

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: NIVT 6/18

CLAIRE FLANAGAN - APPELLANTS
AND
COMMISSIONER OF VALUATION FOR NORTHERN IRELAND -
RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Michael Flanigan
Members: Mr Chris Kenton FRICS and Mr Peter Somerville

Hearing: 7 November 2018, Belfast

DECISION

Introduction

The Tribunal had written submissions from both the Appellant and the Respondent. Neither party appeared before the Tribunal and the appeal was decided on the basis of written submissions only.

1. The subject property (“the property”) in this appeal is situate at 11 Darleen Park, Shantallow, Londonderry, BT48 8DT. The property is a detached bungalow and garage built circa 1970 and is owned by the appellant.

2. 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”)

The Background

3. The Decision of the Commissioner was that the property had an existing capital valuation of £300,000. The Appellant does not dispute that valuation. The Commissioner had made an allowance of 10% in relation to nuisance factors due to the proximity of a builder’s yard with resulting noise and disturbance from commercial vehicles. The allowance of 10% was applied to the unadjusted capital valuation of £300,000 with a resulting net capital valuation of £270,000. The Appellant has appealed against the allowance made.
4. The Appellant’s Notice of Appeal highlighted the fact that the nuisance factors were now a permanent feature of her life and that she is living beside a builder’s yard with workman arriving daily, vans and lorries coming and going from 7.30 a.m., 5 to 7 days per week. The Respondent’s assessment noted that the property was more affected by the commercial yard than other premises in the locality and further accepted that noise and nuisance factors would impact upon the valuation of the property. The Respondent’s submission was that the 10% allowance was in keeping with similar allowances made in other properties as a result of proximity to a commercial business.

The Decision

5. Nuisance comes in many different forms and guises and inevitably there is a subjective element to it. A nuisance that may have little or no impact upon market value can still have an impact on someone’s enjoyment of their property. The Respondent in this case accepted the need for an allowance for nuisance and applied a 10% reduction. The Appellant’s evidence of the nuisance gave a summary of the affect the commercial activity was having on her enjoyment of her property. The Tribunal was satisfied that the Appellant’s description was an accurate reflection of the very real problems being

experienced by her. The evidence before the Tribunal however was not sufficient to demonstrate that a greater allowance than 10% was necessary in order to reflect the impact upon the market value of the property. The allowance of 10% made by the Respondent was in keeping with allowances made in other premises, where nuisance had been established due to commercial activity and was also in keeping with allowances made generally. The Tribunal did not consider that the appellant had demonstrated that a greater allowance than 10% was justified and accordingly the appeal was unsuccessful.

The Appeal was dismissed.

Michael Flanigan – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to parties: 28 November 2018