

Appeal No. VA09/1/018

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

O'Sullivan's Marine Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 73795, Factory, Yard at Lot No. 1H/1, Cloonnorig, Tralee Urban, Tralee UD, County Kerry.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Michael F. Lyng - Valuer

Member

Frank Walsh - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 14TH DAY OF SEPTEMBER, 2009

By Notice of Appeal dated 12th day of March, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €5.00 on the above-described relevant property.

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

"The premises is in a state of disrepair and not in a good condition. The premises is largely unoccupied and up for rent/sale. Unoccupied premises for sale/rent."

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 21st August 2009. At the hearing the appellant was represented by Mr. Brian O’Sullivan and the respondent by Mr. David Molony, BSc, MRICS, a valuer in the Valuation Office. Each representative, having taken the oath, adopted his précis, which had previously been received by the Tribunal as his evidence-in-chief.

Issue

Quantum

Location

The property is located in Monavalley Industrial Estate on the northwest edge of Tralee Town. The property is situated in a small enclosed yard area comprising of a cluster of 6 industrial units.

Description

The property comprises a range of single storey industrial buildings constructed principally with concrete block walls and pitched asbestos roofs. The property is part used for the manufacture and repair of boats whilst other sections of the unit are disused. Usage of the property is as follows:

Block F - principally used for manufacture and storage of boats – floor area 408.63 sq. metres.

Block G - a secondary store - floor area of 59.36 sq. metres.

Block E - a canteen and WCs - floor area 27 sq. metres.

Remainder of blocks, A, B, C, D, H and I - total floor area 791.55 sq. metres - mainly disused.

Adjoining yard is shared in common with other occupiers in the estate.

Accommodation

Total floor area	1,152.04 sq. metres
Canopy area	107.50 sq. metres
Overall total	1,259.54 sq. metres

Condition

The roof, which is pitched asbestos, is in poor condition. There are a number of leaks that exist in various areas. The roof requires immediate attention possibly necessitating replacement. The walls and floors are generally in good repair and the dampness that exists on internal walls is due to both leaks in the roof and overflowing drains on the valley.

Tenure

We understand that the property is held freehold.

Services

We understand that all main services are connected to the property.

Valuation History

16th July 2008: Rateable valuation fixed at €135.00.

25th August 2008: Mr. Brian O'Sullivan, O'Sullivan Marine Ltd appealed the valuation assessment to the Commissioner of Valuation.

18th February 2009: The Commissioner of valuation issued his decision to reduce valuation from €135.00 to €95.00.

12th March 2009: The appellant lodged an appeal to the Valuation Tribunal.

Appellant's Evidence

The appellant did not submit a valuation in his précis of evidence. This appeal was received by the Valuation Tribunal on 18th March, 2009. However a valuation of RV €25 was sought on first appeal to the Commissioner of Valuation on 25th August, 2008.

Grounds of Appeal

"1. The premises is in a state of disrepair and not in good condition.

The premises has an asbestos roof, which would have to be removed if any development were to take place. This roof is leaking in several locations.

Downpipes are broken and again, made from asbestos.

Roof gutters are overgrown and leaking.

The premises requires a painting and a general "Overhaul".

Roller shutter doors are damaged and the extraction & ventilation systems are no longer functional.

Basically, the premises is 30 years old and in need of renovation and this has to be taken into consideration.

2. The premises is no longer occupied by anyone and is currently on the market “for sale” or “to let”. At present, second-hand boats are stored within.

3. Newer premises on the same site have lower rateable valuations.

Simply put, the current rateable valuation, given the age, the condition, the use and the location of the premises is too high and should be reduced very considerably.”

Mr. O’Sullivan in his oral evidence said that the subject property was in a very poor state of repair, was not now used as a factory and is mainly used for storage, with the majority of the building unused. He felt that the building was un-rentable because of its low pitched asbestos roof, age (built 1980) and general poor condition.

Mr. O’Sullivan introduced four comparisons as follows:

“1. Mcgillicuddy Aluminium: A newer building used as an aluminium window fabrication facility.

2. Target Transport: A modern building (built in 2000) used as a warehouse for a Transport Company.

3. Southern Stone: A marble kitchen/bathroom manufacturing facility built in 1986.

4. Rock St Enterprises & Irish Pride Bakeries: Both basic warehousing facilities, but only built in 2001 and in excellent condition.”

All of the appellant’s comparisons are located in Monavalley Industrial Estate, with 2 and 4 being in the same site as O’Sullivan’s Marine Ltd. Under cross examination by Mr. Molony, Mr. O’Sullivan accepted that while his comparisons all had lower rateable valuations, he had not provided any valuation assessments. Mr. O’Sullivan stated that he did not have access to this information.

Further, when challenged by Mr. Molony on the fact that his précis of evidence contained no estimate of an acceptable rateable valuation for the subject property, Mr. O’Sullivan stated that a valuation between RV€60.00 - €70.00 would be acceptable.

Respondent’s Evidence

Mr. Molony contended for a rateable valuation of €5.00 as set out below:

Block A, B, C & F	796.67 sq. metres @ €17.08 per sq. metre	€13,607.12
Block D	296.01 sq. metres @ €15.03 per sq. metre	€4,449.03
Block G	59.36 sq. metres @ €10.25 per sq. metre	€608.44
Block H & I	107.5 sq. metres @ €6.83 per sq. metre	€734.22
Block E	27.0 sq. metres @ €0.00 per sq. metre	€0.00
Estimate of NAV =	€19,398.81 @ 0.50% = €6.99	say €5.00
Rateable Valuation	€5.00	

Mr. Molony in his oral evidence said that he valued the property by reference to comparisons. He introduced three comparisons in his précis of evidence and these are attached at Appendix 1 to this judgment.

Mr. Molony stated even though the roof needed replacement the building was suitable for manufacturing and storage.

Under cross examination by Mr O'Sullivan, Mr Molony emphasised that Block E of the subject property had been excluded from the valuation, the NAV for this area having been set at 0.00.

Summing up, Mr Molony highlighted the fact that the valuation was as low as any rural industrial warehouse in Kerry and that there was really no level below this. Also the Commissioner of Valuation issued a decision to reduce the valuation by 30% from €135 to €95 on 18th February 2009, under appeal. He asked that the valuation of €95 be upheld.

Findings

The Tribunal, having carefully considered all of the oral and written evidence and the arguments adduced by the parties, makes the following findings:

1. The subject property is situated in a small industrial estate in Tralee Town, and is in poor condition.
2. On first appeal to the Commissioner of Valuation, the valuation of the subject property was reduced from RV€135 to RV€95.

3. Three out of four of the appellant's comparisons, all of which are situated in the same industrial estate as the subject property, are of superior quality and condition to the subject property and have a lower RV than the subject property. However, it is clear from the maps and drawings provided (attached at Appendix 2 to this judgment) that they are smaller in size, and that the valuation placed on the subject property reflects this position.
4. As provided in Section 35(a)(i) of the Valuation Act, 2001, the onus of showing that the valuation of the property that is the subject of an appeal is incorrect lies with the appellant. The Tribunal finds that the appellant has not met this provision of the Act.

Determination

Having regard to the evidence and the arguments adduced, the Tribunal considers that the rateable valuation of €5.00 as determined by the Commissioner of Valuation is fair and reasonable. The Tribunal therefore affirms the valuation.

And the Tribunal so determines.