

Appeal No. VA09/2/026 & 027

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

Nick Walsh

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2197083, Beauty/Hair Salon at Lot No. 15b, (VA09/2/026) and Property No. 858164, Beauty/Hair Salon at Lot No. 15a, (VA09/2/027) Baileys New Street, Custom House B, Custom House, County Borough of Waterford.

B E F O R E

Fred Devlin - FSCS.FRICS

Deputy Chairperson

James Browne - BL

Member

Fiona Gallagher - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 9TH DAY OF DECEMBER, 2009

By Notices of Appeal dated the 22nd day of June, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing valuations of €18 (VA09/2/026) and €40 (VA09/2/027) on the above described relevant properties.

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

"Valuation is excessive. This property has not had a tenant in two years." (VA09/2/026)

"Valuation is excessive and the property is situated on a street which is non-commercial."
(VA09/2/027)

The appeals in relation to both VA09/2/026 – Nick Walsh and VA09/2/027 – Nick Walsh were heard together and proceeded by way of an oral hearing held in the Tower Hotel, Waterford on 13th day of November, 2009. At the hearing the appellant represented himself. The respondent was represented by Mr. Edward Hickey, Chartered Surveyor, a Valuer in the Valuation Office.

Location

The subject properties are adjoining properties, both owned by the appellant, located about 60m from the quays in Waterford City, in a short, mainly residential, street.

The Properties Concerned

The property concerned in appeal VA09/2/026 consists of a small hairdressing salon at ground floor level with a mezzanine floor. Total accommodation on the ground floor level amounts to 24.51 sq. metres, comprising of two rooms and a toilet. The accommodation at the mezzanine level is 18.73 sq. metres, which could be used as either office or storage space.

The property concerned in appeal VA09/2/027 adjoins property VA09/2/026 and is fitted out as a beauty salon at ground floor level with a mezzanine floor. At ground floor level there are 6 treatment rooms, a reception area and toilets, comprising total accommodation of 85.56 sq. metres. The mezzanine floor has a total area of 7.71 sq. metres and could be used for storage.

Tenure

The appellant holds the freehold title to both properties.

Rating History

The subject properties were originally one unit, operating as a workshop and stores. This property was revised on appeal in 1969 with a Rateable Valuation (RV) of IR£33 (€11.90). A revision request was received from Waterford City Council to value the two units, the subject matter of these appeals, separately and the properties were revised in August 2008. A valuation certificate in respect of property VA09/2/026 was issued on 7th October 2008 proposing a RV of €18. A Valuation Certificate issued on the same date in respect of property VA09/2/027, proposing a RV of €40. No representations in respect of either valuation were made to the Revision Officer. Final Certificates were issued on 5th November 2008. The appellant appealed against the valuations by appeals of 11th December 2008, but the

valuations remained unchanged. The appellant then further appealed to the Valuation Tribunal by means of notices of appeal dated 24th June 2009.

The Issue

Quantum.

The Appellant's Evidence

Mr. Nick Walsh, having taken the oath, stated that it was his belief that the valuation of both properties was excessive as the location of the properties had become very non-commercial in recent times. He stated that about 10 years ago the properties were in a very poor state of repair and in danger of collapse and so it was necessary for him to carry out works of improvement.

Mr. Walsh stated that he spent considerable money upgrading property VA09/2/027 and obtained planning permission for it to be used as a restaurant. After completion of the upgrade 5 years ago, Mr. Walsh stated that he offered the premises to let but there had been no interest. His wife then went into occupation and currently runs the premises as a hair salon. Mr. Walsh claimed that this business is not making any money and it is likely to be closed prior to Christmas 2009.

Mr. Walsh stated that property VA09/2/026 has been virtually unoccupied for most of the past 5 years also. There had been a tenant in occupation for a short while, who operated the premises as a hat shop. However, the tenant vacated the premises as the business was not viable. Mr. Walsh then decided to convert the premises into a hair salon. There was a tenant in occupation of the hair salon for a period of 8 weeks and subsequently it remained unoccupied until relatively recently, when Mr. Walsh's daughter opened a ladies clothes shop in the property. However, Mr. Walsh stated that this business is not profitable.

