

Appeal No. VA05/1/022 &  
VA05/1/023

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

**Stephen McManus**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Warehouse/Warerooms at Lot No. Unit 8 (VA05/1/022) & Shop at Lot No. Unit 9 (Ground Floor) (VA05/1/023), Hewitsland, New Ross, County Wexford.

**B E F O R E**

**John Kerr - BBS. ASCS. ARICS. FIAVI**      **Deputy Chairperson**

**Michael McWey - Valuer**      **Member**

**Frank O'Donnell - B.Agr.Sc. FIAVI**      **Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF JULY, 2005**

By Notices of Appeal dated the 24th day of February, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuations of €0 and €0 respectively on the above described relevant properties.

The Grounds of Appeal as set out in the Notice of Appeal in VA05/1/022 are:-

"Playbarn a retail much larger unit across from mine is valued at €100. We are storage only.

List of properties with lesser valuations most are retail mine is store only." Further grounds, set out in a letter attached to the Notices of Appeal, are reproduced in Appendix 1 to this Judgment

The Grounds of Appeal in VA05/1/023 were set out in the aforesaid letter attached to the Notices of Appeal, reproduced in Appendix 1 to this Judgment

The appeals proceeded by the way of an oral hearing which was held on 15 April 2005 in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7. At the hearing the appellant was represented by his father, Mr. Brian McManus Senior. Mr. McManus was accompanied by Mr. Padge Reck, PC, MCC and by Mr. Bill Deegan. Mr. Michael F. Keogh, F.S.C.S., F.I.A.V.I. a staff valuer in the Valuation Office represented the respondent.

Prior to the commencement of the hearing the Chairperson enquired as to the role of Mr. Padge Reck in the proceedings. Mr McManus indicated that Mr. Reck was present to ask questions on his behalf. Mr. Reck confirmed in response to a question put to him by the Chairperson of the Tribunal Division sitting on the day, that he was a currently elected member of Wexford County Council. He was asked by the Chairperson if he had considered the issue that, as an elected Member of the noted Local Authority, there might be a potential conflict of interest to concern him by his representing Mr. McManus in a valuation appeal where the Rating Authority was the body of which he was an elected member. The Chairperson requested Mr. Reck to fully consider his position stating that the Tribunal might or might not take his contribution(s) at the hearing into consideration.

Mr. Reck replied that he believed there was no conflict of interest in his role as a Member of Wexford Co. Council and his proposed role at the Tribunal Hearing. Mr. McManus then repeated that Mr. Reck was in attendance to ask questions and that he wished him to continue on his behalf.

Mr. Keogh stated that whilst he had no concern with Mr. Reck's attendance at the hearing, he did have a difficulty with the fact that the appellant was not in attendance. Mr. Brian McManus stated that he was representing his son, the appellant. Mr. Keogh then confirmed to the Chairperson that he had no further problem with the absence of the appellant but wanted to bring it to the notice of the Tribunal. The hearing then proceeded.

### **The Properties**

Both relevant properties are in a new Business Park known as Woodbine Park located on the Ring Road on the outskirts of New Ross, Co. Wexford.

**Unit 8 - VA05/1/022** is a standard type Warehouse unit with a mezzanine floor and comprises a total of 436.80 sq.mts (4,702sq.ft.).

**Unit 9 - VA05/1/023** is part of a Warehouse unit comprising of 331.24sq.mts (3,565sq.ft.). The subject relevant property refers to the ground floor only. The first floor is let and is separately assessed.

**Areas** for both units are agreed by the parties.

### **Services**

Mains services are connected.

### **Tenure**

Both properties are understood to be freehold.

### **Valuation History**

Both premises were first assessed on 23 June 2004 as follows:

Unit 8 (VA05/1/022) - RV €50.00

Unit 9 (VA05/1/023) - RV €90.00

Having considered representations made for the occupier the Commissioner issued the Valuation Certificates on 4 August 2004 with RV unchanged for both units. Appeal applications to the Commissioner of Valuation dated 23 August 2004 were received from Mr. McManus. On 2 February 2005 the Commissioner issued the Determination of the Appeals confirming the rateable valuation on unit 8 (VA05/1/022) at RV €50.00 and on unit 9 (VA05/1/023) at RV €90.00. It is against those decisions of the Commissioner that the appeals to this Tribunal now lie.

