

Appeal No. VA09/3/030

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

William Murphy & Sean Bissett

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2196811, Beauty/Hair Salon at Lot No. 9B/1, Clogherbrien, Clogherbrien, Tralee, County Kerry.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Veronica Gates - Barrister

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF JANUARY, 2010

By Notice of Appeal dated the 31st day of July, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €8.00 on the above-described relevant property.

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

"We are located outside Tralee and other properties similar to ours are valued €30 - €40. We can provide details if required. N.B. We are a new business employing 6 people and are trying to survive in difficult times. Rates of €8 for a small business like ours does not help. Unit next door is same size and has been rated at €0! Also been appealed."

This appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on 30th day of November, 2009. The appellant was represented by Mr. Kieran Curtin, ASCS, MRICS, of GVA Donal O Buachalla and the respondent by Mr. David Molony, B.Sc, MRICS, a District Valuer in the Valuation Office. Both valuers 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.

The Property

The subject property comprises a ground floor Beauty/Hair Salon contained in a new dormer development comprising of two ground floor retail units. The development is contained within the grounds of a Statoil Service Station and convenience shop. The facade is fully glazed with PVC double glazed windows. Pedestrian access is available via a glazed entrance door. The entire occupies a regular shaped site. Externally there are 4 marked parking spaces to the front. Headroom on the ground floor is 2.90 metres.

Floor Areas (as agreed):

Ground Floor: Retail: 91.45 sq. metres
 Store: 3.48 sq. metres

Location

The subject property is located in Mounthawk, Tralee which is located on the periphery of Tralee town. It is situated at the junction of the R558 Tralee – Fenit Road and the R551 Tralee – Ballyheigue Road and is approximately 3 miles northwest of Tralee Town Centre. The entrance to the property is at the junction of the Spa/Fenit roundabout. This also leads to Ardfert. The subject is located within the jurisdiction of Kerry County Council.

Valuation History

- 16th September 2008** Valuation Certificate issued. Rateable Valuation fixed at €8.00.
 Description: Shop.
- 6th October 2008** Breda Barry (Landlord) submitted representations to the Revision Officer.
- 15th December 2008** The Revision Officer issued his decision to make no change to the valuation of €8.00. Description amended to Beauty/Hair Salon.

- 2nd January 2009** William Murphy lodged an appeal to the Commissioner of Valuation.
- 6th July 2009** The Appeal Officer issued his decision to make no change to the valuation of €8.00.
- 31st July 2009** Appellant lodged an appeal to the Valuation Tribunal.

The Appellant's Case

Mr. Kieran Curtin, having taken the oath, adopted his written précis as being his evidence-in-chief. He confirmed that the floor areas were agreed. He stated that this case was a simple quantum case. Mr. Curtin briefly went over the location and description of the subject property. He then dealt with his two comparisons as follows:

Comparisons

No. 1 Ardfert Fuels Limited, 2B/1.2 Ardfert, RV €155, 2008 Revision

Retail, café, office	227.47 sq. metres	@	€68.34
Canteen	4.50 sq. metres	@	€34.17
Subsidiary offices	37.20 sq. metres	@	€54.67
Stores	29.25 sq. metres	@	€30.79
Stores	14.19 sq. metres	@	€20.50

- Subject located directly opposite comparisons cited by the Valuation Office.
- Larger unit than subject property.
- Approximately 7 kms from subject property.

No. 2 Brownes Cash Store Ltd. (Costcutter), 1B Castleisland, RV €101.58, 1991 FA

Retail	256.00 sq. metres	@	€61.50
1 st Floor offices, restaurant	133.40 sq. metres	@	€27.33
Stores	75.25 sq. metres	@	€13.67

- Better location in town (Castleisland) with car-parking opposite.
- Larger unit than subject property.

- Approximately 21 kms from subject property.

In his evidence, Mr. Curtin contended for a rateable valuation of €38.00 calculated as follows:

Ground Floor:	Retail	91.45 sq. metres	@ €2.00 per sq. metre	= €7,498.90
	Store	3.48 sq. metres	@ €1.00 per sq. metre	= <u>€ 142.68</u>
			Total NAV	= €7,641.58

RV @ 0.5% = €8.21

RV Say €8

Mr. Curtin then dealt briefly with his comparisons and the reason why the valuation on the subject property should be reduced.

Cross-Examination of Mr. Curtin

In cross-examination by Mr. Molony, Mr. Curtin stated that his comparison number one is within a forecourt development with a filling station/Tesco. Mr. Molony stated that the description of this property in the valuation list is “garage/supermarket, filling station” and the property was valued in 2008, but in Mr. Curtin’s analysis, it states, “retail, café and office are 227.47 sq. metres @ €8.34 per sq. metre”, which is incorrect in Mr. Molony’s view, as the word “retail” should read “supermarket”.

