

Appeal No. VA09/3/021

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

Chiara Trench

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 1137124, Shop at Lot No. 24.25.26a to 40/Unit 11.12.13, Kennedy Avenue, Carlow Urban, Carlow UD, County Carlow.

B E F O R E

John O'Donnell - Senior Counsel

Chairperson

Damian Wallace - QFA, MIPAV, Valuer

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 20TH DAY OF JANUARY, 2010

By Notice of Appeal dated the 23rd day of July, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €76.00 on the above-described relevant property.

The grounds of Appeal are on a separate sheet attached to Notice of Appeal, a copy which is attached at the Appendix to this Judgment.

BACKGROUND

This appeal was heard in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 9th day of November, 2009. Mr. James Ryan appeared in person on behalf of the appellant. Mr. Viorel Gogu, Revision Officer appeared on behalf of the respondent.

At the opening, Mr. Ryan indicated that while the letter accompanying his appeal had indicated that they had sought to rely on the fact that they were in financial difficulties as an entity and that the recession had hit them particularly hard, he now recognised that these were not appropriate grounds for appeal. Accordingly, he indicated that he would be confining his appeal to:

- (i) The unit itself;
- (ii) Location of the unit;
- (iii) The impact of the recession on Carlow; and
- (iv) The impact of the recession on the bridal industry generally.

The Appellant's Evidence

Mr. James Ryan, having been sworn, gave evidence in respect of 4 main issues:

(i) The Unit

Mr. Ryan contended that although the report of the respondent suggested there were two parking spaces outside the shop, these only had 15 minutes' permitted parking and in the circumstances, this time limit made it impractical for customers to use them. They are little or no use to retail customers and were used principally by delivery vans. He indicated that while there was no pay-and-display on Kennedy Avenue where the unit was located, traffic wardens did police the avenue with what he described as "over-enthusiastic vigour" and, therefore, made parking for customers less attractive. He accepted there was parking in town, though not on Kennedy Avenue.

Mr. Ryan also indicated that because the unit had been sub-divided from a previous unit, there were no running water or toilet facilities on the premises. He indicated instead that in order to avail of such facilities, it was necessary for customers and staff to use toilets in the shopping centre across the road or to use other facilities available in other local shops.

(ii) Location

Mr. Ryan suggested that of the 14 units on the avenue a number are at present unoccupied and 2 more are expected to close. This will reduce the occupancy level in the location in question to 57%. He contended that this impacted on the unit as a shopping destination. He also indicated that his rent had been reduced by 30% since the appeal had been submitted. He gave evidence that rents in Carlow had been reduced by landlords who were anxious to ensure that tenants remained in occupation rather than leaving premises vacant.

(iii) Carlow

Mr. Ryan gave evidence that there was a number of unoccupied or abandoned units in the town of Carlow. He was aware from his own knowledge that rental income had fallen. Units where previously a rental of €50.00 to €60.00 per square foot had been sought now had had rent reduced to €35.00 per square foot, and he was aware in some smaller, older units of a rental being paid of €10.00 per square foot. In these circumstances, he was of the view that the rateable valuation of €76.00 did not properly reflect the reduced rental demand.

(iv) The Bridal Industry

Mr. Ryan gave evidence that the bridal industry generally was suffering because less people are getting married. He explained that a number of people who might previously have planned to marry were cancelling or delaying because of the financial implications of the cost of such an event. He gave evidence that hotels had also significantly reduced charges in an effort to get wedding business. He said a sign of the difficulties for the industry was that there was now a significant market in second hand wedding dresses.

The Respondent's Evidence

On behalf of the respondent, Mr. Gogu adopted the contents of his report. He accepted that the car park spaces were limited to 15 minutes each but indicated that there were “hundreds” of other spaces in the shopping centre nearby and elsewhere within the location generally. He said the shop had a good double frontage and was likely to be attractive as a result. He indicated that the rateable valuation had been already reduced from €83.00 to €76.00. He indicated that in valuing the premises he had taken into account the absence of running water or toilet facilities, though he agreed that he had not specified these considerations in his

report. He acknowledged that there may have been a reduction in rent, but indicated that the appropriate way to value the premises for the purposes of the Act was to look at the tone of the list rather than just the rental.

He identified the various comparisons which he had listed in his report. The nearest comparable unit was Unit 9, a flower shop called “Buddies and Blooms” which was almost the same size as the subject property and had the same NAV.

In response to questions from the Tribunal, Mr. Gogu indicated that Unit 9 did have running water but that it was closer to the town centre and, therefore, in a better location. He indicated that all his comparisons had been taken from Kennedy Avenue which was where the subject property was located, but he did not know if any of them had been tested by the Valuation Tribunal. He accepted that there were 3 vacant units and that there may well be two more closing in due course. He also accepted that the market for rental was difficult but, again, contended that the appropriate manner to value premises was by the “tone of the list”.

In response to questions from Mr. Ryan, he indicated that Unit 9 was, in fact, closer to the town centre but that Unit 12-13 (the subject property) is closer to the shopping centre. He accepted that Unit 12-13 was not directly opposite the shopping centre, but believed it was closer to the entrance than Unit 9.

The Appellant’s Submissions

Mr. Ryan made brief submissions. He indicated on a map that Unit 9 was closer to the roundabout where the higher volume of traffic enters and exits the shopping centre than the subject unit. He said that the shopping centre entrance which is near the subject unit is a pedestrian-only entrance. He also indicated that he would have included the fact of the rent reduction within his grounds of appeal had it been received prior to the furnishing of the Notice of Appeal. He indicated his rent had been reduced from €55,000 to €40,000 per annum. He also indicated that a gym and an ethnic food shop which were close to the car park referred to by Mr. Gogu were inappropriate comparators and indeed the gym had now closed. It should be noted that neither of those shops were listed in the list of comparisons provided by Mr. Gogu.

The Respondent's Submissions

Mr. Gogu made no further submissions, relying instead on the report provided by him as well as his own evidence to date.

The Law

The applicable law is clearly set out in Section 49(1) of the Valuation Act, 2001.

The Issue - Valuation

The Tribunal is grateful for the submissions made so ably by Mr. Ryan and Mr. Gogu. It does not believe it can take into account the reduction in rent which has occurred since the serving of the Notice of Appeal and it obviously cannot take into account the effect of the recession or the financial capacity of any rate payer to pay rates.

Mr. Gogu's report is extremely helpful. It is noted that no alternative comparison properties were submitted by Mr. Ryan on behalf of the appellant.

The Tribunal accepts that the most appropriate comparator is probably Unit 9. However, the evidence suggests:

- (a) That this unit is slightly bigger;
- (b) That it is slightly nearer the through flow of traffic; and
- (c) Perhaps most significantly of all, that it has running water and toilet facilities. It should be noted that while Mr. Gogu contends that he has included this matter in his assessment of the subject property, it perhaps merits further emphasis.

It seems to us that a combination of these three factors (with perhaps most emphasis being placed on the third factor), all of which are absent from the subject unit, make it appropriate to allow a modest reduction in relation to the subject unit.

Determination

The appeal is allowed. The Tribunal therefore determines the valuation of the property concerned to be €68 calculated as follows:

Shop 111.36 sq. metres @ €123.00 per sq. metre = €13,697.28

NAV €13,697.28 @ 0.5% = €68.49

RV say €68

And the Tribunal so determines.