

Appeal No. VA05/2/037

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

Gabriel Healy & Diarmuid Martin

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Office(s) at Lot No. 6A/1, Boeshill, Mohill, County Leitrim.

B E F O R E

John Kerr - BBS. ASCS. MRICS. FIAVI Deputy Chairperson

Patrick Riney - FSCS FRICS FIAVI Member

Michael McWey - Valuer Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 16TH DAY OF DECEMBER, 2005

By Notice of appeal dated the 24th day of June, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €67.00 on the above described relevant property.

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

"The rental yield as stated by you is incorrect"

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 13th September 2005. The Appellants, Mr. Gabriel Healy and Mr. Diarmuid Martin, appeared on their own behalf. Mr. Damien Curran, a Staff Valuer in the Valuation Office, appeared on behalf of the Commissioner of Valuation. In accordance with practice and as required by the Rules of this Tribunal Mr. Curran had, prior to commencement of the hearing, submitted his précis to the Tribunal.

The Tribunal sat for the purposes of hearing this appeal on the said date of 13th September 2005. Notification of the date of hearing was given to the parties by Notice of Hearing dated 29th June 2005. The Notice of Hearing to each party required that a précis of evidence be supplied by them to the Tribunal and exchanged with the other party not later than 30th August 2005.

At the outset of the oral hearing, and after Mr. Diarmuid Martin had taken the oath, Mr. Curran said that he wished to place on record a statement of the difficulties the Valuation Office had experienced in dealing with this case and of the fact that it had not been possible for them to have the précis of evidence exchanged with the appellants prior to the hearing. In response to the Tribunal he confirmed that he still had not received a précis of evidence from the appellant although his office had endeavoured on a number of occasions to have an exchange take place. He said he understood that the Registrar of the Tribunal was aware of the difficulties both he and the Tribunal itself had experienced in this regard. He said that the appellants' failure to exchange précis of evidence was a breach of Tribunal Rules and that it was a matter for the Tribunal as to whether the hearing should proceed.

The Tribunal then invited Mr. Martin to respond to Mr. Curran's statement. Mr. Martin firstly apologised to the Tribunal and pleaded that Autumn was a particularly busy time for his office. He confirmed that on the matter of submitting the required précis of evidence in advance of the hearing, he was aware of the required submission deadline of 30th August 2005, acknowledging that he had been informed of it by the Tribunal letter dated 29th June 2005. In further reply to the Tribunal he confirmed that he was aware of the submission deadline, had been informed of said deadline and was aware of what was required. He said he had sent documents to the Tribunal

and to the Valuation Office on Thursday 8th September by post and fax. He suggested they might have got lost in the post and said he realised they were well overdue at the date of posting.

The Tribunal adjourned to consider the matter and to examine correspondence between the Tribunal office and the parties to the appeal. The Tribunal, having given very careful consideration to Mr. Curran's statement and having looked at the Tribunal office file record of communications between that office and the parties to this appeal, makes the following findings and determination:

1. The Tribunal is mindful of its task as a Tribunal, whose sole purpose is to determine on a fair and equitable basis the rateable valuation of a property under appeal to it by following the relevant legislative provisions and the Rules of the Tribunal itself.
2. The appellants confirmed, through Mr. Martin, that they were aware of the deadline for filing and exchange of précis of evidence; that they were informed of that deadline; that they were aware of the requirements of the Tribunal.
3. The Tribunal notes the appellants' apologies and their statement that the time of year was a particularly busy one for their practice.
4. However, there is an obligation on all parties to an appeal to inform themselves of the Tribunal requirements and to follow them.
5. The Tribunal communicated those requirements to the parties and it was noted on the record by Mr. Curran that the Valuation Office had not yet received even at the hearing date the précis of evidence from the appellants.
6. Neither had the Tribunal received such a précis of evidence from the Appellant by the hearing date. The Tribunal does acknowledge receipt by fax on Thursday 8th September 2005 of documents in largely illegible form. Mr. Martin stated for the record that he had sent a copy of same to the Valuation Office on the same date. The documents received by the Tribunal could not be considered by any reasonable party to meet the prescribed requirements as set out in the Notice of Hearing dated, and sent to each party on, 29th June, 2005.
7. Rule 7.1 of the Rules of the Tribunal applies in this case as it does in all cases and it reads as follows:

“The respondent and any other party shall give a summary of evidence proposed to be adduced to the Tribunal and there shall be an exchange of summaries between the parties (including any comparisons to be relied upon) in advance of the hearing.”

8. Rule 7.1 found expression in the aforementioned Notice of Hearing dated 29th June, 2005. The Rule was not followed by the Appellants; the Respondent did not receive the required summary of evidence in advance of the hearing. The Tribunal did not receive legible documents from the appellant, needed and required by it to consider in advance the evidence to be adduced at the hearing.
9. In view of the foregoing the Tribunal strikes out the appeal. The rateable valuation as determined by the Valuation Office in the amount of €67 is hereby affirmed.