

Appeal No. VA04/1/069 &
VA04/1/070

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

Seamus Kelly

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop and Store at Lots No. 27/1 and 27/2, Glencrow, Castlecarey, County Donegal

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Patrick Riney - FSCS FRICS FIAVI

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF SEPTEMBER, 2004

By Notices of Appeal dated the 24th day of March, 2004, the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €77.00 (VA04/1/069) and €29.00 (VA04/1/070) on the above described relevant properties.

The Grounds of Appeal as set out in the Notices of Appeal are:

"Not valued in accordance with Valuation Acts. The valuation is excessive when compared to comparable properties in the same rating area."

Introduction

With the consent of the parties these appeals were heard contemporaneously and proceeded by way of an oral hearing held in the Courthouse, Letterkenny, County Donegal, on the 25th of June 2004. At the hearing, the appellant who was common to both appeals was represented by Mr. Patrick McCarroll, MRICS, FIAVI, ASCS, MCI. Arb. and the respondent by Mr. Damien Curran, BSc (Surveying), MRICS, ASCS, a Grade 1 Valuer in the Valuation Office. Both parties having taken the oath adopted their respective précis as their evidence-in-chief.

Property Concerned

The property concerned is a two-storey commercial building occupying a sloping site just outside Moville on the main road to Derry. The accommodation at road level is occupied as a drapery store selling men's and ladies' fashions and is situated beside a filling station and Centra grocery and convenience store. The accommodation at lower level is approached from the Derry Road via a rough laneway and is a lock up store. The agreed area of the retail premises is 221.16 sq.metres and the store also has an agreed area of 221.16 sq.metres.

Valuation History

In November 2003 valuation certificates pursuant to section 28 of the Valuation Act, 2001 were issued in respect of the shop and store stating that their rateable valuations had been determined at €77 and €29 respectively. No change was made at first appeal stage and it is against these decisions that the appeals to this Tribunal now lie.

The Appellant's Evidence

Mr. Eamonn Kelly told the Tribunal that he had built the property concerned in 2001. The shop was occupied as the family business and was the only drapery premises in the Moville area. The store was vacant and had been so since 2001.

Mr. Kelly said the rateable valuation of the shop was much higher than similarly sized premises in Moville. As a consequence his rates bill represented a considerable overhead and put him at a disadvantage to other traders in the Moville area.

In his evidence Mr. McCarroll contended for a rateable valuations of €57 and €23 for the shop and store respectively calculated as set out hereunder:

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Shop 221.16 sq.metres @ €2 per sq.metre	=	€11,500
Rateable valuation @ 0.5%	Say	= €7.00

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Store 221.16 sq.metres @ €20.51 per sq.metre	=	€4536
Rateable Valuation @ 0.5%	Say	= €23.00

In support of his opinion of value in each instance Mr. McCarroll introduced one comparison, details of which are set out in Appendix 1 attached to this judgment. The Hegarty comparison, he said, was located immediately adjoining the subject property but enjoyed a higher profile onto the Derry Road and benefited from sharing a common forecourt with the filling station.

The valuation of the supermarket element of the Hegarty property was agreed at the 1999/4 first appeal stage and the sq.metre rate attributed to the retail space was €68.34. In his opinion the subject property was inferior in terms of location, configuration and profile and this should be reflected in its net annual value.

As far as the store was concerned there was no market for a property of this nature in the vicinity and this was why it had lain vacant for three years. In his opinion the quality of the store at basement level of the Hegarty premises was better and benefited from being capable of access from within the shop.

The Respondent's Evidence

In his evidence Mr. Curran contended for rateable valuations of €77 and €29 in respect of the shop and store respectively. These rateable valuations were calculated as set out below:

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Shop 221.16 sq.metres @ €68.33 per sq.metre	= €15,118
Rateable valuation at 0.5%	=€7

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Store 221.16 sq.metres @ €25.97 per sq.metre	= €743
Rateable valuation at 0.5%	= €29

In support of his opinions of net annual value Mr. Curran introduced two comparisons in respect of the shop and three in respect of the store. Details of these comparisons are set out in Appendix 2 attached to this judgment.

In evidence Mr. Curran said the shop element of the development was more practical from a letting point of view as a free standing unit than one which formed part of a larger property which contained a petrol filling station. In his opinion his comparison No. 2, i.e. the Harkin & Donaghy comparison located in Muff, was more relevant than the Hegarty premises as it was a retail property only, occupying a similar location to the subject. As for the store portion of the property concerned the valuation he had contended for was fair and reasonable. Under cross-examination Mr. Curran agreed that the store occupied by Malin Head Fishermans contained offices and a cold store and that this would have a beneficial effect on its net annual value.

Determination

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

1. The Tribunal accepts Mr. McCarroll's evidence that the property concerned has a lower profile to the Derry Road than the adjoining Hegarty premises and that this would have a bearing on its Net Annual Value.
2. The Tribunal accepts Mr. McCarroll's evidence that there is a limited market for a freestanding store in this location.
3. The Tribunal considers the Hegarty comparison to be the most relevant and that the rates per sq.metre applied to the retail and basement store element of Hegarty's property should be adjusted downward to reflect the relative disadvantages of the properties concerned.

4. Having regard to the foregoing the Tribunal determines that the rateable valuation of the properties concerned be as set out below:

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Shop 221.16 sq.metres @ €62 per sq.metre	= €13,712
Net Annual Value (say)	= €13,600
Rateable Valuation @ 0.5%	= €68

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Store 221.16 sq.metres @ €23 per sq.metre	= €5,087
Net Annual Value (say)	= €5,000
Rateable Valuation @ 0.5%	= €25

And the Tribunal so determines.