

Appeal No. VA09/4/019

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

**Thomas & Annie McWhinnie**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2004909, Shop at Lot No. 48.50, Drumbaran, Ardara, Glenties, County Donegal

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Tony Taaffe - Solicitor**

**Member**

**Niall O'Hanlon - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 11TH DAY OF JUNE, 2010**

By Notice of Appeal dated the 16th day of December, 2009 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €11.00 on the above described relevant property.

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

"Not valued in accordance with Valuation Act. Comparison relied upon by VO does not reflect tone of list. Comparison relied upon by VO is selective. NAV does not reflect 1988 values. Valuation excessive"

This appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 23<sup>rd</sup> day of February, 2010. The appellant was represented by Mr. Patrick McCarroll, MRICS, ASCS, Chartered Valuation Surveyor, and Mr. Tomas Cassidy, BSc (Property Management and Valuation Surveying); a District Valuer in the Valuation Office appeared on behalf of the respondent. 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 Concerned and Location**

The subject property is a mid-terraced two-storey building with supermarket, stores, office and internet café occupying the ground floor. The subject property is located on the main street in Ardara. The town is located in southwest Donegal. The agreed floor area measures 384.17 sq. metres, which consists of ground floor retail 337.20 sq. metres, ground floor office 4.67 sq. metres and ground floor store 42.30 sq. metres.

### **Valuation History**

At revision the valuation was assessed at €17.00. An appeal was made against this valuation on the 26<sup>th</sup> May, 2009. A Valuation Certificate with a rateable valuation of €11.00 was issued on the 20<sup>th</sup> November, 2009. The notice of appeal to the Valuation Tribunal is dated the 16<sup>th</sup> December, 2009.

### **The Appellant's Case**

In his evidence, Mr. Mc Carroll contended for a rateable valuation of €82.00 calculated as set out below:

Retail	337.20 sq. metres	@	€45.00 per sq. metre	=	€15,174.00
Office	4.67 sq. metres	@	€45.00 per sq. metre	=	€ 210.15
Store	42.30 sq. metres	@	€25.00 per sq. metre	=	<u>€ 1,057.50</u>
			NAV	=	€16,441,65

RV @ 0.5% = ~~€82.20~~

RV say €82.00

In support of his opinion of net annual value Mr. McCarroll introduced four comparisons, details of which are set out in Appendix No. 1 attached to this judgment.

In evidence, Mr McCarroll stated that Ardara is a small rural town located on the western coast of Donegal. The business is dependent upon the tourism trade and this is a relatively short season, peaking from June to July, with a gradual fall in activity after that.

He stated that the property has no designated car-parking. Petrol stations have become an important venue for the casual shopper. This adds to the competition for the town centre retailer. The growth of discount retailers such as Aldi has added to the competitive pressure of units such as the subject property. With greater mobility, the greater part of shopping takes place in Letterkenny and the larger urban centers. The fall in value on sterling adds to the difficulty of doing business in Ardara as shoppers are going over the border to do their shopping. A new Supervalu supermarket has opened recently in Killybegs and this is located only 5 miles from Ardara.

All the Valuation Office comparisons have an 'Off-Licence' and the subject property does not, which is a major factor that should be taken into account.

Mr. McCarroll stated that a very important factor to be taken into account in this appeal is the storage area. In his comparison no. 1, the storage area is approx 50% of the retail area, but the storage area in the subject property is approx 1/10<sup>th</sup> of the retail area. He emphasized that this is a major consideration that should be taken on board by the Tribunal. Mr. McCarroll then dealt with his comparisons in detail.

Under cross-examination by Mr. Cassidy, Mr. McCarroll agreed that his comparisons were a good distance from the subject property:

Comparison No.1: Annagry Village is located c.32 miles from subject property.

Comparison No.2: Rathmelton is located c.59 miles from subject property.

Comparison No.3: Falcarragh is located c.43 miles from subject matter.

Comparison No.4: Culdaff is located c.93 miles from subject matter.

