

Appeal No. VA12/1/002

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

**Mairéad Furlong**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2209561, Shop at Lot No. 1 pt /1, Kellystown PT Now 2008, Drinagh, Wexford, County Wexford.

**B E F O R E**

**Maurice Ahern - Valuer, IPAV**

**Deputy Chairperson**

**Frank Walsh - QFA, Valuer**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 3RD DAY OF JULY, 2012**

By Notice of Appeal received on the 5th day of January, 2012, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €5 on the above described relevant property.

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

*"Small seasonal business now practically nil (80 years of age.)"*

*"Situation unusual. Not a normal main st. business."*

*"Rural, already stated."*

The appeal proceeded by way of an oral hearing which took place at the offices of the Valuation Tribunal, 3<sup>rd</sup> Floor, Holbrook House, Holles Street, Dublin 2 on the 17<sup>th</sup> day of April, 2012. At the hearing the appellant represented herself. The respondent was represented by Ms. Fidelma Malone BSc (Hons) Estate Management, MIAVI, a valuer at the Valuation Office. Both parties had previously furnished their written submissions which had been exchanged between them and submitted to the Tribunal.

### **At Issue**

Quantum.

### **The Property/Location**

The subject property is a former out-building set close to the appellant's dwelling house at Drinagh, Rosslare Road, Wexford. The subject property is located up an avenue off the main N25 Rosslare Road and is approximately 4 kilometres south of Wexford Town Centre.

### **Description**

The subject property has been in use as an antiques shop for approximately 30 years. The property comprises a stone outbuilding with a corrugated iron roof and single glazed windows and has a basic finish internally with no heating system.

### **Tenure**

Freehold.

### **Floor Area**

The floor area was agreed at 38.72 sq. metres, measured on a Net Internal Area basis.

### **Valuation History and Relevant Dates**

- 4<sup>th</sup> April 2011 – Draft Certificate for the subject issued with a valuation of €7.
- 14<sup>th</sup> April 2011 – Representations received by the Commissioner of Valuation.
- 6<sup>th</sup> May 2011- Final Certificate issued for the subject with a valuation of €7.
- 12<sup>th</sup> May 2011 – Appeal submitted to the Commissioner of Valuation.
- 12<sup>th</sup> December 2011- Valuation reduced to €5.
- Decision appealed to the Valuation Tribunal on 5<sup>th</sup> January 2012.

**The Appellant's Case**

The appellant took the oath and adopted as her evidence in chief the letter of the 27<sup>th</sup> March 2012 written by her, together with her auctioneer's valuation submitted by Raymond E Corish & Co. Ltd. of the 27th March 2012, but also stated that she had a number of comparisons which she had not previously furnished. The respondent pointed out that they had not had an opportunity to consider this evidence.

The Tribunal adjourned to consider the comparisons and furnished a copy to the respondent. When the hearing resumed, it was decided that the appellant could present her comparisons, a copy of which is annexed hereto at Appendix 1.

The appellant then stated that the area of the subject property was not agreed and pointed out that Raymond E Corish & Co. Ltd. had advised that the area of the subject property was less than that which had been measured by the respondent.

There followed some discussion in respect of the area of the subject property, with the respondent arguing that it did not make any difference to the overall valuation if the appellant's figure of 34.1 sq. metres was used, as this area valued at €27.77 per sq. metre and rounded up would amount to a rateable valuation of €5.

The Tribunal accepted that while it might not make any difference in a practical sense, it was necessary either to have agreement from the parties as to the area of the subject property or by adjourning the hearing to facilitate confirmation of the area by way of a joint measurement of the property. The Tribunal rose again to facilitate discussion between the appellant and the respondent.

When the hearing resumed, and before any evidence was given as to whether the area of the subject property had been agreed or otherwise, the Tribunal stated that it was anxious that the appellant understood the necessity to have the area either agreed upon or valued. The Tribunal was furthermore anxious in the circumstances that the appellant, as a lay litigant, be aware that it was open to her to seek an adjournment to allow her to bring her valuer to the hearing on the next occasion. The appellant confirmed that she understood these points and indicated her wish to proceed with the hearing.

