

Appeal No. VA11/2/014

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

Carrolls Ballyhack Boatyard Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2206211, Workshop at Lot No. 24/60/A, Ballyhack, Ballyhack, New Ross, County Wexford.

B E F O R E

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

Deputy Chairperson

Frank Walsh - QFA, Valuer

Member

Patricia O'Connor - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 3RD DAY OF NOVEMBER, 2011

By Notice of Appeal received the 6th day of May, 2011 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 on a separate sheet attached to the Notice of Appeal, copies of both which are attached at Appendix 1 to this Judgment.

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 7th day of July 2011. At the hearing the appellant was represented by Mr. John Carroll, a Director of the appellant Company. Ms. Orla Lambe, BSc (Surveying), MIAVI, a Valuer in the Valuation Office, appeared on behalf of the respondent, the Commissioner of Valuation. At the hearing, both parties adopted their précis which had previously been received by the Tribunal as being their evidence-in-chief.

The Property

Location and Description

The subject property is located in the village of Ballyhack, Co. Wexford, situated 12 kilometres from Waterford City, 20 kilometres from New Ross and 55 kilometres from Wexford town.

The subject property comprises a work shop used for boat repairs, two offices, a canteen, a kitchen, stores and mezzanines for additional storage. There are a number of converted steel containers on the site which are used as workshops. The yard is partly used for storage and for circulation space.

Accommodation

The area of the subject property was agreed between the parties as follows:

Ground Floor Offices	31.28 sq. metres
Ground Floor Kitchen	8.00 sq. metres
Workshop	160.46 sq. metres
Store	73.06 sq. metres
Mezzanine Store (Level 1)	50.16 sq. metres
Store	64.64 sq. metres
Mezzanine Store (Level 1)	64.64 sq. metres
Mezzanine Store (Level 2)	34.78 sq. metres
Mezzanine Store (Level 2)	12.47 sq. metres
Store-Steel Containers x 4	58.56 sq. metres
Workshops (steel containers)	143.61 sq. metres

Tenure

Freehold

Valuation History

The proposed Valuation Certificate issued with a ratable valuation of €8 on 14th July 2010. The valuation was reduced at representation stage on 10th August 2010 to €0. The Final Certificate issued with a rateable valuation of €0 on 24th September 2010 and the subject property was entered onto the valuation list on 1st October 2010. An appeal to the Commissioner was made on 20th April 2011 following which the valuation was confirmed at €0. It is against this decision of the Commissioner that the appeal to this Tribunal lies.

The Appellant's Case

Mr. Carroll, having taken the oath, explained that this was a family run business which he operated with his brother and sister. The company had entered into a contract in 1994 or 1995 with the Royal National Lifeboat Institution (RNLI) for repairs to the Trent Class lifeboat and erected a purpose-built workshop in 1996 to facilitate the Trent Class lifeboat. Mr. Carroll stated that they now work exclusively for the RNLI. Mr. Carroll stated that as a result of the economic climate since 2007, business has become increasingly competitive and the company has had to absorb all additional increases as these cannot be passed onto their customer.

Mr. Carroll stated that in the event of losing the RNLI Contract, the company would be unable to utilise the building for any other as spring tides mean that the boat house floods four or five times a year. In addition, the boat house is only supplied with single phase electricity. He also pointed out that there are mud flats adjoining the boat house which are increasing over time. Mr. Carroll explained that lifeboats have a shallow draft, meaning that the mud flats do not pose a difficulty for them to navigate but most other types of boats such as fishing boats or yachts would be able to navigate them.

Mr. Carroll stated that he was unable to comprehend how the rates had increased by 420% as nothing had changed since they were last rated in January 2010. Mr. Carroll made the point that they were located in the middle of the village but they did their best to keep any nuisance to a bare minimum.

Comparisons

Mr. Carroll did not put forward any comparison properties in support of his appeal against the rateable valuation fixed by the Commissioner of Valuation.

Cross-examination

During cross-examination by the respondent, Mr. Carroll agreed that the company had been aware of the fact that the property flooded at spring tide when they built the boat house, but he pointed out that it had never been an issue for them and that, in fact, it was advantageous for their business. Mr. Carroll stated that it would be very costly to locate the business inland. Mr. Carroll agreed with Ms. Lambe that the Commissioner had reduced the rateable valuation from €8 to €0.

The Respondent's Case

Ms. Orla Lambe, having taken the oath, adopted her précis as her evidence-in-chief. Ms. Lambe confirmed that the accommodation in respect of the workshop (Block 3) was to be amended to 160.46 sq. metres, which was agreed with the appellant.

The Tribunal queried the rates bill dated 30th March 2011 addressed to the appellant Company which listed the valuation at €0.95. Ms. Lambe was unable to explain where the figure of €0.95 had originated and confirmed that the correct rateable valuation for this property was €0.

