

Appeal No. VA12/2/021

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

Mark McDonnell

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2211808, Gymnasium at Lot No. 23 (DE), Mell, West Gate, Drogheda
Borough, County Louth.

B E F O R E

Maurice Ahern - Valuer, IPAV

Deputy Chairperson

Michael F Lyng - Valuer

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 17TH DAY OF DECEMBER, 2012

By Notice of Appeal received on the 22nd day of June, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €130 on the above described relevant property.

The grounds of appeal as set out in a schedule accompanying the Notice of Appeal, a copy of which is attached at Appendix 1 to this judgement.

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal on the third floor of Holbrook House, Holles Street, Dublin 2, on the 17th day of September, 2012. The appellant represented himself, and the respondent was represented by Mr Peter Gilsenan, a Valuer at 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 being their evidence-in-chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At Issue

Quantum.

The Property

The property comprises part of the 1st and entire 2nd floor of a newly built three-storey, mixed-use development on the outskirts of Drogheda town centre. The planning application granted permission for a medical centre on the upper floors but the subject space is now used to provide an exercise studio for yoga and dance classes. The property is in excellent condition with plastered walls and spot lighting with good window frontage with excellent natural light to the front and rear of the building.

Location

The property is situated in the townland of Upper Mell, Drogheda and is between 1 and 2 kilometres west of West Street in the heart of Drogheda town centre.

Floor Areas

The property was measured on a Net Internal Area basis and the accommodation extends over two levels:

First Floor 153.9 sq. metres

Second Floor 186.4 sq. metres

The floor areas were agreed by the parties at hearing notwithstanding the appellant's contention that a section of the second floor should not be valued.

Valuation History

- 4th October 2011 - Proposed Valuation Certificate issued for the entire building excluding the ground floor retail unit. RV €145.
- 8th November 2011 - Valuation Certificate issued with a RV of €145. No representations made.
- 28th November 2011 - Appeal submitted to the Commissioner of Valuation, on foot of which the original property record was subdivided for valuation purposes.
- 28th May 2012 – A Valuation Certificate issued in respect of the subject property with a RV of €130.
- The decision of the Commissioner of Valuation to value the subject property at RV€130 has now been appealed to the Valuation Tribunal.

Appellant's Case

Mr. McDonnell, having taken the oath, adopted his written précis which had previously been received by the Tribunal and the appellant as being his evidence-in-chief. He stated that the subject property is located far from the town centre and is in a very low footfall area. There is no road frontage to the subject property. The subject property is based on the first and second floors.

Mr McDonnell alluded to a 7 x 1 metre strip on the second floor of the subject property which, he stated, is unusable space for anyone over the height of 5ft 9 ins due to a slope in the roof along that strip and should not be measured. He also made the point that there is no natural light from the front of the building on the second floor, despite the respondent's description of the subject property as being well lit.

In his written précis, Mr McDonnell stated that he offers recognised and accredited educational qualifications and questioned why the subject property is not "exempt from rates" as are "vocational places of learning". In the alternative, Mr McDonnell contended for a rateable valuation of €18.

Appellant's Comparison Properties

The appellant offered various comparisons in Drogheda, the details of which are as follows:

Comparison 1

Property no. 1278669, Halco Plant, is in the same townland as the subject property, with a much larger open space. RV €67.30.

Comparison 2

Property no. 1320669, M & M Engineering, is a much bigger property in the same townland as the subject property. RV €44.44.

Comparison 3

MBCC Foods, aka the coffee giant Costa, is in the centre of Drogheda's main retail park. RV €130.

Comparison 4

Property no. 2208692, Carphone Warehouse, is in the same retail park. RV €89.

Comparison 5

Property no. 1277453, Boyne Health Studio (BHS), is located 0.9 kilometres from Drogheda town centre. It is a gym and studio and the appellant teaches yoga and dance classes. The property has a total area of 334 sq. metres, similar in size to the subject property. It also has 15 parking spaces, in common with the subject property's allocation of spaces. RV €48.

Respondent's Case

Mr. Gilsenan, having taken the oath, adopted his written précis which had previously been received by the Tribunal and the appellant as being his evidence-in-chief. He stated that the subject property provides bright, spacious, modern studio facilities within a mixed-use development. The property benefits from ample parking and is within walking distance of Drogheda town centre. The subject property was measured on a Net Internal Area basis.

Mr Gilsenan stated that he had come to apply a level of €68.34 per sq. metre to the first floor of the subject property following an analysis of a number of other comparable medical centres in the Drogheda area pursuant to the first appeal made to the Commissioner of

Valuation by the appellant. In the course of that analysis, he stated, he discovered that a consistent level of between €68 and €75 per sq. metre had been applied to first floor office space in those properties. He considered also that the first floor element of the subject property should be assessed at the same rate per sq. metre as the other property on the same floor of the subject property building, i.e. at €68 per sq. metre.

