

Appeal No. VA10/1/017

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

Lagg Service Station Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2005721, Supermarket, Post Office, Store at Lot No. 14b, Carrowkeel, Carrowkeel, Milford, County Donegal.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF AUGUST, 2010

By Notice of Appeal dated 18th day of February, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €4.00 on the described relevant property.

The Grounds of the Appeal are set out as follows:

"Not Valued in accordance with Valuation Act. Comparisons do not reflect comparable properties. NAV does not reflect 1988 values. No allowance for decline in general economy. Valuation excessive/bad in law"

This 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 11th day of May 2010. The appellant was represented by Mr. Pat McCarroll, MRICS, ASCS and the respondent was represented by Mr. Don Donovan, BSc (Property Management & Valuation Surveying), Dip FM, MIAVI, District Valuer in the Valuation Office.

In accordance with the rules of the Tribunal the parties had, in advance of the hearing, exchanged written submissions and submitted same to the Tribunal. At the oral hearing both valuers adopted their written submissions as their evidence-in-chief given under oath. Prior to adopting his evidence, Mr. Donovan had a change to make to one of his comparisons. Comparison No. 9 McGinley's Super save, Falcarragh - rate per sq. metre for the ground floor retail should have read €54.96 and the ground floor store rate per sq. metre should read €23.92. The total RV should read €123.00.

The Property

The property consists of a two-storey over basement detached building. The ground floor is used as a supermarket and post office. The lower ground floor is used for storage. Doors at each end of this building give access to first floor residential accommodation. The retail area is bright and well finished. There is also a store to the rear of the ground floor. In the lower ground floor there is further storage with a goods lift to the ground floor. The lower ground floor opens onto a yard at the rear. This yard is accessed from Main Street at the western side of the shop. The standard of finish throughout the property is good.

Location

The property is located in the village of Carrowkeel on the Fanad peninsula. The village is on the eastern shore of Broadway Water in Mulroy Bay. It is approximately 6.5km north of Milford, 8.3km south of Portsalon, 14.5km west of Rathmullan and 26km from Letterkenny. The property is located within the town where there is a mix of retail and residential usage.

Valuation History

The property was listed for revision in 2009 following a request from Donegal County Council. The property was measured on a net internal basis. The draft Valuation Certificate issued on 2nd April, 2009 with an RV of €105. Representations were received on 30th April, 2009. Following consideration of the representations the RV was reduced to €94. An appeal

was subsequently lodged by Mr. McCarroll. No change was made to the rate of the valuation at appeal stage. This decision is now being appealed to the Valuation Tribunal.

Areas

The agreed areas are as follows:

Supermarket (Ground Floor) :	253 sq. metres
Ground Floor Store:	41 sq. metres
Lower Ground Floor Store:	116 sq. metres

Appellant's Evidence

Mr. McCarroll took the oath and adopted his précis as his evidence-in-chief and provided the Tribunal with a review of his submission. He stated that Carrowkeel is a small village located in a rural area with not a lot of activity in the area. He then outlined the location, description and accommodation of the subject property. Mr. McCarroll stated that there was no designated car parking with the property. He also stated that there was no off-licence, which in his opinion, is essential for a supermarket as it adds to the overall turnover and increases the potential footfall into the premises.

Mr. McCarroll contended that the correct rateable valuation on the subject property is €74.00.

Supermarket	253.00 sq. metres	@ €45.00 per sq. metre	= €1,385.00
Ground Floor Store	41.00 sq. metres	@ €22.00 per sq. metre	= € 902.00
Basement Store	116.00 sq. metres	@ €22.50 per sq. metre	= <u>€ 2,610.00</u>
			€14,897.00

€14,897 @ 0.5% = €74.47

RV Say €74.00

Comparisons

Mr. McCarroll then referred to his 3 comparisons as follows:

1. Templecrone Co Op, Annagry, Co. Donegal. Rateable valuation is €64.00. This is a Spar franchise with an off-licence. It is located in the heart of the Gaeltacht and has good parking space in front.

2. Patrick McGinley, Falcarragh, Co. Donegal. Rateable valuation €107.93. The retail is valued at €49.21 per sq. metres. Falcarragh is a much bigger town than Carrowkeel. The Valuation on this property was determined by the Valuation Tribunal in 1994 (**VA94/3/017 – Patrick McGinley**).
3. Balaglen Ltd, Rathmelton, Co. Donegal, trading as a Spar supermarket. Rateable valuation €135.00. The valuation on this property was determined by the Valuation Tribunal in 2005 (**VA05/1/010 - Balaglen Ltd**). Rathmelton is the main access route to the Fanad Peninsula, Milford and Carrigart. The comparisons relied upon by the Valuation Office were not appealed. This property has an off-licence.

Mr. McCarroll dealt with Appendix (II) from the respondent's submission (consideration of appeal) where two comparisons **VA94/3/017 - Patrick McGinley** and **VA04/2/001 – Bernard McGuinness** were listed. Mr. McCarroll stated that Mr. McGuinness's premises are located in a small seaside town and he believes that it is more comparable to the subject property due to its proximity to the local beach and that over the last five years there has been considerable residential development taking place there.

Mr. McCarroll then read the response of the Revision Officer, on page 2, Appendix (II) of the respondent's submission. He argued that this constituted a tacit acknowledgement that, of the comparisons submitted by the appellant at first appeal stage, Comparisons No's. 2 and 3 were better comparisons than Comparison No. 1, since Comparison No. 1 is in a larger town (Falcarragh) where the commercial dynamic is different to that which exists in the other two villages – Anagaire (location of Comparison No. 2) and Culdaff (location of Comparison No. 3).

