

Status of Judgment: Distributed

Appeal No. VA01/3/089

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

Yvonne Foy t/a Coco's Creche

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Crèche at Map Reference 4J/B Newpark, ED: Foxrock Deansgrange, UD: Foxrock
Dunlaoire Rathdown County Dublin

B E F O R E

Tim Cotter - Valuer

Deputy Chairman

Michael Coghlan - Solicitor

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF MARCH, 2002

By notice of appeal dated 17th day of October, 2001, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €9.68 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "the valuation is excessive, inequitable and bad in law.

The appeal proceeded by way of an oral hearing, which took place on the 4th day of February 2002 in the Tribunal Offices. The appellant was represented Mr. Eamonn Halpin of Eamonn Halpin & Co. Chartered Valuation Surveyors and Estate Agents. The respondent was represented by Mr. Christopher Hicks, a District Valuer in the Valuation Office. Both valuers adopted the written submissions as being their evidence in chief given under oath.

The Property

The property comprises of a detached residential former gate lodge and motor house which is now used as a crèche. The main bloc is single storey with one area formed out of the original motor house. It is located at the southern end of Newtownpark Avenue close to the junction with the Bray/Dublin road.

Valuation History

The property was revised in November 2000 and a rateable valuation of €9.68 determined. No change was made to the valuation at First Appeal to the Commissioner of Valuation.

Appellant's Case

The appellant submitted that the building was not valued in line with the Tone of the List for this type of property and in Mr. Halpin's evidence he introduced a broad basket of comparisons to support his valuation.

His comparisons are set out in Appendix 1.

Appellant's Valuation

Gross external floor area: 120sq.m. @ €41.01/sq.m

Net Internal area: 89.0sq.m. @ €4.68/sq.m

RV @ .63% = €31

Mr Halpin opened his evidence by adopting his précis as his evidence in chief. He set out his valuation considerations as follows:

1. The buildings comprise of a former residential bungalow and they are in a residentially zoned area.
2. The current use as a crèche and Montessori is one of the few uses other than residential that is permitted under this residential zoning.
3. The use of the buildings as a crèche and Montessori School at this residential location does not greatly increase the NAV capacity of the property.
4. The estimated NAV applied by the Commissioner @ approx. £64.55/m² (€81.96/m² - £6/sq.ft. on a gross external basis) is excessive in view of the broad basket of similar type residential properties that are used for similar purpose and that have been recently reviewed and appealed.
5. In the recent past the Commissioner has sought to increase the rate per m² applicable to the valuation of crèches and Montessori schools in the Dun Laoghaire Rathdown Districts.
6. The Commissioner must apply a uniform approach to the valuation of all similar type properties in broadly similar areas in order to comply with the valuation statutes which envisage one uniform valuation as outlined in the preamble to the 1852 Act.

Mr Halpin said that the premises were not ideal for the purposes of a crèche and that there was a large difference between the gross external and net internal areas. Mr Halpin said that premises anywhere in the Dublin region were comparable with the subject, which due to its age, construction and size should be at the lower end of valuations.

Respondent's evidence

Mr Hicks said that he had valued the subject in line with comparisons of other crèches in the area. He said that modern crèches did not compare with those developed in the eighties and early nineties and that a number of the older valuations related to that period.

Valuation Office Assessment of Valuation

Gross external floor area: 136.2sq.m @ €9.55/sq.m

Net Internal area: 89.0sq.m @ €106.44/sq.m

These levels take account of the age and poor layout of the building

RV @ .63% = €9.68

Mr Hicks gave the Tribunal details of five comparison details of which are set out in Appendix 2 to this judgment.

When discussing the valuation and in particular the contentions of Mr. Halpin, Mr. Hicks stated that in his view rates of €3.17(£2.50)/p.sq.ft. net, were industrial levels and not appropriate for crèches such as the subject

DETERMINATION

The Tribunal has carefully considered the submissions made by the parties and has listened with interest to the evidence offered by Mr. Halpin for the Appellant and by Mr. Hicks for the Respondent.

The Tribunal has noted in particular the contention by Mr. Halpin that these premises are of poorer quality than many, if not most, of the comparisons adduced and that its valuation should have regard to the comparisons adduced and particularly to the Mulberry Crèche and Montessori School set out within Mr. Halpin's précis at comparison No.1

Mr. Hicks has stated frankly that in his opinion the Commissioner was unusually generous to the Appellant in the Mulberry Crèche case when allowing a rate equivalent to £3.00 per square foot (€41 per square metre). He has contended that this comparison is out of line with the tone of his comparisons which were all more recent. Mr. Hicks has argued that rates of £2.50 (€3.17) to £3.00 (€3.81) per square foot are properly rates more applicable for industrial unit space. He has argued that in setting the rate at €9.55/p.sq.m. he has had a due regard to the nature and condition of the property which he himself has fairly described as "awkwardly designed".

The tribunal is sympathetic to the arguments set out above generally but feels that some regard ought to be had to the standard of construction and the fitness of purpose of the subject premises which appears, upon the basis of the evidence adduced, to be clearly inferior to that of its comparators.

Having regard to the evidence adduced and the arguments proffered, the Tribunal determines the rateable valuation of the subject to be €1.00 calculated as set out below:

Gross external floor area 136.2sqm. at €0.00 per square metre =	€8,172.00 or,
(Net internal area 89.00sqm. @ €1.82sqm =	€8,172.00)
Net annual value	€8,172.00
Rateable valuation @ .63% =	€1.48
say	€1.00

and the Tribunal so Determines