

Appeal No. VA10/3/032

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

Wilmots Childcare Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2203152, Crèche at Lot No. 1F Castle Oak, Streame, Nenagh West Urban, Nenagh UD, North Tipperary, County Tipperary

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Veronica Gates - Barrister

Member

Frank Walsh - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF FEBRUARY, 2011

By Notice of Appeal received on the 24th day of August, 2010, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €0 on the above-described relevant property.

The Grounds of Appeal are set out in a sheet attached to the Notice of Appeal, attached at the Appendix to this judgment.

The 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 21st day of October, 2010. The appellant was represented by a director of the appellant company, namely Mr. Bill Wilmot. The respondent was represented by Mr. Tomas Cassidy, BSc (Property Management & Valuation Surveying), a District Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence-in-chief. This evidence was supplemented by additional evidence given directly. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

The Property

The subject property is located in the Castle Oak Estate, Nenagh, Co. Tipperary, which is an incomplete development located approximately 3 kilometres from the town centre of Nenagh. The subject property is a new, purpose-built, single-storey childcare facility and has an agreed floor area of 438.83 sq. metres. The property is a detached facility, finished to a high specification.

Valuation History

The property was listed for revision by Nenagh Town Council and was assessed as having a valuation of €148. The valuation of €148 was challenged at representations stage. On foot of the representations lodged, the District Valuer inspected the property and formed the opinion that the property should have a valuation of €104. On foot of an appeal made against this valuation on 16th February, 2010, the valuation was reduced to €90. The appellant appealed the Commissioner's decision to the Tribunal by Notice of Appeal received on 24th August, 2010.

Appellant's Evidence

Mr. Wilmot formally adopted his précis of evidence and gave oral evidence that the subject property was built in 2008 as part of a large development on the Limerick side of Nenagh. The market for the crèche was to come from 470 residential units planned for the Castle Oak residential/mixed-use development and from the employees of the businesses located in the

adjacent Springfort Park retail and commercial development. Mr. Wilmot said that the crèche was an integral part of the development and part of the planning conditions. Mr. Wilmot gave evidence that when the contracts were signed in April 2008, the Springfort Park development was approximately 75% complete, a number of the retail units and commercial units were occupied and work on a nursing home had commenced. The crèche was to be located in the centre of 470 residential units. However, work on the residential units has ceased and of the 25 residential units completed, only 12 or 13 have been sold. Mr. Wilmot submitted that there is now little or no prospect of the residential development proceeding as planned.

Mr. Wilmot gave evidence that the large retail/commercial development was substantially complete by 2008 when he signed the contract to build the crèche. He argued that it is not reasonable to look at the crèche separately from the overall development. He referred to the photographs furnished, both by himself and by the Valuation Office. Referring to the photograph of the subject submitted by the Valuation Office, Mr. Wilmot conceded that the crèche is a well-finished and landscaped property. He submitted that the crèche cannot be looked at in isolation and described the surrounding area as a “scene of devastation”. He said that the directors had been obliged to spend a considerable amount of extra monies on landscaping the immediate area around the crèche and the erection of a screen around the crèche to block out the unsightly surrounding area.

Mr. Wilmot said that since 2008, the bulk of the businesses have closed down and he estimated that the commercial development has only a 6% occupancy level, based on his own rough estimate of counting cars occupying car spaces at 3 different times of the day. He emphasised that approximately 3% of the residential units erected have been sold. Mr. Wilmot said that the fit-out and start-up cost of the subject crèche has been funded from another crèche facility operated by the directors in Annacotty, Co. Limerick. He said that his employees have taken significant pay cuts and redundancies and that he and his daughter, who operate the business, have not taken directors’ salaries. Given the state of the development of the residential and commercial areas, Mr. Wilmot was of the opinion that, at best, there might be 40% occupancy. Rather than relying on business from the immediate facility, he said that he has been trying, through heavy marketing tactics and steep discounts, to take business from other childcare providers in the Nenagh area. Mr. Wilmot felt that it is extremely difficult to value the subject property as he feels it has no market value given that no one would buy or lease it.

