

Appeal No. VA10/1/029

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

O'Leary International Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2200247, Warehouse/Warerooms. Office(s) at Lot No. 16/1, Marshmeadows (PT. OF), New Ross Rural, New Ross, County Wexford

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

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

Member

Damian Wallace - QFA, MIPAV, Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF SEPTEMBER, 2010

By Notice of Appeal dated the 24th day of March, 2010, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €324 on the above-described relevant property.

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

"The RV as assessed is excessive and inequitable given the location and relative worth of the property. Part of the property is vacant and to let. This area should be separately valued."

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 2nd day June, 2010. At the hearing the appellant was represented by Mr. Eamonn Halpin, BSc (Surveying), ASCS, MRICS, MIAVI, Eamonn Halpin & Co. Ltd. and Ms. Orla Lambe, a Valuer in the Valuation Office, appeared on behalf of the respondent. Each representative, having taken the oath, adopted his/her précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his/her evidence-in-chief.

The Property

The subject property comprises a newly constructed warehouse with ancillary two storey offices. There is parking to the front together with extensive concrete and hardcore yard that is suitable for circulation space and the parking of lorries. There is office accommodation located on the first floor, part of which has been subdivided and valued separately under property number 2201024 and the office accommodation includes canteen, toilets and reception area and is finished to a good modern standard. The warehouse, constructed of steel portal frame with double-skin cladding roof has an 8-metre clearance to eaves height. The areas have been agreed by the parties as set out in their précis of evidence.

Location

The property is located at Marsh Meadows on the outskirts of the town of New Ross approximately 2 miles from the town centre. The property is located on the R733 on a site near the River Barrow and is in close proximity to the Ring Road around New Ross.

At Issue

Quantum

Valuation History

The subject property was inspected in February 2009 and in May 2009 a draft valuation certificate proposing a rateable valuation of €378 was issued. In the course of representations the subject property was divided, excluding the offices at first floor level, and these were valued separately. The overall valuation of the subject property was then reduced to €324 and a final certificate issued on 23rd July, 2009. On 1st September, 2009 an appeal was submitted to the Commissioner of Valuation. On 26th February, 2010, following consideration of this appeal, the Commissioner of Valuation issued his decision that the valuation remain

unchanged. 2010. On 24th March, 2010 The Commissioner's decision was appealed to the Valuation Tribunal.

Appellant's Evidence

Mr. Halpin, having taken the oath, adopted his written précis as his evidence-in-chief, and at the commencement of his evidence made minor alterations to his valuation and introduced a map to assist the Tribunal in comparing locations of comparable properties submitted by both parties. He confirmed that the areas of the subject property had been agreed with the Valuation Office. Mr. Halpin outlined details of the premises stating that while there is agreement between both parties that the subject property is located on the outskirts of the town, there is no agreement on the relative merits of the location, which he indicated is approximately 2 miles from the centre of New Ross. Mr. Halpin added that this location is a backwater location and that his primary comparisons are located close to the subject property. Mr. Halpin said that the location of the subject property is the townland of Marshes Lower and that the reason it is so called is because it is prone to flooding and that even though the ground has been back-filled it is still marshy ground. Mr. Halpin stated further that the fact that the rear section of the site is prone to flooding leads him to believe that a lot of industrial businesses would shy away from the site because, with climate change and increased water levels, it could regularly be flooded in the future. Mr. Halpin also made the following key points:

1. The location of the subject property is moderate being removed from the established industrial section of the town. The site itself was and is of low value due to its low-lying nature.
2. The NAV historic tone in New Ross is moderate due to the low rents prevailing when the tone was formed.
3. The premises, although constructed to a good standard, is nonetheless, a transport company's workshop and offices and the NAV needs to fully reflect the established local tone for similar premises.
4. The premises were constructed in excess of the occupier's requirements, with a view to subletting the 1st floor offices, when complete, and a large section of the workshop. Wexford Recycling had agreed to occupy the surplus workshop area but unfortunately the company closed due to severe reduction in their business. This vacant workshop area is still to let and the appellants believe it should be valued separately.

