

Appeal No. VA11/4/005

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

Piotr Krol

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2209118, Workshop at Lot No. 21-26/5, Bridge Street, Townparks, Birr Urban, Birr UD, County Offaly.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Joseph Murray - BL

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF APRIL, 2012

By Notice of Appeal dated the 17th day of October, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €12 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are:

"As appellant has only SW (Back to Work Entp. Allow) and no profits last yr. 2010 -2571.00 euros." "Proceeds of business is low, not possible to pay fee amount." "Since business is zero therefore feel that it should be classified as zero." "Only rent property." "Because property is rented month @ 500.00 euros, not profit, but bills attached to running business." "SW recipient with no profits 2010, or to date - Profit zero, closing @ -2571.00 euros in debt."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Holbrook House, Holles Street, Dublin 2 on the 1st day of March, 2012. At the hearing, Mr. Piotr Krol, the appellant and his sister Ms. Monika Krol attended. The respondent was represented by Mr. David Molony, BSc, MRICS a district valuer at 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.

The Property Concerned

The subject property is a small car wash building, 89.01 sq. metres in size, located in a yard setting and situated in Camcor Business Park in close proximity to the Birr town square off Bridge Street, Birr, County Offaly. The occupier is a Polish gentleman, Piotr Krol, who has leased the premises since July 2010. The original rent was €400 per month and has increased to €500 per month. The property is a detached workshop constructed of concrete block walls and pitched metal cladding roof. The front elevation has a metal roller shutter door and a separate pedestrian entrance.

Valuation History

The subject property was valued at €27.34 per sq. metre. A valuation certificate issued on 18th February, 2011. After representation and appeal stages to the Commissioner, the valuation remained unchanged. The subject property had previous revisions in 1995 and 2006. Estimated NAV was €2,433. which gave an RV of €12.17, say €12.

The Chairman of the Tribunal made it clear from the beginning that the Tribunal had the responsibility to give a correct, fair and reasonable decision on this matter. Moreover, this is a section 49(1) revision valuation and shall be determined by reference to values appearing on the list. In other words, the “tone of the list.”

Appellant’s Case

The appellant, Mr. Piotr Krol, was represented by his sister Monika for language reasons.

Grounds of Appeal

- The appellant said that, because of his economic circumstances, with no profit, he is not able to pay the rates. Accordingly, the property should be excluded from the valuation list.
- The appellant was previously on welfare and decided to do something about it by becoming self-employed. Mr. Krol stated that he received no grant from the Government and had to borrow money to commence his business in the subject property
- In the current recession, he added that he is not making a profit and cannot pay the rates. He declared red that he is finding it very difficult to fund his outgoings on rent and other expenses.
- In present economic circumstances, he said it was impossible for him to pay the rates demand.

During the course of the hearing he added that:-

- The toilet facilities are some distance from the subject at about 100 metres away in the yard enclosure.
- There is room for one car only within the subject property and one parking space only provided on the hardstand external to the premises.

Respondent's Case

Mr. Molony informed the Tribunal as follows:-

- The subject property is relevant property within Schedule 3 of the Valuation Act, 2001 and is accordingly rateable.
- The subject is a workshop and valued as such at €27.34 per sq. metre.
- His number 1 comparison, Curtain Designs Limited was valued as a workshop and office, is located in the Arch, off Green Street in Birr town, with limited parking facilities. This property was closest in floor area to the subject at 85 sq. metres and is of similar quality and in a similar location in the centre of Birr, but valued at €47.82 per sq. metre. When asked why there was such a difference in the rate per sq. metre between it and the subject, Mr. Molony was not in a position to advise.

- His second comparison property trading as DR Tyres & Garage includes both offices and a workshop. It is valued at a higher level than the subject, is described as a modern unit on the periphery of Birr, with WC facilities.
- He accepted that there were no WC facilities in the subject property.
- Car parking in the yard is not exclusive to the needs of the occupier of the subject property.
- Beyond the boundaries of Birr town, the average value level or tone for a workshop would be in the region of €21 to €22 per sq. metre.

Respondent's comparison properties

1. Curtain Designs Limited: Workshop is of basic accommodation with no street frontage. This property is of a similar size to the subject. The workshop is 85.88 sq. metres, is located in the centre of Birr and is close to the subject. It is valued at €47.82 per sq. metre representing a difference of over €20 per sq. metre on the subject property.
2. DR Tyres & Garage: This property is a modern unit on the outskirts of Birr, in the Syngesfield Business Park with workshop, offices and mezzanine floor. The workshop is valued at €30.74 per sq. metre, a difference of over €3 per sq. metre between this property and the subject. The property does have WC facilities.

Findings in Fact and Law

1. The subject property must be valued in its "actual state" with advantages and disadvantages within the meaning of section 48(3) of the Valuation Act 2001. Accordingly, the Tribunal, while sympathetic, cannot take the financial circumstances of the appellant into account as it must follow the 2001 legislation. The grounds of the appeal were fundamentally economic, principally the appellant not making profit and therefore unable to pay rates.
2. The subject property is relevant property within Schedule 3 of the Valuation Act, 2001.
3. Under the terms of the lease agreement the Tenant is obliged to pay the rates.

4. The appellant being a Polish gentleman, with limited command of the English language, was represented by his sister.
5. The appellant is required to pay rates of €900 per annum to the rating authority. He said he could not pay such amount as his business is not making a profit. However, he said he would be prepared to pay €200 p.a. The respondent replied that he was not in a position to negotiate.
6. The only comparative evidence offered to the Tribunal was proffered by the respondent, namely the above noted two comparators.
7. The Tribunal finds that there is an anomaly in the valuation of the subject property at €27.34 per sq. metre, as it is not in line with comparison number 1. The difference in value between the subject and comparison number 1 is extraordinary with a differential of more than €20 per sq. metre. This is unusual for two similar buildings, with similar use, in the town centre, in close proximity to each other. This anomaly was not explained to the Tribunal by the respondent. There does not appear to be any 'tone of the list' for workshops in Birr town. The précis of the respondent (Confidential Details at Appendix 2) states, "There is no availability of comparisons in Birr town". The value of the subject expressed on a per sq. metre basis is closer to comparison number 2. However, comparison number 2 is a modern building on the outskirts of Birr in an industrial estate and, unlike the subject property, it does have internal WC facilities.
8. The subject property is a basic edifice with no toilet (WC) facilities, only a wash hand basin. Toilet facilities are some walking distance across the yard from the subject. This would not impress a hypothetical tenant who would see it as a disadvantage.
9. Parking in the open hardstand adjacent to the subject property described as the yard or enclosure is not controlled and/or designated vehicle parking and accordingly, access to the subject may be compromised or made difficult from time to time. Again, this matter would be considered as potentially a disadvantage to the hypothetical tenant.

10. The Tribunal found the cartographic evidence helpful, showing Birr town centre and outskirts.

11. Section 63 of the Valuation Act, 2001 states that value of property appearing on the valuation list shall be deemed to be correct until altered in accordance with the provisions of the Act. Therefore, considering that there is no “tone of the list” for Birr town the Tribunal decided to make a nominal adjustment to the value of the subject property on the basis that the subject has limited sanitary facilities and non-exclusive parking in the yard area.

12. The Tribunal concludes that a fair and reasonable rate of €25 per sq. metre be applied to the subject property.

Determination

Workshop: 89.01 sq. metres @ €25 per sq. metre = €2,225.25

NAV = €2,225.25 @ .50% = €1,112.63

Say, RV €1

And the Tribunal so determines.