### **Appellant's Case**

Mr. Reck stated that the issues in both cases were broadly similar and asked if the Tribunal would therefore consider both together. Mr. Keogh said he had no objection to this proposal but

pointed out that there were different sets of comparisons. It was agreed that the appeals would be heard together.

In response to the Chairperson Mr. Reck accepted and confirmed that he was present to ask questions on behalf of Mr. Brian McManus and that he was not present to make statements, or to adduce evidence or to introduce submissions.

Having taken the oath Mr. McManus adopted the précis which he confirmed was prepared by him. Mr. McManus said that he had a problem with the Valuation Office description and valuation of Unit 8 in that it is described as a Warehouse with an NAV of €34.17 per square metre on the ground floor and an NAV of €13.67 per square metre on the 1<sup>st</sup> floor loft. He maintained that both floors were used for storage only and should have been valued at the same rate of €13.67 per square metre. He stated that the ground floor of this unit is now vacant. It has been offered for letting for some time at €150.00 per week without success and in his opinion the RV should be €3.50 per sq.ft. Mr. Reck questioned Mr. McManus regarding the comparisons suggested by the Valuation Office in respect of Unit 8:

No. 1. United Beverages Ltd (Finches), Butlersland, New Ross;

No. 2. Culcita Ltd, Butlersland, New Ross.

[The Valuation Office comparisons for both Units are contained in Appendix 2 to this Judgment.]

Mr. McManus said that Finches is a massive wholesale warehouse with no resemblance to the subject. Culcita Ltd., he said, is a factory employing 100 people. He maintained that the comparisons were “off the wall”, confusing and not comparing like with like.

Mr. Reck asked Mr. McManus to address his problem with Unit 9. In reply, he stated that his concern was with the comparisons offered by the Valuation Office, as they were different from those offered in respect of Unit 8. They were:

No. 1 - Cleary & Doyle Ltd, which Mr. McManus said was 16 miles from the subject ;

No. 2 - Chadwick's Ltd, which he said was 35km distant and was ten times the size of subject;

No. 3 - Wallace's, which he said was 23km from the subject. He said that the Valuation Office should have used comparisons more similar to the subject premises.

Mr. McManus maintained that the retail store, Unit 9, should be valued at the same or less than Finches and Culcita. It was, in his opinion, not fair that the subject property should be paying more rates than retail outlets in New Ross and that the subject should be rated reflecting its present use.

Mr. McManus stated that, in his opinion, the Valuation Office should have used the following comparisons set out in his Precis of evidence and summarised hereunder:-

- 1) Glanbia, Marshmeadows, New Ross
- 2) H. Murphy & Co. Ltd., Portersland, New Ross
- 3) JCE Tyres, Butlersland, New Ross
- 4) Lowney's Furniture, Castlebridge, Co. Wexford
- 5) John Bolger & Co. Ltd., Mill Lands, Co. Wexford
- 6) Slaneyside Furniture, Tomduff, Co. Wexford
- 7) Exclusive Furniture, Gorey Industrial Park
- 8) Enniscorthy Furniture, Old Dublin Road, Enniscorthy
- 9) Renault Ireland, Kerlogue Business Park, Wexford
- 10) Joseph Wallace Ltd., two properties at Maudlinstown, Clonglen, Co. Wexford

The majority of these comparisons were challenged by Mr. Keogh as having incorrect details, descriptions, reference numbers or RVs or as being outside the Rating Authority area of the subject and therefore ineligible.