5. The level applied by the Commissioner is excessive in view of the established tone of the list for even superior properties. It is also excessive in view of the level applied to the nearest transport company, assessed in 2003 (Mr. Halpin's comparison no. 3), which is only a short distance from the subject.
6. The Commissioner has not attached sufficient weight to the actual location and also the type and nature of the premises and its low-lying site.
7. The original basis relied upon by the Commissioner when formulating the RV is not sustainable and is a complete over-estimation of the property's relative worth given its actual location and the level applied to the comparison properties.
8. The hypothetical tenant would thus only be interested in this property if offered on favourable terms. due to the locational and other drawbacks associated with the property.
9. The appellants seek a reduction in the RV of the subject property. They also seek a separate valuation for the Workshop/ Warehouse area, which is vacant and to let. Mr. Halpin stated that these remedies would more fairly reflect the subject property's relative value against the broader tone of the list.

Mr. Halpin added that he cannot understand the Commissioner's reluctance to sub-divide the property.

Mr. Halpin then offered 5 comparisons, as follows (details attached herewith at Appendix No.1):

Comparisons

1. Property No. 2008935, Occupier: Stokestown Port Services.
2. Property No. 2008934, Warehouse adjacent to above unit.
3. Property No. 2148925, Occupier: Moving on Ltd.
4. Property No. 2189020, Occupier: Dermot Kehoe Supply & DIY.
5. Property No. 2008923, Occupier: MS. Commercials, New Ross.

Mr. Halpin indicated that he was relying heavily on the first three comparisons as they are all located close to the subject property. He said the first two are high bay warehouses which are older and more basic buildings and located on a higher site adjacent to a private jetty and have a high value because of the link to the port/private jetty. Mr. Halpin added that his Comparison No. 3 is close to the subject but closer to the port and town of New Ross. Mr.

Halpin said that he could not understand why the Commissioner had not put this property forward as a comparison, adding that, in his opinion, this is a much better premises as it is almost at the junction with the main road.

Referring to the map he provided at the outset of the hearing, Mr. Halpin indicated that all of the Commissioner's comparisons are located in the town, while the subject is two miles away in a completely different location. Mr. Halpin indicated that he had included Comparisons 4 and 5 because these properties are located in the best locations for business in the town, fronting onto the main relief road. He added that while his Comparison No. 4 has a large tarmac yard, there is no addition for the yard in the valuation and, as a result, submitted that the value of the yard must be reflected in the value of the building. Mr. Halpin said that Comparison 4 is a vastly superior property and valued at the level of a retail warehouse. In relation to Comparison No. 5, Mr. Halpin stated that the building, while basic, is in an excellent location and that the workshop is valued at €23.92 per sq. metre.

Valuation

Mr. Halpin contended for a rateable valuation of €120. (It should be noted, however, that Mr. Halpin's analysis did not concur with the rateable valuation for which he contended.)

Mr. Halpin's analysis of his proposed RV was as follows:

Occupied Section

Workshop	620	sq. metres	@ €20.50 per sq. metre	= €1,2710.00
Offices	346	sq. metres	@ €27.34 per sq. metre	= € 9,460.00
Yard (concrete circulation)	1,200	sq. metres	@ €0 per sq. metre	= € 0.00
Yard (hardcore & earth)	1,200	sq. metres	@ €0.50 per sq. metre	= € 600.00
Loft (above works canteen and toilets)	145	sq. metres	@ €0 per sq. metre	= € 0.00
(Ladder access only, but load bearing)				
Wash House	15.25	sq. metres	@ €13.67 per sq. metre	= <u>€ 208.00</u>
			Total NAV	€24,178.
			Say	€24,000

@ 0.5% = €120

Say RV €120

Vacant Section

Vacant Workshop/Warehouse 750 sq. metres @ €20.50 per sq. metres = €15,375.00

@ 0.5% = €76.87

Say RV €77

Cross-Examination

Ms. Lambe raised a number of queries regarding the subject property and, referring to the photographs in her précis, suggested that the property was in full occupation at the valuation date. In response, Mr. Halpin advised that the property was not in full occupation and in fact was on the market to let. He said that the photograph showed that the area was cleared and that it was divided using tyres. He added that his client could not permanently divide the premises until he secured a tenant and reached agreement on the level of space that would be required by the tenant.

