

Appeal No. VA05/1/033

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

**Padraic McLoughlin**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop at Lot No. 1A/1, Attifinlay, Carrick-on-Shannon, County Leitrim

**B E F O R E**

**John Kerr - BBS. ASCS. ARICS. FIAVI**      **Deputy Chairperson**

**Leonie Reynolds - Barrister**                      **Member**

**Brian Larkin - Barrister**                              **Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF AUGUST, 2005**

By Notice of Appeal dated the 24th day of March, 2005, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €125.00 on the above described relevant property.

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

"The rateable valuation is excessive having regard to the tone of the list.

The Valuation Office valuer has made no specific reference to other rateable valuations on the Valuation List as per Section 49 of the Valuation Act 2001."

**At Issue****Quantum**

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 13<sup>th</sup> May, 2005.

The appellant was represented by Ms. Maeve Diamond B.Sc.(Hons) Property Investment and Development, of Conor ó Cléirigh & Co. Chartered Valuation Surveyors, Auctioneers & Estate Agents. Mr. Damien Curran, M.R.I.C.S., A.S.C.S., B.Sc. (Surv.), a Team Leader in the Valuation Office appeared on behalf of the respondent. Both parties formally adopted their précis as their evidence-in-chief subject to an amendment by Ms. Diamond of 8.5 sq. metres in the area quoted by the appellant for the first floor of the subject premises viz 187.5 sq. metres instead of 179 sq. metres. Ms. Diamond indicated that she was excluding comparisons No. 2, No. 3 and No. 4 which were included in her précis and was relying on comparisons No. 1 and No. 5 only for the purposes of this appeal.

**The Property**

The property is located on the Castlecarra Road which is just off the Dublin Road, Carrick-on-Shannon, Co. Leitrim and about half a mile from the town centre. The adjoining area is mixed in character and comprises commercial outlets, housing and a local G.A.A. club.

The property consists of a single storey building of concrete block construction with plastered concrete walls, concrete flooring and a pitched double skin metal deck roof on a steel frame. The ground floor is fitted with halogen lighting and the first floor is fitted with strip lighting. Windows are PVC double glazed throughout.

The ground floor, with an eaves height of 5.47 sq. metres is laid out in two sections which are separated into retail and storage use. Business is conducted from the retail area, the rear of which is sub-divided into two parts which provide canteen and storage facilities. A mezzanine store area has been created over the ground floor retail section, access to which area is via an internal staircase from the main retail area. This section apparently has an open plan layout with exposed

block walls and metal decked roof. Loading access is from a steel roller shutter door 3 metres wide approx. positioned at the side of the building.

The site has a timber fence boundary and parking facilities exist to the front and side of the building on a hardcore surface site.

### **Tenure**

Freehold

### **Valuation History**

The property was valued at RV €125 at Revision Stage in November, 2004 and was unchanged at first appeal stage in February, 2005.

### **Appellant's Case**

Ms. Diamond having taken the oath proffered evidence on behalf of the appellant. She acknowledged to the Tribunal that there was a variation of 8.5 sq metres in the first floor area of the subject premises as per her précis and that of the respondent. Ms. Diamond apologised for not having agreed floor areas in advance of hearing as advised in the Registrar's letter dated 5<sup>th</sup> May, 2005 but said that this was due to unforeseen circumstances. Ms. Diamond confirmed that this anomaly between the respective measurements was due to an error on her part. The respondent's figure of 187.5 sq. metres for the first floor was the correct one and was based on gross external measurement whereas the appellant's figure of 179 sq. metres reflected the net internal area for the first floor mezzanine storage area. Ms. Diamond referred to her précis and photos. The unit was a quasi-industrial unit located off the main Dublin Road about a half mile from Carrick-on-Shannon town centre. The accommodation was as follows:

Ground Floor	Retail 187.50 sq. metres
	Storage 204 sq. metres
First Floor	Mezzanine Storage 187.50 sq. metres (now agreed)

Ms. Diamond added that the overhead mezzanine storage area was only accessible via an internal staircase from the main ground floor retail area. Public access to the premises was restricted to the retail area. There was no lift to the first floor. The site, bounded by a timber fence, did not have designated parking, but had hardcore surface parking facilities to the front and sides of the subject premises. Ms. Diamond stated that in general terms the property was located in a secondary location and suffered from poor visibility from the Dublin Road. In response to a question from the Tribunal Ms. Diamond stated that the adjacent Mulvey's Toy Store was her best comparator (see appellant's comparisons at Appendix 1 to this judgment).

Ms. Diamond was cross-examined by Mr. Damien Curran for the respondent who put it to her that the appellant was precluded from raising significant new issues not included at first appeal stage. Mr. Curran was referring in particular to the variation in the area stipulated in the appellant's précis in respect of the first floor of the subject. He cited as authority the **John Pettitt & Son Ltd.** and **Centre Operators Ltd.** judgments of the Valuation Tribunal.

