

Appeal No. VA10/2/032

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

Philip O'Sullivan & Company

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2201996, Office(s) at Lot No. 14 (First & Second Floor), Denny Street,
Tralee Urban, Tralee UD, County Kerry

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Veronica Gates - Barrister

Member

Michael Connellan Jr - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF DECEMBER, 2010

By Notice of Appeal dated 4th day of June, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €40 on the above described relevant property.

The grounds of appeal are set out in the Notice of Appeal, a copy of which is attached at Appendix 1 to this Judgment.

This appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper in Dublin 7 on 30th day of July, 2010. The appellant was represented by Mr. Joseph Revington, SC, instructed by Mr. Philip O’Sullivan, Solicitor. Mr. David Giles, a valuer with DNG WH Giles, also attended and gave evidence on behalf of the appellant. The respondent was represented by Ms. Grainne O’Neill BL, instructed by the Chief State Solicitor’s Office, and Mr. David Molony, BSc, MRICS, District Valuer in the Valuation Office.

In accordance with the rules of the Tribunal the parties had, in advance of the hearing, exchanged written submissions and submitted same to the Tribunal. At the oral hearing both valuers adopted their written submissions as their evidence-in-chief given under oath.

Issue

Quantum.

The Property Location

The property is located in Denny Street, which is one of the main thoroughfares in Tralee town.

Description

The subject property comprises first and second floor offices contained in the former AIB bank premises. The building is a mid-terraced three-storey structure with the building constructed with part concrete, brick and stone.

Accommodation

First floor offices	55.33 sq. metres
Second floor offices, Kitchen and Store	58.50 sq. metres

Condition

The property has been refurbished recently.

Valuation History (Relevant Dates):

18 th August 2009:	Valuation Certificate issued, rateable valuation fixed at €40.00, description: Offices
11 th September 2009:	Philip O'Sullivan & Company submitted representations to the Revision Officer.
11 th November 2009:	The Revision Officer issued his decision to make no change to the valuation of €40.00.
3 rd December 2009:	Philip O'Sullivan lodged an appeal to the Commissioner of Valuation.
2 nd June 2010:	Appeal Officer issued his decision to make no change to the valuation of €40.00.
4 th June 2010:	Philip O'Sullivan & Company lodged an appeal to the Valuation Tribunal.

Appellant's Case

Mr. Revington stated that the subject property is located in a fine Georgian street in Tralee. This area is no longer considered as the town centre because of the building of new shopping centres on the outskirts of the town.

Mr. O'Sullivan took the oath and, under questioning from Mr. Revington, stated that the premises is at 14 Denny Street and had been previously used as a bank. Mr. O'Sullivan said he purchased the property in 2008 for €1,550,000. Mr. O'Sullivan informed the Tribunal that, on purchasing the premises, he spent up €300,000 refurbishing the building. Prior to this, Mr. O'Sullivan advised, the property had been vacant from 2001 to 2008 and it had been advertised for letting but to no avail. Mr. O'Sullivan also stated that the subject property has a shared entrance with the property next door, 13 Denny Street, with a narrow hallway leading to a stairway approximately 3 feet wide. Mr. O'Sullivan said that prior to moving to No.14 Denny Street, his firm was located across the road at No. 21 Denny Street on the ground floor, and that the RV on that premises had been approximately €40. Mr. O'Sullivan stated that between 2007 and 2010 a lot of premises had closed on Denny Street, with one of the main occupants, the Health Service Executive, relocating to the outskirts of the town.

Mr. David Giles then took the oath and, under questioning from Mr. Revington, informed the Tribunal that he had worked for 10 years as an auctioneer in his family business. He stated that there were 33 buildings in Denny Street, of which 14 are partly or entirely vacant, with

the remaining 19 occupied. All the buildings are listed. Mr. Giles put forward 14 comparison properties (the details of which are attached at appendix 2 to this judgment), all of which are located in Denny Street. Mr. Giles gave details to the Tribunal in relation to several of these properties.

Cross-Examination

Ms. O'Neill, for the respondent, questioned Mr. Giles on his 14 comparisons, out of which the following details emerged: 2 of the comparisons had no RV; 4 comparisons related to ground floor properties; one comparison related to a basement; 5 comparisons related to entire properties. Of the 14 comparisons submitted by Mr. Giles, only 4 related to first and second floor properties, and these included the 2 properties on which there are no valuations. Ms. O'Neill put it to Mr. Giles that the only relevant comparisons were his comparisons numbers 4 and 14. In reply, Mr. Giles stated that the reason he had submitted his 14 comparisons was to show that the street is virtually empty. Ms. O'Neill then put it to Mr. Giles that his Comparison No. 4 had an RV of €85, which is more than double that on the subject property, while his Comparison No. 14 had an RV of €63, which is one and a half times more than that on the subject property. In conclusion, Ms. O'Neill put it to Mr. Giles that of the 14 comparisons submitted by him, 12 were not relevant, and that the RVs on the remaining two, Nos. 4 and 14, are in excess of the RV on the subject property.

