

Appeal No. VA12/2/011

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

Richard Restrick

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2209242, Warehouse/Warerooms at Lot No. 13a, Monart East,
Killoughrim, Enniscorthy, County Wexford.

B E F O R E

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

Deputy Chairperson

Aidan McNulty - Solicitor

Member

James Browne - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 8TH DAY OF NOVEMBER, 2012

By Notice of Appeal received on the 11th day of May, 2012 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €28 on the above described relevant property.

The grounds of appeal are set out in the Notice of Appeal and an attached document, copies of which are attached at Appendix 1 to this judgment.

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, 3rd Floor, Holbrook House, Holles Street, Dublin 2 on the 22nd day of August 2012. The appellant was represented by Mr. Ollie McGuire, the owner of the property the subject of the appeal. Mr Richard Resterick, the appellant and occupier of the subject property, was also in attendance. The respondent was represented by Mr. Neal Murphy, BSc Property Economics, a valuer in the Valuation Office. Both parties adopted their written submissions which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

The Property

The subject property comprises a single-storey warehouse unit with cold room and partitioned office accommodation. The unit has an eaves height of approximately 7 metres. It is constructed of masonry block on the lower section and double skin metal clad panels on the upper part of the structure. The roof is also clad with double skin metal sheeting. The offices are a prefab partition structure and could be removed easily. They latter are basic units with concrete floors. The cold stores are used for the storage of fish and also it appears that they could be removed if required. There is a concrete yard area for loading, circulation and parking purposes. The area sizes are agreed between the parties.

Floor Areas

These were agreed by the parties.

Location

The property is located in Monart East, Enniscorthy, County Wexford.

Tenure

The property is held by way of leasehold interest for a two-year period commencing in March 2010.

Accommodation

The subject property comprises of 231.04 sq. metres of warehouse accommodation of which 27.99 sq. metres are cold stores and 42.52 sq. metres are partitioned offices.

Valuation History

The rating authority is Wexford County Council. The property was the subject of a revision in 2011. A rateable valuation (RV) of €35.00 per sq. metre was assessed at revision stage. The RV was calculated 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.

An appeal was lodged with the Commissioner of Valuation on the 27th June, 2011 which resulted in a reduction of the RV from €35 to €28. A final valuation certificate issued on the 10th February, 2012 with an RV of €28. An appeal against the decision of the Commissioner of Valuation was forwarded to the Valuation Tribunal on the 7th March, 2012. Due to a postal error, however, the Notice of Appeal did not finally reach the Tribunal until 11th May, 2012.

The Issues

Quantum

The Appellant's Case

Mr. McGuire, having taken the oath, adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief.

In his evidence, Mr. McGuire stated that his property was located miles outside of the town boundary in a predominantly agricultural area populated with farm holdings and one-off houses. He stated that there were no County Council services available in the area and that he provided his own water, storm and septic treatment facilities for the subject property. He stated there were no footpaths or street lighting in the area. He further added that there were no other industrial or commercial units nearby, no wholesale or retail footfall whatsoever and no actual demand for commercial letting in the area.

He further argued that his building described by him as a shed was a very basic four-wall, single storey structure, without any identification nameplate or signage.

He took issue with the respondent's comparisons. He pointed out that both of the Commissioner's comparisons were located on the Old Dublin Road in the main industrial estate for Enniscorthy, which he noted was situate just off the N11. He further added that the latter estate had a quality roadway, footpaths, street lighting, mains sewerage and water

services and was well developed with a high degree of footfall and passing traffic. He advised the Tribunal that among other properties in that estate there were County Council buildings, a livestock mart, electrical wholesalers and a recycling centre on the road.

Respondent's Evidence

Mr. Murphy, having taken the oath, adopted his written précis which had been previously received by the Tribunal as being his evidence-in-chief.

Mr. Murphy stated that the subject property was a single-storey warehouse with a cold room and facilities were considered good. He accepted he had originally valued the property at €35 but this was reduced to €28 on first appeal.

He pointed out a correction to be made at page 8 of his précis wherein the subject property was referred to as a workshop when in fact it was a warehouse. He stated the reduction in the value of the property was based on the Commissioner's view of its location and as a consequence of its location which led to the reduction from €35 to €28 per sq. metre.