In relation to the surrounding properties, Mr. Walsh stated that the public house beside the Munster Bar is experiencing a low-level of trading and that another bar nearby has closed down. Mr. Walsh stated that the only hope for the area was if a proposed development of a Viking Quarter within the vicinity by Waterford City Council went ahead. His properties had been looked at by the Council for use as a museum within this development. However, given the current economic situation the status of this proposed development is now uncertain. In

conclusion, Mr. Walsh stated that location of the subject properties is in need of revitalisation and that the RV on the properties is totally excessive.

Within his notices of appeal Mr. Walsh had proposed a RV of €9 in respect of property VA09/2/026 and a RV of €20 in respect of property VA 09/2/027. He also submitted a document from Sherry Fitzgerald Estate Agents outlining rents of a number of properties within the area.

Cross-Examination

Under cross-examination, Mr. Walsh was asked to explain how he had arrived at his proposed RV figures of €9 in relation to property VA09/2/026 and €20 in relation to property VA09/2/027. Mr. Walsh admitted that he had halved the respondent's estimate of the valuation as he felt that the properties were grossly overvalued. He further stated that the street on which the properties are located was going down in value and was not attracting a good class of customer. Mr. Hickey asked why Mr. Walsh had not put forward any comparisons in support of his proposed RV figures, but Mr. Walsh denied that he had access to such information. He stated that he had access to some rental information, which he had submitted through a letter from Sherry Fitzgerald.

Mr. Hickey put it to Mr. Walsh that under the legislation the respondent had to value a property based on the floor area, its location and comparisons and not on the economic situation. Mr. Walsh replied that the street had gone down, that it was primarily a residential street and was a very poor area for commercial activity and that the prospects were not good. Mr. Hickey further put it to Mr. Walsh that the respondent had to put a valuation on the properties and that Mr. Walsh had failed to provide any evidence as to how he had valued the properties. Mr. Walsh replied that he felt the valuation had to go down rather than up, as the commercial activity in the street had declined.

In response to a question by the Tribunal as to whether it was fair to value the subject properties at a third of the value of the respondent's Comparison No. 3, Mr. Walsh stated that it was not fair, as that property had superior frontage and the other properties on that street were entirely commercial. The Tribunal asked Mr. Walsh what rent he would look for if his properties were located in the same location as Comparison No. 3 and he said €10,000 per

annum. When asked what rent he would ask for in the properties' current location, he replied that he would look for half of that.

Respondent's Evidence

Mr. Hickey having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal and the respondent, as being his evidence-in-chief. Mr. Hickey stated that he had inspected and surveyed the properties and he had to make a judgment as to the RV of the properties. He stated that there were no direct comparisons on the street, so he looked at the RV's of properties on those parts of the quays close to the subject properties and he then discounted back, as the location of the subject properties was inferior.

Mr. Hickey contended for a rateable valuation of €18 in respect of property VA09/2/026 calculated as follows:

Ground Floor	24.51 sq. metres	@ €90.00 per sq. metre	= €2,205.90
Mezz. Floor	18.73 sq. metres	@ €35.00 per sq. metre	= <u>€ 655.55</u>
Total			€2,861.45
RV @ 0.63% = €18.02			
Say €18			

He contended for a rateable valuation of €40 in respect of property VA09/2/027 calculated as follows:

Ground Floor	85.56 sq. metres	@ €71.00 per sq. metre	= €6,074.76
Mezz. Floor	7.71 sq. metres	@ €35.00 per sq. metre	= <u>€ 269.85</u>
Total			€6,344.61
RV @ 0.63% = €39.97			
Say €40			