Respondent's Case

Mr. Molony took the oath, formally adopted his précis as his evidence-in-chief and reviewed his submission. In response to questions from Ms. O'Neill, he gave a brief summary on the location and description of the said property. Mr. Molony stated that in spite of the relocation of a number of businesses from Denny Street, and the opening of Manor West Retail park on the outskirts of the town, he believed that the town centre was still the main hub in Tralee. In relation to the subject property, Mr. Molony observed that, in common with the subject, the majority of premises on Denny Street have shared entrances, adding that the entrance to the building in which the subject property is located is wider than the entrance to some of the other properties on Denny Street.

Mr. Molony then dealt with his valuation of the subject property, as follows:

Estimated Net Annual Value:

First floor offices: 55.33 sq. metres @ €81.97 per sq. metre	= €4,535.40
Second floor offices: 48.57 sq. metres @ €75.14 per sq. metre	= €3,649.55
Second floor kitchenette: 4.8 sq. metres @ €68.31 per sq. metre	= €327.89
Second floor store: 5.13 sq. metres @ €41.00 per sq. metre	= €210.33
Estimated NAV = €8,723.17 @ 0.5%	= €43.61
Rateable Valuation = €40	

Mr. Molony pointed out that, in rounding down from €43.61 to €40, he had given a reduction of circa 8.5% on the rateable valuation of the subject property.

Mr. Molony put forward 4 comparisons, as follows:

Comparison No. 1

Property No: 76339.21/ Unit 6 Denny Street, Tralee, Co.Kerry.

Occupier:	Kelly Foley & Company
Description:	Offices
Revision Assessment:	1991.VA92/6/109
Rateable Valuation:	€38.09

Valuation Assessment:

First Floor offices: 75.8 sq. metres @ €100.50 per sq. metre = €7,617.90

Estimated NAV €7,617.90 @0.5% = €38.09

Rateable Valuation €38.09

Note:

- The property is located on Denny Street in Tralee, accessed by stairwell.
- Valuation agreed immediately prior to the Tribunal hearing.

Comparison No. 2

Property No. 70727.22b Denny Street, Tralee, Co.Kerry.

Occupier:	Cadigan O'Regan Solicitors
Description:	Offices
Revision Assessment:	1991
Rateable Valuation	€24.00

Valuation Assessment:

First Floor Offices : 57.37 sq. metres @ €81.97 per sq. metre = €4,702.62

Estimated NAV €4,702.62 @ 0.5% = €23.51

Rateable Valuation €24.00

Note:

This property is located on Denny Street, Tralee, accessed by stairwell.

Comparison No.3

Property No. 70688 Denny Street, Tralee, Co.Kerry

Occupier:	Vacant
Description:	Offices
Revision Assessment:	2007
Rateable Valuation:	€85.07

First floor offices: 152.62 sq. metres @ €81.97 per sq. metre = €12,510.26

Second floor offices: 72.76 sq. metres @ €68.31 per sq. metre = €4,970.24

Estimated NAV €17,480.50 @ 0.5% = €87.40

Rateable Valuation €85.07

Note:

This property is on Denny Street in Tralee. First and Second floor offices accessed by stairwell only.

Referring to his comparisons, Mr. Molony stated his conviction that the tone of the list has truly been established for first and second floor offices on Denny Street.

In response to questions from Ms. O'Neill, Mr. Molony said he did not agree with Mr. Revington that Denny Street was no longer the town centre. In any event, Mr. Molony said, the subject property had been valued by reference to the "tone of the list".

Cross-Examination

When questioned by Mr. Revington, Mr. Molony stated *inter alia* that he had taken into account the fact that there is shared access to the subject property.

Findings and Conclusions

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

1. There was no disagreement between the parties as to the description, location or condition of the subject property.
2. All of the comparisons cited by both parties are located in the same street as the subject property.
3. Evidence on behalf of the appellant was considered by the Tribunal to be insufficient to support the appellant's case.
4. Evidence on behalf of the respondent was considered by the Tribunal to be relevant and supportive of the respondent's case, with the comparisons cited by the respondent providing evidence of an established tone of the list for the area.

Determination

Having regard to all of the foregoing, the Tribunal is satisfied that the rateable valuation of €40 as determined by the Commissioner is fair and reasonable. The Tribunal therefore affirms the valuation.

And the Tribunal so determines.