

Appeal No. VA05/2/001

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

P J Sweeney

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 48/1, Dunglow, Glenties, County Donegal.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Leonie Reynolds - Barrister

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF OCTOBER, 2005

By Notice of Appeal dated the 1st day of April, 2005, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €60.00 on the above described relevant property.

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

"The comparisons used are both Pharmacies and not corresponding retail units trading in Dungloe which have a lesser rateable value (ii) corresponding property of Patrick Campbell with twice the floor area has value of approx €70.00 Also the property was not valued in accordance with the Valuation Act based on a annual rent of €14,040."

1. This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 31st of May 2005.
2. At the hearing the appellant appeared on his own behalf and Mr. Colman Forkin, B.Sc. (Surveying), MRICS, ASCS, MIAVI, appeared on behalf of the respondent, the Commissioner of Valuation.

The Property Concerned

3. The property concerned is a lock-up shop with basement store in a newly constructed two-storey over basement end of terrace building on the west side of Main Street, Dungloe, County Donegal. The shop which trades as “Books and Charts” is a news agency cum bookstore. It is located beside the Bank of Ireland premises and almost opposite to the junction of Main Street and the N56 road to Glenties.

The property concerned is occupied under a 25-year lease from September 2003 at an initial annual rent of €14,040 and the lease provides for rent reviews at 5-yearly intervals.

The accommodation provided measured on a nett internal area basis is as set out below.

Shop and Office	103.9 sq. metres
Basement Store	29.05 sq. metres

Rating History

4. On the 3rd of November, 2004 the revision officer appointed by the Commissioner of Valuation pursuant to Section 28(7) of the Valuation Act, 2001 issued a certificate to the effect that the rateable valuation of the property concerned had been assessed at €60. The appellant appealed against this assessment under section 30 of the Valuation Act and the decision of the Commissioner of Valuation was to make no change. It is

against this decision by the Commissioner of Valuation that this appeal to the Tribunal now lies.

The Appellant's Evidence

5. The appellant having taken the oath submitted that the comparisons relied upon by Mr. Forkin were not typical of the prevailing levels of assessment on Main Street, Dungloe. The appellant said that he had contacted Donegal County Council and as a consequence he submitted computer print-outs issued by the Valuation Office in respect of three shops on Main Street (see Appendix 1 to this judgment) which he considered to be more representative of values on Main Street.
6. The appellant said he was familiar with the three properties referred to and expressed the opinion that the premises occupied by Eamonn Diver (his comparison No.1) was most similar to his in terms of size and nature as it was a lock-up shop in a new building with offices overhead. The property occupied by Tom Gettings, (his comparison No. 3) he said, was a supermarket with an off-licence and it was larger than the property concerned and more valuable.
7. In relation to Mr. Forkin's comparisons the appellant said that two of these (comparisons No. 1 and 2) were pharmacies and not retail units. Comparison No. 3 (Ben Sweeney Electrical) was located on the Carnmore Road off the N56 and not on Main Street. The appellant said that in his experience the east side of Main Street was better than the other side from a trading point of view and it was on the west side that the property concerned is located.
8. The appellant said that he had been informed that the rateable valuation of a property was based upon an estimate of its rental value in November 1988. Whilst he had no idea what the rental value of his premises would have been in 1988 it would, he said, have been considerably lower than the rent now being paid. In any event he was of the opinion that the property occupied by him was less valuable than any of Mr. Forkin's comparisons and indeed than those introduced to the Tribunal by him.

The Respondent's Evidence

9. Mr. Forkin after having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

10. In his evidence Mr. Forkin contended for a rateable valuation of €60 calculated as set out below.

Shop & Office	103.9 sq. metres @ €102.51 per sq. metre	= €10,658
Basement Store	29.05 sq. metres @ €47.74 per sq. metre	= <u>€1,387</u>
Net Annual Value		= €12,045
Rateable Valuation @ 0.5%		= €60

11. In support of his opinion of Net Annual Value Mr. Forkin adduced 3 comparisons details of which are set out in Appendix 2 to this judgment.

12. In evidence Mr. Forkin said he had investigated the valuations of the three properties referred to by the appellant in his evidence. In an effort to assist the Tribunal he submitted the following relevant facts from the Valuation Office records.

a) Property No. 1889185 Occupier Eamonn Diver

Property Description: House/Out Office/Restaurant/Café

Commercial Rateable Valuation €40.63

Restaurant/Café 106.74 sq. metres @ €61.49 per sq. metre = €6,563

Store 47.84 sq. metres @ €30.75 per sq. metre = €1,471

Net Annual Value = €8,034

Rateable Valuation @ 0.5% Say = €40.63

Mr. Forkin said that this property was situated on the edge of the town and occupied an inferior location to the property concerned.

b) Property No. 2004987 Occupier Pat Campbell

Property Description: Shop, offices

Rateable Valuation €76.18

Shop 241 sq. metres @ €50.79 = €12,240

Stores 126 sq. metres @ €25.39 = €3,199

Net Annual Value = €15,439

Rateable Valuation @ 0.5% Say = €76.18

Mr. Forkin said that whilst this property was much larger than the subject property it had an old fashioned shop front.

c) Property No. 2005030 Occupier: Tom Gettings

Description: Supermarket, garden/small garden

Rateable Valuation €7.14

Supermarket 140.28 sq. metres @ €8.34 = €9,587

Store 72 sq. metres @ €27.32 = €1,967

Net Annual Value = €11,554

Rateable Valuation @ 0.5% Say = €7.14

13. Mr. Forkin under cross-examination said that he did not agree that the east side of Main Street was superior to the other side from a trading point of view.
14. When asked about his comparisons No. 1 and 2, occupied by O'Donnell pharmacy and Mc Elwee pharmacy respectively, Mr. Forkin agreed that they were both pharmacies but pointed out that this did not have a bearing on their valuation which was assessed in line with other retail premises in the street.

Determination and Findings

The Tribunal has carefully considered all the evidence and arguments adduced by the parties and makes the following findings.

1. The Tribunal has carefully examined the details of all the comparisons referred to by the appellant and by Mr. Forkin. In this regard the Tribunal would like to express its appreciation to Mr. Forkin for his assistance in providing an analysis of the appellant's comparisons. It is clear from the comparisons that there is a significant variation in the rate per square metre applied to shops on Main Street.
2. The Tribunal accepts the appellant's opinion that the east side of Main Street is better from a trading point of view as it is based on his personal knowledge and experience of doing business in Dungloe.

3. Of all the comparisons introduced the Tribunal considers those occupied by Ben Sweeney Electrical and Pat Campbell to be the most relevant insofar as they are of a size similar to the property concerned. The other comparisons are also helpful but to a lesser degree and as mentioned elsewhere there is quite a significant variation in the rates per square metre throughout the length of Main Street.
4. Taking all relevant factors into account the Tribunal has come to the conclusion that the assessment of €60 is slightly on the high side and accordingly we determine the rateable valuation of the property concerned to be €55 calculated as set out below.

Shop and Office	103.97 sq. metres @ €5 per sq. metre	= €9,877
Basement Store	29.65 sq. metres @ €42 per sq. metre	= <u>€1,245</u>
Net Annual Value	€11,122	Say = €11,000
Rateable Valuation @ 0.5%		= €55

And the Tribunal so determines.