

IN THE UPPER TRIBUNAL (LANDS CHAMBER)



Neutral Citation Number: [2018] UKUT 0113 (LC)
Case No: TMA/68/2017

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

TAX – Inheritance Tax – valuation under s.160 Inheritance Tax Act 1984 – terraced house – analysis of comparable sales – valuation determined at £260,000

IN THE MATTER OF AN APPEAL UNDER
SECTION 222 OF THE INHERITANCE TAX ACT 1984

BETWEEN:

Mrs DORCAS ADEBOWALE AKANWO
(as Personal Representative for the estate of Miss
Taiwo Akanwo Deceased)

Appellant

- and -

HER MAJESTY’S REVENUE AND CUSTOMS

Respondent

Re: 180 Morley Avenue, London N22 6NT

Decision on written representations

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DECISION

Introduction

1. This appeal concerns the deemed disposal for the purposes of Inheritance Tax of the freehold residential house known as 180 Morley Avenue, London N22 6NT (“the property”) which was owned by Miss Taiwo Akanwo who died on 12 September 2012 (“the valuation date”). The appellant is Mrs Dorcas Adebowale Akanwo, executor and personal representative of the deceased (“the executor”).

2. The executor contended that the property should be valued at £200,000, but this figure was disputed by Her Majesty’s Revenue and Customs (“HMRC”) Inheritance Tax Office. As the parties have been unable to agree a figure, and relying upon the opinion of the District Valuer, HMRC issued a Notice of Determination on 14 November 2016 pursuant to section 221 of the Inheritance Tax Act 1984 (“the 1984 Act”) under which the deceased’s freehold interest was valued at £260,000. This valuation was upheld by HMRC following an internal statutory review on 21 April 2017.

3. Under section 222(2) of the 1984 Act the executor appealed the Notice of Determination to the First-tier Tribunal (Tax Chamber) (“FT-T”) on 19 May 2017 maintaining her opinion of value at £200,000. Following this, pursuant to section 222(4), HMRC applied for the proceedings to be transferred to this Tribunal. By a Direction of the FT-T dated 16 August 2017 the appeal was referred to this Tribunal for the sole purpose of determining the valuation dispute.

4. I have determined this appeal on the papers, having taken into consideration correspondence and copy documentation provided by both the appellant and HMRC, and the expert witness report served for the respondent by Mr Daniel Newell MRICS of the Valuation Office Agency (“VOA”).

Statutory provision

5. In accordance with section 160 of the 1984 Act, the market value of any asset is defined as:

“the price which the property might reasonably be expected to fetch if sold in the open market at that time [the valuation date]: but that the price should not be assumed to be reduced on the ground that the whole property is to be placed on the market at one and the same time”

In this case, the value of the property would not be reduced, in reality or notionally, by being sold as a whole entity at the valuation date of 12 September 2012.

Facts

6. Morley Avenue is an approximately 700m. long residential street in the Noel Park Conservation Area close to Wood Green Shopping City and within about half a mile of Wood Green Underground station (Piccadilly Line). The property is located on the south side towards the eastern end of the avenue and is a centre unit in a terrace of 24 cottages.

7. The property comprises a two storey late Victorian house of traditional 9” solid brick construction under slate covered pitched roofs. It has double-hung sash windows on the front and rear elevations and a gabled open porch to the front. There is a single-storey extension to the rear. The accommodation consists of, at ground floor, entrance hall (off small front garden), two reception rooms, bathroom/wc and a kitchen/dining room with door to the enclosed approx. 18’ deep rear garden. At first floor there are two bedrooms. Gas fired central heating to radiators is installed and there is some secondary double-glazing. In all, according to the property’s Energy Performance Certificate (EPC), it has a gross internal floor area (“GIA”) of 75.0sq m.

8. According to the information provided by the executor on 13 November 2013 in her response to HMRC’s Request for Information, the property was, at the date of valuation, occupied by a tenant on an Assured Shorthold Tenancy, through local agent Capital Homes Lettings, at a rental of c. £1,000 per calendar month. The property had been acquired by the deceased for her own occupation in January 2002 for £144,000, but from 2006 when she moved to the USA, the property had been sporadically let.

9. Following the grant of probate, the property was marketed in 2013 and a sale was completed on 21 February 2014 at £312,000.

The evidence

10. The executor, relying upon informal market appraisals obtained from two firms of estate agents, maintained that the value of the property as at 12 September 2012 was no more than £200,000. Capital Homes Estate Agents (the sales arm of the firm that had been letting the property) had carried out an inspection in late 2012 and had indicated an appropriate asking price “in the region of £195,000 to £205,000”. On 29 November 2012, they asked if the estate was yet in a position to put the property on the market, but the executor said that probate had not by then been granted, and indeed was not obtained until 29 November 2013. The second appraisal was provided by email from Ludlow Thompson, Estate Agents, on 28 November 2012 recommending an asking price of £200,000.

11. In her appeal to the FT-T, the executor expressed her concern that, as recorded in HMRC’s conclusion letter following the statutory review, the District Valuer had not viewed the property internally and had only undertaken an external inspection on 4 December 2014 which was long after the sale had completed. She had been unaware, until that review was

published, that any inspection had been carried out. In her view, by not inspecting the inside, the District Valuer would have been unaware of whether or not it had been modernised to the same standard as the comparables upon which he had apparently relied. For instance, it appeared that the property was the only one that still had the only wc at ground floor level rather than upstairs. The kitchen fittings were dated and overall the house was not of a standard that was sufficient to attract good quality tenants. There had therefore been a high turnover of tenants and a number of voids which had resulted in mortgage arrears accruing.

