

Appeal No. VA02/5/027

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 2001**  
**VALUATION ACT, 2001**

**Mr. Jason Bonney t/a Bonney Baby's Crèche**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Crèche at Map Reference: Elmfield Rise, Clarehall, Malahide Road, County Borough of Dublin

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Brian Larkin - Barrister**

**Member**

**Michael F. Lyng - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 2ND DAY OF MAY, 2003**

By Notice of Appeal dated the 19th March 2003, the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuation of €175 on the above described property.

The Grounds of Appeal as set out in the Notice of appeal are that:

"The Valuation is excessive, inequitable and bad in law".

However, the approach to arriving at the valuation is to be considered, as there appears to be a dichotomy of opinion as to whether the subject property should be valued as another unit in this parade of shops or as a crèche.

The appeal proceeded by way of an oral hearing that took place in the Tribunal Offices, Ormond House, Ormond Quay Upper, Dublin, 7 on the 19<sup>th</sup> March, 2003. Mr. Eamonn Halpin, B.Sc. (Surveying) A.S.C.S. M.I.A.V.I, represented the Appellant and Mr. David Walsh, District Valuer in the Valuation Office represented the respondent. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief

### **Property Location**

The property is located at Clare Hall Housing Development, Dublin 13

### **Description**

The subject property consists of a ground floor unit in a small parade of shop units. A first floor / attic room has been developed since the property was purchased and it is used as an office as well as being used as a staff-room/canteen. The ground floor is a modern purpose built crèche.

### **Valuation History**

The valuation on the property was revised in 2000/4 revision with a RV of €69.84. This was appealed in December 2000. In June 2001 submissions to the Appeal Valuer re quantum and validity of the revision took place. In 2001, the Commissioner of Valuation issued the result of the First Appeal with the Valuation struck out. In February 2002, the Commissioner again revised the property as a result of which the rateable valuation was determined at €190. In March 2002, the Appellants lodged an appeal against the increased assessment. In September 2002, submissions were made to the Appeal Valuer, Mr. David Walsh and in October 2002, the Commissioner issued the result of the First Appeal with RV reduced to €175 without agreement. In November 2002, by Notice dated 20<sup>th</sup> November, the appellants appealed the Commissioners decision to the Valuation Tribunal.

### **Tenure:**

The property is owner occupied

### **Agreed Floor Area (Net Internal)**

Ground Floor: 127.m.sq

First Floor: 46.m.sq

**Appellant's case:**

Mr. Halpin stated that he felt that the initial valuation was excessive and that the current valuation of €175 following the appeal was still excessive. He stated that there was agreement by both parties regarding all the facts but where the disagreement arises is that the Commissioner sees the unit as a retail unit and the appellant sees it as a crèche. Mr. Halpin went on to explain that the planning permission for The Clare Hall Housing Scheme provided for the provision of a small neighbourhood centre and further that the developers included a crèche. He felt it was very unlikely that the City Council would agree to change the use of this property because it was the policy of the City Council to aid child care as far as possible in new housing developments. In reply to the Tribunal as to whether he felt that the valuation of €175 would be the correct valuation on the subject property if it were being valued as a retail unit Mr. Halpin stated that he would have to consider that situation before replying. Nonetheless he felt that it should not be valued as a shop because when it was purchased in 1997 for €14,276, it was fitted out in accordance with the planning conditions as a crèche with a restriction for 17 children. If the premises were to be changed to retail use it would require substantial structural changes but Mr. Halpin felt that the City Council would not allow this. Mr. Halpin compared the purchase price of the subject property with the number one comparison from the Valuation Office, that is Corr's Pharmacy with 87.5 sq.m. which was purchased for €215,855. He claimed that this was a clear indication that the subject property should not be valued the same as the retail units having been purchased for €14,276.43. Mr. Halpin put forward his opinion of Net Annual Value on two bases as set out below:

**Basis 1.**

Est. Nav (1988 tone)

Crèche 127m <sup>2</sup> net @ €68.34/m <sup>2</sup>	=	€8,679
Attic 46m <sup>2</sup> net @ €20.52/m <sup>2</sup>		€ 943
(parts with restricted headroom)		_____

€9,622 @ 0.63% = RV €60.62 say €60

**Basis 2**

Crèche 142 m<sup>2</sup> (gross external) @ €4.68/ m<sup>2</sup> = €7,764.56

Attic 54 m<sup>2</sup> @ €13.67/ m<sup>2</sup> = €738.18

€8,502.74 @ .63% = €53.56

Say RV €54.

In support of his opinion of value Mr. Halpin introduced 7 comparisons details of which are set out in Appendix 1 attached to this judgment.

**Respondent's case**

Mr. David Walsh on behalf of the respondent having taken the oath adopted his written submissions as being his evidence in chief. He stated that the property was located in a small parade of shop units serving a large and newly developed residential area known as Clare Hall. He felt that this premises could be used for alternative purposes. In response to a question from the Tribunal, Mr. Walsh agreed that because of the planning restriction on this property a further planning application for a change of use would be necessary and physical changes to the property would also be necessary to make it fit for use as a shop. Mr. Walsh also accepted that the subject property in view of the restrictions placed on it by the planning conditions could not be valued as a retail unit. He agreed too that the Bright Horizons Crèche was a fair comparison as it was similar in many respects. Mr. Walsh agreed that the planning permission was probably the major factor in the differential of the purchase price of €14,276.43 of the subject property as against the Chemist shop in the same development at €15,855.00. This difference surprised him.

Mr. Walsh contended for a rateable valuation of €125 calculated as set out below:

Ground Floor:	127 sq. m. @ €205.00 per sq. m.	=	€26,035
First Floor:	46 sq. m. @ € 46.00 per sq. m.	=	€ 1,886
Net Annual Value:			€27,921
Rateable Valuation :	€27,921 @ 0.63% = €175.90	say	€175

Mr. Walsh put forward there comparisons – all of them shops in the Clare Hall Development – as set out in Appendix 2.

**Determination: -**

The Tribunal, having carefully considered all the evidence, including that in relation to comparisons, both in the written submissions and given orally at the hearing, makes the following findings:

1. The subject property was designed and built as a crèche in accordance with the conditions contained in the planning permission for the small Neighbourhood Shopping Centre at Clare Hall. It is common case that it would require physical alteration in order to render it suitable for use as a shop in the event of planning permission being obtained for a change of use.
2. The statutory definition for the valuation of a relevant property requires that it be valued “in its actual state”. Hence it is necessary to take into account the mode or category of use as well as the physical state and circumstance of the building. In regard to the subject property it was built and designed as a crèche and is used as a crèche. Accordingly therefore it should be valued as a crèche.
3. The subject property is to be distinguished from a standard unit in a Shopping Centre which is used as a crèche, as in the case introduced by Mr. Walsh VA02/2/059 – Woodstown Nursery and Montessori Ltd., and other similarly circumstanced crèches in Sandyford Hall and Wilton Shopping Centre in Cork.
4. Having regard to the foregoing the Tribunal considers the Bright Horizon Crèche to be the most helpful in arriving at an estimate of Net Annual Value.

Accordingly the Tribunal determines the Net annual Value to be as calculated hereunder:

Ground Floor	127 m <sup>2</sup>	@	€120p.s.m.	=	€15,240
First Floor	46 m <sup>2</sup>	@	€ 24p.s.m.	=	€ 1,104
Net Annual Value				=	€16,344
But Say				=	€16,000
Rateable Valuation		@	0.63%	=	€100