

Appeal No. VA08/3/024

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

Bernie Moran

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2192206, Crèche at Lot No. 14C/1, Cashelshanaghan, Castlewray, Letterkenny, Co. Donegal

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 5TH DAY OF JANUARY, 2009

By Notice of Appeal dated the 27th day of July, 2008 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €120.00 on the above described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal and pages attached thereto, copies of which are at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing which took place in the Radisson Hotel, Letterkenny, Co. Donegal on the 6th day of November 2008. Ms. Bernie Moran, the appellant, represented herself. Ms. Catriona Patton, Manager of the appellant business, also attended. Mr. Tomás Cassidy, BSc Property Management & Valuation Surveying, a 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.

The Property Concerned

The subject property is a new, purpose-built, two-storey crèche located on the main Letterkenny to Rathmelton Road, about 5 miles from Letterkenny and about 3 miles from Rathmelton.

Floor area

Ground floor 457.88 sq. metres

First floor 249.41 sq. metres

Tenure

Freehold

Appellant's Case

Ms. Bernie Moran, having taken the oath, outlined to the Tribunal that she was a nurse by profession and mother of three children and that she had always wanted to start a high quality crèche facility in her area. She also said that she had a particular interest in children with special needs. In 2003 she built a state-of-the-art child care facility of 8,500 sq. feet which included 1,100 sq. feet used solely as a soft play area for therapeutic and remedial use. There are only 8 people, including Ms. Patton, working in the crèche at present. Some of these have had their hours reduced as business is declining rapidly. Ms. Moran told the Tribunal that, when designing the crèche, she hoped for an intake of 42 children (the maximum allowed by the HSE regulations) and currently has fewer than 30. She decided to have a very large dining area which did not make financial sense but she wanted the childcare to be of the highest quality. She also made provision for children with special needs and at the moment caters for one such child.

The building is totally self-contained and cost in the region €800,000. It has a lift but this was never commissioned as it would require an extra phone line and, therefore, extra cost. The rates are €8,500 yearly and the wages €150,000 yearly. Ms. Moran felt that the gross floor area used for the determination of the NAV of the property is excessive because it does not take into consideration the large area which contributes nothing to the core activity carried out on the premises. Significant segments of the building form part of the circulation area, corridors, toilets, etc. The dormer style construction of the first floor level is not ideal for income generating and is used only part time after school hours.

The crèche is purpose built, adjacent to a working farm and not suitable for adaptation by any other commercial venture. It has had to be subsidised since opening and that trend is continuing with the number of children not exceeding 30. In regard to the comparisons used by the Valuation Office Ms. Moran stated that their first comparison, Castlefin Community Childcare Services, is state funded and does not pay rates. Their second comparison, located in Newtowncunningham, is no longer operational due to economic factors.

Respondent's Case

Mr. Tomás Cassidy stated that the subject property is a purpose built two-storey crèche. At inspection it was operating five days per week from 7.30 am to 5.30pm and, according to a staff member he spoke to, was catering for 40 to 50 children per day. The property is in good condition throughout and, he understood, was served by a lift.

Mr. Cassidy assessed the rateable valuation of the subject property as follows:

Ground floor 457.88 sq. metres @ €37.58 per sq. meters = €17,207.13

First Floor 249.41 sq. metres @ €27.33 per sq. meters = €6,816.37

NAV €24,023.50

@ 0.5% €120.12

Say €120

Mr. Cassidy agreed that both his comparisons (see Appendix 2 hereto) were much smaller than the subject. He agreed that the Newtowncunningham Crèche was closed but it is located in a type of retail development. His second comparison, Castlefin Community Childcare Services, is located in a local community development. Mr. Cassidy stated that there was very limited comparable evidence at the time of valuation.

Cross examination

Ms. Moran stated that she felt that the comparisons used by the Valuation Office were not relevant. She stated that a crèche in Manorcunningham had an RV of about €80 with 110 – 120 children in a much higher populated area as against her crèche with around 30 children having an RV of €120. Mr. Cassidy confirmed that the €84 valuation of the Manorcunningham crèche was not available to him as comparable evidence as it was valued at the same time as the subject property. He said that this property was measured, in error, on a gross external basis (690 sq. metres) but that he did not have the time to revisit it and have it re-measured. So as not to penalise the occupier for this error he had rounded the valuation down from €120 to €84 – a reduction of 25%. He agreed that Ms. Moran had over-capacity for the number of children enrolled.

Determination

The Tribunal having considered carefully all the evidence and arguments adduced by the parties make the following findings:

1. The subject crèche is a modern purpose-built facility.
2. The rural location beside a working farm has a devaluing effect on the property.
3. The restriction on numbers at 42 is quite small relative to the size of the premises.
4. There appears to be a lack of demand in the area for a crèche.
5. There is an over-provision of space in the crèche.

Having regard to the above findings, the Tribunal determines the rateable valuation of the subject property to be €6 calculated as follows:

Ground Floor: 457.88 sq. metres	@ €28 per sq. metre	=	€12,820.64
First Floor: 249.41 sq. metres	@ €18 per sq. metre	=	<u>€4,489.38</u>
NAV			€17,310.02
@ 0.5%			€6.55
Say RV			€6

And the Tribunal so determines.