Moving on to the appellant's first comparator, i.e. Mulvey's Toy Store, Mr. Curran put it to Ms. Diamond that:-

- (1) the fact that the ground floor area in Mulveys was three times that of the subject was a reasonable basis for applying a higher rate per sq. metre to the retail area of the subject and
- (2) Ms. Diamond should have applied the same ratio criteria to the subject as in Mulveys viz ground floor rate per sq. metre to first floor rate per sq. metre to be in 2:1 ratio.

By way of response Ms. Diamond explained:-

Re (1) the subject was in a secondary location whereas Mulveys was closer to the Dublin Road, was fitted with a lift and had a designated car park.

Re (2) her approach was based on the substantially greater retail area occupied by Mulveys and the latter's higher specification.

Mr. Curran then proceeded to challenge the appropriateness of the appellant's comparisons Nos. 2, 3 and 4 (which included lofts) arising from which Ms. Diamond agreed to exclude same from consideration by the Tribunal.

Mr. Curran, concluding his cross-examination of Ms. Diamond put it to her that the appropriateness of the appellant's comparison No. 5 viz. North-West Toolhire of Kilclaremore Road, Carrick-on-Shannon was debateable on the grounds that it was in a rural location at some distance from the town.

The second ground of appeal in the Notice of Appeal, namely "*The Valuation Office valuer has made no specific reference to other rateable valuations on the Valuation List as per Section 49 of the Valuation Act 2001.*" was not pursued at hearing.

### **Respondent's Case**

Mr. Curran in his direct evidence to the Tribunal stated that there was no dispute in relation to the physical nature or condition of the subject. The respondent's comparators (see Appendix 2 to this judgment) apart from the one common comparator, Mulvey's Toy Store, also included two recent modern developments in close proximity to the subject. Though described as workshops in his précis Mr. Curran indicated that they had quasi-industrial application with some retail use similar to the subject. However, he accepted that his main focus for comparison purposes would be comparison No. 1 Mulvey's Toy Store. Mr. Curran reiterated his view that the appellant's alternative comparison (viz. No. 5) was too far outside Carrick-on-Shannon and was irrelevant.

Concentrating on the common comparator, Mr. Curran argued that the subject was located on a road which was part of the expansion of Carrick-on-Shannon with mixed office and workshop development. He stated that a tone had been established by virtue of his comparisons No. 2 and No. 3 and that given that the retail area of Mulveys was three times that of the subject an uplift in the rate per sq. metre should be applied to the subject.

Responding to a question put by the Chairperson, and while not being able to confirm absolutely whether the first floor of Mulveys was used for retail or storage purposes, Mr. Curran would not concede that Mulveys was superior to the subject, although he agreed that its entrance perhaps rendered it cosmetically more attractive than the subject property. He also accepted that the fencing round the subject was screen rather than security and that only hardcore surface parking was available.

Cross-examined by Ms. Diamond, Mr. Curran agreed that Mulvey's Toy Store was the most appropriate comparison with the qualification that his second and third comparisons were also relevant on the grounds of proximity. Mr. Curran also accepted that there was a lift in Mulveys unlike the subject (albeit he had not seen it) and that Mulveys was closer to the Dublin Road. He would not however accept that Mulveys was of superior design or was finished to a higher specification internally and externally to the subject property. Mr. Curran further would not accept the basis of valuation of the subject as set out in the appellant's thesis and calculated by reference to Mulveys for the already stated reason that the retail area of Mulveys was three times that of the subject, despite Ms. Diamond's claim that Mulveys was fitted to a higher standard.

Ms. Diamond concluded with the following submission:

1. The subject premises was of basic quality and finish relative to Mulveys.
2. Mulveys was the best comparator to the subject as it was in close proximity but it was finished to a higher specification.
3. The subject did not have a lift whereas Mulveys did.
4. Larger retail units were as much in demand as smaller units and she disagreed with the respondent's contention that a higher rate per sq. metre should be applied to the subject, given that it was only one third the area of Mulveys.

### **Findings**

1. Mulvey's Toy Store located in close proximity to the subject afforded the best comparison.
2. Mulvey's Toy Store had the benefit of designated albeit limited parking whereas the subject was restricted to hardcore surface parking.
3. Mulvey's Toy Store was fitted with a lift to the first floor, the subject had no lift.
4. Mulvey's Toy Store was fitted to a higher specification than the subject.
5. The subject was surrounded by screen as distinct from security fencing.
6. Mulvey's Toy Store had a superior profile whereas the subject suffered from poor visibility.
7. The rate applied by the respondent to the ground floor areas (retail and store) of the subject premises should be adjusted downwards by 10% to reflect the findings at 1-6 above. A pro rata discount should also apply to the first floor storage area.

**Determination**

Having regard to the evidence adduced and arguments proffered the Tribunal determines the rateable valuation of the relevant property as follows:-

Ground Floor Retail	187.50 sq. metres @ €5.35 per sq. metre	= €10,378.12
Ground Floor Store	204.00 sq. metres @ €36.90 per sq. metre	= €7,527.60
First Floor Store	187.50 sq. metres @ €18.45 per sq. metre	= €3,459.38
Total NAV		= €21,365.10
Rateable Valuation €21,365.10 @ 0.5%		= €106.83
Say		= €107

And the Tribunal so determines.