

Appeal No. VA90/3/095

**AN BINSE LUACHÁLA**  
**VALUATION TRIBUNAL**  
**AN tACHT LUACHÁLA, 1988**  
**VALUATION ACT, 1988**

**Cornelius McCarthy**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Shop (pt of) at 1a Market Lane, U.D. Tralee, Co. Kerry

**B E F O R E**  
**Henry Abbott**

**Barrister Chairman**

**Mary Devins**

**Solicitor**

**Padraig Connellan**

**Solicitor**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 27TH DAY OF FEBRUARY, 1991**

By notice of appeal dated the 2nd day of October, 1990, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £13 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that the valuation is excessive for location, as the area is a derelict area and not an accepted trading area. Passing traffic is small with no passing cars due to it being a cul de sac.

### **The Property**

The subject property comprises three floors of an annexe to lot 14.15 The Mall, now called lot 1a Market Lane. It is located on the east side of Milk Market Lane, which is a narrow pedestrian route connecting Bridge Street, to the south, with Market Place to the north. Vehicular traffic is prohibited in this area. It comprises a ground floor shop of 240 sq. ft., first floor store of 180 sq ft. and a disused second floor.

### **Valuation History**

Lot 15 was first valued in the 1860's with a description of "House, Offs & Yard" with a rateable valuation of £28. In 1965 revision lot 14.15 The Mall was amalgamated, description "House (disused), Shop, Workshop & Yard" with a rateable valuation of £45. In the 1990 revision lot 14.15 The Mall was subdivided, lot 1a Market Lane was created with a rateable valuation of £16 and a description of "Shop (pt of)". This was appealed to the Commissioner of Valuation who at 1st appeal stage reduced the rateable valuation to £13.

### **Written submissions**

A written submission was received from Mr Thomas A Mannix A.R.I.C.S., M.I.A.V.I. on the 19th of February, 1991 on behalf of the appellant. In this precis Mr Mannix said that the accommodation within the building is not self contained. The premises is located on a non-commercial/non-trading laneway. He said that the present condition of the premises is factually outlined in a report by Mr F. McDonnell, Consulting Engineer which he attached. He said that it was reasonable to conclude from the contents of that report that substantial expenditure would be incurred by the owner of the premises in the near future to preserve the building and the works needing immediate attention may require renewing of certain parts of the structure. Mr Mannix said that many of the adjoining premises are in a ruinous condition and one building is being restored as a private residence. He said that C.H. Chemists use their premises as an exit to the Market Place and it is not a trading/commercial entrance. Mr Mannix said that the premises is

not included in the Tralee URBAN RENEWAL DESIGNATED AREA. He said that the subject is located beside the side entrance (including the extractor fan) to the 'Snackery' restaurant.

Mr Mannix estimated the rateable valuation of the property as follows:-

Estimated Current Rental Value = £2,080 (N.A.V.)

Rateable Valuation = £2,080 x 0.4% = £8.32

Estimated Rateable Valuation £8.00

Mr Mannix attached two comparisons as follows:-

- 1 "New Image" Hair Salon, 17 Milk Market Lane, Tralee
2. O'Driscoll Fabricks, Barrack Lane, Tralee.

The details of these comparisons are attached as Appendix "A".

Also attached in Appendix "A" is the report on the premises from Mr F. McDonnell B.E., C.Eng., M.I.C.E., M.I.E.I., M.Zwe, I.E., Consulting Engineer of Clogherbrien, Tralee, Co Kerry which was appended to Mr Mannix's submission.

A written submission was received from Declan Lavelle a valuer in the Valuation Office on behalf of the respondent. In this Mr Lavelle said that the second floor is not capable of beneficial occupation. He said that the ground floor retail unit opens onto Market Lane c. 40 ft from The Mall. Mr Lavelle said that Mr McCarthy also occupies an adjoining workshop which is not part of the hereditament under appeal. He said that access to the first floor room is via 15 The Mall and that this entrance is shared with a number of occupiers.

Mr Lavelle said that The Mall is Tralee's premier trading location and that retail outlets on The Mall command Zone A rents of c. £30 per sq. ft. He said that Market Lane is situated off The Mall/Bridge Street junction and connects The Mall to Market Place. Market Place

accommodates the livestock mart and a number of small retail/workshop premises. Mr Lavelle said that in recent years there has been an increase in the trading activities in laneways adjacent to good trading locations. The appellant, Mr Lavelle says, originally traded from 15 The Mall until he leased The Mall outlet and transferred his business to the subject property which is situated c. 40 feet back from The Mall. He said that a number of other developments have recently taken place along Market Lane but that they would be located further from The Mall than the subject property. He said that the local authority have paved the area in front of the subject property and plan to replace the existing public lighting with old fashioned lighting. However, he said that these improvements have occurred since the date of valuation and as such must be disregarded in arriving at the valuation. Mr Lavelle said that the established ratio between rateable valuation and net annual value for Tralee U.D.C. is 0.5%. He outlined his calculation of how the rateable valuation of £13 was arrived at as follows:-

