

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 28/18

MR & MRS D WILSON – APPELLANT

AND

COMMISSIONER OF VALUATION FOR NORTHERN IRELAND – RESPONDENT

Northern Ireland Valuation Tribunal

Chairman: Mr Michael Flanigan

Members: Mr Chris Kenton FRICS and Mr David Rose

Date of hearing: 22 July 2020

DECISION

Introduction

1. Neither the Appellant nor the Respondent appeared and both parties relied upon their written submissions only.
2. The subject property (“the property”) in this appeal is situate at 1 Geaglum Road, Derrylin County Fermanagh BT92 9AT. The property is owned by the appellant.
3. The primary legislation governing this matter is the Rates (Northern Ireland) Order 1977 (“the 1977 Order”).

On 29th October 2018, the Commissioner’s decision on appeal increased the unadjusted capital valuation on the property from £115,000 to £125,000. The property was at all times entitled to agricultural relief allowance of 20% which then reduced the capital valuation to £100,000. The appellant has appealed against that decision.

History of Appeal

4. The appellant had initiated an appeal by application dated 10th July 2018 stating that the valuation was excessive. The district valuer assessed the application and made no change to then unadjusted capital value (“UCV”) of £115,000. The valuation certificate confirming the decision of the district valuer issued on 17th September 2018.

5. On 15th October 2018 the appellant then lodged an appeal against that decision. That appeal came before the Commissioner of Valuation who, following an inspection of the property on 22nd October 2018, determined that the UCV be increased from £115,000 to £125,000. As the property was at all times subject to an agricultural relief allowance the net effect of this was that the adjusted capital value increased from £92,000 to £100,000.
6. The appellant appealed this decision to the NIVT by appeal form dated 28th November 2018. The appellant's grounds of appeal referred primarily to the condition of the property, which was described as being old, cold, damp and draughty. The appellant also stressed the financial difficulties they were experiencing receiving very little farm income to supplement their pensions.

Respondent's Presentation of Evidence

7. The presentation of evidence ("POE") described the subject property as a two-storey detached farmhouse situated in a rural area four miles from Derrylin. The property is accessed via a concrete lane described as a "long rough shared laneway". In support of the UCV of £125,000 the respondents submitted particulars of three comparables and gave supporting particulars for each of the comparables relied upon.

Decision of the Tribunal

8. The appellant is entitled to agricultural relief of 20% and for the purposes of this decision the Tribunal will use the UCV figures only.
9. The tribunal noted the financial difficulties referred to by the appellant, however it is a matter of law that the appellant's capacity to pay their rates is not a legitimate ground for appeal against a capital valuation.
10. In addition, the problems which the farmhouse had in terms of its condition were also factors which the Tribunal could not consider. The statutory assumption in the 1977 Order makes it clear that it is assumed that the premises are in an average state of internal repair and fit out having regard to the age and character of the premises. The statutory assumption prohibits an examination of issues relating to internal state and repair and the appellants could not succeed on this ground either.

11. It is not entirely clear for how long the property had been on the valuation list with the valuation of £115,000. However, in July 2018 the appellant initiated an appeal primarily based upon financial difficulties in the hope of obtaining a reduction in the capital valuation. The district valuer saw no grounds upon which to change the capital valuation either up or down and confirmed the UCV in the sum of £115,000.
12. The appellant's further appeal to the Commissioner of Valuation resulted in an increase in the UCV to £125,000. The appeal before this Tribunal was an appeal against the decision of the Respondent to increase the valuation from £115,000 to £125,000. The respondent's case is that the increase in the capital value is justified by reference to the valuations of the comparable properties, specifically comparables 1, 2 and 3. In order to be relied upon Schedule 12 of the 1977 Order requires that these comparable hereditaments should be in "the same state and circumstances" as the subject property.
13. The Tribunal examined the comparable evidence submitted by the respondent. The comparables relied upon did indeed have many features in common with the property such as size age and general rural location, however there were some significant distinctions.
14. One distinction was their proximity to the nearest village Derrylin. The subject property was approximately four miles from the village of Derrylin. While the POE did not list the distance of each of the comparable properties from Derrylin, it was clear from the map provided that all three comparables were closer to the village than the subject property and quite significantly so.
15. A further distinction was that of access. The comparable properties relied upon were described as being either roadside or accessed directly from the main road. The subject property by contrast was served by what was described in the POE as a "long rough and shared laneway". The Tribunal noted that this distinction between the subject property and the comparables had been acknowledged by the respondent in the POE.
16. The Tribunal felt that the existence of the concrete shared laneway described as being "long and rough" was a significant distinction that the Respondent had not given sufficient weight to.

17. When the Tribunal combined this with the subject property's greater distance from the nearest village, the Tribunal was not satisfied that comparables were in the same state and circumstances as the subject property.

18. The Tribunal was ultimately not persuaded that the comparable evidence justified the increase in capital valuation and determined that the UCV had been correctly assessed in the sum of £115,000. The appellant remains entitled to agricultural relief of 20% against this valuation which then reduces the adjusted capital valuation to £92,000.

Appeal successful.

Signed: Mr Michael Flanigan – Chairman

Northern Ireland Valuation Tribunal

Date decision recorded in register and issued to the parties: 13 August 2020