

Appeal No. VA09/2/028

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

**Joan H. Devine & Co.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2197150, Office(s) at Lot no. 27/1, Bridge Street, Lisroyne, Strokestown, County Roscommon.

**B E F O R E**

**John Kerr - Chartered Surveyor**

**Deputy Chairperson**

**Frank O'Donnell - B.Agr.Sc. FIAVI.**

**Member**

**Joseph Murray - B.L.**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 9TH DAY OF DECEMBER, 2009**

By Notice of Appeal dated the 25th day of June, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €28.00 on the above described relevant property.

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

"The valuation is excessive and inequitable by comparison with other office property valuations in the county Roscommon Rating Area".

This appeal proceeded by way of an oral hearing held in the Tribunal Offices, Ormond House, Ormond Quay Upper, Dublin 7 on 2<sup>nd</sup> day of October, 2009. The appellant was represented by Mr. Patrick J Nerney, BE Chtd. Eng., MIEI, MIAVI. The respondent was represented by Mr. Anthony Mulvey, BSc (Surveying), Dip (Finance & Accounting), a Valuer in the Valuation Office.

In accordance with the rules of the Tribunal the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. Evidence was also given by Ms. Joan Devine, occupier of the premises.

### **The Property**

The property is located on the east side of Bridge Street close to the junction of Bawn Street, in the centre of Strokestown town. This town is located on the N5 which is the National Primary route from Castlebar to Dublin. The most recent 2006 census figures show a population in the town of 984 persons. The property comprises the ground floor of a newly developed two-storey building, and has a good street profile. A side lane provides access to surface parking at the rear of the unit but this is not dedicated for clients of the subject premises. The subject property comprises an area of 81.69 sq. metres agreed by both parties, and is in use as a solicitor's office though the Tribunal was advised that planning permission on the subject was granted for use as a retail shop unit. The front elevation of the premises, as seen in photographs provided, suggests that a retail use on the ground floor may have been intended when the building was constructed a few years ago.

### **Construction/Accommodation**

The building is constructed of concrete walls, clad with a slate roof and the ground floor, is laid out to provide for a reception area, office, kitchenette, toilet and rear hallway.

### **Tenure**

The property is rented for a term of four years and nine months from 1<sup>st</sup> May, 2007 at an initial sum of €13,000 per annum. However, Mr. Nerney informed the Tribunal that the rent was renegotiated and was subsequently reduced to an annual sum of €9,600 with effect from 1<sup>st</sup> May, 2009.

### **Valuation History**

The subject property was first revised in November, 2008 and an RV of €28 was applied. The RV was appealed in the first instance on 2<sup>nd</sup> December, 2008 to the Commissioner of Valuation and, following his decision not to effect a change, Mr. Nerney filed an appeal to the Valuation Tribunal seeking a reduced rateable valuation of €18. The appeal was filed with the Valuation Tribunal on 25<sup>th</sup> June, 2009.

### **Appellant's Evidence**

The appellant, Ms. Joan Devine, gave evidence under oath, described the property and stated that it is not very suitable as an office as the reception area is too large, not benefiting from the large front and side windows and in general, the internal layout generates a significant amount of wasted space. She also stated that the subject property is not suitable for subdivision as to do so would impair the availability of natural light. She also confirmed the absence of dedicated parking for her premises. She confirmed the terms of the short term letting agreement and informed the Tribunal there are two other solicitors in the town who are paying less in rates than she would be required to pay based on the current valuation of the subject property.

In his direct evidence, Mr. Nerney referred to his précis and described the subject property as situate in the town centre and in use as a solicitor's office on the ground floor of a newly built two-storey building. Confirming the details of the accommodation as noted above, he stated that the rateable valuation was assessed at €28 in November, 2008, and later unchanged following an appeal to the Commissioner in December, 2008. He reconfirmed the terms of the short term letting agreement and noted the change in the passing rent following renegotiations, which took effect in May, 2007. He emphasised that the subject premises was initially designed as a retail shop unit and not a solicitor's office, and repeated that the resultant layout created inefficiencies in terms of its current use. The entrance and reception areas, he said, occupy more than half the entire floor area, which demonstrated this inefficiency.

