

Appeal No. VA96/2/023

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Jeremiah Hurley**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: House and Shop at Map Ref: 5, Henry Street, Townland: Kenmare, E.D. Kenmare, R.D.  
Kenmare, Co. Kerry  
Quantum

**B E F O R E**

**Fred Devlin**

**FRICS.ACI Arb. (Acting Chairman)**

**Brid Mimmagh**

**Solicitor**

**Patrick Riney**

**FRICS.MIAVI**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 25TH DAY OF SEPTEMBER, 1996**

By Notice of Appeal dated the 18th day of April, 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £29 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that "I am convinced that the rise in the valuation from £6 - £29 is totally unjust. The new rate on my small shop is not comparable to other businesses in the town".

**The Property:**

The property is located in the town of Kenmare on the western side of Henry Street adjacent to the junction of William Street. Both Henry Street and William Street are the two principal commercial streets in Kenmare. The property comprises a mid-terraced three storey structure, constructed principally of rubble masonry, stone and concrete. The roof is finished in slate. The property has a street frontage of 2.8 metres (9.25 feet).

**Accommodation:**

The accommodation comprises:-

**Ground Floor:**

|   |            |            |
|---|------------|------------|
| Shop                                    | 34 sq.m.   | 366 sq.ft. |
| Store                                   | 14.8 sq.m. | 159 sq.ft. |
| Cold Store                              | 15.7 sq.m. | 169 sq.ft. |
| Slaughter Section &<br>Ancillary Stores | 53 sq.m.   | 570 sq.ft. |

**First Floor:**

|             |            |            |
|-------------|------------|------------|
| Residential | 38.2 sq.m. | 411 sq.ft. |
|-------------|------------|------------|

**Top Floor:**

|             |            |            |
|-------------|------------|------------|
| Residential | 38.2 sq.m. | 411 sq.ft. |
|-------------|------------|------------|

**Tenure:**

The property is owner occupied.

**Valuation History:**

The valuation had not been revised for 29 years prior to the 1993/4 revision. The property was listed in 1964 to value 'butchers shop' - rateable valuation £6. The hereditament was listed for revision in 1993 to 'revise and value out offices, etc. on this lot'. Valuation was increased from £6 to £32. At First Appeal the valuation was reduced from £32 to £29 and it is against this determination of the Commissioner of Valuation that an appeal lies to the Tribunal.

**Written Submissions:**

A written submission was received on the 16th September, 1996 from Mr. Timothy J. O'Donoghue, Solicitor on behalf of the appellant. In the written submission, Mr.

O'Donoghue said that he considered that the valuation was excessive having regard to the fact that:-

- (1) the frontage of the appellant's premises is less than half that of the comparisons.
- (2) the non-domestic valuation at £25 was greatly excessive having regard to the fact that the floor area of same was greatly limited in comparison with the floor areas of his comparisons.

Mr. O'Donoghue gave details of three comparisons:-

- (1) **Thomas A. Randles.**  
Valuation £18.
- (2) **Tony Murphy.**  
Valuation £17.34.
- (3) **Roger O'Sullivan.**  
Valuation £19.72.

A written submission was received on the 4th September, 1996 from Mr. David Molony, MA BSc ARICS ASCS, a Valuer with 13 years experience in the Valuation Office on behalf of the respondent. In the written submission, Mr. Molony described the subject premises, gave its valuation history and set out his valuation considerations.

He set out his estimate of valuation on the subject premises as follows:-

|                                      |            |               |              |   |              |
|--------------------------------------|------------|---------------|--------------|---|--------------|
| "Shop                                | 366 sq.ft. | @             | £9.00/sq.ft. | = | £3,294       |
| Store & Cold Store                   | 328 sq.ft. | @             | £3.00/sq.ft. | = | £ 984        |
| Slaughter House<br>& Ancillary Store | 570 sq.ft. | @             | £1.50/sq.ft. | = | £ 855        |
| Residential                          | 822 sq.ft. | @             | £15 per week | = | <u>£ 800</u> |
|                                      |            |               | Total        | = | £5,933       |
| Estimated NAV:                       |            | £5,933 @ 0.5% |              | = | £29.66       |
|                                      |            |               | <b>Say</b>   | = | <b>£29."</b> |

Mr. Molony gave details of three comparisons which are summarised below:-

- (1) **Lot 30/2, Henry Street, Kenmare, Co. Kerry.**  
**Description:** Shop  
**RV:** £13. Valuation assessment 1993/4 Revision.

|       |            |   |               |   |        |
|-------|------------|---|---------------|---|--------|
| Shop  | 151 sq.ft. | @ | £15.00/sq.ft. | = | £2,265 |
| Store | 93 sq.ft.  | @ | £4.00/sq.ft.  | = | £ 372  |

