

Appeal No. VA08/5/207

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

Bernard Leigh

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2180891, Yard at Nangor Road, Ballybane, County Dublin

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF FEBRUARY, 2009

By Notice of Appeal dated the 19th day of August, 2008, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €46,900.00 on the above-described relevant property.

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

"Due to the downturn of the economy, this yard is overvalued. Rates gone up 200% and we cannot afford it".

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 10th day of December, 2008. Mr. Bernard Leigh, the appellant, represented Ballybane Builders Providers and Hire Ltd. and Ms. Deirdre McGennis, BSc (Hons) Real Estate Management, MSc (Hons) Local & Regional Development, District Valuer in the Valuation Office, represented the respondent. At the oral hearing, both parties, having taken the oath, Ms. McGennis adopted her précis as being her evidence-in-chief. Mr. Leigh did not submit a written précis but gave his evidence orally.

Location

This property is located on the Old Nangor Road, Clondalkin, Dublin 22.

Description

The subject property consists of a large hardcore display yard with sales office/portacabin and separate stores with eaves height of 2.5 metres.

Area

The gross external area of the property is:
2,770.33 sq. metres.

Valuation History

The property was the subject of a Revaluation as one of all rateable properties in South Dublin County Council area. A proposed Valuation Certificate was issued on 5th June, 2007 indicating a valuation of €46,900. No representations to the Revision Officer were received. An appeal was lodged to the Commissioner on 28th January, 2008 and the valuation remained unchanged at €46,900 after this appeal. The appellant then appealed this decision to the Valuation Tribunal on 19th August, 2008.

Appellant's Case

Mr. Bernard Leigh, having taken the oath, outlined to the Tribunal that the agreed area of the subject property was 2,770.33 sq. metres. He said that he did not mind paying rates but the amount as now proposed will put him out of business if it cannot be reduced. He also said his business was suffering a serious loss in sales due to the downturn in construction. Mr. Leigh said that his rates in 2007 were €3,668.52 and that in 2008 his rates increased to €7,738.50.

He cannot afford this increase and he will have no option but to go out of business. He said his business is at a big disadvantage because he has no road frontage, has two businesses in front of him, no mains sewerage, no public lighting, no refuse collection and an annual rent of €26,000. He also stated that noxious fumes from his neighbour burning rubbish also affects his business. At present, he said, he is only staying in business to pay his debts. In regard to the four comparable properties of the respondent, Mr. Leigh stated that two are gone out of business; the third, Tony Boland Autolink, is owned by Mrs. Carey who is the landlord for this property and has no rent. As regards the two comparisons in Whitestown Drive, Tallaght, Dublin 24, John Byrne and Harrison Site Mix, one is gone out of business even though they have a much superior location than his as they are located in a business park. Mr. Leigh said he got nothing out of the boom years because his business depends on small builders. These went working on the building sites because of the big money that was available and he lost all his customers.

Cross Examination

Mr. Leigh in reply to Ms. McGennis stated that his lease commenced in 2004. Before that he just had an arrangement. He also agreed that the yard was used to display and sell builders providers provisions. He also agreed that the valuation date was 30th September, 2005 but said that when the lease was set up in 2004 the subject property was only an open yard and he had to carry out all the improvements, i.e. fencing, lighting, telephone and erecting a shed at his own cost.

Respondent's Case

Ms. McGennis, having taken the oath, adopted her précis as being her evidence-in-chief. She agreed with the location, description and measurements of the subject property as stated to the Tribunal by Mr. Leigh, the appellant. She agreed that the entrance to the property was through another yard and the property has no direct access to the road. She assessed the valuation of the subject property as follows:

Block 1 Prefab Office	19.22 sq. metres	@ €60 per sq. metre = €1,153
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Block 2-6 Stores	129.07 sq. metres	@ €50 per sq. metre = €6,453
Block 7-8 Hardcore Yard	2,622.04 sq. metres	@ €15 per sq. metre = €39,330
Total NAV		€46,936
Say €46,900		

In regard to her comparisons, Ms. McGennis stated that comparison No. 1, Mrs. Carey c/o Tony Boland Autolink, was located to the left side of the subject property and that Mrs. Carey was the owner of the property. The hardcore yard there is valued at €15 per sq. metre. Her second comparison, Grangecastle Autos Ltd., Tony Boland Autolink has a concrete yard located beside the roadway and valued at €20 per sq. metre. Her third comparison, City Car Imports is located on the same road as the subject property. The Portacabins are similar in size to the subject, valued at €60 per sq. metre and the hardcore yard which is substantially smaller than the subject but in a better location, is valued at €30 per sq. metre. Her fourth comparison, John Byrne, Whitestown Drive, Tallaght, Dublin 24 is a hardcore yard, similar in size to the subject, located in Tallaght Business Park and is valued at €20 per sq. metre. Her fifth comparison, Harrison Site Mix, again located in Tallaght Business Park is also similar in size to the subject, valued at €20 per sq. metre.

Cross Examination

Ms. McGennis, in reply to Mr. Leigh, stated that she was not aware of any appeal being lodged by Grangecastle Autos Ltd. to their valuation. Mr. Leigh stated that he erected all the fencing to the front of his site and now one of the occupants located beside him is burning rubbish every day causing noxious fumes which affect his business. He said that the Council was aware of this but did not pursue it. Mr. Leigh stated that the 111% increase in his rates means that he must go out of business unless it can be reduced substantially.

Determination

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

1. The subject property is situated on a back road with access through other properties.
2. The appellant had to install fencing and electricity at his own expense.
3. The pile of rubbish adjacent to the subject property and the daily burning of it are causing noxious fumes.

4. The store seems to be a poor quality building. In fact it seems to have concrete blocks on the roof.

5. The respondent's Comparisons No. 4 and 5 are located in a business park in Tallaght which is a much better location than the subject.

Having regard to the above findings, the Tribunal determines that the valuation of the subject property is as set out below:

Block 1 – Prefab	19.22 sq. metres	@ € 60 per sq. metre	= €1,153. 00
Block 2 – Stores	129.07 sq. metres	@ €40 per sq. metre	= €5,162.80
Block 3 – Hardcore yard	2,622.00 sq. metres	@ €15 per sq. metre	= € 39,330.00
NAV			€45,645.80
Say €45,000			

And the Tribunal so determines.