**Estimate of N.A.V.**

Ground floor unit	240 sq ft @ £9.00	=	£2,160
1st floor room	180 sq ft @ £3.00	=	<u>£ 540</u>
			£2,700

**OR**

Ground floor retail unit say £40/week		=	£2,080
1st floor room say £10/week		=	<u>£ 520</u>
			£2,600

**Say N.A.V. = £2,600**

**Rateable Valuation**

In recent years 0.5% has been used as an RV/NAV ratio for all categories of property in the rating district of U.D. Tralee.

Estimate of NAV    £2,600

RV/NAV ratio	<u>0.5%</u>
R.V.	£13.00

Mr Lavelle attached four comparisons as follows:-

1. Lot 14a The Mall **Description;** "Shop" R.V. £35
2. Lot 14b.15b The Mall **Description;** "Surgery" 1st fl R.V. £16
3. Lot 14d.15d The Mall **Description;** "Store" 1st fl R.V. £2
4. Lot 30 Market Lane **Description;** "Shop" R.V. £10

The details of these comparisons are attached at Appendix "B".

### **Oral Hearing**

At the oral hearing which took place in Tralee on the 26th February, 1991 Mr Thomas A Mannix, ARICS MIAVI appeared on behalf of the appellant. Also present were Mr Cornelius McCarthy, Mr F. McDonnell and Ms M. Dunne.

Mr Declan Lavelle, valuer with the Valuation Office appeared on behalf of the respondent.

Mr Mannix referred to his written submission dated the 26th February, 1991 and pointed out that there is no vehicular access to the laneway where the subject premises are located. He explained that access to the 1st and 2nd floors of the hereditament is by a staircase through a separate entrance on The Mall and that this staircase is used by other tenants. Mr Mannix stated that the premises are located in a poor trading area off the main thoroughfare and that there are several business competitors all of whom are located on The Mall which is a prime trading area.

Mr Mannix referred to two comparisons which are attached hereto as Appendix "A" and stated that the subject premises was, in his opinion, over-rated and that the correct rateable valuation would be in the region of £8.

Mr McDonnell elaborated on his written report dated the 8th February, 1991 and explained that most of the buildings on Milk Market Lane were very old and in need of extensive renovation. He explained that all of the subject property above the ground floor level was in such a poor state that it would need to be gutted and rebuilt. In his view the chimneys should be taken down, the roof needed to be replaced and all window lintels and door heads needed to be replaced.

Mr McCarthy stated that the lane in which the subject property is located is not an attractive trading area. He said that it was often in a dirty and neglected condition and would not entice custom away from the main shopping areas of the town.

Mr McCarthy referred to comparison No. 1 of Mr Mannix's submission viz. "New Image" hair salon (a comparison also put forward by Mr Lavelle) and pointed out that hairdressing salons usually commanded much higher rentals than other retail units and that this business would not be successful were it not for the advertising signs it displayed at The Mall entrance and at the entrance to the Market Yard.

Mr Lavelle referred to his precis dated the 19th February, 1991 and to his list of comparisons which is attached hereto as Appendix "B". He pointed out that while the subject property is situated in Milk Market Lane, it is in fact only a very short distance from the Mall which is Tralee's premier trading location.

In reply to questions from the Chairman, Mr Lavelle pointed out that the R.V. of his comparison No. 4 "New Image" was not recent but that the rent of £2,600 p.a. was a good indication of rental

levels in the area, and that this comparison was, in fact, much further from The Mall than the subject property.

At the request of the appellants the members of the Tribunal inspected the premises, on the 26th February, 1991.

### **Findings**

The Tribunal in reaching its decision has disregarded the improvements which have been carried out in Market Lane since the date of valuation.

It is, however, satisfied that the subject property is situated close enough to The Mall to ensure a reasonably good trade. There is a certain drawback in that access to the 1st and 2nd floors is through a separate building on The Mall, but since the appellant does not seem restricted to only those floors for storage, this does not seem to reduce the estimated net annual value of the property to any great extent.

The most obvious comparison would seem to be the hairdressing salon, also situated in Market Lane. While not paying any great attention to the rateable valuation of the latter, the rent passing on said property is an indication of the rents in this area, particularly in view of the fact that the hairdressing salon, is, like the subject property, not self-contained.

Taking all the above into consideration the Tribunal affirms the decision of the Commissioner.