

Appeal No. VA05/1/031

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

**O'Sullivan Investments Ltd.**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Office(s) at Lot No. 9 (First Floor), Tuckey Street, Centre A, Centre East, County Borough of Cork

**B E F O R E**

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

**Deputy Chairperson**

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

**Member**

**Maurice Ahern - Valuer**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 15TH DAY OF AUGUST, 2005**

By Notice of Appeal dated the 21st day of March, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €12.00 on the above described relevant property.

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

"Its secondary street, its first floor and no retail traffic. This is a small office. The rating valuation is excessive. Valuation is excessive."

The appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 4th May 2005. The appellant was represented by Mr. Vincent O'Sullivan, a Director of O'Sullivan Investments Limited. The respondent was represented by Mr. Ian Power, B.Sc Property Management & Valuations, MIAVI, a Valuer in the Valuation Office.

### **Location**

The subject property is situated in the middle of Tuckey Street, Cork City, just off Grand Parade which is one of Cork's principal commercial streets, and opposite Bishop Lucey Park.

### **Description**

The subject property comprises first floor offices of a four-storey mid-terrace building. The building is of concrete block construction with pitched slated roof. There is a retail unit on the ground floor with mixed office/domestic use on the upper floors. Before the current revision the whole of the first floor was used as offices. At inspection it was found that part of the first floor had reverted to domestic use. The front of the first floor is the subject unit and the rear is in domestic use.

### **Valuation History**

The property was revised in August 2004. A proposed valuation issued at €12.00. Representations to the Revision Officer were received on the 12<sup>th</sup> August 2004 and no change was made to the valuation. The Commissioner received an appeal on 27<sup>th</sup> September 2004. The valuation was issued unchanged on 24<sup>th</sup> February 2005. It is against this decision of the Commissioner that the appeal to the Tribunal lies.

Immediately before the commencement of the hearing Mr. O'Sullivan sought an adjournment until September because, he said, due to the Tax Inquiry in his industry taking place at the moment he was unable to contact any of the solicitors who occupied properties cited by the respondent in his précis of evidence as comparisons. However, he said, if the Tribunal so decided he was willing to proceed. He stated that if he had had

more time he would have employed a solicitor and a valuer to make a proper submission but due to pressure of work he could not do so. In response to the Tribunal Mr. O'Sullivan confirmed that he had had the respondent's précis of evidence for 2 weeks. The Tribunal, having considered Mr. O'Sullivan's request, decided that the hearing would proceed.

### **The Appellant's Evidence**

Having taken the oath Mr. O'Sullivan adopted his précis of evidence. He informed the Tribunal that he was now working from a small office measuring 240 square feet on the first floor of the building in Tuckey Street, Cork. At one stage he used the whole floor for his main business. The street where the business is situated is a secondary street even though it is very near the centre of Cork. There is a large factory (Beamish & Crawford) at one end of the street and Bishop Lucey Park is across the road. The building itself is very old and in need of renovation and modernisation. The bathroom facilities are totally inadequate for the premises. Mr. O'Sullivan contended for a valuation of €6.00 as set out in his Notice of Appeal to the Tribunal even though he would, he said, be agreeable to pay €9.00. Mr. O'Sullivan said he had no problem in paying rates and had paid this year's rates but felt the valuation was excessive. In response to the Tribunal Mr. Power confirmed that he was aware that Mr. O'Sullivan was willing to settle for an RV of €9.00.

With regard to the respondent's comparisons (see Appendix to this Judgment) Mr. O'Sullivan said that there was a big difference between the offices of a firm of solicitors in Tuckey Street who have been in business for a very long time and a one-man insurance business in a small room on the first floor of a premises in the same street. He understood, but could not confirm, that his barber's RV was much lower than his.

In conclusion Mr. O'Sullivan stated that he was looking for fair play to keep his overheads down and to continue his business and he had no problem in paying reasonable rates.

The Chairperson informed Mr. O’Sullivan that the Tribunal was required to act in a fair and reasonable manner within the provisions of the Valuation Act 2001; that section 49 of the Act required that properties be valued by reference to similar properties in the same rating authority area; that there was an onus on the parties to an appeal to present evidence in support of their case and that he had provided no written supporting or corroborating evidence with regard to other similar properties.

In cross-examination Mr. Power referred Mr. O’Sullivan to his comparison No. 1, namely the pre-revision valuation on the subject. Mr. O’Sullivan agreed with Mr. Power that he was the occupier of the subject property in 1990 when that valuation was done and he accepted that the same level per square metre was used then as is used now even though the size of the property is now reduced, previously 43.75 square metres, currently 20.77 square metres.

### **The Respondent’s Evidence**

Mr. Power, having taken the oath, adopted his précis with amendment as noted below, as his evidence in chief. The amendment concerned the figures cited in the précis in respect of the valuation which, amended, were as follows:

First Floor Offices	20.77 sq.m	@	€5.67	=	€1,987.06
RV = Total NAV	€1987.06	x	0.63%	=	€12.51
Say €12.00					

Mr. Power then confirmed the facts of the case as regards the location, description and valuation history of the subject property. He drew the Tribunal’s attention to his comparison No. 1, the subject property pre-revision, in proof that the level per square metre had not increased on revision. His other Tuckey Street comparisons showed that these properties were valued at the same level as, or at a higher level than, the subject.

In response to questions from the Tribunal Mr. Power stated that: the floor area of 20.77 square metres was an agreed area; none of his comparisons had been the subject of an

appeal and very few valuations in that area of Cork had been appealed; he did not see scope for a quantum allowance; with regard to the condition of the subject vis-à-vis his comparisons there had been no change to comparison No. 1 since its pre-revision valuation, comparisons 3 & 4 were in the same condition as the subject and comparison 2 was in a better condition; with regard to the inadequacy of the bathroom cited by Mr. O'Sullivan he had not inspected the bathroom, it was not part of the valuation being part of the domestic premises on the first floor. Asked by the Tribunal why the property had been revised given that there had been no change to it Mr. Power replied that it had been revised at the request of the occupier to exclude the domestic premises. He confirmed that the bathroom was part of the domestic premises which was let separately and that there was no other toilet on the first floor. He also confirmed that the tenants share the stairs.

In cross-examination Mr. O'Sullivan asked Mr. Power if he would accept that the previous valuation included the domestic part and that at revision 3 of the 4 rooms had been removed and that his valuation should therefore be  $\frac{1}{4}$  of the previous valuation. Mr. Power disagreed with this pointing out that the area had been 43.75 square metres and was now 20.77 square metres. Mr. O'Sullivan said he had nothing further to say other than to mention the difficulties his industry was undergoing at the moment.

The chairperson asked both parties whether, in view of the small difference between them, they wished to adjourn to consider agreement. Mr. Power replied that his hands were tied, his valuation reflected the tone of the list and he would have to consult.

### **Findings and Determination**

- The Tribunal has carefully considered the evidence, submissions and arguments presented.
- The Tribunal is bound by the Valuation Act 2001 especially by Sections 63 (Correctness of Valuation List), Section 48 (Method of determining property's value generally) and Section 49 (Method of determining property's value under Section 28(4)).

- The Tribunal notes the evidence of the respondent and the lack of evidence/argument from the appellant to support his case.
- The Tribunal is sympathetic to the situation of the appellant but is nevertheless bound by the relevant statutory provisions.
- In view of all of the foregoing the Tribunal finds the determination of the respondent of a valuation of €12 on the subject property to be fair and reasonable and affirms that valuation.

And the Tribunal so determines.