Questioned by Mr. Reck as to the position of Unit 9 at present Mr. McManus replied that the unit was being offered for letting and said that if the location was considered attractive it would

have been let sooner. Under cross examination by Mr. Keogh in relation to his statement that he did not receive the information he sought from the Valuation Office, Mr. McManus reiterated that he did not receive any letters or maps from the Valuation Office but obtained the information he required from Wexford County Council. Mr. McManus acknowledged that mistakes may have been made by his introducing the Esso and Supervalu (both Joseph Wallace Ltd) comparisons, as good comparative evidence was difficult to provide because of lack of information.

Asked by the Chairperson to clarify the position of the two Units, Mr. McManus stated that Unit 8 is currently vacant and Unit 9 is available as a retail shop. He also said that the first floor of Unit 8 had no separate entrance, the only access being from within Unit 9 and the first floor of Unit 9 is separately occupied and separately rated.

### **Respondent's Case.**

Mr. Keogh having taken the oath adopted his précis as his evidence-in-chief. He presented photographs of the subject property to the Tribunal and commented upon them. Mr. Keogh listed four comparisons in respect of Unit 8. Comparisons 1 and 2, he said, were examples of the "tone of list" in the New Ross area while comparisons 3 and 4 were similar to the subject and were within the same Business Park. He also offered three comparisons in respect of Unit 9.

Mr. Keogh described Unit 8 as a warehouse used for storing furniture. It had a mezzanine floor or loft which provided additional storage. He stated that this Unit is used as an ancillary store for the retail operations in Unit 9 and said that at the date of valuation the unit was occupied by Mr. McManus. Mr. Keogh stated that only the ground floor of Unit 9 was the subject of this appeal and confirmed that he was aware that this unit was for letting even though it appeared to be open for normal trading purposes.

Under cross examination by Mr. Reck as to the methodology employed by Mr. Keogh in his Valuation and as to the fairness of his comparisons, Mr. Keogh replied that the Valuation Act 2001, Section 49 (1) makes reference to "...other properties comparable to that property"

Questioned by the Tribunal as to whether he had followed the relevant provisions of the Valuation Act 2001 and if he was satisfied that his comparisons were the only ones to use in this case, Mr. Keogh replied that he had applied both Sections 48 and 49 of the Act and that his chosen comparisons were ones that he was familiar with.

Mr. Keogh contended for the following respective valuations on the subject properties:

### Unit 8

Warehouse	218.4 sq. m @ €4.17	= NAV €7,462.73
Storage Loft	218.4 sq. m @ €13.67	= NAV €2,985.53
		Total NAV say €10,000
		RV @ 0.5% = €50.00

### Unit 9

Retail Warehouse	331.24 sq.m @ €4.67	= NAV18,108.89
		Say €18,000
		RV @ 0.5% = €90

### Determination

#### Unit 8 (VA05/1/022)

Having considered all the evidence submitted and adduced at the Hearing and in the absence of any corroborative, alternative and/or refuting evidence to the contrary on this relevant property, the Tribunal hereby affirms the decision of the Commissioner of Valuation to assess a Rateable Valuation of €50 Euro on Unit 8 (VA05/1/022).

And the Tribunal so determines.

#### Unit 9 (VA05/1/023)

The Tribunal, bearing in mind the respondent's comparisons No.'s 1 and 3, feels that the level of €4.67 per square metre extrapolated from the Retail Warehouse component of comparison No. 1 (Cleary and Doyle Ltd) and applied to this subject property reflects incremental value added as

part of a larger property in the case of the comparison property. The Tribunal also considers that the level of €47.84 per square metre on the Retail Warehouse component of comparison No. 3 (Wallace's Homevalue Hardware and Garden Centre) reflects a considerable quantum difference and a distance consideration in that case.

Accordingly the Tribunal considers that an applied rental rate of €49.00 per square metre would be more equitable and fair on this relevant property, ie Unit No. 9 [VA 05/1/023].

The Rateable Valuation would then be calculated as follows:

331.24 square metres @ €49.00 = NAV €16,230.76

RV @ 0.5% = €81.15

Say €80

And the Tribunal so determines.