

Appeal No. VA08/3/031 & 033
& 034

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

CMN Pharmacy Ltd. (VA08/3/031)
Donagh McCloskey & Eoin McShane (VA08/3/033)
McGinley Motors Ltd. (VA08/3/034)

APPELLANTS

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2192438, Shop at Lot No. Unit 4 (VA08/3/031), Property No. 2192437, Shop at Lot No. Unit 2 (VA08/3/033) & Property No. 2192442, Showroom, Workshop at Lot No. Unit 1 (VA08/3/034), Letterkenny Town Centre, Letterkenny, Letterkenny Urban, Letterkenny UD, County Donegal

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

Brian Larkin - Barrister

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF JANUARY, 2009

By Notices of Appeal received on the 5th day of August, 2008 the appellants appealed against the determination of the Commissioner of Valuation in fixing valuations of €169.00 (VA08/3/031), €151.00 (VA08/3/033) and €285.00 (VA08/3/034) respectively on the above described relevant properties.

The Grounds of Appeal are set out in the Notices of Appeal, copies of which are attached at Appendix 1 to this judgment.

1. With the consent of the parties these three appeals were held contemporaneously at an oral hearing held in the Radisson Hotel, Letterkenny, Co. Donegal on the 6th day of November, 2008.
2. At the hearing Mr. Patrick McCarroll, MRICS, ASCS, MCI.Arb., represented each of the three appellants. Mr. Tomás Cassidy, BSc (Property Management & Valuation Surveying), MIAVI, a District Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation.
3. At the hearing Mr. McCarroll and Mr. Cassidy having taken the oath adopted their précis of evidence in relation to each property which had previously been received by the Tribunal as being their evidence-in-chief. From the evidence so tendered the following material facts emerged or were so found.

The Properties Concerned

4. The three properties in these appeals form part of a new mixed used development known as Letterkenny Town Centre which is located on the west side of Pearse Road, Letterkenny. The development is laid out in two interconnecting blocks (A and B) on either side of Justice Walsh Road, which are interconnected by means of an elevated pedestrian link.
5. Pearse Road runs parallel with Main Street from the Port Road roundabout to Oldtown Road which then leads onto the R256. Pearse Road is one of the busiest roads in Letterkenny and in recent years a considerable level of development has taken place close by in the Canal Road, Loop Road, and the Devaney Road vicinity.
6. The Letterkenny Town Centre development comprises of retail, office and residential accommodation with a multi storey car-park catering for 380 cars at five levels. In all there are 37 retail units in Blocks A and B of which only six or seven are currently occupied. The only major occupier in the scheme is an Elvery's Superstore.

Accommodation

7. The accommodation of each property measured on a net internal area basis was agreed as follows:

(a) VA08/3/031 - CMN Pharmacy Ltd - Retail area 266.58 sq. metres.

The above area includes a store with an area of 12.52 sq. metres.

Mezzanine floor not in situ at date of inspection.

(b) VA08/3/033 - Donagh McCloskey & Eoin McShane - Retail area 239.25 sq. metres.

(c) VA08/3/034 - McGinley Motors Ltd.

Showroom area	360.13 sq. metres
Ground floor office area	52.19 sq. metres
First floor office area	55.68 sq. metres
Detached workshop	185.13 sq. metres

Tenure

8. (a) The CMN Pharmacy unit is occupied under a 25 year lease from mid 2006 at an initial yearly rent of €103,000 with provision for rent reviews at five yearly intervals. The rent is on a shell basis and excludes tenant's fit out works including the addition of mezzanine space not included in the valuation.

(b) The McCloskey & McShane unit is occupied under a 25 year lease from mid 2006 as set out below:

Year 1 rent €37,500

Year 2 rent €49,500

Year 3 rent €54,000

Year 4 rent €59,000

Year 5 rent €63,000

The above rents equate to an average yearly rent of €52,600 with a further review at the end of year 5 and thereafter at five year intervals.

(c) McGinley Motors unit

No information available, premises occupied by the developer and any lease arrangement would be between interconnected parties.

Appellant's Evidence

9. Mr. McCarroll in his evidence contended for the following valuations:

(a) CMN Pharmacy Ltd.

Retail space 254.04 sq. metres @ €84.28 per sq. metre = €21,412.17

Store 12.52 sq. metres @ €42.14 per sq. metre = €527.59

Net Annual value	Say	€21,939.00
Rateable valuation @ 0.5% =		€110.00

(b) Donagh McCloskey & Eoin McShane

Retail space	239.25 sq. metres @ €84.28 per sq. metre =	€20,163.00
Rateable valuation @ 0.5% =		€101.00

(c) McGinley Motors Ltd.,

Showroom	360.03 sq. metres @ €65.00 per sq. metre =	€23,401.95
Offices		
Ground Floor	54 sq. metres @ €55.00 per sq. metre =	€2970.00
First Floor	55.68 sq. metres @ €30.00 per sq. metre =	€1670.40
Workshop	183.13 sq. metres @ €30.75 per sq. metre =	€5629.74
Net annual value	Say	€33672.00
Rateable valuation @ 0.5% =		€168.00

