

Appeal No. VA09/3/034

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

Sandra Vinsrygg

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2197854, Shop at Lot No. 1A, 9, 9A/Unit 4 (Kenmare Shopping Centre),
Kenmare, Kenmare, County Kerry

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

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

Member

Tony Taaffe - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 10TH DAY OF FEBRUARY, 2010

By Notice of Appeal dated the 13th day of August, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €36.00 on the above described relevant property.

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

"Location is highly over-rated in valuation report. Shop is located 2 miles out of town centre. We get no tourist trade. Shops in the middle of the town are rated far below ours."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 6th day of January, 2010. The appellant was represented by Mr. Roger Vinsrygg, MD and Secretary of Kenmare Shoes Ltd., and the Commissioner of Valuation was represented by Mr. David Molony, BSc, MRICS, a District Valuer in the Valuation Office.

In accordance with the rules of the Tribunal, the parties had, prior to the commencement of the hearing, exchanged their précis of evidence 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.

Location

The property is located in the Kenmare Shopping Centre approximately one mile from the town and on a secondary road.

Description

The property comprises a ground floor ladies footwear shop trading as Kenmare Shoes Ltd. The unit has a window display to the internal mall and an external window display at the vehicular entrance to the shopping centre. The property is in good condition throughout and finished to a modern internal and external specification. The unit has extensive glazing incorporated in the shop front.

Accommodation

The shop comprises an area of 74.67 sq. metres. However, part of it is used as a store and is separated by a light partition.

Tenure

The property is subject to a 30 year lease at a rent of €21,000 per annum. There is a three year break clause.

Rating History

On the 4th November, 2008 a Valuation Certificate pursuant to section 28(6) of the Valuation Act, 2001 was issued indicating a rateable valuation of €36. No change was made on foot of

an appeal to the Commissioner of Valuation under section 30 of the Act. It is against this decision by the Commissioner that the appeal to this Tribunal lies.

Appellant's Evidence

Mr. Roger Vinsrygg gave evidence on behalf of the appellant. During the hearing, Mr. Molony had requested that the appeal be dismissed due to the appellant's failure to provide a précis of evidence by the date set down by the Tribunal and the fact that the précis eventually submitted by the appellant amounted to no more than a photocopy of the respondent's précis. The Chairperson, however, allowed the hearing to continue and told Mr. Molony that his comments would be taken into account by the Tribunal. The Tribunal acknowledged that the appellant should have complied with the Tribunal's rules. However, given that the appellant was a lay person, who had not sought professional advice regarding the appeal and who, according to her representative, could not afford to engage a professional valuer, the Tribunal felt that an amount of latitude should be afforded to the appellant.

The appellant made the following points regarding the property:

1. The property does not compare with shops in Kenmare town.
2. There is no benefit from tourism or passing trade.
3. There is very limited profile as the property is situated on a small country road which ends in a cul-de-sac.

Mr. Vinsrygg sought a valuation of €25. He agreed that the actual size of the property was 74.67 sq. metres but said that only 47.87 sq. metres of the property is a shop, with the remainder 26.8 sq. metres being a store room, and should be rated as such.

Respondent's Case

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

Shop 74.67 sq. metres @ €5.64 per sq. metre	= €7,141.44
Net Annual Value	= €7,141.44
Rateable Valuation @ 0.5%	= € 35.71
RV Say €36	

Mr. Molony agreed that the location of the property is peripheral and in commercial terms does not compare with other units situated in the town of Kenmare. He stated that the shop would attract a respectable footfall due to the presence of a large Supervalu Supermarket. The supermarket is the largest commercial retail unit in Kenmare. He discounted the rate per sq. metre by approximately 45% from that of the prime retail unit in Kenmare to reflect this location. Mr. Molony said that he had applied a similar discount when valuing the retail unit adjoining the subject property. Mr. Molony submitted a list of three comparisons, details of which are attached at the Appendix to this judgment.

Findings

The Tribunal has carefully considered all the evidence and arguments adduced at this hearing and finds as follows:

1. Regarding the rules governing the submission of summaries of evidence, it was noted that these rules were made by the Tribunal and are not set down in statute. It was further noted that the Tribunal has the power to waive compliance, or excuse non-compliance, with a rule, if it considers that to do otherwise would be likely to cause injustice, unreasonable expense or inconvenience.
2. The subject property is in a peripheral location compared with properties in the prime retail area of Kenmare town centre.
3. Evidence given by the respondent in relation to footfall was unsatisfactory.
4. The reasoning given by the respondent in respect of a discount that was applied to the rateable valuation of the retail unit adjoining the property, which had been valued in 2008, was also unsatisfactory.

Having considered the evidence presented by the parties at the hearing, the Tribunal determines that the rateable valuation should be €30 calculated as follows:

Shop 74.67 sq. metres @ €80.00 per sq. metre	=	€5,973.60
Net annual value	=	€5,973.60
Rateable valuation @ 0.5%	=	€ 29.86
RV Say €30		

And the Tribunal so determines.