

Appeal No. VA10/2/033

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

**O'Donovan Murphy Crowley Collins Property Partnership**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2173827, Office(s) at Lot No. 15/3 front, The Quay, Town Lots, Bantry Urban, Bantry, County Cork.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Michael F. Lyng - Valuer**

**Member**

**Niall O'Hanlon - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 15TH DAY OF DECEMBER, 2010**

By Notice of Appeal dated the 14th day of June, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €19 on the above-described relevant property.

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

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 12<sup>th</sup> day of August, 2010. At the hearing the appellant was represented by Mr. Florence Murphy, BCL a partner in the appellant company. The respondent was represented by Mr. Don Donovan, BSc (Property Management & Valuation Surveying), Dip FM, MIAVI, a valuer in the Valuation Office. Both parties, having taken the oath, adopted their respective précis which had previously been received by the Tribunal as their evidence-in-chief. From the evidence so tendered, the following emerged as being the facts relevant and material to the appeal.

### **Subject Property**

Property No. 2173827, the subject property, is located in 'The Quay' development in Bantry. Along with the development of offices in which the subject property is located, there is also a hotel, cinema and Garda station in the vicinity.

The subject property comprises a single room, on the first floor of a modern office building. The building is well finished with extensive glazing overlooking the inner harbour. Access is via a shared stairs. The other first floor portions of the building are occupied.

### **Valuation History of the Property of which the Subject Property is a part**

The property, of which the subject property forms a part, was initially valued in 2004, following a request from Cork County Council. At revision stage that property was valued at €63. Representations were received but, following their consideration by the Revision Officer, no change was made.

Subsequently, an appeal was lodged and following receipt of a letter, dated 31<sup>st</sup> May, 2005, from agents for the appellant, the Appeal Officer reduced the rateable valuation to €44. The said letter indicated, on the appellant's behalf, that such a valuation was acceptable to the appellant for settlement purposes.

In arriving at the valuation of €44, a rate of €68.34 per sq. metre was applied to that part of the property which comprised the subject property.

### **The Valuation History of the Subject Property**

The property was listed for revision in 2009, following a request from Mr. Florence Murphy,

on behalf of the appellant. The purpose of this request was to apportion a valuation to that portion of the first floor that is unoccupied.

As a result of the revision, a valuation of €19 was placed on the subject property. This was computed by applying a rate of €68.34 per sq. metre to an area of 54.96 sq. metres thus giving a net annual value of €3,755.97 and a rateable valuation of €18.78 which was rounded up to €19.

Representations, which were received in the form of an e-mail, were considered, however no change was made to the final Valuation Certificate. Subsequently, an appeal was lodged by the appellant; however, no change was made by the Appeal Officer. The matter now comes before the Valuation Tribunal.

### **Written Submissions**

The following written submissions were received by the Tribunal:

1. A letter, dated 4<sup>th</sup> August, 2010, from Mr. Florence Murphy, on behalf of the appellant.
2. A letter, dated 15<sup>th</sup> June, 2010, which accompanied the Notice of Appeal, from Mr. Florence Murphy, on behalf of the appellant.
3. The Tribunal also received from the appellant copies of; a letter dated 1<sup>st</sup> November, 2004, addressed to the Valuation Office; an e-mail of 16<sup>th</sup> November, 2009, to the Valuation Office; a letter dated 9<sup>th</sup> December, 2009, addressed to the Valuation Office and a photograph of the subject property.
4. A submission on behalf of the respondent, dated 23<sup>rd</sup> July, 2010, from Mr. Don Donovan.

### **The Evidence adduced on behalf of the Appellant**

Having taken the oath Mr. Murphy proceeded to read from his letter dated 4<sup>th</sup> August, 2010. Mr. Murphy stated that in 2004 the Valuation Office compared the subject property firstly, to the TSB Bank at The Quay in Bantry, secondly, to the credit union premises at New Street, Bantry, and thirdly, to a Mr. Dermot Sheehan's offices at Marino Street, Bantry. Mr. Murphy stated that the TSB Bank, which was a ground floor office that was closer to the centre of town than the subject property, had long since closed down and that the premises had been vacant for some time with a "For Let" sign on it. He stated that the offices previously occupied by Mr. Sheehan were vacant and for let. He also stated that the only comparison

property from 2004 that was still trading was the Bantry Credit Union and that this was more or less a retail bank at the centre of town.

