

Appeal No. VA00/3/063

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Brendan Bannerton Motors

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Garage and yard at Map Reference 33a Townland: Townparks (Kilcloony), Street: Dunlo Street, Ballinasloe UDC, Ballinasloe UD, Co. Galway

Validity of revision

B E F O R E

Henry Abbott - Senior Counsel

Chairman

Michael Coghlan - Solicitor

Member

Tim Cotter - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF NOVEMBER, 2001

By Notice of Appeal dated the 6th October 2000, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £40 on the above described hereditament.

The Grounds of Appeal as set out in the said notice of appeal are that;

"(1) Address: Jubilee Street

(2) No filling station

(3) Extention to Haydens is not on my premises

(3) No alterations or modifications".

The appeal proceeded by way of an oral hearing which took place in the Council Chamber, Galway County Council, County Hall, Prospect Hill, Galway on the 3rd May 2001. The appellant was represented by Mr. Michael McCullagh, Auctioneers & Valuers, 5 Society Street, Ballinasloe, Co. Galway. Mr. Noel Norris, B.Commerce, Graduate Diploma in Planning and Development Economics, MIAVI, a District Valuer in the Valuation Office appeared on behalf of the Commissioner of Valuation.

The appellant Mr. Brendan Bannerton was also in attendance. Written submissions prepared by Mr. McCullagh and Mr. Norris were submitted to the Tribunal in advance of the hearing and exchanged with each other. Both valuers adopted their submissions under oath as their evidence in chief at the hearing.

The Property

The property is a garage and yard located close to the centre of Ballinasloe. The Valuation Office Lot no is Lot 33a Dunlo Street. The access to the property is by way of Jubilee Street.

Valuation History

1999/4 Revision: A rateable valuation of £45 was placed on the property.

1999/4 First Appeal: The rateable valuation was reduced to £40.

Appellant's Case

Mr. McCullagh on behalf of the appellant submitted that the incorrect property was revised and submitted the original revision request in support of this contention. He said further that no changes had been made to the property since 1982 and that the previous RV £27 should be restored.

Respondent's Case

Mr. Norris on behalf of the Commissioner put forward the following valuation:

Garage:	309m sq @ £20.45 per m sq	=	£6319
Office:	27m sq @ £32.00 per m sq	=	£864
Store:	24m sq @ £20.00 per m sq	=	£480

Loft Store:	24m sq@ £10.00 per m sq	=	£240
Yard:	540m sq @ £1.08 per m sq	=	£583
Estimated Net Annual Value		=	£848
RV @ 0.5%		=	£42
	Say	=	£40

He supplied the Tribunal with agreed areas as set out in Appendix 1. Mr Norris gave one comparison – Appendix 2 in support of his valuation. He submitted that once the revision request relating to the appellant’s premises was received by the Commissioner of Valuation he had to act on it and did so in accordance with law.

Tribunal Findings and Determination

The Appeal in this instance is in relation to the above premises, listed for revision as Lot No 33 in Ballinasloe described as Garage/Filling Station/Yard. The reference to the nature of the revision required was “revised to include extension at Hayden’s Hotel.” The nature of the appeal in the first instance appeared to be confined to quantum only. However before the Tribunal, the grounds of appeal have been sought to be extended by Mr. McCullagh, who appeared for the appellant, to include an objection to the revision process.

Whereas until recent times one could not expand the grounds of appeal from the grounds first relied on in the appeals process, that practise has been changed by a recent decision of the Tribunal in the case of *John Pettitt VA95/5/015* in which the Tribunal reviewed extensively the decisions of the Courts relating to the expansion of grounds of appeal and found that the Tribunal could no longer adhere to the practise of confining appellants to their original grounds of appeal where there was appropriate reasons for allowing an extension of such grounds of appeal. We propose to follow that decision in relation to this matter and also to hold that there were grounds and are grounds for allowing the appellant to introduce the new grounds at this stage.

In relation to that first issue, quite apart from the original issue of quantum, the Tribunal have considered the arguments used by both sides in this appeal and have paid particular attention to the revising document which is dated the 9th February 1999. The decision of the Pettitt case provides guidance for us in relation to deciding whether the point raised by the appellant should be upheld. The Pettitt case, held that the approach of the Tribunal should be schematic in

relation to deciding whether or not a premises is correctly revised or not and the inaccurate use of a lot number would not necessarily invalidate the process and in this case it would appear that the lot number used, namely number 33, might not have been entirely accurate but having regard to the whole scheme and intention of the revision it would seem to the Tribunal that the Bannerton property of the appellant had very little to do with the scheme of that revision insofar as it had nothing to do with Hayden's Hotel and the changes that were involved in the extension of Hayden's Hotel.

The Tribunal are also mindful of the fact that this property had been separated as between two brothers by Mr. Bannerton's father a considerable number of years before the revision and that the property which has now become, in valuation terms lot number 33b, on the valuation map had effectively nothing to do with Mr. Bannerton's property which appears now to be number 33a.

Having regard to these considerations the Tribunal is applying a view that the revision was not valid in so far as it was not properly focused towards the appellant and accordingly the Tribunal upholds the appeal in this matter. Lest the Tribunal have taken an incorrect view in relation to this issue, the Tribunal will also give a judgement on the quantum aspect of the case which was the first aspect of the case raised. The Tribunal is impressed with the arguments made by Mr. McCullagh having regard to the description of the location of the premises, which is not a back street but certainly a secondary back yard type location in terms of Ballinasloe, and in quite an inferior location to that of the comparison property in the possession of Mr. Terry Noone. That comparison property is on the N6 and it also consists of workshops which are somewhat separated from a modern state of the art covered petrol filling station on a national road. The Tribunal are mindful of the facilities present on the comparison site and of the synergy that would exist from the combination of filling stations drawing in the passing motorists to get petrol or whatever, perhaps putting on a spare wheel and making a commercial contact with the person who is part of the filling station working the workshop. It would seem to us a classic case of the location of a property highlighting its value and hence having regard to the lack of comparable evidence offered we do not find it possible to move away from the initial valuation of £27 on the property.

The Tribunal so determines.

