

Appeal No. VA00/1/030

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

A. Curneen & Son

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office at Lot No. 3a Deansgrange Road, Deansgrange, County Dublin.

Notification of Revision under Section 3, 1988 Valuation Act

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Michael Coghlan - Solicitor

Member

John Kerr - MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL  
ISSUED ON THE 11TH DAY OF OCTOBER, 2000

By Notice of Appeal dated the 25th day of April 2000, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £40 on the above described hereditament.

The Grounds of Appeal as set out in the Notice of Appeal are that "the valuation is inequitable and bad in law. The appellants seek to have revision set aside as they were not notified prior to revision in accordance with section 3, 4(a) of the 1988 Valuation Act."

The relevant valuation history is that in November 1999 the Valuation of the subject property was revised and a R.V. of £44 fixed on it. On the 27<sup>th</sup> March 2000, the Commissioner of Valuation issued his decision on appeal reducing the R.V. to £40.

A written submission prepared by Mr. Eamonn S. Halpin B. Sc (Surveying), A.S.C.S, A.R.I.C.S, M.I.A.V.I. on behalf of the appellant was received by the Tribunal on 3<sup>rd</sup> July 2000. Mr. Halpin also wrote a letter to the Tribunal dated the 10<sup>th</sup> July 2000 about this appeal. This letter was received by the Tribunal on the 13<sup>th</sup> July 2000.

A written submission prepared by Ms. Dorothy Kennedy BA (MOD), DLS, DPT, on behalf of the Respondent was received by the Tribunal on 30<sup>th</sup> June 2000. Ms. Kennedy is a solicitor in the law office of Dun Laoghaire-Rathdown County Council. The Council were a notice party to the appeal. Ms. Kennedy acted also as an agent for the Respondent.

It emerged from the written submissions that the only issue between the parties was that the appellant had not been notified of the revision in accordance with section 3 (4) (a) of the Valuation Act 1988.

The oral hearing took place at the Tribunal Office in Dublin on 17<sup>th</sup> July 2000. Mr. Halpin represented the appellant and Ms. Kennedy represented the respondent and the notice party.

Mr. Halpin gave sworn testimony on behalf of the appellant. He said he had a meeting with Mr. Christopher Hicks, the appeal valuer, on 2<sup>nd</sup> March 2000. Mr. Halpin had made a written submission to the appeal valuer for this meeting. This submission raised the issue of notice under the 1988 Act. At the meeting on the 2<sup>nd</sup> March 2000, Mr. Halpin said he told the appeal valuer that he would pursue the notice issue with the local authority.

In further testimony Mr. Halpin described his efforts to contact the local authority about the notice issue. In March 2000 he telephoned the local authority and wrote to it. He could not however locate a copy of this letter. Finally as a result of a telephone call on 27<sup>th</sup> April 2000 to

the local authority Mr. Halpin ascertained that two revision notices had been issued. One was to the developer of the subject property and the other was to a firm of architects.

Ms. Kennedy asked Mr. Hicks to cross-examine Mr. Halpin. Under cross-examination Mr. Halpin said that between 4<sup>th</sup> December 1999 the date of his initial appeal and the 1<sup>st</sup> March 2000, the only information he had ascertained about the notice issue was that the appellant had no record of the revision notice.

Under further cross-examination Mr. Halpin stated that no oral negotiations about the notice issue had taken place at the meeting with Mr. Hicks on 2<sup>nd</sup> March 2000.

In further reply Mr. Halpin said because he had no information from the local authority he was not in a position to argue the notice issue with Mr. Hicks at the meeting on 2<sup>nd</sup> March 2000.

Mr. Hicks gave sworn testimony on behalf of the respondent. He said he had a meeting with Mr. Halpin on 2<sup>nd</sup> March 2000. They discussed the quantum of valuation for the subject property. Mr. Halpin had included the following statement in his appeal notice. "My client had no notice of pre revision or no record of pre revision notice and lot numbers may not be correct." Mr. Hicks said he queried the two issues raised in this statement. Mr. Halpin told him that he could ignore these two items and no action was required from Mr. Hicks in connection with them.

Under cross examination by Mr. Halpin about the conditional nature of Mr. Halpin's letter of agreement in connection with the subject property Mr. Hicks said he considered this was a re-iteration of the statement in the appeal notice referring to pre revision notice and lot numbers.

In his closing submission Mr. Halpin said the notice issue had been raised by him. He said this case was unusual in the speed with which the appeal was processed.

In his closing submission Mr. Hicks said the appeal is to the Commissioner of Valuation. He considered that the appellant had not provided the information necessary to determine the appeal.

The Tribunal has considered the written submission, the oral evidence, and the oral submissions offered by the appellant and the respondent.

The Tribunal finds that the appellant did not argue the notice issue at the appeal stage. This finding is based on Mr. Hicks evidence, Mr. Halpin's admissions to that effect during his own testimony and under cross-examination.

It is a settled jurisprudence of the Tribunal that it will not receive new grounds of appeal before it, which were not argued at first appeal. The only departure from this position is where the appellant can show there are exceptional circumstances for the admission of new grounds of appeal at the Tribunal stage, Mr. Halpin made no argument to this effect before the Tribunal.

The Tribunal therefore dismisses this appeal and affirms the decision of the Commissioner of Valuation in fixing a rateable valuation of £40 on the subject hereditament.