The appellant and the respondent confirmed that following their discussions, the area had been agreed between them at 38.72 sq. metres.

### **The Respondent's Case**

The respondent adopted her précis as evidence-in-chief. The respondent contended for a rateable valuation of €5.00, calculated down as follows:

Shop 38.72 sq. metres @ €27.33 = €1,058.21

Rateable Valuation = Total NAV €1,058.21 x 0.005 = €5.29

RV Say €5

In support of her opinion of rateable valuation, the respondent relied on the following comparisons:

1. Property No. 2009264 - Mignon Fochessati, Assaly Little, Killinick, Co. Wexford  
RV€33 (2009)

Restaurant	42.00 sq. metres @ €68.34 per sq. metre	=	€2,870.28
Shop	53.12 sq. metres @ €54.67 per sq. metre	=	€2,904.07
1 <sup>st</sup> Floor Store	<u>40.02</u> sq. metres @ €20.50 per sq. metre	=	<u>€ 820.41</u>
Totals	135.15		€6,594.76

Rateable Valuation = €6,594.76 x 0.005 = €32.97. Rounded to €33

2. Property No. 2207416 - Vacant Shop, Piercetown. Co. Wexford.  
RV €9 (2010)

Shop	23.50 sq. metres @ €54.67 per sq. metre	=	€1,284.75
Canteen	<u>12.94</u> sq. metres @ €41.00 per sq. metre	=	<u>€ 530.54</u>
Total	36.44 sq. metres		€1,815.29

Rateable Valuation = €1,815.29 x 0.005 = €9.08. Rounded to €9

3. Property No. 2204209 - John O'Reilly, Assaly Little, Killinick, Co Wexford.  
RV €10.00 (2010)

Workshop	95.65 sq. metres @ €20.50 per sq. metre	=	€1,960.92
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Rateable Valuation = €1,960.92 x 0.005 = €9.80. Rounded to €10

The respondent pointed out that the appellant had provided no comparative evidence other than her written comments.

### **Cross-examination**

The appellant had no questions for the respondent on cross-examination.

### **Closing submissions**

Both parties made brief closing submissions. The appellant stated that hers was a 9-month per year business. The respondent pointed out that a valuation of €5.00 was modest in the extreme when the comparisons were considered.

### **Findings**

1. The appellant provided no comparisons for consideration but instead chose to comment on the comparisons provided by the respondent.
2. The Tribunal accepts that Raymond E Corish, on behalf of the appellant, in his letter of 27<sup>th</sup> March, 2012, has suggested a rateable valuation of €2, but notes that this figure has not been grounded in analysis of any comparative property that has been produced to the Tribunal and as such cannot be accepted by the Tribunal.
3. The Tribunal accepts the limitations of the subject property as outlined in the valuation by Raymond E Corish and has the utmost sympathy for the appellant in respect of the trading difficulties faced by her, as outlined in her submission of 27<sup>th</sup> March, 2012. However, having considered the location of the subject property with that of the respondent's comparisons, the Tribunal is of the view that the location of the subject property is far superior to that of all of the respondent's comparisons.
3. The Tribunal also considers that it would be possible for an occupier of the subject property, subject to obtaining change of use planning permission, to utilize the subject property for a number of different uses, such as a garden centre or tea rooms. The Tribunal is of the view that this would make the subject property more attractive to the hypothetical tenant than the comparisons proffered by the respondent.

4. The Tribunal notes that the rate per sq. metre applied to the respondent's comparisons numbers 1 and 2 is far higher than that applied to the subject property. The respondent's comparison number 3 comprises a modern purpose-built work shop which is not, in the Tribunal's view, comparable with the subject property. In any event, the rate per sq. metre applied in respect of comparison 3 is also considerably higher than the rate per sq. metre applied to the subject property. The Tribunal also notes that the respondent's comparisons numbers 1 and 3 are considerably larger than the subject property.

**Determination**

Having considered the matter and in view of the foregoing, the Tribunal determines that the decision of the Commissioner of Valuation be upheld and that the rateable valuation on the subject property be affirmed at €5.

And the Tribunal so determines.