

Appeal No. VA08/3/036

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

Denis Doyle

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2191495, Veterinary Clinic at Lot No. 6E, 1 Bollarney House, Bollarney North, Wicklow Rural, Rathdrum, County Wicklow.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Michael F. Lyng - Valuer

Member

James Browne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF JANUARY, 2009

By Notice of Appeal received on the 8th day of August 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €85 on the above described relevant property.

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

"On the basis that the valuation as assessed is excessive, inequitable and bad in law. The NAV is excessive in view of the type, nature and relative value of this property at this location".

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on Friday the 21st day of November, 2008. The appellant was represented by Mr. Eamonn Halpin, BSc, ASCS, MRICS, MIAVI. The respondent was represented by Ms. Orla Lambe, BSc, a Valuer in the Valuation Office. Both parties adopted their written submissions, which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

The Property

The property concerned, a veterinary surgery, comprises a 2 storey office building with the ground floor only in use as a veterinary surgery. The first floor was unfinished at valuation date and remains vacant; it was not included in the valuation. A certain element of retailing of animal supplies is carried out on the ground floor. Parking is available to the front and rear of the property. The ground floor comprises a total of 248.8 sq. metres, and this area is agreed between the parties. The ground floor comprises a waiting room and reception area, lift and stairwell to the first floor, consultation rooms, offices, stores, X-Ray rooms, development room, cat & dog kennels, operating theatre, laboratory, boiler house and toilets. The building is finished to a good standard with plain walls and ceilings. The floor to ceiling height is approximately 2.4 metres in places.

Location

The property is located about 3km north of Wicklow town on the R750 on the Wicklow to Rathnew Road. It forms part of a recent development. The neighbouring buildings, which also form part of the development, include car sales showrooms and a leisure complex. There is residential accommodation, a department store and a supermarket in the general area of the development although they do not form part of it. The property has a profile onto the main road on which it is located.

Tenure

The property is held freehold.

Rating Authority

The rating authority is Wicklow County Council.

The Appellant's Case

Mr. Halpin, having taken the oath, adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief. He confirmed that the floor areas were agreed.

In his evidence, Mr. Halpin stated that there was a lot of agreement as to the location of the premises and the general description of the premises, but not how to value it. He was of the view that the comparison properties were too far from the subject property to be of significance in assessing appropriately the valuation of the subject property. Mr. Halpin considered the neighbouring properties of the subject property to be more appropriate comparisons. These neighbouring properties included car showrooms and a leisure complex. He accepted they were different to the subject property but that the only difference was in terms of fit-out. He stated that the construction of all the buildings was the same and was by way of a steel portal frame with cladding and it is only their use that differed. He did not feel that the comparisons put forward by the Commissioner were of any help in reaching an appropriate valuation of the subject property.

He considered this to be an unusual case in that there is only one other veterinarian practice in County Wicklow and that is in Greystones and he felt that this is of no assistance as it is based in an old period house. He stated that the subject property is an unusual building as the top floor is unfinished. He described the reception area as being done to a good standard and that you can buy some animal feed there but he was of the view that you could not describe it as a shop. The rest of the building he described as done to a good standard but within the limitations of the building. He measured the height from ground to ceiling as being only 2.4 metres, which is a bare minimum. He viewed the finishes to the walls and ceiling as not being exceptional, and that they are done in a way so that the premises can be kept clean and are only slightly better than a workshop finish. He valued the front reception area/display area of 50 sq. metres @ €50 per sq. metre which gave a NAV of €2,500. This, he stated, was the valuation on the surrounding car showrooms which he considered to be done to a higher finish. He valued the balance of the building at 198.8 sq. metres @ €30.75 per sq. metre which gave a NAV of €6,113.10 giving a total NAV of €8,613.10 with a rateable valuation @ 0.5% equalling €43.

Mr. Halpin then introduced his comparisons (details at Appendix 1 hereto) as follows:

1. Sinnott Autos is a car dealership two doors away from the subject property. The front showroom, which is 99.69 sq. metres in size, is valued at €50 per sq. metre with the

balance of the showroom, which is 300 sq. metres in size, valued at €35 per sq. metre. The total area of the showroom is 399.69 sq. metres, with various other valuations on different parts of the property. The rateable valuation of the total property is €160.

2. Peppard Motors is a car dealership in the same development as the subject property. The front showroom is valued at €50 per sq. metre with the balance of the showroom, including offices, valued at €35 per sq. metre, with ancillary at €27 per sq. metre and the workshop at €25 per sq. metre.

Mr. Halpin stated that the floor to ceiling of the workshop in the appellant's second comparison was higher than that of the subject property. He considered the finish of the subject property to be better than the workshop but not up to office standard.

Mr. Halpin referred to the Tribunal's decision in **VA04/1/024 - Gerry Cobbe & Mary McGibney**, and used it to support his contention that there is no requirement under the Valuation Act, 2001 for the Tribunal to confine itself to buildings of a similar function. On that basis he submitted that the best comparisons available were the car showrooms neighbouring the subject property which were well fitted out and that the subject property should not be valued at a higher level than these car showrooms.