Mr. Murphy stated that old offices at Wolfe Tone Square, which his firm had previously occupied and which consisted of a ground, first and second floor, had an overall rateable valuation of €23. He also stated that first floor offices over Coen's Pharmacy (which his practice had rented and which was next door to those old offices) had a rateable valuation of €15.

Mr. Murphy said that the only enquiries regarding the renting of the subject property had come from the hairdressing and beauty consultant sector and that it would be more appropriate to compare the property with other first floor hairdressing establishments in the town of Bantry. Mr. Murphy stated that a hairdressing salon called "Classic Charm" in New Street, in the centre of Bantry, had a rateable valuation, to his knowledge, of €10 and that a premises in Bridge Street in Bantry, where there was a hairdressing salon on the ground floor, had an overall rateable valuation of €17.78.

Mr. Murphy submitted that when the Valuation Office takes the area of a premises and then applies a formula to arrive at the rateable valuation, they must also take into account the letting value of those premises on the open market. In Bantry there had been a collapse in the rental market but that even before that collapse had started, in the past two or three years, it was practically impossible to get any sort of rent for the subject property. This was because it was outside the centre of the town and there was no parking outside the premises because the roadway adjacent to it had double yellow lines and the N71 ran right outside the front door.

Mr. Murphy stated that there was no footfall where the subject property was located and therefore retailers were not interested in it. He stated that even ground floor premises had not survived. He went on to state that in the premises next to the subject property, a four star marine hotel had been developed and on the ground floor thereof had premises let out for shops and offices. However, the only tenant in the new development was the HSE; there were no shops or offices.

Mr. Murphy stated that the only offer to rent the subject property in the past twelve months had been from someone willing to pay €50 a week provided the landlord paid the rates. Mr.

Murphy submitted that, in the circumstances, the letting value of the subject property was totally exaggerated by the Valuation Office.

### **Cross - Examination by Respondent**

Mr. Donovan asked Mr. Murphy just one question in cross-examination which was whether Mr. Murphy accepted that an agreement as to the rateable valuation of the subject property had been reached after the 2004 revision. Mr. Murphy accepted that such an agreement had been reached.

### **The Evidence adduced on behalf of the Respondent**

Having taken the oath Mr. Donovan adopted his précis of evidence as his evidence-in-chief. Mr. Donovan stated that he agreed that the subject property was not in a good location - the only successful part of the development was the pub and restaurant at the edge of the Square. He stated that the issue was the economic downturn but that this was not relevant, what was relevant was the tone of the list and if the valuation had been correct in 2004 it was still correct. Mr. Donovan added that a lot of property that had been built during the economic boom had no trade now but that this did not affect the rateable valuation.

Mr. Donovan also pointed out that the valuation on the property of which the subject property formed a constituent part had been agreed in 2004. Mr. Donovan cited the judgment of the Tribunal in **VA09/3/005 – Centocor Biologics (Ireland) Ltd.** as authority for the proposition that a valuation previously agreed could not be reassessed.

Mr. Donovan stated that the key comparison was the previous appeal on this property. He stated that the other valuations to which he had referred in his précis supported the valuation of the subject property. Mr. Donovan referred in particular to his second comparison, Property No. 2173825, which had an average valuation per sq. metre which was 80% higher than the subject property; to his third, Property No. 2178930, and fourth, Property No. 2178931, comparisons, which had a valuation per sq. metre which was 20% higher than the subject property; and to his fifth comparison, Property No. 2173826, which was occupied by Mr. Murphy's firm of solicitors.

### **Cross-Examination by Appellant**

In cross-examination Mr. Murphy put it to Mr. Donovan that the use in 2004 of TSB Bank as

a comparison was not appropriate, in that what was at issue was the valuation of a ground floor banking hall. Mr. Donovan said that he had not dealt with the case in 2004 but that he assumed that his predecessor had been referring to the first floor offices over TSB. Mr. Donovan said that he was aware that in the case of the credit union comparison the reference, in 2004, had been to the first floor offices.