Cross-Examination

When questioned by Mr. Donovan, Mr. McCarroll stated that he was not aware until today that subsequent to the Valuation Tribunal determination in **VA94/3/017 – Patrick McGinley** there was a further revision of valuation on the property which he had put forward as his Comparison No. 2. Mr. Donovan stated that the levels applied by Mr. McCarroll in his evidence in respect of that property do not reflect the valuation on the list at present. Mr. McCarroll disagreed with this, stating that the rate he quoted in his analysis is the rate that the

Valuation Tribunal assessed on the property. Mr. Donovan stated that comparison number one was inadmissible as it does not appear on the list at the valuation date.

Mr. Donovan asked Mr. McCarroll for an example where the presence of an off-licence has resulted in an increase of valuation. Mr. McCarroll stated that it is clearly demonstrated in Comparison No. 2, where the rate per sq. metre was increased with the addition of an off-licence. Mr. Donovan stated that this increase was because of significant alterations to the property, that there was no breakdown given to the Tribunal and that the figures given by Mr. McCarroll were his own analysis.

Respondent's Evidence

Mr. Donovan adopted his written précis with the aforementioned corrections. He agreed with the appellant that the location of the subject property is rural, is not in a bustling commercial centre and is in a small village typical of rural Ireland. He then outlined the subject property in terms of location, description, tenure and valuation history. In Appendix (IV) of his submission Mr. Donovan listed 19 comparison properties, 5 of which he cited as the best comparisons in section 2.6 of his submission, viz:

1. **2005892 Balaglen Ltd.** Shop in centre of Rathmelton village. The retail unit is valued at €8.09 per sq. metre with first floor stores at €30.00 per sq. metre and external stores at €25 per sq. metre and €15 per sq. metre. This property has an off-licence.
2. **2003622 Spar** on Inver-Dunkineely Road (N56). Retail valued at €60.96 per sq. metre and stores valued at €30.48 per sq. metre. This property has no off-licence.
3. **2005881 Iscourt Ltd.** To the south of Rathmelton, on the road to Letterkenny. Retail and offices valued at 68.34 per sq. metre and stores valued at €27.37 per sq. metre. This property has no off-licence.
4. **2004520 Gillens, Merville.** Retail valued at €7.41 per sq. metre and stores valued at €27.34 per sq. metre. This property has no off-licence.
5. **2004911 Divers, Ardara.** Retail valued at €1.50 per sq. metre, stores on lower ground floor valued at €20.50 per sq. metre and canteen on lower ground floor valued at €47.03 per sq. metre. There is no off-licence on this property.

Mr. Donovan contended for a rateable valuation of €94.00, as follows:

Retail (Ground Floor)	253 sq. metres	@	€8.09 per sq. metre	=	€14,696.77
Store (Ground Floor)	41 sq. metres	@	€30.00 per sq. metre	=	€ 1,230.00
Store (Lower Ground Floor)	116 sq. metres	@	€25.00 per sq. metre	=	<u>€ 2,900.00</u>
Total NAV					€18,826.00
RV					€ 94.00

In presenting his valuation of the subject property Mr. Donovan noted the following:

1. The store on the ground floor includes a 4.56 sq. metre office located under stairs off the retail area.
2. To the rear of the retail area are the post office, 8.37 sq. metres, and sorting offices, 13.33 sq. metres.

Mr. Donovan stated that since neither of these areas is open to the public he had decided to value them at store levels, although, he observed, the breakdown of valuations of some of the comparison properties suggest that the correct approach would be to value these areas at retail levels, or at a new level between retail and store levels.

Cross-Examination by Mr. McCarroll

When questioned by Mr. McCarroll, Mr. Donovan accepted that Balaglen Ltd. is situate in a town larger than the town in which the subject property is situate and serving all areas north of the property. Mr. Donovan stated that a lot of customers, when they came far as this area, continue to travel to Letterkenny, which is a short distance away to do their shopping. Mr. Donovan introduced three comparisons. However, he stated that he also took into consideration the comparisons introduced by the appellant and taking the six comparisons into account he reduced his valuation on the subject property from €105 to €94.

Findings

The Tribunal has considered the evidence presented by Mr. McCarroll for the appellant and by Mr. Donovan for the respondent and has noted the arguments. The Tribunal finds as follows:

1. All comparisons cited are located in rural areas, in common with the subject property.

2. The details of the comparable properties cited by the appellant in his précis and as reviewed at the hearing, though helpful as a general guide, were not considered sufficient to support the appellant's argument.
3. Conversely, the properties offered by Mr. Donovan in his précis and the details accompanying same were considered by the Tribunal as relevant to and supportive of the respondent's case.
4. The Tribunal accepts the evidence of the respondent that off-licences are not valued separately and do not affect the tone of the list.
5. Allowances have already been given to the subject property for the post office and sorting office within the property.
6. All comparisons suffer from competition from Letterkenny, but Letterkenny is valued at a higher rate than the comparisons.
7. There is no disagreement between the parties as to the description, location or condition of the subject relevant property.

Determination

Having regard to all of the foregoing the Tribunal is satisfied that the rateable valuation of €4.00 as determined by the Commissioner of Valuation is fair and reasonable. The Tribunal therefore affirms the valuation.

And the Tribunal so determines.