In response to further questions from Ms. Lambe regarding the subject property and the comparisons properties, Mr. Halpin said that he did not accept that the concrete yard is a storage yard; he asserted, rather, that it is used for circulation. He also confirmed his opinion on the eaves height of some of the comparison properties, adding that he had inspected the buildings and that, while he had not measured them, he was satisfied that his Comparisons Nos. 1 and 2 are at least 8 metres in height.

Mr. Halpin concluded by clarifying some queries from the Tribunal regarding the adjacent road network.

Respondent's Evidence

Ms. Lambe, having taken the oath commenced her evidence by adopting her written précis as her evidence-in-chief. She stated, the location of the property at Marsh Meadows is circa 1.8km from the town of New Ross on the R733, south of New Ross town. She said that the subject property is located beside the ring road in New Ross with direct access onto the N30, the main New Ross to Enniscorthy road, and the N25, the main New Ross to Wexford road. She added that the property is also in close proximity to the retail industrial areas off the ring road and has good profile onto the R733. Using the map on page 2 of her précis, Ms. Lambe pointed out the proximity of the subject property to the N30. She confirmed that the subject property comprises a newly constructed warehouse with adjoining two-storey offices and

added that the office accommodation includes canteen, toilets and large reception area which are finished to a good standard with painted and plastered walls, tiled and carpet flooring and suspended ceilings. Ms. Lambe confirmed that the occupiers of the subject property occupy only one office on the first floor. She stated that the first floor office accommodation had been divided and that part of it had been valued separately under property number 2201024. Ms. Lambe confirmed details of the construction of the subject property, advising that the warehouse has an 8-metre clearance to eaves height and is constructed of steel portal frame with double skin cladding roof. She added that the subject property enjoys ample parking to the front, together with concrete hardcore yard for the parking of lorries and for circulation space.

Ms. Lambe advised that at appeal stage the agent had requested that the vacant section of the warehouse, which was to have been occupied by the recycling plant, be valued separately. Ms. Lambe stated that the subject property was re-inspected at appeal stage - on 16 February, 2010 - and that the recycling plant was found not to be in occupation, nor was the subject property physically divided at that date. Referring to various photographs, Ms. Lambe said that the warehouse appeared to be under-utilised by the occupier rather than vacant and was, therefore, valued as one property.

Ms. Lambe contended for a rateable valuation of €324, as follows.

Block 1 Ground & First Floor Offices	346.04 sq. metres @ €41.00 per sq. metre	= €4,187.64
Block 2 Workshop	1,370 sq. metres @ €34.17 per sq. metre	= €46,812.90
Block 4 Workshop (wash house)	15.20 sq. metres @ €20.50 per sq. metre	= € 311.60
Block 3 Stores (loft storage)	145 sq. metres @ €6.83 per sq. metre	= € 990.35
Concrete Yard	1,200 sq. metres @ €1.37 per sq. metre	= € 1,644.00
Hardcore Yard	1,200 sq. metres @ €0.68 per sq. metre	= € <u>816.00</u>
	Total NAV	€64,762.00

RV @ 0.5% = €323.81

Say RV €324

Ms. Lambe then introduced details of her comparisons, as follows (details attached at Appendix No. 2):

1. Maya Properties Ltd, Butlerstown, New Ross. Property No. 2172629.
2. Murray Cash and Carry, Unit 1, The Ring Road Business Park, New Ross. Property No. 2191039.
3. Post Right Trading, Unit 18, Woodbine Business Park, New Ross. Property No. 2182167.
4. Culcita Ltd, Portlands Row, New Ross. Property No. 2008917.

Ms. Lambe concluded her evidence by making the following key points in relation to the property.

