

Appeal No. DS06/0/003

**AN BINSE LUACHÁLA
VALUATION TRIBUNAL**

**AN tACHT UM LAITHREAIN TREIGHTE, 1990
DERELICT SITES ACT, 1990**

Barry Alymer

APPELLANT

and

Limerick County Council

RESPONDENT

RE: Derelict Site at Main Street, Ballingarry, County Limerick.

B E F O R E

Fred Devlin - FRICS.FSCS.

Deputy Chairperson

Patrick Riney - FSCS.FIAVI

Member

Mairéad Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 21ST DAY OF SEPTEMBER, 2006

By Notice of Appeal dated the 4th day of January, 2006 the appellant appealed against the determination of Limerick County Council in fixing a market value of €90,000 on the above described relevant property.

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

"Incorrect description of property and market value effectively zero unless vendor is corrupt.
Deliberate damage and harassment affecting 'valuation'."

This appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 21st April, 2006. At the hearing the appellant, Mr. Barry Alymer, appeared on his own behalf and Mr. John Considine, Administrative Officer in the Environment Section of Limerick County Council appeared on behalf of the Council. Mr. Phil Sheedy, ASCS, MRICS, of Thorntons, Chartered Surveyors, gave valuation evidence on behalf of the Council.

In accordance with the requirements of the Tribunal both parties exchanged their respective précis of evidence which were subsequently received into evidence at the oral hearing.

From the evidence tendered the following material facts emerged or were so found:

1. The property concerned comprised a two-storey dwelling house with garden area to the front located at the Fairgreen end of Main Street, Ballingarry, Co. Limerick.
2. On 10th June, 1992 the property was placed on the derelict sites register established by Limerick County Council pursuant to Section 8 of the Derelict Sites Act, 1990 and the appellant advised accordingly.
3. On the 10th of June, 1992 a Section 11 Notice was served on the appellant specifying the measures which the County Council considered necessary to prevent the property becoming or continuing to be a derelict site. An amended Section 11 Notice was served on the 8th November, 1993.
4. On the 4th November, 2005 the property was inspected by two engineers from the Environmental Section of the County Council to check for compliance with the Section 11 Notice.
5. Following this inspection Mr. John Considine was advised by letter dated 8th November, 2005 that whilst the appellant had carried out some of the measures set down in the Section 11 Notice, there were still some outstanding matters which needed attention.

6. On 16th November, 2005 the County Council wrote to the appellant advising him that some remedial works due to have been completed by the 1st November, 2005 were still outstanding.
7. Mr. Sheedy inspected the property at the request of the County Council and by letter dated 28th November, 2005 addressed to the Secretary, Limerick County Council advised that the market value of the property concerned in accordance with Section 22 (1) of the Act was €90,000.
8. On the 20th December, 2005 the County Council entered particulars of the market value of the property as determined on the Derelict Sites Register and advised the appellant accordingly by notice dated 21st December, 2005 in accordance with Section 22(3) of the Act. On the same date the appellant was advised that a derelict sites levy based on 3% of the determined value of €90,000 would be payable from 1st January, 2006.
9. On 4th January, 2006 the appellant lodged an appeal to this Tribunal against the determination of market value in the sum of €90,000.

Appellant's Evidence

Prior to the oral hearing the appellant forwarded to the Tribunal an extensive bundle of documents dealing with the wide range of matters which he considered to be relevant to the appeal. In additional oral evidence Mr. Alymer said that in addition to the subject property he owned the adjoining farmyard and he outlined in some detail some of the difficulties he had experienced over the past year with the County Council in relation to a number of matters affecting his property on Main Street.

In his evidence Mr. Alymer listed a number of adverse factors which he said would have a negative effect on the value of the subject property. When pressed he expressed the view that the property was probably worth somewhere in the order of €40,000 - €50,000 but said he would not sell at this price or indeed at any price. Later in response to a question from Mr. Considine, Mr. Alymer said that the value of the property was, if anything, "close to zero".

Respondent's Evidence

Mr. Considine, on behalf of the County Council, said that Thorntons were asked to carry out a valuation of the property as provided for in Section 22 (2) of the Act. This valuation he said was received on 28th November, 2005.

Mr. Phil Sheedy in his evidence confirmed that he had inspected the property and had carried out what he had described as a "roadside valuation". Whilst he had taken some photographs, he had not inspected the property nor had he taken any measurements. Based on this inspection, however, he had come to the conclusion that the property was worth €90,000 and had so advised the County Council by letter dated 28th November, 2005. Mr. Sheedy said he had arrived at the figure of €90,000 on the basis that if the property had been in good habitable condition it would have been worth about €160,000. In his opinion it would take some €50,000 - €60,000 to bring it up to the required condition and hence he had come to the opinion that it was worth about €90,000 in its then present state. When asked if he had any comparisons to support his opinion of value, Mr. Sheedy said he had not and was relying purely upon his knowledge of property in the Limerick rural area.

Findings

The Tribunal has carefully considered all the evidence adduced and the extensive documentation submitted to it by the parties and finds as follows:

1. The role of the Tribunal under the Derelict Sites Act, 1990 is restricted to the determination of the market value of the property concerned in accordance with Section 22 (1) of the Act following an appeal by the owner against the determination made by the local authority.
2. The property in this appeal was first placed on the derelict sites register on the 10th June, 1992, yet it was not until 20th December, 2005 that particulars of its market value as determined were entered on the register by Limerick County Council. It would appear that during the intervening period there had been ongoing correspondence and engagement between the local authority and the appellant.
3. The appellant in this appeal provided the Tribunal with an extensive quantity of documentation in relation to many matters concerning his property on Main Street

(including the subject property) and referred to many issues that had given rise to differences between him, the local authority and others. Whilst these issues are undoubtedly of some import to the appellant their relevance to the role of the Tribunal in this appeal is very limited.

4. The appellant in this appeal appeared on his own behalf and did not obtain any prior advice in relation to the valuation of the property concerned for the purposes of the Act. Whilst he said on one occasion that its value might be in the order of €40,000 - €50,000, he also said when cross-examined by Mr. Considine that its value was close to zero. The Tribunal therefore attaches little weight to Mr. Alymer's evidence in this regard.
5. Mr. Sheedy is a chartered surveyor of some considerable experience and therefore his evidence must be treated with some respect notwithstanding the fact that in this instance his opinion of value is based on a cursory inspection and unsupported by details of any relevant market transactions.
6. Under the Derelict Sites Act the owner may be liable to a levy of 3% on the value of the property appearing on the Derelict Sites Register maintained by the relevant local authority. To that extent it is a punitive statute and therefore the person concerned has a right to expect that the valuation obtained by the local authority would be prepared with due diligence and in accordance with the precepts of good valuation practice. In this instance Mr. Sheedy's valuation does not accord with these reasonable expectations and therefore is of limited assistance to the Tribunal and must therefore be treated with some degree of caution.

Determination

Having regard to the foregoing the Tribunal, in accordance with its powers under Section 22 (5) of the Act, determines the market value of the property concerned to be €75,000 in accordance with Section 22 (1) of the Derelict Sites Act, 1990.

And the Tribunal so determines.