

Appeal No. VA09/3/027

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

Kehoe Brothers Machinery Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2008358, Workshop, Yard at Lot No. 2D, Ballydaniel, Balloughter, Gorey, County Wexford.

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Joseph Murray - B.L.

Member

Frank Walsh - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 28TH 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 €246.00 on the above-described relevant property.

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

"On the basis that the RV as assessed is excessive & inequitable. The Commissioner has failed to make sufficient allowance for the rural location, the type, nature & relative value of the premises."

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 17th November 2009. At the hearing the appellant Mr. Denis Kehoe attended and was represented by Mr. Eamonn S. Halpin, BSc (Surveying), ASCS, MRICS, MIAVI, and the respondent by Mr. Patrick McMorrow, ASCS, IAVI, a Valuer in the Valuation Office. Each representative, having taken the oath, adopted his précis and valuation, which had previously been received by the Tribunal and exchanged with the other party, as his evidence-in-chief.

Issue

Quantum

Location

The relevant property is located off the N11 main Wexford to Gorey road at Ballydaniel, approximately 1 mile from Camolin Village. This is a rural area and there is no other commercial activity in the vicinity.

Description of Property

The property is comprised of an extended and modernised farm machinery sales and parts depot with ancillary workshop and yard. The premises has been improved and added to on a number of occasions over the years and in particular since last revised in 1996.

These include improved front office/reception area, parts store and sales area, together with an external workshop. An industrial building – used as the main workshop – with eaves height of 7.8m which has also been erected to the rear of the part store and incorporates offices constructed over two floors. This workshop features double skin insulated pvc cladding over masonry walls and an internal five ton gantry structure.

Accommodation

The property consists of a tractor and machinery sales and repair centre, made up of an office reception area, parts store and sales area, as well as a small loft for parts storage, new workshop and offices, training and canteen areas. There is a concrete and hardcore front parking area. To the side there is an old but improved workshop area and to the rear there are additional hardcore yards and as noted a newly constructed workshop.

Areas

The areas were agreed between the respondent and the appellant following written confirmation provided by Mr. Halpin to the Registrar of the Valuation Tribunal dated November 13th, 2009, copy enclosed herewith as Appendix 1, replacing Page 10 of his précis.

Improved areas since valued in 1996

Reception/Office	85.4 sq. metres
Parts Store & Sales	289.1 sq. metres
Loft	76.40 sq. metres
Workshop Improved Eaves height 4.3metres	384.20 sq. metres
Yard mix of hardcore & concrete (Old)	1,000 sq. metres

Newly Developed Areas

Workshop Eaves height 7.8 metres	670.0 sq. metres
Gantry Structure	
Offices	66.0 sq. metres
Workshop (Low) Eaves height 4.2 metres	60.4 sq. metres
Training/Canteen (part new)	91.1 sq. metres
Workshop (New)	149.60 sq. metres
Yard (New) hardcore	5,750 sq. metres

Condition of Property

The old buildings are of single skin without insulation, whereas new buildings, the parties agreed, are of a good industrial standard. The development was not purpose-built, rather piecemeal over time.

Tenure

The interest in the property is understood to be held freehold.

Valuation History

- **1996** The property was revised and the RV appealed following additions. On appeal part of the RV was struck out as the building was outside the original site boundary and this area had not been listed for revision. The balance of the assessment was reduced. The property was then revised to take account of the additional site area and the buildings and agreed at €68.58.

- **1st September 2008** Revision Officer Mr. Pat McMorrow was appointed on foot of a request from Wexford County Council to take account of additions, alterations and improvements.
- **15th October 2008** The property was inspected by Mr. McMorrow.
- **5th November 2008** A Valuation Certificate was issued proposing an RV of €258.
- **2nd December 2008** Eamonn Halpin & Co. made representations seeking a lower assessment.
- **5th December 2008** Valuation slightly reduced to RV €246 (without agreement).
- **12th January 2009** Eamonn Halpin & Co appealed the proposed RV of €246.
- **June 2009** Further discussions with the Revision Officer.
- **9th July 2009** The Commissioner of Valuation dismissed the First Appeal and issued the valuation certificate, with an unchanged RV of €246.
- **4th August 2009** The appellant appealed the Commissioner's decision to the Valuation Tribunal through Eamonn Halpin & Co Ltd.