1. Having reconsidered the valuation there appears to be no grounds for adjusting the valuation levels applied.
2. Location, size and relative value of the subject property together with the tone of the list were taken into account.
3. The subject property is a new, purpose-built warehouse, including ground and first floor offices with an eaves height of 8 metres.
4. The subject property is located on the edge of New Ross town and is similarly located to the comparisons quoted.

Ms. Lambe said that for the above reasons the valuation of €24 is fair and reasonable.

Cross-Examination

In the course of cross-examination Mr. Halpin asked a number of questions regarding Ms. Lambe's comparisons and asked why she did not use similar type comparison properties adjacent to the subject. Ms. Lambe said that she was not sure of the eaves height on the adjacent properties and used comparisons which she considered to be in close proximity to the subject at the Ring Road. In response to a question regarding the valuation of yards, Ms. Lambe stated that yards are rateable and it was on that basis that she valued the yards in the subject property. Mr. Halpin, however, pointed out that none of Ms. Lambe's comparisons had their yards valued separately and yet Ms. Lambe was asserting that yards are rateable. In response to a question regarding the valuation of the vacant Workshop/Warehouse space as a separate unit, Ms. Lambe indicated that at the inspection date the space was not vacant and that there was no clear division of the warehouse space. Ms. Lambe referred to a letter from the financial controller of O' Leary International Ltd. pointing out that they were not using the space. This, she asserted, signified that the space is under-utilised as opposed to being unoccupied.

Summary

Mr. Halpin summarised his case by saying that the subject property, while closely located to some of the comparison properties, is not comparable to them due to the subject property's potential for flooding. He stated that, in his opinion, this would be a negative factor for prospective tenants. Mr. Halpin added that the evidence put forward, including a brand new warehouse unit attached to the DIY store located at the relief road and valued at €24 per square metre, indicates that the broader tone of the list was not applied by the Commissioner in this case. He added that no comparison had been offered for the yard valuation and that, on that basis, the concrete yard should be excluded from the valuation as it is circulation space only.

Summarising her case, Ms. Lambe referred to the quality of the subject property and its eaves height. She indicated that the subject is a superior property to the comparisons; that the warehouse should be valued as a single unit because it is under-utilised as opposed to vacant; and that the Commissioner of Valuation viewed that the warehouse should be valued at one rate of €34.17 per square metre, which seemed to her to be a fair level.

Findings

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

1. The Tribunal believes that the location of the subject property is inferior to any of the comparisons offered by Ms. Lambe and believes that the most suitable comparisons are those immediately adjacent to the subject property.
2. The Tribunal accepts that the subject property is a modern building, but notes the fact that is located in an area that is prone to flooding and accepts the contention that this is a significant disadvantage.
3. The Tribunal considered the issue of subdivision of the warehouse/workshop and, in the absence of a clear physical division that would be required to facilitate subdivision, believes it appropriate to value the warehouse/workshop as a single unit. The Tribunal notes, however, that the overhead offices are physically separated from the warehouse/workshop.
4. The Tribunal notes the fact that Ms. Lambe did not provided any evidence in any of her four comparisons to support her view that the yard should be valued separately.

Therefore, on the basis of the evidence presented, the Tribunal accepts Mr. Halpin's view that no valuation be put on the concrete yard.

Determination

Having regard to the foregoing, the Tribunal considers the following to be a fair and reasonable valuation of the subject property:

Offices	346.04 sq. metres	@ €30.75 per sq. metres	= €10,640.73
Workshop	1,370 sq. metres	@ €25.00 per sq. metres	= €34,250.00
Wash house	15.2 sq. metres	@ €20.50 per sq. metres	= € 311.60
Block 3 Stores (loft storage)	145 sq. metres	@ €6.83 per sq. metres	= € 990.35
Hardcore Yard	1,200 sq. metres	@ €0.68 per sq. metres	= € 816.00
Concrete Yard	1,200 sq. metres	@ €0 per sq. metres	= € 0.00
		Total NAV	€47,008.68

€47,008.68 @ 0.5% = €235.04

RV = €235

And the Tribunal so determines.