**(2) Lot 4b Henry Street, Kenmare, Co. Kerry.**

**Description:** Shop

**RV:** £10. Valuation assessment 1992/4 Revision.

|      |            |   |               |   |        |
|------|------------|---|---------------|---|--------|
| Shop | 155 sq.ft. | @ | £13.00/sq.ft. | = | £2,015 |
|------|------------|---|---------------|---|--------|

**(3) Lot 1 - 3 Henry Street, Kenmare, Co. Kerry.**

**Description:** Shop

**RV:** £32. Valuation assessment 1990/4 Revision.

|           |            |   |               |   |        |
|-----------|------------|---|---------------|---|--------|
| Shop      | 393 sq.ft. | @ | £12.00/sq.ft. | = | £4,716 |
| Remainder | 355 sq.ft. | @ | £6.00/sq.ft.  | = | £2,130 |

**Oral Hearing:**

At the oral hearing held on Wednesday, 25th September 1996 at the Council Offices, Tralee the appellant was represented by Mr. Timothy J. O'Donoghue, Solicitor and the respondent by Mr. David Molony, a Valuer in the Valuation Office.

Mr. O'Donoghue told the Tribunal that he would not be introducing valuation evidence but would be making a submission on behalf of the appellant. In summary he submitted:-

- (1) That the valuation of the subject property is too high relative to adjoining premises and of similar properties in the vicinity occupying better locations.
- (2) Due to hygiene regulations only the front section of the premises could be used for retailing purposes. The rear section to which the public cannot resort is used for meat preparation purposes.
- (3) Parking at Henry Street is difficult and this must have a bearing on value.
- (4) Prior to the commencement of the hearing it was agreed with Mr. Molony that his comparison No. 1 be deleted.
- (5) In relation to Mr. Molony's comparison No. 2 this could not be considered relevant due to the difference in size and other considerations.
- (6) Due to conflicting information in relation to Mr. Molony's comparison No. 3 it was agreed that this be deleted from his précis.

Mr. Molony having taken the oath formally adopted his written submission as amended (i.e. omitting comparisons No's. 1 & 3) as his evidence in chief.

In relation to the properties referred to by Mr. O'Donoghue he made the following observations.

**(a) Lot No. 36A William Street (Randles)**

Rate No: 3052890004      **RV £27**

This is a 1975 valuation and hence of no assistance to the Tribunal.

**(b) Lot No. 29/1 Bridge Street (O'Sullivan's)**

Rate No: 3045780007      RV £23

This is a recent valuation which he devalued as follows:-

|                            |   |                |
|----------------------------|---|----------------|
| Shop 409 sq.ft. @ £8       | = | £3,272         |
| Residential content £25 pw | = | <u>£1,300</u>  |
| Total Net Annual Value     | = | <u>£4,572</u>  |
| RV @ 0.5%                  | = | <b>Say £23</b> |

**(c) Lot No. 3 Henry Street (Tony Murphy)**

Rate No: 3054040008      RV £26

This is a recent valuation determined at first appeal stage.

***Devaluation:-***

|                        |   |               |
|------------------------|---|---------------|
| Shop 360 sq.ft. @ £10  | = | £3,600        |
| Residential content    | = | <u>£1,560</u> |
| Total Net Annual Value | = | <u>£5,160</u> |
| RV @ 0.5%              | = | <b>£26.</b>   |

In his closing submission, Mr. O'Donoghue pointed out that access to the residential area was through the shop. This section of the property was, he said, in poor condition. Access to the buildings at the rear was off Parnell Place.

In response to a question from the Tribunal, Mr. O'Donoghue said that in his opinion William Street was a better location than Henry Street from a retailing point of view. Mr. Molony thought otherwise.

**Determination:**

The Tribunal has carefully considered all the evidence and argument adduced and makes the following findings:-

- (1) Under the provisions of *Section 11 of the Valuation (Ireland) Act 1852* as amended by *Section 5 of the Valuation Act 1986* the net annual value of the entire hereditament is to be determined as a single unit of occupation.
- (2) On the basis of the comparisons introduced by both parties the values attributable to the shop and residential content are fair and reasonable.
- (3) The valuation attributable to the ancillary stores and slaughter house at the rear, to which Mr. Molony attributed a total valuation of £1,859, is high relative to the figure attributable to the rest of the property. The Tribunal, therefore, considers a figure of £1,000 for these areas to be more appropriate.

Having regard to the above the Tribunal considers the net annual value of the subject hereditament to be £5,000 as set out below giving a rateable valuation of £25.

***Valuation***

|                                       |                      |
|---------------------------------------|----------------------|
| Shop as per Mr. Molony                | £3,294               |
| Residential content as per Mr. Molony | £ 800                |
| Ancillary buildings                   | <u>£1,000</u>        |
| Net Annual Value                      | <b><u>£5,094</u></b> |
| But say                               | £5,000               |
| Rateable valuation @ 0.5%             | <b>£25.</b>          |

The Tribunal therefore determine the rateable valuation of £25.

