

Appeal No. VA11/1/005

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

ROR Tractor Parts Limited

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2205671, Warehouse/Warerooms at Lot No. 2.3/ UNIT 7, Teemore Industrial Estate, Teemore, Granard Urban, Granard, County Longford.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Patrick Riney - FSCS FRICS FIAVI

Member

Mairead Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 26TH DAY OF MAY, 2011

By Notice of Appeal received by the Tribunal on the 13th day of January, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €70 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.

The 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 8th day of April, 2011. The appellant was represented by Mr. James Donohoe of James M. Donohoe & Co. Solicitors. Mr. Luke O'Reilly, the appellant, and Mr. Melvin Kiernan, a witness for the appellant, also attended. The respondent was represented by Mr. Frank O'Connor, MSCS, MRICS, a District Valuer in the Valuation Office.

In accordance with the rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as their evidence-in-chief. This evidence was supplemented by additional evidence given during the hearing, either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

The Property

The property is located on the southern edge of Granard town, County Longford, off the Edgeworthstown Road, in a new industrial estate, called Teemore Industrial Estate.

The property comprises a detached industrial unit, which is used for the storage and sale of tractor spare parts. The gross external area approximates 628 sq. metres, on a site of circa 1.85 hectares (0.75 acre). There is an office section and a sales counter to the front of the building and a warehouse section of circa 6.5 metres high to the rear. The building is constructed of mainly concrete block, with steel clad walls and steel cladding on the roof. The site is bounded by a wall and railing. Agreed areas are as follows:

| | |
|------------|----------------|
| Office: | 68 sq. metres |
| Warehouse: | 560 sq. metres |

Valuation History

The property was the subject of an initial valuation carried out following a request to the Commissioner of Valuation by Longford County Council. A Valuation Certificate issued on the 22nd June, 2010 with an RV of €70. The valuation was then appealed to the Commissioner under Section 30 of the Valuation Act, 2001 (hereinafter referred to as "the Act"). However, as a result of the Commissioner's decision, issued on 5th January, 2011, the RV remained

unchanged. This decision by the Commissioner was then appealed to the Valuation Tribunal on the 12th January, 2011 under Section 34 of the Act.

Appellant's Case

Having taken the oath, Mr. Luke O'Reilly, under examination by Mr. Donohoe, gave evidence as follows:

- Mr. O'Reilly bought the site for the subject property from Longford County Council as a fully serviced site with the benefit of full planning permission for approximately €57,000, with Longford County Council being conditioned under the planning permission to provide all main services.
- Mr. O'Reilly incurred initial construction costs of circa €350,000 in order to complete the main structure of the buildings. Subsequently, he incurred additional costs, in excess of €20,000, to provide services and repairs to the main access road to the subject property, which were not completed by the County Council.
- Referring to photocopies of photographs previously submitted to the Tribunal, Mr. O'Reilly identified deficiencies in the access road to the subject property - a series of potholes and uncompleted surfaces - which have caused a range of problems for his business.
- Mr. O'Reilly stated that it is now over 3 years since he purchased the site and obtained full planning permission for the subject property. However, despite the necessary conditions contained in the planning permission to connect to the mains water and sewerage, Longford County Council has not provided these services. Mr. O'Reilly stated that he was now left with an un-saleable property which did not comply with the main conditions of the planning permission.
- Mr. O'Reilly stated further that, in view of the lack of services to the site on which the subject property is built, he was compelled to carry out the following works:
 - sink a well
 - install a septic tank

- provide for waste water
- to carry out regular repairs on the main access road.

Cross-Examination

In response to questioning from Mr. O'Connor, Mr. O'Reilly indicated that, in his opinion, a reduction of 50% from the RV of €70 would be reasonable. He pointed out that none of the other three completed units in the subject development had yet been rated and that there was also an uncompleted building adjacent to the subject property. Mr. O'Reilly also stated that, in his opinion, none of the comparisons submitted by the Valuation Office had similar circumstances to, or were in a similar location to the subject property. In his view, the respondent's comparisons were mainly in completed industrial developments and were not of a similar size to the subject.

