

Appeal No. VA96/2/001

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Andrew Treacy**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Yard at Map Ref: 18b, Pound Street, Town of Ballina, Urban District of Ballina, Co. Mayo  
Quantum

**B E F O R E**

**Liam McKechnie**

**S.C. Chairman**

**Mary Devins**

**Solicitor**

**Patrick Riney**

**FSCS.FRICS.MIAVI**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 25TH DAY OF OCTOBER, 1996**

1. By Notice of Appeal dated the 29th day of March 1996 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £8 on the above described hereditament.
2. The grounds of appeal as set out in the Notice of Appeal in summary concerned the absence of buildings on the site and the restrictions placed on his use of the area.

3. The appeal proceeded by way of oral hearing which took place in Castlebar District Court on 25th day of October 1996. The appellant, Mr. & Mrs. Treacy appeared on their own behalf and Mr. Paschal Conboy, Valuer with the Valuation appeared for the respondent.
4. Ballina Urban District Council were the owners in fee simple of the property prior to 1992. It was at that time by common cause, a derelict site partly used for disposal of rubbish and occupied by itinerants.
5. From in or about 1981 Mr. Treacy for the purposes of housing a fleet of coaches, it being part of his business, occupied a portion of this property. His relationship with the Urban District Council was finalised by way of a lease in 1992 under which Mr. Treacy obtained a ten year lease of the subject property at an annual rent of £500. There are restrictions contained in that lease and there were also terms and conditions imposed on him for the granting of it.
6. Following that he carried out certain works which cost approximately £10,000 these included levelling and filling the site, the construction of a concrete apron and a pit with a washing area. He had to place block walls on both sides with a fence at the rear. He constructed a diesel pump and tanks with capacity of about 10,000 litres. It is used mainly for the purposes of parking, maintaining and fuelling the coaches.
7. The entire yard which has a surfaced area of about 9,675 sq.ft. is part concrete and is part hardcore. The concrete area comprises 2,764 sq.ft, the balance being in hardcore. The subject property is contained in Lot No. 18b in the valuation map, it does not include Lot No. 17 which straddles Thomas Street and Killala Road, and has an area of about 2,577 sq.ft.. So there is no doubt that before Mr. Treacy went into occupation of this property it was in a severely dilapidated state and following his occupation he has carried out the works above described which have significantly increased the appearance and amenity value of the area in question. Unfortunately from his point of view when that happened the Urban District Council made a request to the Commissioner of Valuation in 1994 to place a valuation on the property. The request was to value the bus compound of Mr. Treacy. The Commissioner of Valuation once requested to do so has an obligation to inspect the property which he

did and in its present state and condition placed a valuation of £8 on it. Mr. Treacy as he is entitled to do felt that it was excessive. He appealed to the Commissioner of Valuation and was unsuccessful at First Appeal and he is now before this Tribunal and is asking it to reduce that valuation.

8. The grounds of appeal in writing were slightly different to the grounds of appeal advanced during the course of this hearing. In writing he pointed out what the previous position was. He pointed out that it was used by the itinerants. Rhetorically he asked a question that if the itinerants were still there what valuation would be applied to the property and he also pointed out that he was forced to accept the conditions imposed by the lease and that he may have to consider resorting to a practise of parking his coaches along the Ballina Road. There is no appeal as such against the valuation of £8, and accordingly, the issue appears to be one of rateability. We are quite prepared in the exceptional circumstances of this case to deal with the question of rateability as well as the question of quantum. There is no doubt in our view whatsoever that that this property is rateable. It does not fall within any of the exempt categories contained in the *Poor Relief Act 1838* or the *Valuation Act 1854*. Consequently in the absence of any designation which might exempt this yard, a valuation must be placed on it. That is confirmed by our statutory provisions which are again contained in the basic *Valuation Act of 1852* as amended by the *Valuation Act of 1986*.
9. The valuation of a property in the first instance falls on the occupier. A person has to be in beneficial occupation of it before he becomes liable for rates. If there is no occupier as such then liability attaches to the owner. In this case there is no doubt whatsoever but that Mr. Treacy is in occupation of the property and is obtaining a benefit from that occupation. Therefore a value has to be placed on the property.
10. With regard to the valuation of £8 we are obliged to consider the question of quantum, that is to estimate what the net annual value of the subject property would be as of November 1988. In broad terms the net annual value equates with what the rental value would be back in 1988. Once we have ascertained what that figure is we then have to make an adjustment so as to convert that into a rateable valuation. It is common case that the way in which we approach that task is to apply a factor 0.5% to the rental value in order to obtain the rateable valuation. We know that the yard in

question is about 7,098 sq.ft., that the tanks have a capacity of about 10,000 litres or approximately 2,200 gallons and that the annual rent paid is £500.

11. Mr. Conboy on behalf of the Commissioner of Valuation has suggested a rate of 20p per square foot on the yard and has suggested a valuation of £2 on the tanks. The 20p per square foot rate would equate to a valuation of about £7 which together with a £2 valuation on the tank produces a total of £9 which he has rounded down to £8. That is one way of approaching the question of obtaining the rental value of the rateable hereditament. He adopted a second method namely of putting £2 on tanks, of looking at the rent and converting back to a rateable valuation of £2.50 and suggesting that expenditure of £8,000 at a rate of 10% will give a valuation of £8.50. The third way to approach the matter in order to check the validity of methods one and two is to directly pose the question of what the rental value would have been at November, 1988. He feels that the yard with the works carried out by Mr. Treacy would on the open market have obtained a rent of about £30 per week. That would give a total rent of £1,560 and as previously mentioned in order to convert that into rateable valuation we multiply by 0.5% which would give a rateable valuation of £8.

12. It is also very common in valuation law to refer to comparisons so again one can check the validity and the reasonableness of the rateable valuation placed on the subject property. Comparisons of their very nature are never identical and

accordingly

adjustments have to be made so as to bring them more in line with the subject property. Mr. Conboy refers to two comparisons. One is McAndrew's on the Castlebar Road. That is a hardcore yard of 6,500 sq.ft. with a portacabin on it. He has suggested that a rate of 25p per square foot should be on the hardcore yard and £3 on the portacabin of 113 sq.ft.. The rateable valuation on that comparison is £10, which is 25% higher valuation than the rate on the subject property. The other comparison which is an old CIE goods yard is significantly different in terms of size than Mr. & Mrs. Treacy's property. It has 32,292 sq.ft.. It has a large capacity in terms of gallonage which is 148,358 gallons. It has a 35 year lease from 1988 at £4,000 per annum. But in any event it has a valuation of £20 which is, 250% higher than the subject. Overall I am satisfied that comparison number one is, subject to adjustments, capable of being compared with the subject property. In the circumstances and looking at the subject property, having considered what Mr. &

Mrs.

Treacy have said and looking at the comparisons we are satisfied that on the evidence before us we could not interfere with the rateable valuation of £8 and accordingly determine that the suggested figure of £8 is the correct valuation on this subject property.