

Appeal No. VA09/2/019

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

Haughey Joinery Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2005657, Workshop, Office(s), Store, Yard at Lot No. on 13B 15,
Listellian, Magheraboy, Letterkenny, County Donegal

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Joseph Murray - B.L.

Member

Veronica Gates - Barrister

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE DAY OF , 2009

By Notice of Appeal dated the 3rd day of June, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €280.00 on the above-described relevant property.

The grounds of Appeal are set out in the Notice of Appeal, a copy of which is attached at the Appendix to this Judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 22nd day of September, 2009. The appellant was represented by Mr. Patrick McCarroll, MRICS, ASCS, and the respondent by Mr. Tomas Cassidy, BSc Property Management & Valuation Surveying, MIAVI, a District Valuer in the Valuation Office.

Property

The subject property is a joinery business and is located in the townland of Listellian, County Donegal, on a secondary road off the N13 road between Ballybofey and Letterkenny. The secondary road on which the subject is situated is a cul-de-sac and ends in a forestry plantation. The Haughey family home and business are on the one site. The property consists of a prefabricated office, a new store and an old workshop.

History

The property was first valued in 1986. With the addition of new buildings the property came up for revision and was valued at €289 in 2008. On first appeal the valuation was reduced to €280. This valuation was appealed to the Tribunal and the appellant is seeking a valuation of €23.

Appellant's Submissions

Mr. McCarroll took the oath and adopted his précis as his evidence-in-chief. He reviewed his précis as follows:

1. The subject property is located in a rural area in the town land of Listellian 8 kilometres from Letterkenny. It is situated half a mile up a cul-de-sac from the N13 between Ballybofey and Letterkenny. It fronts onto a 12 foot wide road with not enough room for a lorry or bus to pass each other.
2. Access to the property is poor with a narrow secondary road. In parts it is less than 12 feet wide.
3. The configuration of the subject property consists of a prefabricated office building and an old workshop building and store. The old workshop building consists of a number of single storey buildings. The building commenced in 1977 and predates the 1986 valuation. The building is constructed of a steel portal frame, lattice steel with "lean to" and flat roof types. Cladding consists mostly of corrugated iron. The building is used as a

workshop, canteen and spray room. The store consists of two span symmetrical pitched steel portal frames with concrete block walls which are 2.9 metres high.

4. Some of the subject property is used for domestic purposes for storing two vintage cars. This area represents less than 10% of the store and should not be rated as it is not used for commercial purposes.
5. The Valuation Office has not valued the subject property in accordance with the “tone of the list”. The NAV does not reflect the 1988 values. The comparisons relied upon by the respondent are not comparable.

Appellant’s Comparisons

No 1: Fleming Engineering. Similar in location to the subject property, located in the village of St. Johnston and is conveniently located for Derry City and Letterkenny. This was purpose built for Flemings who were long established in manufacturing farm machinery. It has superior eaves height to subject property. The workshop is valued at €15.72 per sq. metre, the two storey offices at €21.86 per sq. metre and the store at €4.77 per sq. metre.

No 2: Nena Models in Castlefin were involved in the clothing trade. This property is in a much better location than the subject. The structure has an amalgamation of roof types. The office is valued at €20.50 per sq. metre. The factory building is valued at €10.25 per sq. metre. Around 100 people worked in the building, before the firm’s closure.

No 3: McMenamin Engineering manufactures steel frames for industrial and commercial projects. Located about 100 metres from the Lifford Ballybofey road, the workshop is valued at €12.57 per sq. metre and the offices at €20.50 per sq. metre. The workshop is comparable to the subject workshop and the rates, which were agreed, are appropriate to the subject.

No 4: McMenamin Engineering. Consists of a factory and yard located about 5 kilometres from Killygordon. Offices valued at €28 and €23 per sq. metre, factory at €18.50 per sq. metre and the stores old and new at €7 and €10 per sq. metre respectively. A secured yard of 2,000 sq. metres is also included in the valuation at €1.00 per sq. metre. The stores would be comparable to the old workshop of the subject property. The valuation on this property was determined by the Valuation Tribunal in 2006 (**VA06/1/015 – McMenamin Engineering**)

No 5: Duffy Express, which is a transport business. It is located about 3 kilometres from Newtowncunningham. The property consists of an office, stores and workshop. The office is valued at €20.51 per sq. metre. The workshops are valued at €10.25 and €6.83 per sq. metre and the store is valued at €11.62 per sq. metre. The appellant said these rates should be applied to the subject. The rates were agreed at first appeal stage in 1991.

The appellant added that his comparisons 1, 3 and 4 are substantially in the same line of business and yet the rates are considerably lower than the comparisons of the respondent. The appellant was not challenged on these comparisons by Mr. Cassidy.

Respondent's Evidence

Mr. Cassidy took the oath and adopted his précis as his evidence-in-chief. He reviewed his comparisons as follows:

No 1: Martin McLaughlin, rateable valuation of €15. The property is located on a slip road near the outskirts of Ballybofey. The property is valued as follows. The office and showroom, neither of which are prefabricated, are valued at €25 and €30.75 per sq. metre respectively. The workshops are valued at €23 per sq. metre and €20.50 per sq. metre. Since revision in 2006 the property has been subdivided.

No 2: JML Transport, with a rateable valuation of €160. This is a two-storey purpose built property with no prefabricated buildings and is located between the villages of Convoy and Killygordon. A good quality building. The office is a two-storey purpose built structure and valued at €34 per sq. metre. The warehouse is valued at €23 per sq. metre.

No 3: Derek Long, with a rateable valuation of €125. Located on a minor road off the Letterkenny to Ballybofey road. The office is valued at €30.75 per sq. metre and the workshop at €23 per sq. metre. There is a rough yard area, and at time of valuation surface water was present in part of the building. No photographic evidence of the building was produced.