Mr Gilsenan also referred to the appellant's comparison property no. 5, Boyne Health Studio and, though admitting that it had a similar profile and use as the subject property, stated that it had not been valued since 1988.

In response to the appellant's argument that the 7 x 1 metre strip on the second floor of the subject property should not be measured due to its having a sloped roof and therefore not being usable for persons of more than 5ft 9 ins in height, Mr Gilsenan stated that the area was valued in accordance with the advice contained in the Measuring Practice Guidance Notes of the Society of Chartered Surveyors Ireland, the area having headroom of not less than 1.5 metres.

The rateable valuation of the subject property had been determined, stated Mr Gilsenan, by reference to Section 49 of the Valuation Act 2001, as represented by the comparisons given.

Valuation by the Respondent

In his evidence Mr. Gilsenan contended for a rateable valuation of €130 for the subject property, calculated as follows:

| | | | |
|---------------------|---|---|-------------------|
| First Floor Studio | 153.9 sq. metres @ €68.34 per sq. metre | = | €10,517.53 |
| Second Floor Studio | 186.4 sq. metres @ €54.67 per sq. metre | = | <u>€10,190.49</u> |
| | | | €20,708.02 |

Total NAV €20,708.02 x 0.63%= €130.46

Say RV €130

Respondent's Comparison Properties

In support of his opinion of rateable valuation, Mr. Gilsenan put forward three comparison properties, as follows:

Comparison 1

Property no. 2210971 - Mell Consulting Rooms, Loughboy, Upper Mell, Drogheda, County Louth.

This is the surgery/offices on the ground floor, half landing and part 1st floor of the same building in which is located the subject property under appeal. Rateable valuation €45.

| | | |
|--------------------------------------|---|--------------------|
| Ground Floor Office/Surgery | 14.5 sq. metres @ €95.68 per sq. metre | = €1,387.36 |
| Half Landing Office/Kitchen | 23.19 sq. metres @ €68.34 per sq. metre | = €1,584.80 |
| 1 st Floor Office/Surgery | 60.15 sq. metres @ €68.34 per sq. metre | = <u>€4,110.65</u> |
| | | €7,082.81 |

Rateable valuation: €7,082.81 x 0.63% = €44.62 (say €45)

The rateable valuation of this property was agreed with the owner following an appeal to the Tribunal but prior to the scheduled hearing (**VA12/2/020 – Dr. Michael Murphy**).

Comparison 2

Property no. 2196730 - Educogym, 1st Floor, 31 Shop Street, Drogheda, County Louth.

This property, valued in October 2008, has a rateable valuation of €49.

1st Floor Gym Studio 109.05 sq. metres @ €72.00 per sq. metre = €7,851.60

Rateable valuation: €7,851.60 x 0.63% = €49.46 (say €49)

The property is located on the corner of Shop Street and Bessexwell Lane. It is a 1st floor gym studio with ancillary reception and office, forming part of a residential and commercial development. There is no parking available on-site.

Comparison 3

Property no. 2183149 - Vacant 2nd Floor Office, 113 West Street, Drogheda, County Louth.

This property, valued in May 2006, has a rateable valuation of €17.

2nd Floor Office 50.68 sq. metres @ €54.67 per sq. metre = €2,770.68

Rateable valuation: €2,770.68 x 0.63% = €17.45 (say €17)

This property is located on the north side of West Street. There is no parking available on-site.

Findings

The Valuation Tribunal thanks the parties for their efforts, their written submissions, arguments and contributions at hearing, and finds as follows:

1. The subject property does not fall to be considered an educational facility under the provisions of Paragraph 10 of Schedule IV of the Valuation Act, 2001 and therefore is not exempt from rates.
2. The subject property falls to be valued under section 49(1) of the Valuation Act, 2001. Therefore, the valuation of the subject property must be based on the valuations of properties comparable to that property in the same rating authority area. The business carried on at the property is not a factor to be taken into consideration by the Tribunal.
3. The Tribunal considers the respondent's comparisons to be most helpful, particularly its comparison no. 1 which is in the same building as the subject property.
4. The Boyne Health Studios comparison property cited by the appellant was valued under previous legislation and therefore must be treated with caution.
5. The Tribunal accepts the evidence of the respondent in relation to the sloped roof on the second floor of the subject property.

Determination

In view of the foregoing, the Tribunal upholds the respondent's valuation and affirms the rateable valuation of the property concerned at €130.

And the Tribunal so determines.