Mr. Kiernan's Evidence

Having taken the oath, Mr. Melvin Kiernan stated that he had carried out a number of improvement works and provided services to the subject property, including preparatory works for the provision of a waste treatment unit at a cost of €6,000. He confirmed that invoices for this work were attached to the appellant's submissions.

Submissions

Mr. Donohoe stated that the photographs provided by his client showed that the subject development was a "ghost estate". He stated that his client had sought to mitigate this situation at his own cost and had provided the Tribunal with evidence of this in the form of invoices for work carried out by him, which work was, in fact, the responsibility of the local authority. Commenting on the respondent's comparisons, Mr. Donohoe stated that all of these properties had superior services to the subject property.

Comparisons

In support of an RV of between nil and €35 in respect of the subject property, the appellant put forward two comparisons in written submissions, viz: an office premises in Access Centre, Longford - RV €19; and LHF Supplies, a creamery in Granard - RV €146.02. However, these comparisons were not adverted to in oral evidence.

Respondent's Case

Mr. O'Connor took the oath, adopted his précis as his evidence-in-chief and reviewed his submission. He stated that he had been instructed to value a brand new property, which was circa four years old.

Mr. O'Connor pointed out that while the road leading to the property was not completed, he had driven on it as do other vehicles on a regular basis, as there are other units in this estate. He accepted the subject development was not yet serviced, but asserted that it is the intention of Longford County Council to provide full services. He also emphasised that many industrial buildings in other towns had to provide their own water and sewerage services, but were rated nevertheless.

Mr. O'Connor asserted that no comparative evidence had been provided by the appellant to support a reduction in the rateable valuation assessed by him.

Mr. O'Connor stated that, with regard to the disadvantages attaching to the subject property, he had considered all of these issues and due allowance had been made for these when comparing the subject to comparable properties and taking account of the tone of the list in Granard. He accepted that the appellant had carried out additional works on the subject property, costing circa €20,000, and stated that he was prepared to make an allowance for this fact. Mr. O'Connor said that given that the cost of the appellant's additional works was approximately 5% of the cost of purchasing and developing the site of the subject property, he was prepared to make an adjustment to the RV in the order of 5%, which would result in a revised RV of €66.

Comparisons

In support of his assessment of an RV of €70 on the subject property, Mr. O'Connor put forward 4 comparisons, details of which are attached at Appendix 2 to this judgment.

Cross-Examination

In response to questioning by Mr. Donohoe, Mr. O'Connor reiterated that the valuation of properties generally for the purposes of rating does not take into account the completion of industrial estates. Mr. O'Connor did not accept the appellant's assertion that the subject development is a "ghost estate". In support of this, he stated that there are 3 or 4 other

occupiers in the subject development, although he accepted that none of these had been assessed for rates as yet.

Findings

The Tribunal has carefully considered all the evidence and arguments submitted and adduced by the parties and 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. However, none of the comparisons cited by the appellant or the respondent were of assistance to the Tribunal in arriving at its determination. The appellant put forward an office and a creamery as comparisons to the subject property, which is primarily a warehouse, while all of the respondent’s comparisons are fully serviced and completed properties, two of which are circa 5 times larger than the subject property.
3. The Tribunal accepts the appellant’s evidence that the site for the subject property was purchased from Longford County Council on the basis that the subject property would be part of fully-serviced industrial development and notes that both parties stated in evidence that subject development has not been completed.
4. The Tribunal accepts the appellant’s further evidence that certain services have not been provided to the subject property by the local authority, resulting in the following:

- an unfinished road leading into the subject development;
 - no main sewerage connection to the subject property;
 - no mains water connection to the subject property;
 - no waste water connection to the subject property.
5. The Tribunal notes the respondent's indication that, taking account of the evidence given by the appellant concerning works carried out on the subject property as a result of the non-provision of services by the local authority, a reduction in the RV on the subject property is appropriate. However, the Tribunal believes that the magnitude of the reduction proposed by the respondent is insufficient.

Determination

The Tribunal determines that an end allowance be made in respect of the deficiencies in the subject property in the order of 40 per cent, i.e. 10 per cent in respect of each service not provided by the local authority, resulting in an RV of €42.

And the Tribunal so determines.