

Appeal No. VA10/2/005

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

Mary Skelly

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2201749, Shop at Lot No. 41b, Main Street, Clane, Clane, Naas 1, County Kildare

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF OCTOBER, 2010

By Notice of Appeal dated the 9th day of April, 2010, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €100.00 on the above-described relevant property.

The grounds of appeal are set out in the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgment.

1. This appeal came before the Tribunal by way of an oral hearing, at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 10th June, 2010. At the hearing Ms. Mary Skelly, the proprietor of the occupier Heavenly Shoes & Accessories Limited, appeared on behalf of the appellant. Mr. Denis Maher, a valuer in the Valuation Office appeared on behalf of the respondent, the Commissioner of Valuation.

Property Concerned

2. The property concerned is one of two ground floor retail units in a new two-storey stand alone development with offices overhead, located at the north end of Main Street in the village of Clane.
3. Clane is a small well-established village and Main Street forms part of the R407 linking Naas and Kilcock. In common with other similarly sized villages, Clane has been subject to quite extensive development over the past several years.
4. The property concerned has a frontage of 10.5 sq. metres and a total internal area of 173 sq. metres, of which 51.35 sq. metres at the rear is dedicated to storage and staff accommodation use. The rear section of the property is separated from the retail space by a non-structural wall.
5. The areas for valuation purposes put forward by the Valuation Office and not contested by the appellant and measured on a net internal area basis are as follows:

Shop	121.26 sq. metres
Stores/Accommodation	51.35 sq. metres

The Appeal

6. The only issue in dispute is the quantum of the valuation which was assessed on foot of a revision in 2009 in the sum of €100. No change was made following an appeal to the Commissioner of Valuation under Section 30 of the Valuation Act, 2001 and in due course the appellant lodged an appeal to this Tribunal under Section 34 of the Act.

The Appellant's Evidence

7. At the oral hearing, Ms. Skelly, having taken the oath adopted her précis, which had previously been received by the Tribunal and the respondent, as her evidence-in-chief. She submitted that the rateable valuation of €100 was excessive and high by comparison to the valuation of other retail premises in the village. Consequently this placed her at a trading disadvantage and this, she said, was borne out by the trading accounts for the business for the year ending 31st October, 2009 which included figures for the previous year.
8. In support of her contention that the valuation of the property concerned was excessive, Ms. Skelly submitted to the Tribunal a computer print-out of the valuation of practically all the shop premises in Clane. In particular, Ms. Skelly drew the Tribunal's attention to 6 valuations, details of which appear in the valuation list as follows:

Property Number	Description	Occupier	Rateable Valuation
1738877	Shop & Garden	Desmond Marron	€17.78
1738893	Shop	Manzors	€8.09
1738915	Shop	Hughes Pharmacy	€19.05
1738983	Shop/Store	Classy Lass	€4.44
1738996	Shop	Martina O'Connor	€15.24
2147948	Shop	XtraVision	€2.53

9. Ms. Skelly was unable to provide the Tribunal with any details regarding the size of any of the above premises or the approximate rate per sq. metre at which they are valued. Ms. Skelly contended that most of these properties occupied better trading locations than the subject property. She further pointed out that there was no on-street car parking facilities adjacent to the subject property.

The Respondent's Evidence

10. Mr. Maher having taken the oath adopted his précis of valuation which had previously been received by the Tribunal and the appellant, as his evidence-in-chief.

11. In his evidence Mr. Maher contended for a rateable valuation of €100 calculated as set out below:

Shop 121.26 sq. metres @ €135 per sq. metre = €16,370

Store 51.35 sq. metres @ €7.50 per sq. metre = €3,466

Net annual value €19,836

Rateable valuation @ 0.5% = €9.18

Say RV €100

12. In support of his opinion of net annual value, Mr. Maher introduced 5 comparisons, details of which are set out in Appendix 2 attached to this judgment.

13. Mr. Maher said that in his experience most shops on Clane Main Street are valued at between €36 and €64 per sq. metre, with off centre shops being valued between €23 and €30 per sq. metre depending on location. In arriving at his opinion of value, Mr. Maher said he had regard to the location of the property concerned, which is at the northern end of Main Street, its excellent visibility and profile to the incoming Dublin Road, its size and quality of construction and finish. Whilst he did not dispute Ms. Skelly's point regarding the absence of on-street car parking at the property concerned, Mr. Maher said that there was adequate car parking in the immediate vicinity and in this regard the property concerned was no more disadvantaged than other shops on street, where generally speaking car parking facilities were limited.

14. In regard to the various properties referred to by Ms. Skelly, Mr. Maher said he had examined the valuation notebooks and from these he was able to say that most of the properties Ms. Skelly mentioned were substantially smaller than the property concerned. Furthermore, two of them – property No. 1738877 and 1738915 - were old valuations determined prior to the introduction of the 1988 Valuation Act under which the tone of the list methodology was first introduced. The only properties referred to in Ms. Skelly's list that could be considered in any way comparable in regard to size was the Xtra Vision unit, which had a total internal area of approximately 141 sq. metres and which is valued at an overall rate of €17 per sq. metre.

Findings

Having regard to the evidence that has been adduced at the hearing by both parties the Tribunal finds as follows:

1. The statutory basis for valuing property on foot of a request of revision of valuation is set down in section 49(1) of the Valuation Act, 2001 which states:

“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to that property “

In other words the valuation of the property concerned is to be determined in accordance with what is known as the “tone of the list”, although this expression is not explicitly referred to in the Act.

2. Under section 3 of the Act the onus of proving a valuation is incorrect lies with the appellant.
3. Having considered the evidence that has been put forward by Mr. Maher and which was not contested by the appellant, the Tribunal is satisfied that Mr. Maher, in arriving at his valuation had regard to the valuation of other comparable properties in Clane; in other words he had regard to the tone of list for shop premises in the town.
4. By any criteria the size of the property concerned is much larger than any of Mr. Maher’s comparisons, with the sole exception of his comparison number 1, which was valued at the same revision as the property concerned. As a general rule, the Tribunal attaches less weight to a valuation which has been determined at the same revision as the property under appeal, than to other assessments which were in the valuation list at the time of the revision. In the circumstances the valuation of comparison number 1 has been treated with a degree of caution.
5. The Tribunal is indebted to the trouble Mr. Maher went to in providing details of the valuations of the properties appearing in the schedule submitted by Ms. Skelly which was most helpful to the Tribunal arriving at its determination.

Determination

Having regard to the above findings, the Tribunal is of the opinion that Mr. Maher, in arriving at his valuation, had insufficient regard to the area of the property concerned relative to the areas of all his comparisons. In the circumstances the Tribunal considers that a small allowance should be

made for this factor, and accordingly determines that the rateable valuation of the property concerned be reduced to €5 and that this figure may be devalued as follows:

Shop	121.26 sq. metres	@ €128 per sq. metre	= €15,521
Store	51.8 sq. metres	@ €63 per sq. metre	= <u>€3,263</u>
NAV			€18,784
NAV Say	€19,000 @ 0.5%		= €5

And the Tribunal so determines.