The Appellant's Case

Mr. Halpin outlined his client's case, referring to his précis, and emphasised the following:

1. The location of the subject property is moderate, removed from the village of Camolin on a minor road in a rural area.
2. The area around Camolin is not a recognised industrial location.
3. The property primarily serves the needs of the local community and there is little or no potential as such for passing trade.
4. The main front building, although partially improved, is still quite a basic structure.
5. The rate per square metre level applied by the Commissioner on the subject is excessive, in view of the established tone of the list for superior properties as well as other similar type properties around the county.
6. It is accepted that with this type of property, as with all others, there is a range of values, and the subject would be considered to be at the lower range.
7. The Commissioner has not applied sufficient consideration to the actual location in this case.

8. The original basis relied upon by the Commissioner when formulating the RV of €258 (and even the figure of €246) was not sustainable and was an over-estimation of the property's relative worth.
9. The occupier's family has a significant input into the running of the business at the property and without this the business might not survive at its location.
10. The hypothetical tenant would thus only be interested in this property if it was offered on very favourable terms, due to the locational and other drawbacks associated with the property.
11. Great care must be taken when considering the subject against the "tone of the list", as this type of premises is different from some of the others already assessed. When the actual location and potential for trading is taken into account, Mr Halpin declared that it is clear that a simple application of a rate per sq. metre throws up too high a figure, which would be both unfair and unreasonable.
12. The appellant seeks a substantial reduction to more fairly reflect the property's relative value against the broader tone of the list. This figure by Mr. Halpin's calculation amounts to a requested RV of €150, as outlined below.

Mr. Halpin offered 5 comparison properties to the Tribunal for consideration as follows (details of which are attached as Appendix 2 hereto):

No.1	Property No. 2008325	Main Peugeot dealer near Courtown
No.2	Property No. 2008282	Joinery complex, rural location 6 miles from Enniscorthy
No.3	Property No. 2008024	Paddy Denby Engineering, Ferns
No.4	Property No. 2199301	Doyles Garage, Camolin
No.5	Property No. 2008588	Main Renault Garage, on the outskirts of Gorey

The Valuer, on Mr. McMorrow's request agreed to disregard and delete his comparison property no. 4, as the Valuation of same post-dated the subject. He then referred the Tribunal to the devaluations of each of the four remaining as listed above, to demonstrate that:

- A) Workshops had been rated at levels of €13.67 to €17.05 per sq. metre
- B) Showrooms and Sales areas at levels of €27.34 per sq. metre
- D) Stores from €6.83 to €10.25 per sq. metre, and
- E) Yards and Sales Display yards from €0.63 to €1.00 and up to €1.37 per sq. metre

He emphasised that the large hardcore open yard to the rear would not influence the rental value of the subject property.

Mr. Halpin in his oral evidence said that the new workshop of 670 sq. metres was the main area of disagreement and he could not understand the Commissioner using a rate of €25.97 per sq. metre as this was more than the level normally applied to IDA standard buildings in Wexford Town. Mr Halpin repeated that this particular structure is situate to the rear of the original building. The consultant valuer also argued that, all matters considered, the net annual value assessed on the entire complex should not exceed €30,000.

Mr. Halpin conceded that the new rough hardcore yard to the rear at 5,750 sq. metres could be included in the valuation, but again stressed that it has no rateable value, that the separate access to same is burdened with a planning restriction and that the said yard is at a much lower ground level.

The Valuer stated that the survival of the business at its current location is due only to the involvement and business acumen of the proprietor's family. He declared that the Commissioner is not entitled to tax an occupier's goodwill or business acumen. He stated further that because of the property's location a hypothetical tenant would only be interested in the property if it were offered at very favourable terms.

