

Appeal No. VA93/3/001

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

**Eileen Daly**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: House and Office at Map Ref: 29/13a, William Street, Townland of Kenmare, E.D.  
Kenmare, R.D. Kenmare, Co. Kerry  
Quantum - Offices used seasonally

**B E F O R E**

**Henry Abbott**

**S.C. Chairman**

**Veronica Gates**

**Barrister**

**Brian O'Farrell**

**Valuer**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 23RD DAY OF MARCH, 1994**

By Notice of Appeal dated the 21st July, 1993 the appellant appealed against the determination of the Commissioner of Valuation in fixing a Rateable Valuation of £20.00 on the above described hereditament.

The grounds of appeal as set out in the Notice of Appeal are that:-

- "(1) I wish to contest the method on how the valuation was carried out i.e. the rent of £14 per square foot applied by the Valuation Office towards the R.V. is too high.
- (2) Similar business areas rated since 1988 have less R.V.'s than our business.
- (3) That many business areas in Kenmare have not been rated for a number of years and as a result have a low R.V. in comparison to ours which leads to unfair competition as our operating expenses are higher.
- (4) These rates seem to be a tax on new business."

### **The Property**

The property consists of a mid-terraced three storey structure. The ground floor contains the Kenmare Bureau de Change office which has a street frontage of 12 feet, the two upper floors are used for residential purposes. It is located on the southern side of William Street close to the junction of Henry Street which is the commercial centre of Kenmare. The accommodation in the subject premises is:-

#### **"Ground Floor:**

Office	16m <sup>2</sup> 172 sq.ft.
Residential: Kitchen cum Dining Room:	19m <sup>2</sup> 204 sq.ft.

#### **First Floor:**

Residential: Sitting room, two bedrooms, Shower and Toilet:	45m <sup>2</sup> 484 sq.ft.
---	-----------------------------

#### **Top Floor:**

Residential: One Bedroom:	26m <sup>2</sup> 280 sq.ft."
---------------------------	------------------------------

### **Tenure**

The ground floor office is owner occupied. The residential accommodation is let on a weekly tenancy at £40.00 per week, that is, £2,800 per annum exclusive of maintenance and insurance.

### **Valuation History**

The property was described as a house and yard up to 1992 phase 4 revision with a valuation of £9.00. The hereditament was listed for revision in 1992 "value Bureau de Change on this lot" and the R.V. was increased to £20.00. The occupier was agrieved by this valuation and lodged a First Appeal. No change was made to the Rateable Valuation at First Appeal.

### **Written Submissions**

A written submission was received on the 14th March, 1994 from Mr. John Daly of Sean Daly & Company Limited, Auctioneers Valuers and Estate Agents of Kenmare, Co. Kerry on behalf of the appellant. In the submission, Mr. Daly, described the property, its tenure and said that the commercial area is used as a Foreign Exchange office during the summer months only and is vacant for the remainder of the year.

Mr. Daly set out a number of comparisons in his written submission as follows:-

- (1) Lot 30/2, Henry Street. Health Food Shop.  
 Occupier: Felicity Small.  
 Weekly Tenancy at £60.00 per week, £3,120 as of 1991.  
 N.A.V. November 1988 £2,600.  
 He said that this equated to a rental of £14.00 per square foot.
  
- (2) Lot 23c Henry Street.  
 Occupier: Judy Cassidy.  
 Two year eleven month lease from June, 1989 at £90.00 per week = £4,680.  
 N.A.V. November, 1988 £3,840.  
 He said that this equated to a rental per square foot of £10.00.
  
- (3) Lot 17c/4 Henry Street. Surgery on the First Floor.  
 Occupier: Dr. Rory O'Driscoll.  
 Two year eleven month lease from May, 1988 at £2,600 per annum.  
 N.A.V. November, 1988 £2,600.  
 He said that this equated to a rental per square foot of £8.00.
  
- (4) Lot 17c/2 and Lot 17c/3 Henry Street.  
 Occupier: Joe Thoma.  
 Yearly Tenancy from 7/4/1991 at £100.00 per week, £5,200 per annum.  
 As of July, 1993 passing rent was £5,850.00 - £6,600 was deemed to be the  
 passing rent as of November, 1988 for the purposes of Rateable Valuation.  
 He said that this yielded a rent per square foot of £6.21 on the Gift Shop and £7.67  
 on the Music Shop.
  
- (5) Lot 29/28c Main Street.

Occupier: Jude De Vos.

Let on a yearly lease from January, 1989 at £50.00 per week, £2,600 per annum.

He said that this was a Craft Shop.

N.A.V. November, 1988 £2,600 which he said equated to a rent per square foot of £7.38.

A written submission was received on the 21st February, 1994 from Mr. David Molony, Valuer with 11 years experience in the Valuation Office on behalf of the Respondent. Mr. Molony set out his estimate of the Net Annual Value on the subject premises as follows:-

"Office:	172 sq.ft.	@ £14.00 per sq.ft.	=	£2,408
Residential:	968 sq.ft.	@ £32.00 per week	=	<u>£1,664</u>
				<u>£4,072</u>

---

Estimated N.A.V. £4,072 @ 0.5% = £20.36

**Note:**

The factor of 0.5% of Net Annual Value as at November, 1988 has been applied to all categories of property throughout rural and urban districts of Kerry at both Revision and First Appeal stages."

Mr. Molony offered two comparisons in Kenmare:-

(1) Lot 29/11b William Street, Kenmare.

This is a shop with a Rateable Valuation of £15.00.

Leased on a six month lease from November, 1989 at £60.00 per week, that is, £3,120 per annum.

(2) Lot 30/2 Henry Street, Kenmare.

This is a shop with an Rateable Valuation of £13.00.

Leased by weekly agreement from September, 1991 at £75.00 per week, that is, £3,900 per annum.

Valuation assessed at 1993 phase 4 Revision:-

Shop:	151 sq.ft.	@	£15.00 per sq.ft.	=	£2,265
Store:	93 sq.ft.	@	£ 4.00 per sq.ft.	=	<u>£ 372</u>
					£2,637

---

Estimated N.A.V.: £2,600 @ 0.5% = R.V. = £13.00.

### **Oral Hearing**

At the oral hearing which took place in Tralee Urban District Council on the 23rd day of March, 1994. Mr. John Daly, Valuer appeared for the appellant and Mr. David Molony, Valuer appeared for the respondent. Mr. Daly adverted to his précis of evidence and based his evidence on the opening statement setting out the grounds of his argument. The opening statement is annexed hereto.

Mr. Molony argued that Mr. Daly should have concentrated on comparisons in William Street where the premises is situate rather than going further afield. He stated that William Street is the more commercial street in the town with a supermarket, the woollen mills and the major part of the A.I.B. bank's double frontage acting as a type of "anchor tenant" retail attraction. Mr. Molony did concede however that seasonality was a major feature of retail premises in Kenmare.

### **Findings**

The Tribunal is influenced by the comparison at Lot 29/11b William Street, put forward by Mr. Molony but nevertheless considers that the basic rent of £14.00 or so per square foot ought to be reduced having regard to the following factors:-

- (a) The premises shares access between the commercial and the residential area.
- (b) The premises together with other premises is usable only on a seasonal basis to coincide with the tourist traffic.
- (c) The Tribunal has already allowed seasonality as a factor to be taken into consideration in Joe Thoma's case in July, 1993 (VA92/6/105).

Having regard to the foregoing and all the evidence offered by the parties the Tribunal finds that the valuation of the subject premises ought to be £17.00 with the commercial part of the premises being £9.00 and the balance residential remaining at £8.00.