Mr. Nerney referred to Mr. Mulvey's Comparison no. 2, Seasons Chinese Takeaway, situate next door to the subject premises. He said that the rent there is €14,400 per annum with an RV of €27 on an area of 77.33 sq. metres, while the subject carries a rent of €9,600 per annum on a larger area of 81.69 sq. metres. He contended that by taking the differential of

areas and rateable valuations into consideration, the RV of €18 being sought by the appellant would be clearly justified.

Mr. Nerney submitted five comparisons properties, as follows:

### **Appellant's Comparisons**

#### **1. Jim Mannion, Bawn Street, Strokestown, adjoins the subject relevant property.**

The total area of this premises is 158.67 sq. metres including ground and first floor offices, hall and store and carries an RV of €36. The estimated ground floor office areas were assessed at a mix of equivalent levels of €33.75 per sq. metre and €27.10 per sq. metre.

#### **2. Westward Scania, Farnbeg, outside Strokestown town.**

This premises operates as an importer and distributor for trucks, buses, marine and industrial engines. The offices are standard type attached to a commercial/industrial building. The estimated ground floor office area was assessed at an applied level of €33 per sq. metre.

#### **3. Westward, Scania, outside Strokestown town.**

This is a new Commercial Vehicle Test Centre at the rear and to the north side of the existing premises referred to in Comparison No. 2. The test centre was valued at €67 on first appeal in 2009. The estimated ground floor office area was assessed at a mix of applied levels of €33 per sq. metre and €25 per sq. metre.

#### **4. Patrick Gilleran, Farnbeg Ward, outside Strokestown town.**

This is a shop and filling station owned by Westward Scania, and carries an RV of €69.83. Estimated ground floor office area applied at a level of €34.60 per sq. metre.

#### **5. Gerard Neilan, a Solicitor's office in Roscommon town.**

Office comprises an area of 371 sq. metres on first floor served by a lift and valued at a level of €42.37 per sq. metre. The RV on this property is €79.

Mr. Nerney summed up by saying that though the subject relevant property was built with a view to letting as a retail unit, demand did not arise as there were several vacant premises in the town at the time and the situation had not improved in the interim. Referring to two very substantial corner business premises nearby which he stated are in superior locations, he

noted that both remain vacant after a number of years. He also advised that the absence of parking for the subject property remains problematic and indicated that parking areas on the opposite side of Bridge Street are used primarily by local residents.

Mr. Nerney sought a valuation of €18 which he calculated as follows:

Office and Reception area	70.11 sq. metres @ €48 per sq. metre	= €3,365.28
Kitchenette & rear hallway	11.58 sq. metres @ €22 per sq. metre	= €254.76
Total NAV		= €3,620.04
RV @ 0.5%		= €18

### **Cross Examination by the Respondent**

Under cross-examination by Mr. Mulvey, Mr. Nerney agreed that planning permission was obtained for the subject premises for use as a retail shop, though it was used subsequently as a solicitor's office.

Mr. Nerney also acknowledged the following:

- Comparisons No's 2 and 3 were offices attached to industrial buildings.
- The RV on Comparison No. 1, which adjoins the subject, comprising 158.67 sq. metres was agreed at first appeal in September, 2006 and its use accepted as an insurance broker and auctioneer's office.

### **Respondent's Evidence**

Mr. Mulvey stated that the parties had agreed on the description of the premises as set out previously. They also agreed the areas, the location and tenure of the said premises. He emphasised once more that the planning permission granted by the Planning Authority provided for retail use of the subject property and repeated that the initial rent was agreed at €13,000 per annum, from 1<sup>st</sup> May, 2007. He described the internal condition of the subject premises as excellent, citing quality painted and plastered walls, suspended ceiling, recessed lighting and air-conditioning.