Mr. Cassidy also questioned Mr. McCarroll about his second comparison, about which he had stated in his précis that one of the advantages of this property was the carparking. Mr Cassidy drew attention to Mr McCarroll having stated to the Tribunal on a previous occasion that one of the drawbacks of this property was a lack of carparking. Mr. McCarroll said that what he meant was that there was no on-street parking available at that property. He acknowledged that there is private parking to the rear of the premises for customers.

Mr. McCarroll then introduced Mr. Thomas McWhinnie, who took the oath and informed the Tribunal that he and his wife, Ann, had purchased the property in October 2008. He was assessed for rates and received a Valuation Certificate with an RV of €17.00. As all of this was very new to him and he thought that was all he owed the County Council.

His full time job was as a lorry driver but he also works for 32 hours a week in the shop. His wife works 60 hours per week in the shop, but receives no wages. They had two part-time staff whom they had recently had to let go as they could not afford to keep them on. Based on documentation from his accountant, Mr McWhinnie demonstrated that at present the weekly turnover for the shop is less than the level required to meet the weekly overheads.

### **The Respondent's Case**

Mr. Cassidy, having taken the oath, adopted his written précis and valuation, which had previously been received by the Tribunal as his evidence-in-chief.

In his evidence, Mr. Cassidy contended for a rateable valuation of €11.00 calculated as set out below:

Retail	337.20 sq. metres	@	€1.50 per sq. metre	=	€20,737.80
Office	4.67 sq. metres	@	€47.83 per sq. metre	=	€ 223.37
Store	42.30 sq. metres	@	€30.00 per sq. metre	=	<u>€ 1,269.00</u>
			Total NAV	=	€22,230.17

RV@ 0.5% = €11.15

RV say €11

Mr. Cassidy dealt with location, description, tenure, accommodation and the agreed floor area. In support of his opinion of net annual value, Mr. Cassidy introduced three

comparisons, details of which are set out in Appendix No. 2 to this judgment. He stated that his comparison no. 1 and comparison no. 2 are located in the same town as the subject property and that comparison no. 3 is located in Killybegs which is 5 miles from the subject property, and this, he believes sets a 'tone of the list' for the subject property. In conclusion he stated that all comparisons should be considered but comparison no. 1 is very close to the subject property and must be viewed as the most compelling piece of evidence.

### **Cross-examination by Mr. McCarroll**

With regard to Mr Cassidy's comparison no. 2, Mr McCarroll queried the validity of the revision of valuation in 2000 of this property, based on his reading of the Standard Valuation Report in that case. Mr Cassidy said he could not comment as he had not valued the property. However, he informed Mr. McCarroll that the property had been assessed in 2000 and reassessed in 2005, that the valuation had never been appealed and, therefore, that in accordance with section 63(1) of the Valuation Act, 2001 the valuation is correct.

### **Findings**

Having regard to all the evidence and arguments adduced, the Tribunal makes the following findings and determination.

1. The Tribunal is satisfied that the most relevant comparisons are those put forward by the respondent. The respondent's comparisons nos. 1 and 2 are located in the same village as the subject property. The respondent's third comparison is located in Killybegs, circa 5 miles from the subject property. In the opinion of the Tribunal, they have set a 'tone of the list' for the area.
2. The comparisons put forward by the appellant - although in the same local authority rating area, Donegal County Council - are located approx 32 - 90 miles from the subject property.
3. Having regard to the foregoing, the Tribunal determines the rateable valuation of the subject property to be €10 calculated as set out below:

Retail	337.20 sq. metres	@	€1.50 per sq. metre	=	€20,737.80
Office	4.67 sq. metres	@	€7.83 per sq. metre	=	€ 223.37

Store	42.30 sq. metres	@	€25.00 per sq. metre	=	<u>€1,057.50</u>
			Total NAV	=	€22,018.67
	RV @ 0.5%				= €110.09
	RV say				€110

And the Tribunal so determines.