Ms. Lambe contended for a rateable valuation of €0 on the subject property calculated as follows:

Ground Floor Offices	31.28 sq. metres	@ €30.75 per sq. metre =	€961.86
Ground Floor Kitchen	8.00 sq. metres	@ €30.75 per sq. metre =	€246.00
Workshop	160.46 sq. metres	@ €23.92 per sq. metre =	€3,838.20
Store	73.06 sq. metres	@ €17.08 per sq. metre =	€1,247.90
Mezzanine Store (Level 1)	50.16 sq. metres	@ €5.47 per sq. metre =	€274.38
Store	64.64 sq. metres	@ €17.08 per sq. metre =	€1,104.05
Mezzanine Store (Level 1)	64.64 sq. metres	@ €5.47 per sq. metre =	€353.58
Mezzanine Store (Level 2)	34.78 sq. metres	@ €3.41 per sq. metre =	€118.60
Mezzanine Store (Level 2)	12.47 sq. metres	@ €6.83 per sq. metre =	€85.22
Store Steel Containers x 4	58.56 sq. metres	@ €6.83 per sq. metre =	€399.96

Workshops (steel containers)	143.60 sq. metres	@ €13.67 per sq. metre =	<u>€1,963.15</u>
Total:			€10,550.21

Rateable valuation = Total NAV €10,550.21 x 0.5% = €52.75

Say RV= €50

Comparisons

In support of her assessment of rateable valuation, Ms. Lambe put forward three comparisons, details of which are attached at Appendix 2 to this judgment.

1. Oliver McPhilips, Kilhile, Ballyhack, New Ross, Co. Wexford – RV €31.74
2. Gerard O' Leary, Newtown, Kilbora, Enniscorthy, Co. Wexford – RV €17.58
3. O'Sullivan Agri Services Ltd, Bayland, Enniscorthy, Co. Wexford – RV €266.64

Ms. Lambe stated that in her opinion, Comparison Number 1 was the most suitable as it was similar in size to the subject property although she accepted that it was situated inland. Ms. Lambe stated that Comparison 2 differed from the subject property as the workshops at Comparison 2 were larger. Ms. Lambe pointed out that the rateable valuation on the subject property had been reduced to €50 by the Commissioner so as to address the nature and construction of the workshop on the subject property. Under questioning from the Tribunal, Ms. Lambe did not accept that the workshop had been constructed exclusively for the purpose of boat repairs and in her opinion felt that it was capable of alternative use such as fishing, an ice house, storage or traditional boat repairs. With regard to storage, Ms. Lambe was of the opinion that there would be no access difficulties if the subject property were to be used in that regard in view of the fact there is a daily car ferry service from Passage East.

Under cross-examination from Mr. Carroll, Ms. Lambe confirmed that she was familiar with the location of the subject property although she had not personally inspected her three comparisons. Ms. Lambe agreed with Mr. Carroll that there was a right of way (public access walk) which traverses the subject property and that the public access road to the property was very narrow, particularly when cars are queuing for the car ferry.

Summaries

In summing up Mr. Carroll again stated that the position of the company occupying the subject property is difficult in the present climate. Ms. Lambe in her summing up reiterated that this was a well-constructed purpose-built workshop with the advantage of being located beside the sea and that the rateable valuation had already been reduced to €50 to reflect the construction of the subject property.

Findings

The Tribunal thanks the parties for the efforts which they made with regard to this hearing. The Tribunal finds that:-

1. The respondent accepted the appellant's contention that the subject property was located, designed and constructed predominantly to comply with the purpose of servicing and maintaining boats.
2. The Tribunal is satisfied that the current fit-out of the complex as described by the parties is suited to the specific needs of servicing RNLi Trent class lifeboats.
3. The Tribunal takes specific account of the flooding or partial flooding of the premises, ground floor pit, normally occurring on spring tides.
4. The respondent was unable to confirm physical details of the access provisions, fit-out and conditions of the three comparison properties as she confirmed that she had not visited any of them.
5. The parties agreed that the subject property is not served by adequate road services to facilitate large articulated truck delivery and collections to the relevant property which would impact on the considerations of the hypothetical tenant.
6. The subject property is located in a small coastal village well removed from major commercial enterprises.
7. Two of the three comparison properties cited by the respondent were located near the significant town of Enniscorthy approximately 14 miles from the subject property.

The remaining Comparison Number 1, though located circa 1.5 miles from the subject is sited inland, is not subject to flooding and, like the other comparisons, has public road access, profile and nearer proximity to main transportation and corridors.

Determination

In view of the foregoing, the Tribunal having considered all the facts and arguments adduced, considers that an allowance should be made to the rate per square metre to apply to the NAV of the subject property and has concluded that the appropriate figures should be as follows;

Offices (Block 1)	31.28 sq.metre @ €30.75 per sq.metre = €961.86
Kitchen (Block 2)	8.00sq.metre @ €30.75 per sq.metre = €246.00
Workshop (Block 3)	160.46 sq.metre @ €20.50 per sq.metre = €3,289.43
Store (Block 4)	73.06 sq.metre @ €17.08 per sq.metre = €1,247.86
Mezzanine (Block 4, Level 1)	50.16 sq.metre @ €5.00 per sq.metre = €250.80
Store (Block 5)	64.64 sq.metre @ €17.08 per sq.metre = €1,104.05
Mezzanine (Block 5, Level 1)	64.64 sq.metre @ €5.00 per sq.metre = €323.20
Mezzanine (Block 6, Level 1)	34.78 sq.metre @ €2.50 per sq.metre = €86.95
Mezzanine (Block 6 (a), Level 1)	12.47 sq.metre @ €2.50 per sq.metre = €31.17
Steel container (Blocks 7, 9, 11 and 14)	58.56 sq.metre @ €6.83 per sq.metre = €399.96
Workshops	143.61 sq.metre @ €10.00 per sq.metre = €1,436.10
Total	€3,777.39

€3,777.39 @ 0.5% = €18.89

RV say = €17.00

And the Tribunal so determines.