10. In his evidence Mr. McCarroll said the Letterkenny Town Centre development was a very ambitious project which to date had proven to be unsuccessful, with only six units let out of 37 despite a lengthy marketing campaign. In his opinion the location was secondary and the layout of the development in two separate blocks was a distinct disadvantage. To date there was no recognised anchor tenant in the centre apart from Elvery's. The use of the car park was free, which was a clear indication that the centre was not operating successfully.
11. In support of his opinions of net annual value Mr. McCarroll introduced four comparisons, three of which were retail units elsewhere on Pearse Road and the other a car sales outlet. Details of these comparisons are contained in Appendix 2 attached to this judgment.
12. In relation to his comparisons Mr. McCarroll relied primarily on the Xtra-vision outlet which was the subject of an appeal to this Tribunal (**VA92/2/031 – Kevin Peoples & Xtra Vision Ltd.**). Mr. McCarroll contended that little weight should be attributed to his comparisons 2 and 3 which formed part of the Courtyard Shopping Centre, which was

developed under urban renewal legislation and qualified for tax allowances to the benefit of developers and occupiers alike.

Respondent's Evidence

13. Mr. Cassidy in his evidence outlined the rating history in relation to each unit and put forward the following valuations:

(a) CMN Pharmacy Ltd.

Retail space	266.58 sq. metres @ €126.42 per sq. metre = €33,701.00
Rateable valuation @ 0.5% =	€169.00

Valuation originally determined at a rateable valuation of €208.00, which figure was reduced to €169.00 following an appeal to the Commissioner of Valuation under Section 30 of the Valuation Act.

(b) McCloskey & McShane unit

Retail space	239.25 sq. metres @ €126.42 per sq. metre = €30,246.00
Rateable valuation @ 0.5%	Say €151.00

This unit was originally assessed at a rateable valuation of €185.00 and reduced on appeal to €151.00.

(c) McGinley Motors Ltd.

Showroom/Retail space	360.03 sq. metres @ €123.00 per sq. metre = €44,283.69
Offices (Ground Floor)	52.19 sq. metres @ €82.00 per sq. metre = €4,279.58
Offices (First Floor)	55.68 sq. metres @ €50.00 per sq. metre = €2,784.00
Workshop	185.13 sq. metres @ €30.75 per sq. metre = €5,692.75

The valuation of this property was originally determined at a rateable valuation of €345.00 and reduced on appeal to €285.00.

14. In support of his opinion of rateable valuation Mr. Cassidy introduced four retail comparisons, details of which are set out in Appendix 3 attached to this judgment.

15. Two of Mr. Cassidy's comparisons (Nos. 1 & 2) are located in the Courtyard Shopping Centre development with frontage on to Pearse Road. Comparison No. 3 is in the Letterkenny Shopping Centre which is an enclosed centre on the Milltown Road close to Port Road roundabout. The other two comparisons, Superdrug and Menary's, are on the Main Street.
16. In his evidence Mr. Cassidy said that whilst the Town Centre development occupies a central location within Letterkenny it could not be considered prime in retail terms. However in his opinion the development was well designed and finished to a high standard and benefited from the multi storey car-park which is free for users. Each of the properties concerned was well proportioned and had good frontage.

Findings

The Tribunal has carefully considered all the evidence and argument adduced by the parties and finds as follows:

1. The Town Centre development occupies a secondary retailing location on a busy thoroughfare relatively close to the town centre.
2. It would appear for whatever reason that the development has not yet established itself and this is clearly shown by the low take-up of units.
3. Of all the comparisons introduced the one most helpful to the Tribunal is the Xtra-vision Unit which was the subject of an appeal to this Tribunal some time ago.
4. This property is located on the opposite side of Pearse Road close to the properties concerned and is of a similar size, although perhaps in a development that is not as well designed or finished as the Town Centre scheme.
5. The comparisons in the Courtyard Shopping Centre are of limited assistance as it would appear they are located in a designated area scheme whereby investors and occupiers could avail of tax breaks. This may be reflected in the assessment.
6. The Tribunal also attaches little weight to the comparisons on Main Street and the one in Letterkenny Shopping Centre as they occupy what are possibly the best retail locations in Letterkenny town.
7. Having regard to the size of the McGinley unit we are of the opinion that some allowance should be made for the fact that it is considerably larger than other two units. Similarly

we believe that there should be a greater differential between the rate per sq. metre applied to the offices at ground and first floor levels.

Determination

Having regard to the above findings the Tribunal determines the rateable valuation of each of the three properties concerned to be as follows:

1. VA08/3/031 - CMN Pharmacy Ltd.

Valuation

Retail area (store)	266.58 sq. metres @ €110.00 per sq. metre = €29324.00
Net annual value Say	€29200.00
Rateable valuation @ 0.5% =	€ 146.00

2. VA08/3/033 - Donagh McCloskey & Eoin McShane

Valuation

Retail space	239.28 sq. metres @ €110.00 per sq. metre = €26,317.00
Rateable valuation @ 0.5% =	€130.00

3. VA08/3/034 - McGinley Motors Ltd

Valuation

Retail Showroom	360 .03 sq. metres @ €96.00 per sq. metre	= €34,563.00
Offices Ground Floor	52.19 sq. metres @ €82.00 per sq. metre	= € 4,279.00
Offices First Floor	55.68 sq. metres @ €40.00 per sq. metre	= € 2,227.00
Workshop	185.13 sq. metres @ €30.75 per sq. metre	= <u>€ 5,693.00</u>
Net annual value		= € 46,762.00
Rateable valuation @ 0.5%		= € 233.00

And the Tribunal so determines.