

Appeal No. VA11/1/033

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

**Midland & Western Livestock Improvement Society Limited**      **APPELLANT**

**and**

**Commissioner of Valuation**      **RESPONDENT**

RE: Property No. 1033067, Mart at Lot No. 10/2, Drishoge, Danesfort, Carrick-on-Shannon 2, County Roscommon.

**B E F O R E**

**John F Kerr - BBS, FSCSI, FRICS, ACI Arb**

**Deputy Chairperson**

**Joseph Murray - BL**

**Member**

**Niall O'Hanlon - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 29TH DAY OF JULY, 2011**

By Notice of Appeal dated the 28th day of March, 2011 the appellant appealed against the decision of the Commissioner of Valuation in issuing a notice disallowing an appeal against a earlier decision that no material change of circumstances had occurred in respect of the subject property.

The grounds of appeal are on a separate sheet attached to the Notice of Appeal, a copy of which is 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, Dublin on 29<sup>th</sup> day of July, 2011. The appellant was represented by Mr John Duggan, solicitor, of Callan Tansey Solicitors. Mr Martin O'Connor, Mr Joe Gilfillan and Ms Lourda McGovern, all members of the Midland & Western Livestock Improvement Society, and Ms Nuala Hourihane, Secretary of the Irish Charolais Cattle Society, also attended. The respondent was represented by Mr Mark Dunne BL, instructed by the Chief State Solicitor's Office, and Mr Noel Rooney, Dip Env Econ, Grade 1 Valuer in the Valuation Office, also attended.

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.

### **Preliminary Issue**

The Tribunal notes that the Respondent, in its written submissions, argued that in order to proceed with the Appeal, the Appellant needed to demonstrate that there had been a material change of circumstances within the meaning of Section 3 of the Valuation Act, 2001.

The Tribunal further notes that Mr. Duggan, for the Appellant, conceded the requirement to demonstrate a material change of circumstances and, that in the event of so failing, the Appeal would be at an end.

Mr. Duggan further conceded that the issue of material change of circumstances had not been addressed by the Appellant in its Grounds of Appeal and accordingly, sought leave to amend the said Grounds.

The Tribunal invited and received oral submissions from the parties on the question of whether, pursuant to Rule 10 of the Valuation Act, 2001, (Appeals) Rules, 2008, there existed exceptional circumstances justifying the grant of liberty, by the Tribunal, to the Appellant, to amend the Grounds in the manner sought.

Mr. Duggan, for the Appellant, submitted that the Respondent would not be prejudiced if liberty were granted to the Appellant to make the amendment that was sought.

Mr. Dunne, for the Respondent, indicated that he could not, at this juncture, state with certainty whether or not the Respondent would be prejudiced. Mr. Dunne went on to state that in any event, the absence of prejudice, even if established, did not constitute exceptional circumstances and that the Appellant would need to demonstrate that it had been somehow prevented from including the issue in its Grounds of Appeal as originally drafted.

In this regard, the Tribunal notes that the Notice of Decision to Disallow Appeal, issued on 2<sup>nd</sup> March, 2011, expressly states, *inter alia*, that “*no material change of circumstances has occurred in relation to the property and accordingly, that your appeal has been disallowed.*”

### **Findings**

The Appellant has not demonstrated exceptional circumstances so as to justify the granting of liberty to the Appellant to amend the proceedings in the manner sought.

### **Determination**

Having regard to the foregoing and pursuant to section 37 (1) (a) of the Valuation Act, 2001 the Tribunal disallows the Appeal and accordingly, confirms the decision of the Commissioner.

And the Tribunal so determines.