Mr. Murphy put it to Mr. Donovan that Dermot Sheehan's offices and the TSB were now unoccupied and that the credit union was a totally different entity to the subject property. When asked, Mr. Donovan acknowledged that his second comparison concerned the valuation of a ground floor unit but stated that the average rate per sq. metre was 80% higher than the rate per sq metre applied to the subject property.

Mr. Donovan also acknowledged that his fifth comparison was not directly comparable to the subject property but that he had referred to it because it was in the same development as the subject property and was also occupied by the appellant's solicitors. Mr. Donovan said that he had anticipated that the fifth comparison would be referred to in the hearing and he had included it for information purposes. Mr. Murphy pointed out that the valuation of the first floor offices in Mr. Donovan's fifth comparison was 15% lower than the subject. Mr. Donovan stated that the difference mainly related to the size of the first floor offices in the fifth comparison.

In reply to Mr. Murphy's questions regarding the two hairdressing salons referred to by the appellant, Mr. Donovan stated that he had not been able to obtain information about the first comparison, Classic Charm. Mr. Donovan agreed that it was in the centre of Bantry however, there was no analysis of how the property had been valued and in particular the rate per sq. metre, when it had been valued or the state of repair of the premises at the time of valuation. Mr. Donovan concluded that there wasn't enough information to draw any conclusions.

When the Tribunal noted during the course of the hearing that Mr. Murphy had stated that the valuation of Classic Charm was, to his knowledge, €10, Mr. Murphy stated that he did not have all the information relevant to his case to put before the Tribunal. Further, Mr. Murphy declined the opportunity to request an adjournment to assemble such information when asked by the Tribunal whether he wished to make such an application.

In relation to the appellant's second hairdressing salon comparison, Mr. Donovan stated that it was contained in an old house which was not similar to the subject property.

Mr. Murphy asked Mr. Donovan whether he was aware that there was a hairdressing salon close to Mr. Donovan's third and fourth comparison properties. Mr. Donovan stated that he was not so aware and that the only salon he could find was contained in Property No. 891293 which had a rate per sq. metre of €82 and a rateable valuation of €17.

### **Submissions on behalf of the Appellant**

In his submissions Mr. Murphy stated that it had not been possible to secure a tenant for the subject property and that it would be necessary to modify the premises in order to attract a tenant. Mr. Murphy submitted that the rateable valuation should be reduced to €10.

### **Submissions on behalf of the Respondent**

Mr. Donovan stated that the rateable valuation of €19 was based on the comparisons listed in his précis. He also referred to the fact of the 2004 agreement.

### **Findings and Determination**

The Tribunal has carefully considered all the evidence and arguments adduced at the oral hearing, including that in relation to the comparisons, and it makes the following findings:

1. Property 2173827, the subject property, is located in 'The Quay' development in Bantry and comprises a single room on the first floor of a modern office building.
2. The property, of which the subject property forms a part, was initially valued in 2004, following a request from Cork County Council.
3. Subsequent to this initial valuation an appeal was lodged and following receipt of a letter, dated 31<sup>st</sup> May, 2005, from agents for the appellant, the Appeal Officer reduced the rateable valuation to €44. The said letter indicated, on the appellant's behalf, that such a valuation was acceptable to the appellant for settlement purposes.
4. In arriving at the valuation of €44, a rate of €68.34 per sq. metre was applied to that part of the property which comprised the subject property.
5. The subject property was listed for revision in 2009, following a request from the appellant.

6. As a result of this revision the respondent placed a valuation of €19 on the subject property. In arriving at the valuation of €19, a rate of €8.34 per sq. metre was applied to the subject property.
7. The Tribunal finds the comparisons advanced on behalf of the respondent to be of greater assistance than the comparisons advanced on behalf of the appellant.

Having considered the evidence and submissions of the parties, the Tribunal holds that it is satisfied with the method adopted by Mr. Donovan in assessing the rateable valuation and finds the rateable valuation of €19 fair and reasonable. Therefore, the Tribunal affirms the valuation.

And the Tribunal so determines.