Commenting on the comparisons provided by the Valuation Office, Mr. Wilmot said that all 3 crèches are within a residential area, centrally located in the town of Nenagh, whilst his property is basically situated in a wilderness. In relation to the respondent's comparison number 1, Mr. Wilmot commented that this is a large community crèche located within the Nenagh Civic Offices complex with a large number of people working in the immediate area. He commented that the respondent's comparison number 2, whilst of comparable size, closed in 2007. In relation to the respondent's comparison number 3, Mr. Wilmot said this is a nicely converted bungalow, much smaller in size than the subject property and centrally located.

In summary, Mr. Wilmot said that the only word that could describe the development within which the subject is situated is "a disaster". He emphasised that there is a lot of anti-social behaviour around the crèche as a result of the state of the development and, whilst he has a sophisticated CCTV system in operation, he is obliged to employ a man to review the footage at weekends and this, of course, involves extra cost. Mr. Wilmot emphasised that because of the cessation in development of the residential area and the low level of occupancy in the retail/commercial development (of which a significant number of units are for sale or lease), there is less than 3% of the planned market available. Mr. Wilmot also emphasised that he is responsible for payment in respect of all services.

Respondent's Evidence

Mr. Cassidy adopted his précis of evidence and referred to a number of sections therein. He said that the subject property is a detached single-storey facility with a high specification finish internally, with air-conditioning, suspended ceilings and a video phone system. He said that the rateable valuation has been assessed at 0.5% of the net annual value, which is in line with the basis adopted for the determination of other revised properties in the same rating authority area. Further, the valuation is made by reference to the values of comparable properties appearing on the Valuation List for the Nenagh Town Council area. Mr. Cassidy referred to his comparison number 1, which is a single-storey childcare facility located less than 1 kilometre from the town centre of Nenagh and positioned at the rear of the Civic Offices and has a valuation of €130. Mr. Cassidy conceded that the second comparison, a purpose-built dormer crèche on its own grounds, located centrally, has not been trading since 2007. However, he deemed it an appropriate comparison as it is included on the Valuation

List as a crèche with a valuation of €72. Mr. Cassidy's third comparison is a detached bungalow converted entirely to a childcare facility well located on the outskirts of Nenagh Town with a valuation of €33.01.

Mr. Cassidy submitted that the issues raised by the appellant in his Notice of Appeal and in evidence had been adequately reflected in the assessment of €90. He submitted that, in his opinion, factors such as location, standard and quantum have all been appropriately accounted for in the valuation figure on the subject. Mr. Cassidy submitted that the valuation of €90 is not excessive and requested that same be affirmed.

Findings

The Tribunal has carefully considered the evidence adduced by both parties, both in their oral and written evidence, and finds as follows:

1. In considering the respondent's comparisons, the Tribunal is of the opinion that each of these comparisons are more advantageously located within the town of Nenagh, whilst the subject property is 3 kilometres from the town centre and located in a development site which, some 3 years after work commenced, has not reached anything like its full development potential.
2. The Tribunal finds as a fact that, of the 470 residential units planned, only 25 units have been erected and only 12 or 13 sold. Whilst the Tribunal cannot accept the appellant's own rough estimate of the occupancy levels of the retail/commercial development, it finds as a fact that occupancy levels remain low.
3. The Tribunal finds as a fact that none of the services have been taken over by the local authority and occupiers are, therefore, obliged to pay service charges themselves.
4. The Tribunal finds as a fact that whilst the crèche is an attractive and well-finished construction, the surrounding area is unsightly and unfinished as evidenced by the photographs submitted by the appellant. In the circumstances, the appellant has been obliged to landscape and screen the subject property from the surrounding area.

5. The Tribunal accepts the appellant's evidence that the area, because of its unfinished condition and low level of occupancy, attracts persons intent on anti-social behaviour to the extent that he is obliged to engage a weekend employee to review CCTV footage.

Determination

Having regard to the above and to the general evidence adduced at the hearing, together with the written submissions and having regard to the "tone of the list", the Tribunal is of the view that the rateable valuation on the subject property should be calculated as follows:-

Crèche 438.83 sq. metres @ €32 per sq. metre = €14,042.56

NAV €14,042.56 @ 0.5% = €70.21

RV say €70

And the Tribunal so determines.