Valuation by the Appellant

Estimated NAV as of 1988, employed the Comparative Basis of Valuation.

Offices	85.4 sq. metres @ €34.17 per sq. metre	=	€2,917
Trade counter & parts	289.1 sq. metres @ €17.05 per sq. metre	=	€4,929
Loft	76.4 sq. metres @ €3.42 per sq. metre	=	€ 260
Yard	1,000 sq. metres	=	€1,270
Workshop	352.2 sq. metres @ €13.67 per sq. metre	=	€4,815
Workshop	32 sq. metres @ €6.83 per sq. metre	=	€ 218
Workshop	670 sq. metres @ €17.05 per sq. metre	=	€11,424
Offices	66 sq. metres @ €20.50 per sq. metre	=	€ 1,353
Workshop	60.4 sq. metres @ €13.67 per sq. metre	=	€ 826
Training room & canteen	91.1 sq. metres @ €20.50 per sq. metre	=	€ 1,868

Workshop	149.6 sq. metres @ €13.67 per sq. metre	=	<u>€ 2,045</u>
Hardcore Yard	5,750 sq. metres		
		Total NAV	= €1,925

Say = €30,000

RV @ 0.5% = €150

Cross-Examination by the Respondent

In reply to questions raised by Mr. McMorrow, Mr. Halpin advised the following:

1. The effective Valuation date was December 05, 2008.
2. Comparison 4 was therefore not pertinent and had to be ignored for the task.
3. He acknowledged that unlike comparison property no.1 which has a Showroom, but it does not include a trade counter as per the subject property.
4. Comparison No. 2 was revised in 1989 and not 1999, as set out in Mr. Halpin's précis.
5. His comparison property no. 2 Workshop was similar, in his opinion, to his client's large workshop, though he himself had not visited that premises.
6. Comparison No. 3 was a converted former National School building and revised in 1990.
7. He introduced comparison no. 5, as an indicator of the range of values of listed properties in the Rating Authority area.
8. He would not agree with the respondent that the rate per sq. metre of €17.05 reflected a level applicable to older, non insulated, "barn" type workshops, and cited IDA buildings with much higher specifications set at levels of €20.50.
9. He explained that the Training room and Canteen of the subject are located at the rear of the workshop, within a long narrow corridor.
10. He characterised the new stand-alone workshop as a structure akin to a shed and, in Mr. Halpin's view, hence not capable of commanding a high rent as indicated in the Warren Estates Rental Report dated 11/12/2008.

Respondent's Case

Mr. McMorrow, having taken the oath, outlined the calculations relied upon by the Commissioner to produce a rateable valuation of €246, as set out below:

Improved since valued in 1996

Reception/Office (Improved)	85.4 sq. metres	@ €34.18 per sq. metre	= €2,918
Parts Store & Sales (Improved)	289.1 sq. metres	@ €17.09 per sq. metre	= €4,941
Loft	76.40 sq. metres	@ € 6.84 per sq. metre	= €522
Workshop (Improved)	384.20 sq. metres	@ €17.09 per sq. metre	= €6,565
Yard (old)	1,000 sq. metres	@ € 1.37 per sq. metre	= €1,367

Newly Developed

Workshop (New)	670.0 sq. metres	@ €25.97 per sq. metre	= €17,402
Gantry Structures (New)			= €1,500
Offices (New)	66.0 sq. metres	@ €34.18 per sq. metre	= €2,256
Workshop (Low)	60.4 sq. metres	@ €20.51 per sq. metre	= €1,239
Training/Canteen (part new)	91.1 sq. metres	@ €25.97 per sq. metre	= €2,366
Workshop (New)	149.60 sq. metres	@ €20.51 per sq. metre	= €3,068
Yard (New) hardcore	5,750 sq. metres	@ € 0.89 per sq. metre	= <u>€5,109</u>
			= €49,253

€49,253 @ 0.50% = RV €246.26

Say RV €246.00

Giving his oral evidence, he again noted that one of Mr. Halpin's comparisons, i.e. No. 4, Doyles Garage, Camolin, was a 2009 valuation and was not relevant to this appeal. Mr. McMorrow took issue with all of Mr. Halpin's comparisons and stressed that his own comparisons were much more relevant.