In support of his opinion of rateable valuation, Mr. Hickey put forward the same three comparisons in respect of both properties, all of which are located on the quays in superior locations to the subject properties. The first comparison, Ann Power, was revised in 1999 and at the time was operating as a beauty/hair salon. The property is valued at a rate of €174.58 per sq. metre based on total accommodation of 23.08 sq. metres. His second comparison, Toni & Guy hair salon, has a total shop area of 108.78 sq. metres and is valued at a rate of

€16.71 per sq. metre. The final comparison, Garoid Ryan, was valued in 2009 and was not appealed. The property has a total area of 38.5 sq. metres and is valued at a rate of €23.70 per sq. metre. It was vacant at the time of valuation, but is now let to a physiotherapy practice. Mr. Hickey admitted that all along that part of the quays there is a lot of vacant property.

Mr. Hickey gave evidence that no representations were made by the appellant at representation stage. He stated that it was only at appeal stage that representations were made and no evidence was submitted by the appellant in terms of comparisons or proposed RVs. Mr. Hickey stated that the appellant had submitted a letter from Sherry Fitzgerald, which just shows the state of the commercial market at a particular time. He contended that in valuing the subject properties, he has to comply with the provisions of the Valuation Act, 2001.

In response to a question by the Tribunal, Mr. Hickey admitted that the location of the subject properties was not good and that it was, without doubt, a fairly poor retailing area. He stated that side streets of the type where the subject properties are located were more suited to office use. The Tribunal also enquired from Mr. Hickey as to the frontage of the two properties and he stated that the frontage of property VA09/2/026 was 5.2 metres and of property VA09/2/027, which was a long, narrow, L-shaped unit, was 2.9 metres.

Cross-Examination

Under cross-examination, Mr. Hickey was asked why he had valued the properties upwards. He replied that the last valuation was carried out in 1969 and that the properties now fell to be valued under the current legislation. He stated that the whole basis of the valuation system had changed in 1988/1989 and that any properties valued before that were no longer relevant. Mr. Hickey also stated that he would value a workshop at less than a retail unit.

Mr. Hickey admitted under questioning from the Tribunal that property VA09/2/027 has a very small frontage, but he contended that it has a good finish. He admitted that it would be more appropriate for office use. Mr. Hickey stated that the key issue to be determined was by how much the subject properties should be discounted from those properties located on the quays.

Findings

1. The onus of showing that the valuation of the properties concerned, appearing in the Valuation List, is incorrect is on the appellant.
2. There was no dispute between the parties as to the description of the subject properties or the total accommodation. It was also common case that the properties are located in a very poor retailing location, with no other retail units on the same street.
4. In arriving at its decision, the Tribunal is of the view that there are no direct comparisons to the subject properties. However, the respondent's Comparison No. 3, Garoid Ryan, is the most relevant comparison, due to its proximity to the subject properties. Notwithstanding this, the Tribunal accepts that Comparison No. 3 is in a much superior retail location to the subject properties and, accordingly, when valuing the subject properties, a substantial discount against Comparison No. 3 should be allowed.
5. The Tribunal finds that the respondent failed to make sufficient allowance for the inferior location of the subject properties as compared with the comparisons it cited when valuing the subject properties.

Determination

Having regard to the foregoing, the Tribunal determines the rateable valuation of Property VA09/2/026 to be €15, calculated as follows:

Ground Floor	24.51 sq. metres	@ €75.00 per sq. metre	= €1,838.25
Mezz. Floor	18.73 sq. metres	@ €30.00 per sq. metre	= <u>€ 561.90</u>
Total			€2,400.15

RV @ 0.63% = €15.12

Say €15

The Tribunal determines the rateable valuation of Property VA09/2/027 to be €34, calculated as follows:

Ground Floor	85.56 sq. metres	@ €60.00 per sq. metre	= €5,133.60
Mezz. Floor	7.71 sq. metres	@ €25.00 per sq. metre	= <u>€ 192.75</u>
Total			€5,326.35

RV @ 0.63% = €33.56

Say €34

And the Tribunal so determines.