He said that the Commissioner sought to affirm the assessed rateable valuation of €28 which he calculated as follows:

Office and Reception area	70.11 sq. metres @ €75.17 per sq. metre = €5,270.17
Kitchenette & rear hallway	11.58 sq. metres @ €35.00 per sq. metre = € 405.44
Total NAV	= €5,675.61
RV @ 0.5% = €28.38,	
Say €28.	

He submitted a list of six comparisons, summarised below. With the exception of Comparison No. 1 (Jim Mannion, Bawn Street), Mr. Mulvey's other five comparisons are valued at circ. €75 per sq. metre and those include a shop/takeaway/kitchen; betting office; restaurant with reception area; (all on Bridge Street near the subject relevant property); a ground floor Credit Union office (off the town core on Elfin Street) and a nearby IT ground floor office. The latter two properties are situated near the local Roman Catholic church and considered to be on the periphery of the commercial town core.

### **Respondent's Comparisons**

#### **1. Jim Mannion & Company, Bawn Street (common comparison).**

Situated at the corner of Bawn and Bridge Streets, this is a two-storey building in office use, attached to the subject property. Good profile. RV €36 (agreed with appellant's agent at Representation stage). Ground floor offices at applied levels of €82 per sq. metre and €54.66 per sq. metre.

#### **2. Seasons Chinese Takeaway (common comparison).**

Situated on the east side of Bridge Street adjacent to the subject property. Comprises a ground floor retail unit in use as a Chinese takeaway. RV €27. Applied level: €75.17 per sq. metre.

#### **3. Ace Racing.**

Situated on the west side of Bridge Street opposite the subject property. Ground floor of two-storey terrace property in use as a betting office. RV €15. Applied level: €75 per sq. metre.

#### **4. Crystal Palace Chinese Restaurant.**

Situated on the west side of Bridge Street. Ground floor of a two-storey end of terrace property in use as a Chinese restaurant. RV: €53. Applied level: €75.17 per sq. metre.

### **5. Elphin Credit Union.**

Situated on the west side of Elphin Street. Two-storey terraced building in office use. RV: €15. Applied level: €75.17 per sq. metre.

### **6. NetsWhich, Elphin Street.**

Situated on the west side of Elphin Street opposite the Church. Ground floor of two-storey terrace building in office use. RV: €13. Applied level: €75 per sq. metre.

## **Findings**

The Tribunal, having considered all the written evidence provided by the parties and the arguments adduced at the hearing, makes the following findings:

1. The property was rented in shell condition to the occupier and all improvements, including painting, decorating, and installation of suspended ceiling, recessed lighting and air-conditioning works were carried out by the tenant, at her expense. It is the Tribunal's view that such expenditures incurred would be reckoned by what a hypothetical tenant might calculate if he were to determine what he could afford to pay in terms of rent, one year with another, on the subject property.
2. Pursuant to the provisions of the Valuation Act 2001, rates are determined by reference to the relevant property and not the business carried out therein.
3. The passing rent initially set at €13,000 per annum, was later reduced to €9,600 per annum. This information, though not of itself instructive, may be considered, albeit with some caution, as such may not reflect the "tone-of-the-list" for retail units in Strokestown.
4. The planning permission was granted for a retail unit and accordingly the Tribunal must consider the options available for use by a hypothetical tenant and not be guided per se by the current use applied to the premises.
5. The common comparison, namely Jim Mannion & Company, Bawn Street, is considered a useful guide insofar as the applied level of €82 per sq. metre on part of the ground floor front office gives an indication, with the various other town centre premises, what level the established "tone" may be in Strokestown.

6. The Tribunal was not provided with any comparative evidence to support a reduction in the applied levels specific to the kitchen and hallway, assessed by the Commissioner of Valuation at €35 per sq. metre.

### **Determination**

Having regard to all of the foregoing, the Tribunal accordingly determines that a fair and equitable valuation of the subject premises should be calculated as follows:

Office	70.11 sq. metres	@ <del>€</del> 65.54 per sq. metre	<del>€</del> 4,594.70
Kitchen/Hallway	11.58 sq. metres	@ €35 per sq. metre	<u>€405.30</u>
NAV			= €5,000
RV @ 0.5% =	€25		

And the Tribunal so determines.