Mr. Molony said that in the appellant’s comparison no. 2, Brownes Cash Store Ltd., “retail” was incorrect and the description should read “supermarket”. He raised a previous Tribunal case where GVA Donal O Buachalla acted for the appellant, **VA06/3/011 - Oakholm Ltd**, a supermarket in Castleisland, where Brownes Cash Store Ltd. was used as a comparison and on that occasion the word “supermarket” and not “retail” was used. Mr. Curtin stated that he was aware that shops are rated at a higher valuation level than supermarkets.

In conclusion, Mr. Molony stated that, in his opinion, the comparisons used by the appellant do not comply with section 49 of the Valuation Act, 2001 which states “*that determination shall be made by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties comparable to*

that property". Mr. Curtin would not agree with Mr. Molony that the appellant's comparisons were not comparable. The second comparison, which measures 256 sq. metres, is much smaller than any normal supermarket, and is valued lower than the subject property.

Respondent's Evidence

Prior to Mr. Molony adopting his written précis and valuation, he made one change to page 3 of his précis, i.e. that the fit-out of the subject property should read €13,000.00 and not €130,000.00. Mr. Molony then dealt with his comparisons.

In his evidence, Mr. Molony contended for a rateable valuation of €1.00, calculated as set out below:

Shop:	91.45 sq. metres	@ €109.30 per sq. metre	= € 9,995.48
Store:	3.48 sq. metres	@ € 41.00 per sq. metre	= € 142.68
		Total NAV	= €10,138.16

RV @ 0.5% = €0.69

RV Say €1.00

Mr. Molony's comparisons, which are cited below, are all located within a short distance of the subject property. They are as follows:

Comparison Number 1 – Kate Kavanagh, Beauty/Hair Salon at Ardfert Business Centre, Ardfert, Co. Kerry.

Property Record No: 2185273

RV €2.00 (2006 Revision)

Beauty salon: 34.80 sq. metres @ €109.36 per sq. metre = €3,803.64

Beauty salon: 14.82 sq. metres @ € 54.68 per sq. metre = € 809.91

Estimated NAV €4,613.55 @ 0.5% = €23.06

Rateable Valuation €2.00

Note:

- The unit is incorporated in a former furniture showroom.

Comparison Number 2 – Sharon Lewis & K Revington, Shop at Ardfert Village, Ardfert, Co. Kerry.

Property Record No: 2183567

RV €38.00 (2006 Revision)

Shop:	60.11 sq. metres	@ €109.30 per sq. metre	= €6,570.02
Shop:	10.08 sq. metres	@ € 54.65 per sq. metre	= € 550.87
Shop:	6.48 sq. metres	@ € 41.00 per sq. metre	= € 265.68
Kit:	11.76 sq. metres	@ € 34.16 per sq. metre	= € 401.72

Estimated NAV €7,788.29 @ 0.5% = €38.94

Rateable Valuation €38.00

Note:

- The property comprises a former cottage, which has been tastefully converted into a retail unit specialising in children's wear, clothing and toys. It is located in the village of Ardfert.

Comparison Number 3 – Shakeel Ahmed Dar, Takeaway/Shop at Ardfert Village, Ardfert, Co. Kerry.

Property Record No: 50589

RV €23.00 (2004 Revision)

Takeaway/Shop:	36.17 sq. metres	@ €109.30 per sq. metre	= €3,953.38
Kitchen:	13.17 sq. metres	@ € 54.65 per sq. metre	= € 719.74

Estimated NAV €4,673.12 @ 0.5% = €23.36

Rateable Valuation €23.00

Cross-Examination of Mr. Molony

Mr. Curtin cross-examined Mr. Molony on his comparison of Kate Kavanagh, hair/beauty salon (comparison no. 1) the subject property. Mr. Molony identified the differences between the two properties and how they are not comparable. Mr. Molony stated that the three comparisons he introduced were not appealed. Mr. Molony also stated that the valuation which he placed on the subject property, was very conservative, to say the least, especially in relation to its location.

Findings

The Tribunal has carefully considered all the evidence presented, both written and oral and has had regard to the arguments adduced by the parties and finds as follows:

1. The respondent's comparisons are more reliable than the appellant's.
2. Mr. Curtin, in cross-examination, accepted that the correct description of his comparisons was "supermarket".
3. The subject property notwithstanding its location on the outskirts of Tralee, has a better profile and enjoys a better volume of passing traffic than any of the comparisons provided.
4. The respondent, when valuing the subject property, was very conservative in placing a value on the subject property concerned.

Determination

In reaching its determination, the Tribunal has been required to consider only the evidence submitted and adduced. In doing so, the Tribunal has made the foregoing findings and in light of those findings, determines that the respondent's amended valuation of €1.00, as contended for at hearing, be affirmed.

And the Tribunal so determines.