12. The particular area in which the property was located had been somewhat run down at the valuation date, and it was only by the time that it was sold, and subsequently, that there had been improvements in the area such as better assessments of local schools and improved local transport facilities, together with a generally improved property market.

13. In the light of all this, the executor said that she was content to rely open the opinion of the two local agents who had seen the property shortly after the date of death.

14. Mr Newell is a chartered surveyor with 29 years' property valuation experience, the last 18 of which have been as a member of HMRC's Statutory Valuations Team specialising in Inheritance Tax and Capital Gains Tax valuations throughout North London.

15. He said that he had undertaken an external inspection of the property on 4 December 2013 at which time it was sold subject to contract, and had obtained a copy of the sales particulars from the selling agent, WJ Meade of Wood Green. He had been advised that the property had been let on an Assured Shorthold Tenancy but was not aware whether it was actually occupied by a tenant at the valuation date. He said he had assumed it was, and had taken that factor into account in his valuation by deducting 5% from the value it would have had if immediately available with vacant possession.

16. In his report, Mr Newell said that he had valued the property by the comparative method which involved the analysis of sales transactions relating to similar properties in the area at points in time close to the applicable valuation date. He identified six sales in the area, four of which were in Morley Avenue, and two were in nearby Darwin Road. The most pertinent, he said, was the sale of 176 Morley Avenue (next door but one to the property), which occurred on 22 August 2012 less than a month before the valuation date. This was a very similar property which, from the relevant property details, appeared to have been in good condition, but was smaller having a GIA of only 64 sq m, having not been extended. At the sale price of £264,000 that equated to a price per square metre (psm) of £4,125. In his view, with the subject property being 17% larger than this comparable (having a good kitchen/dining room and bathroom extension) it should be worth "considerably more", but he then deducted £25,000 to allow for the better condition of the comparable. No adjustment for time was required as the sale completed less than a month before the valuation date.

17. The same type of analysis was undertaken for the other relevant property sales, and to ease the comparison, Mr Newell summarised his findings in a table thus:

Address	Date of completion	Price	GIA (sq m)	£/sq m	Adjustments 1. Condition 2.size	£/m adjusted
176 Morley Ave	22/08/2012	£264,000	64	£4,125	1: £25,000 2: Nil	£3,734
47 Darwin Rd	22/06/2012	£276,500	62	£4,459	1: £25,000 2: Less 5%	£3,853
27 Darwin Rd	30/07/2012	£250,000	58	£4,310	1: £10,000 2: Less 10%	£3,724
177 Morley Ave	11/05/2012	£279,950	65	£4,306	1: £25,000 2: Nil	£3,922
78 Morley Ave	14/09/2011	£285,000	58	£4,913	1: £25,000 2: Less 10%	£4,034
5 Morley Ave	25/04/2012	£315,000	79	£3,987	1: £25,000 2: Nil	£3,670

18. Resulting from these analyses, Mr Newell concluded that the value of the property could be fairly reflected in the adoption of a figure of £3,700 psm. This would give a value of £277,500 which he rounded down to £275,000. That would be appropriate if the property were to be offered with vacant possession, but in this case, there is the Assured Shorthold Tenancy to consider. Whilst there was at the relevant date a strong market for buy-to-let properties, he was of the view that a discount of 5% would be appropriate. This would produce £261,250 which he further rounded down to £260,000.

19. As a check, and in the knowledge that the property actually sold for £312,000 on an arms-length basis in February 2014, Mr Newell applied the adjustment for time shown in the H M Land Registry House Price Index for terraced houses in LB Haringey for the period at 13.3% to his opinion of vacant possession value of £275,000. This gave £311,575 which is almost exactly the actual sale price. He said therefore that this provided unequivocal support for his conclusions.

Discussion

20. Firstly, as to when the property had been inspected by the VO, the date given in the HMRC review conclusions on 21 April 2017 as 4 December 2014 was clearly incorrect. The VO, in his expert witness report has given the date of the external inspection as 4 December 2013 and said that, at that time the property was “sale agreed”. I conclude, therefore, that the HMRC letter contained a simple typographical error.

21. The executor relies upon the value indications she said she received from two local agents, but has not, she said, for reasons of cost, instructed a surveyor or valuer to provide the retrospective valuation that she was recommended by her solicitor to obtain. As it is, I have no evidence to which I can apply sufficient weight to persuade me that the value should be as low as she suggests.

22. It is disappointing that Mr Newell did not view the property internally, as I can think of no reason why he could not have gained access at the time (before the sale was completed) by asking the selling agent for the key. Nevertheless, I am satisfied that the exercise he carried out has been sufficiently thorough, and accept the conclusion as to value that he has come to. Although one of the comparables (78 Morley Avenue) was sold a year before the property, the rest of the sales he referred to are sufficiently close to the valuation date for the question of the effect of any adjustments for time based on the Land Registry House Prices Index to be immaterial. The same conclusion would apply even if an adjustment were made for that one property or if it were to have been excluded from the list.

23. It seems to me that Mr Newell has made sufficient allowances to reflect the size of the property over its condition (and the fact that it has a downstairs bathroom forming part of the mix) and I accept his conclusions as to its vacant possession value. I also agree that it is appropriate to apply a 5% reduction to reflect the Assured Shorthold Tenancy.

Disposal

24. In the light of the above I determine the value of the freehold interest in 180 Morley Avenue, London N22 as at 12 September 2012 at £260,000.

25. This concludes the issue before me. This is a decision without a hearing and the question of costs will not apply unless there are such grounds of unreasonableness by either of the parties that such an award should be considered. In my view there are no such grounds, and neither party has suggested otherwise. I therefore make no order as to costs.

Dated 10 April 2018

A handwritten signature in black ink that reads "P R Francis". The signature is written in a cursive, slightly slanted style.

P R Francis FRICS