal had indicated that they were each content that the Appeal be disposed of on the basis of written representations in accordance with Rule 11 of the Valuation Tribunal Rules (Northern Ireland) 2007 and accordingly there was no appearance before the Tribunal by or on behalf of any of the parties.

1.4 The following documents have been considered by the Tribunal;

- The Appellant's Notice of Appeal (Form 3), dated 20<sup>th</sup> December 2013
- A copy of the decision of the Commissioner issued by certificate dated 26<sup>th</sup> November 2013
- A document entitled "Presentation of Evidence" submitted on behalf of the Commissioner of Valuation by Mr Andrew Magill FRCS dated 16<sup>TH</sup> June 2014.

## 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"). Article 2 (2) of the 1977 Order defines a hereditament as follows;

"hereditament" means property which is or may be liable to a rate, being a unit of such property which is, or would fall to be, shown as a separate item in a valuation list

Schedule 12 of the 1977 Order provides that the capital value of a hereditament shall be the amount which, on the assumptions mentioned in paragraphs 9-15, 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. In estimating the capital value of a hereditament for the purpose of any provision of a valuation list, regard shall be had to the capital values in that valuation list of comparable hereditaments in the same state and circumstance as the hereditament whose capital value is being realised. Paragraph 12(1) deals with statutory assumptions, namely: "the hereditament is in an average state of internal repair and fit out, having regard to the age and character of the hereditament and its locality.

## 3. The Subject Property

3.1 The subject property is described in the Respondent's Presentation of Evidence as a static caravan located in a rural area between Carrickfergus and Ballyclare with a gross external area (GEA) of 48m<sup>2</sup>.

3.2 The subject property was entered into the Valuation List with a Capital Value of £10,000 on the 3<sup>rd</sup> October 2013. An appeal to the Commissioner of Valuation was registered on the 30<sup>th</sup> October 2013. The decision of the Commissioner dated the 26<sup>th</sup> November 2013 was that the capital valuation of the property would remain at £10,000.

3.3 At the time of inspection by Mr Magill, it transpired that farming was the appellant's primary occupation and as a result, the agricultural allowance (20%) has been applied to the property.

## 4. The Submissions

4.1 The Appellant believes that his property should be exempt from rates. The Appellant described his grounds of appeal, in the Form 3 Notice of Appeal dated 20<sup>th</sup> December 2013 as follows;

“Occupied from May 13 only. Not suitable accommodation to live in, no hot water. Boil kettle for washing up dishes, no form of heat, super ser only. No shower or bath to wash yourself, kettle only in hand basin. This is living in the forty’s.

So cold as we live around 1000 feet above sea level. It is damp due to no heating. We had no idea it would be so cold in winter. When we moved in May 13 it was summertime. No washing machine for clothes, daughter to wash for us”.

4.2 The Respondent commented in the Presentation of Evidence that the property is of light construction and accepted that it does not have the amenities and services associated with a traditional dwelling house. The Respondent is of the opinion that a hereditament exists and that there are no grounds for exemption from the Valuation List. The Respondent submits that the caravan is in average repair for its age and it fulfils all the ingredients of rateable occupation – actual, exclusive, beneficial and not too transient occupation. The Respondent admits that the facilities are very basic, with no heating/ hot water and limited cooking facilities but submits that this is typical of this type of property and is reflected in the assessed capital value.

4.3 The Respondent submits that the subject property must be valued by comparing it with those properties that are already in the Valuation List, in the same state and circumstance. The Respondent has referred to two comparable properties, both caravans. One property has a GEA of 31.5m<sup>2</sup> as is described as similar to the subject. It has a capital value of £8,000. The other property is a caravan with a GEA of 15m<sup>2</sup> with a capital value of £3,000.

### The Tribunal’s Reasoning

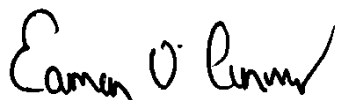
5.1 The question to be determined by the Tribunal was whether this property should be exempt from rates. The subject property does not come within one of the specified types of hereditaments which are exempted from rates as per the 1977 Order. The Appellant argues that the subject property should be exempt from rates on the basis that it is not suitable accommodation to live in. However the fact is, basic as it may be, the subject property has been lived in from May 2013. At the date of signing the Notice of Appeal, the Appellant had occupied the property for over a year and a half. The Respondent concedes that the property does not have the amenities and services associated with a traditional dwelling house and the facilities are very basic. However the Tribunal is satisfied the subject property is a hereditament. It fulfils the ingredients of rateable occupation, namely actual, beneficial and not too transient occupation. It is therefore liable to a rate. This property should therefore not be exempted from rates.

5.2 The Appellant has not offered any evidence to challenge the valuation based on the comparable properties put forward by the Respondent. The Tribunal must take into account the statutory presumption contained within Article 54(3) of the 1977 Order. It states, "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 displace the 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.

5.3 The Appellant has not discharged the burden upon him to show that the valuation assessed for the subject property is not correct in accordance with paragraph 7 of Schedule 12 of the 1977 Order. The Tribunal is of the view that the subject property is appropriately on the Valuation List in accordance with the tone of the list in light of the evidence the Respondent has adduced in its Presentation of Evidence. The Appellant chose not to challenge the comparables put forward.

5.4 The Tribunal was satisfied that this property should not be exempted from rates and that the valuation shown on the Valuation List in relation to the subject property is correct.

5.5 The unanimous decision of the Tribunal is that the appeal is dismissed.

A handwritten signature in black ink, appearing to read "Eamon O' Connor". The signature is written in a cursive, slightly slanted style.

Eamon O' Connor

Chair 14<sup>th</sup> December 2014.