

Appeal No. VA09/1/016

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

Richard McElligott and Brendan Harty

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2195732, Offices at Lot No. 5c/1,2,3 Day Place, Tralee Urban, Tralee UD, County Kerry.

B E F O R E

Michael P.M. Connellan - Solicitor

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 19TH DAY OF AUGUST, 2009

By Notice of Appeal dated the 9th day of March, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €29.00 on the above-described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal, a copy of which is attached as an Appendix to this judgment.

The appeal proceeded by way of an oral hearing which took place in the Tribunal offices, Ormond House, Ormond Quay Upper, Dublin 7 on 11th May, 2009. The appellant was represented by Mr. Brendan Harty, engineer and occupier of part of the premises. The respondent was represented by Mr. David Molony, BSc, MRICS, District Valuer in the Valuation Office.

Both parties adopted their written submissions, which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

Property

The property comprises ground floor refurbished offices occupied by Mr. Brendan Harty, Engineer and Mr. Richard McElligott, Architect. The upper floors are in domestic use and have their own separate access. The areas are as follows:

Reception and Offices	72.8 sq. metres
Stores	4.9 sq. metres
Kitchen and Toilets	6.3 sq. metres

Location

The property is located on the eastern side of Friary Lane which is linked to both High Street and Chapel Street, and is at the rear of Day Place in Tralee town. The property is situated in a secondary location. The property is in good condition throughout and all main services are connected.

Tenure

The property is held under a three year lease from 1st January, 2008 at €15,900 per annum.

Valuation History

The property was revised in July, 2008 when three separate lots were established on the ground floor within the same building as follows:

Property No: 2195732 (subject property)	RV €15.00
Property No: 2195739	RV € 9.00
Property No: 2195740	RV € 8.00

All the aforementioned properties were amalgamated at appeal into Property No: 2195732 with a rateable valuation of €9.00 and now form the basis of this appeal to the Tribunal.

Appellant's Case

Mr. Harty having taken the oath adopted his written précis, which had been received by the Tribunal, as being his evidence-in-chief. Mr. Harty stated that he practices as an engineer and occupies part of the ground floor office No. 12, while Mr. Richard McElligott practices as an architect and occupies office No. 10. The balance of the ground floor comprising entrance, toilets, meeting room and waiting area are occupied jointly by both parties.

Mr. Harty made the following points in relation to the valuation:

1. The valuation is very high in comparison with other similar premises in different towns in other counties and towns in Co. Kerry.
2. The offices are located off a narrow back lane without proper access and parking facilities.
3. The area in question is very disjointed and is not suitable for any possible retail use.
4. There are very poor daylight levels, therefore the electric lighting remains switched on during working hours which necessarily adds to running costs.
5. The possibility/probability of not being in business in the near future (as both are employed in the construction industry) due to the current economic climate.

The original valuation was €15.00, but through the amalgamation of different lots the valuation was increased to €9.00. The property is situated at the rear of Day Place and the only access to the subject is from High Street; there is no access from Day Place. Mr. Harty stated that Day Place should not be used as a comparison as it is the main office area in Tralee occupied by the legal and medical profession. Day Place is a Georgian terrace and is

protected. Mr. Harty produced a map outlining the comparisons and subject property. He highlighted a selection of buildings based on their similar rateable valuations and all were closer to Main Street than the subject. The two main banks nearby have a rateable valuation of €31.00 each and a local pub also has a rateable valuation of €31.00. Mr. Harty also submitted photographs of the subject property.

There are a few derelict building on Friary Lane adjacent to the subject property. There are only two buildings occupied on Friary Lane, the subject building and one other. Mr. Harty produced a series of photos of the various comparisons and stressed the lack of car parking in the area, stating that there is only one car space on Friary Lane. He referred to Mr. Molony's comparison Number 4 Day Place and said that this was the most valuable house on the street and not comparable with the subject property. He stressed that the subject has very poor daylight and electric lights have to be on all day. Regarding the actual rates paid, Mr. Harty stated that the figure for the current year was €2,349.00 on a rateable valuation of €29.00 and a multiplier of 81. This multiplier of 81 is the highest in the country.

Under cross examination by Mr. Molony, Mr. Harty agreed that he gave no breakdown or details of his comparisons. He sought a valuation of €19.00 which he calculated as follows:

Brendan Harty's office (room 10)	= €7
Richard McElligotts office (room 12)	= €8
Meeting Area (room 6)	= €4
Valuation	= €19

He was of the view that the other ancillary spaces such as the kitchen, toilets, etc., should not be valued.

Respondent's Evidence

Mr. David Molony having taken the oath adopted his written précis, which had previously been received by the Tribunal, as being his evidence-in-chief. Mr. Molony stated that the property is located on Friary Lane at the rear of Day Place in Tralee town and he agreed that this is a secondary location, with mostly disused buildings on the street. He agreed that there are no comparisons on Friary Lane and he submitted two comparisons situated on Day Place.

Comparison No. 1

Property No: 432751, Cuba Sol Ltd, Day Place, Tralee.

Description: Offices

Valuation Date: 1993/04 First Appeal

Rateable Valuation: €34.28

Valuation Assessment: Ground floor front offices: 49.53 sq. metres @ €136.67 per square metre

Comparison No. 2

Property No: 70629, Malone O'Regan McGillacuddy, Day Place, Tralee.

Description: Offices

Valuation Date: 2003 Revision.

Valuation Assessment:

Ground floor offices: 50.11 sq. metres @ €136.62 per sq. metre

Ground floor store: 13.12 sq. metres @ €5.67 per sq. metre

First floor offices: 58.14 sq. metres @ €2.00 per sq. metre

Second floor offices: 53.99 sq. metres @ €8.34 per sq. metre

Rateable Valuation €8.00

Mr. Molony contended for a rateable valuation of €29.00 which he calculated as follows:

Offices:	72.8 sq. metres	@ €2.00 per sq. metre	=€5,969.60
Stores :	4.9 sq. metres	@ €41.00 per sq. metre	= € 200.90
Kitchen & toilets:	6.3 sq .metres	@ €0.00 per sq. metre	= € 0.00
Estimated NAV =	€6,170.50 @ 0.5%		= € 30.85
Rateable Valuation =	€29.00		

Mr. Molony agreed that his two comparisons are in a superior location to that of the subject, and the ground floors were valued at €136.67 and €136.62 per square metre respectively, whereas the subject property is valued at €2.00 per square metre. This represents an allowance of 40% for location and car parking difficulties.

Findings

The Tribunal having considered all the written and oral evidence produced by the parties, and the arguments adduced at the hearing, make the following findings:

1. The subject premises are in a very poor location.
2. There is little or no car parking.
3. The subject property is beside derelict buildings on a narrow street.
4. Day Place is not a suitable comparison for Friary Lane, as Day Place has prestigious houses, most of which are listed and architecturally protected.
5. There is very little natural lighting in the subject premises, which is not suitable for retail purposes.

Determination

Having regard to the foregoing, the Tribunal determines a fair and equitable valuation to be as follows:

Offices:	72.8 sq. metres	@ €60.00 per sq.metre	= €4,368.00
Stores:	4.9 sq. metres	@ €30.00 per sq.metre	= € 147.00
Estimated NAV = €4,515			
Valuation @ 0.5% = €22.57			
Say €22.00			

And the Tribunal so determines.