He said that the agreed levels reached in 1996 should be adjusted upwards to allow for the improvements to the old building, particularly the office/reception area, as well as the shed which has had a concrete floor installed. The new buildings, he stated, are of a good industrial standard and the complex has been vastly improved and modernised. He contended also that the rental valuation report prepared by Warren Estates was of no relevance in the circumstance and there was no basis for it.

He referred to the three Comparison properties in his précis, details of which are set out in the attached Appendix 3, namely:-

No. 1 The subject - Kehoe Bros., as agreed at 1996 First Appeal

No. 2 A O'Reilly, Castle Timber Frame, Ballytramon, Wexford

No. 3 Liam Keating, Ballwish, Wexford

Citing the particular relevance of each of the comparisons to his case, the respondent argued that the levels applied to the subject in the 1996 Revision were agreed, and the other two comparisons were evidential of applied rates per sq. metre on similar offices (€34 to €41) canteen (€30), workshops (€13.67 low eaves to €27.34 high eaves) and yards (€1.36).

Mr. McMorrow concluded that a rateable valuation of €246.00 on the subject was fair and reasonable.

Findings & Conclusion

The Tribunal has fully considered all of the oral and written evidence presented by the parties and the arguments adduced at the hearing and makes the following findings which are relevant to the subject property:

1. The property is not in a recognised industrial area.
2. It is a moderately located premise with very little potential for passing trade.
3. The new workshop and offices are built to a good industrial standard.
4. The old building has been improved and a new concrete floor has been installed in the old workshop.
5. The business benefits in a significant way from the direct management input and business acumen of the proprietor and occupier.
6. The area described as the loft was not noted in the 1996 revision.
7. Thirty two square metres of the older and improved workshop should be levied with a reduced rate, having regard to the physical characteristics/location of same.
8. An allowance should be provided for in the rate per square metre applied to the new large workshop at the rear of the original complex and also bearing in mind its size.
9. The level applied to the new offices should reflect their integration within the complex.
10. The new low level Workshop area applied level should be made relative to the tone of the list.
11. An adjustment should be made to the level applied to the canteen & training room to recognise the floor layouts, physical location and limited availability of natural lighting.

12. An allowance should be provided to account for the level, surface, area, location and planning restriction on access to the new rear yard.

Determination

Having regard to the foregoing, the Tribunal has reached the conclusion that the net annual value of the subject property should be calculated as set out hereto:

Reception/Office (Improved)	85.40 sq. metres	@ €34.18 per sq. metre	= €2,918
Parts Store & Sales (Improved)	289.10 sq. metres	@ €17.09 per sq. metre	= €4,941
Loft	76.40 sq. metres	@ € 3.42 per sq. metre	= €261
Workshop (Improved)	352.20 sq. metres	@ €17.09 per sq. metre	= €6,019
	32 sq. metres	@ € 8.55 per sq. metre	= €274
Yard (Old)	1,000 sq. metres	@ €1.367 per sq. metre	= €1,367
Workshop (New)	670 sq. metres	@ €21.36 per sq. metre	= €14,311
Gantry Structure (New)	included in overall		
Offices (New)	66.0 sq. metres	@ €22.00 per sq. metre	= €1,452
Workshop (Low)	60.4 sq. metres	@ €16.87 per sq. metre	= €1,019
Training/Canteen (part new)	91.1 sq. metres	@ €22.00 per sq. metre	= €2,004
Workshop (New)	149.6 sq. metres	@ €16.87 per sq. metre	= €2,524
Yard (New) hardcore	5,750 sq. metres	@ € 0.50 per sq. metre	= <u>€2,875</u>
			= €39,965

NAV €39,965 @ 0.5% = €199.83

RV Say €200

And the Tribunal so determines.