Cross examination of Mr. Halpin

In cross examination, and with reference to page 5 of the appellant's précis of evidence, Ms. Lambe questioned Mr. Halpin as to whether he stood over his statement therein that the subject property had no suspended ceilings fitted. He accepted that a small area of the offices did in fact have a suspended ceiling, but said that the majority of the surgery did not. Ms. Lambe and Mr. Halpin disagreed as to the extent of the area covered by suspended ceilings and with the standard of finish of the areas not covered by suspended ceilings.

Mr. Halpin accepted that the reception area was done up to an office standard but said that this was to be expected. However, he felt that even though the floors, walls and ceilings in the surgery area were done to a high finish for its use, they were not done to office standard. When put to him, Mr. Halpin accepted that the development was a mixed use area but he did not accept that Tesco was part of the development area. He also accepted that the offices in

the adjoining car showrooms were of ancillary use but stated that they were done to an exceptionally high standard and were of vital use.

Respondent's Evidence

Ms. Lambe having taken the oath adopted her written précis of evidence which had previously been received by the Tribunal as being her evidence-in-chief. She agreed with Mr. Halpin on the location and general description of the subject property and the areas.

Ms. Lambe referred to Appendix 4 of her précis and described the property as having an excellent profile. She agreed with Mr. Halpin that the building had a steel portal frame but felt that it could not be described as an industrial building as it was finished to a much higher standard. She stated that the car showrooms are valued by reference to other car showrooms and that the subject property as a veterinary surgery was a mix of retail, surgery and office and that the preferable comparison was office type buildings.

Ms. Lambe valued the property as follows:

Ground floor surgery of 248.8 sq. metres @ €8.34 per sq. metre

NAV of €17,002.99 @ 0.5% = RV €85.01

Say RV €85.

Ms. Lambe then introduced her comparisons [see Appendix 2 hereto] as follows:

Comparison No. 1, Bank of Ireland, RV €200, agreed on appeal; this is located at the Glencormack Business Park, Kilmacanogue, Co. Wicklow. It is a two storey, purpose built office block in a business park and is located on the N11 with profile onto the N11. It is finished to a good standard and has parking available.

Comparison No. 2, XNET Information Systems, RV of €15; this is also located at the Glencormack Business Park. It is a two storey, purpose built office block in a business park and is located on the N11 with profile onto the N11. It is finished to a good standard and has parking available.

Comparison No. 3, Norton Insurance Ltd, RV €3; this is located in the Woodlands Office Park at the Bray end of the Southern Cross Route providing direct access to the N11. It is part

of a two storey, purpose built office. It is finished to a good standard and has parking available.

Comparison No. 4, Zest Training Ltd, RV €75; this is also located in the Woodlands Office Park at the Bray end of the Southern Cross Route providing direct access to the N11. It is part of a two storey, purpose built office. It is finished to a good standard and has parking available.

Comparison No. 5, Noel P. Hegarty & Sons Ltd, RV €65 in 2007; this is located on the outskirts of Wicklow Town. The property does not have profile onto the main road compared to that of the subject property. The property is built to a good standard. It is a purpose built development but would not have the same footfall as the subject property.

Cross Examination of Ms. Lambe

In cross examination Mr. Halpin asked Ms. Lambe whether she agreed that his comparisons all enjoyed the same locational advantage. Ms. Lambe agreed. He then asked what the primary driver in arriving at a valuation is. Ms. Lambe stated that it was location and that fit-out was the second in line for consideration. She agreed that his comparisons had a similar location factor but she added that they did not have a similar physicality factor. She agreed that the subject property was a steel portal frame with cladding and that there was not another similar type veterinary surgery for rating purposes. However, Ms. Lambe felt that the fit-out of the subject was to a very high standard. Mr. Halpin put it to Ms. Lambe that his comparisons were more appropriate in physicality. He then asked her whether she accepted that her comparisons were not directly comparable as she made a significant adjustment down from circa €100 in the valuation as compared to her comparators. Ms. Lambe disagreed with these suggestions.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings:

1. The subject property is a recent construction and forms part of a mixed use development.
2. The Tribunal notes that the location, general description of the property and its size are agreed.

3. The Tribunal has considered the comparisons offered by both parties and notes that it must make any findings in accordance with Section 49 (1) of the Valuation Act, 2001.
4. The Tribunal notes the location of the subject property and accepts that there are a number of neighbouring properties of similar construction but of different use and finish in the same development.
5. The Tribunal accepts that the Valuation Act, 2001 which came into effect on the 2nd of May, 2002, set down the principles for valuing properties for rating purposes and the procedures for revision and appeal stages. Section 49(1) sets down the basis for valuing properties at revision stage and dictates that values should be determined by reference to comparable properties in the same rating area.
6. The Tribunal accepts that in the absence of any definition in the Act as to what is comparable the word must be given its normal meaning and means equivalence, likeness or sameness. That being the case, comparable must be interpreted as being similar in use, location and nature of construction or any other factor which will have bearing on value.
7. In this respect the Tribunal is of the view that the respondent's 5th comparison of Noel P. Hegarty & Sons Ltd is of the greatest assistance in determining a fair and reasonable valuation.

Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. Having heard all the oral evidence and submissions, and having considered the préces lodged herein the Tribunal has made the foregoing findings and in the light of those findings determines that the valuation of the respondent is fair and reasonable. The Tribunal therefore affirms the RV of €85.

And the Tribunal so determines.