He acknowledged that his comparison number 1 had a secure fenced yard with limited frontage onto a busy roadway. He advised that he did not inspect the comparison properties cited in his précis. He accepted the RVs of the comparison properties had not been appealed to the Valuation Tribunal. He stated that he chose not to rely on the values of properties in similar locations outside of Gorey, New Ross or Wexford and instead preferred to focus on the RVs of properties on the list which he considered similar and proximate to the subject property. He proffered details of both of his comparisons as follows:

Comparison 1 – Danny Murphy Furniture, Old Dublin Road, Enniscorthy

This is property number 2205722 with a rateable valuation of €36. Revised 2010. This property is located in Kilcannon Industrial Estate off the Old Dublin Road, Enniscorthy County Wexford. The property was valued as follows:

Warehouse – 250.71 sq. metres @ €29 per sq. metre.

This property is a steel portal frame construction with Kingspan roofing. The warehouse has a loading door and parking to the front. The entire industrial estate is protected by security fencing.

Comparison 2 – Pool & Spa Services Limited

This property is number 2205706 with a rateable valuation of €38. Revised 2010. This property is also located on the Old Dublin Road, Enniscorthy, County Wexford. The property was valued as follows:

Office – 50.10 sq. metres @ €41 per sq. metre

First floor office – 12.6 sq. metres @ €41 per sq. metre

Store – 45 sq. metres @ €6.83 per sq. metre

Warehouse – 175.20 sq. metres @ €27.33 per sq. metre.

This warehouse is of a steel frame construction with clad double skin roofing. The ground and mezzanine floor offices were of basic finish with painted and plastered block walls and carpeted floor. The mezzanine has chipboard flooring.

The respondent submitted that the issues raised by the appellant had been adequately reflected in the assessment of a rateable valuation of €28. It was his opinion that all factors had been appropriately accounted for in the valuation figure. He did not believe that the valuation of €28 was excessive and asked the Valuation Tribunal to affirm the Commissioner's valuation.

Findings

The Tribunal has carefully considered all of the oral and written evidence produced by the parties and the arguments adduced at the hearing and makes the following findings:

1. The subject property is a recent construction located in a primarily agricultural area.
2. The Tribunal notes that the location, general description and floor areas of the property and its size are agreed.

3. The Tribunal notes the situation of the subject property and considers that it is an isolated commercial facility with no neighboring properties of similar construction or use.
4. The Tribunal has considered the comparisons put forward by the respondent.
5. The Tribunal accepts that the Valuation Act, 2001 which came into effect on the 2nd of May 2002, sets down the principles for valuing properties for rating purposes and at first appeal stages. Section 49(1) sets down the basis for valuing properties at revision stage and dictates that the value should be determined by reference to the values of comparable properties in the same rating area.
6. The Tribunal accepts that the comparison properties provided by the respondent are generally of similar construction to the subject property.
7. The Tribunal notes, however, that the comparison properties are located in the main industrial estate for Enniscorthy Town. This industrial estate is the centre of commercial activity for the Town and has significant passing trade. The Tribunal also notes that the relevant industrial estate is provided with various utility services by Wexford County Council which offer significant advantages to those comparison properties over that of the subject property.
8. The Tribunal is bound by the aforementioned provisions of Section 49(1) of the Valuation Act, 2001 in this case.
9. The Tribunal finds that the respondent did not take sufficient account of the significant disadvantages of the subject property in terms of value when compared to the values of the comparison properties.
10. The Tribunal is somewhat surprised with the paucity of values of comparable properties submitted by the respondent having regard to a rating authority area as large as County Wexford and the focus of those two cited above.

Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. Having heard all the oral evidence and submissions, and having considered the two précis lodged herein, the Tribunal has made the foregoing findings and in light of those findings above, determines that the Valuation of the respondent is neither fair nor reasonable in the circumstances.

The Tribunal determines that the valuation of the respondent is excessive and that a suitable allowance should be made for the rural location of the property and lack of public utility services.

In the circumstances the Tribunal calculates the valuation, as follows:

Warehouse of 231.04 sq. metres @ €20.50 per sq. metre = €4,736.32

Rateable valuation @ 0.5% = €23.68

Say RV €24.00

And the Tribunal so determines.