Mr. Cassidy added that the issues raised by the appellant have been adequately addressed in the valuation of €280 on the subject property.

Mr. Cassidy was cross-examined by Mr. McCarroll on his comparisons as follows:

- When asked if the McLaughlin property could be seen from the Donegal/Ballybofey Road, Mr. Cassidy replied it could and that it was on a slip road. With regard to the office and showroom valued at €25 and €30.75 per sq. metre respectively, Mr. Cassidy confirmed that neither building was a prefabricated structure.
- Confirming that the respondent's second comparison, JML Transport, was in the same line of business as the appellant's fifth comparison, Duffy Express, Mr. McCarroll suggested that the rates of €34 and €23 per sq. metre on office and warehouse respectively, as applied to comparison number 2 were not in line with the tone of the list. Mr. Cassidy said that his two other comparisons show that it was in line with the tone. Mr. Cassidy added that the line of business is not important, but the structure of the building in which the business operates is what concerns him. Mr. Cassidy also added that the photographs supporting Duffy Express would not be representative of what was there in 1991 when it was described in the appeal as a piggery. Mr. McCarroll added that the same rates were applied in the 1996/97 revision as in 1991.
- Comparison number 3 Derek Long is in the steel processing business. Mr. McCarroll said that his comparison number 1 Fleming Engineering, and comparisons 3 and 4 McMenam Engineering were in a similar line of business and valued at much lower rates than Long's business. He suggested that Long's valuation was not in line with the tone of the list based on usage. Mr. Cassidy said again that he is not concerned with the use of the building but rather with the structure of the building and that the values on the list are deemed to be correct.

Mr. Haughey's Evidence

Mr. Haughey took the oath and gave the following evidence:

- Mr. Haughey explained how he started out as a family business in 1974. The business obtained planning permission to build a new shed and a house in 1977. During the boom years he built a new store and prefabricated office. Now with the recession his business is trading at half of what it was last year. He now employs 11 people and had to reduce his workforce. Rates have gone up from €5,000 to €20,000; a jump of 300% since 1986. In the present circumstances this is a heavy burden.

- Mr. Haughey in response to a question from Mr. McCarroll added that the respondent's comparison number one, Martin McLaughlin, which is near Ballybofey and trades in kitchen units, does not compare to his family business. This firm has a number of trucks and delivers throughout the country and cannot be compared with a small family business.
- Mr. Haughey also said that all the comparisons of the respondent have road frontage where cars and lorries can pass each other. Not like the cul-de-sac onto which his business fronts.
- For the last 30 years Mr. Haughey has been trying to get the road widened. If a truck or car meet on the road one has to pull to one side to let the other pass.
- The site does not have a main water supply. He has a two inch pipe only for domestic use. This is not adequate for the site, so he had to erect a tank which holds 20,000 gallons for water storage, otherwise he would not be covered by insurance in case of fire. Also Mr. Haughey put in extra security lightening. These additions he said are extra burdens.

Findings

1. The Tribunal is surprised to find there is a very significant discrepancy between the valuations of the respondent and the appellant. Based on the evidence adduced at hearing, there would appear to be two "tones of the list". The respondent is stating that the value is €280 and the appellant is seeking a valuation of €123. We also appreciate that in accordance with section 63 of the Valuation Act, 2001 the statement of the value of the property appearing on the list shall be deemed to be correct "until" it has been altered in accordance with the provisions of the Act.
2. We are satisfied that the total area agreed by both parties is 2,655.71 sq. metres as per email sent by Mr. Carroll on 18th September, 2009.
3. We ask ourselves how the hypothetical tenant would view the situation taking a number of factors into consideration First of all the location of the subject property is not good and is difficult to access. The comparisons offered by the respondent all front onto a roadway, whereas the subject is served by what might best be described as a cul-de-sac rural laneway. Comparison number 1 Martin McLaughlin is on the outskirts of Ballybofey; number 2, JML Transport on a minor road between Killygordon and Convoy; and number 3, Derek Long is on a minor road off the N13. All are much more accessible than the subject.

4. The workshop of the appellant is at about 25 years old and predates the 1986 valuation. This building, (the workshop) consists of a number of buildings and is not comparable in quality with the warehouse and workshops offered in the comparisons of the respondent.
5. The subject does not have an adequate a mains water supply, and the occupier had to supply his own water for the property with the erection of a 20,000 gallon tank. This is an added burden for insurance purposes and would not be favourable to a hypothetical tenant
6. The Tribunal does not accept that the part of the store used for storage of vintage vehicles should be exempt from the valuation. If the store was vacant for letting, all of it would be let on a commercial basis.
7. Two factors stand out in this valuation which would affect the opinion of a hypothetical tenant. First of all, the subject workshop is an old building and allowance must be made when comparing it with a more modern structure. Also the subject office is a prefabricated building, and again allowances must be made when comparing it to steel concrete structure which is more of a permanent nature.
8. While the Tribunal is sympathetic to Mr. Haughey that in the present economic climate his business turnover has dropped significantly and that he has had to lay-off staff, we can only value the property and not the business.

Based on the evidence, submissions and findings the Tribunal determines the valuation to be as follows:

Office	128.51 sq. metres	@ €25 per sq. metre	€3,212.75
Workshop	1,148.35 sq. metres	@ €12 per sq. metre	€13,780.20
Store	1,378.85 sq. metres	@ €19.50 per sq. metre	<u>€26,887.58</u>
Total NAV			€43,880.53
NAV €43,880.53 @ 0.5%			RV €19.40
Say €15			

And the Tribunal so determines.