

Appeal No. VA94/1/037

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

Gerard Finn

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: House, Workshop and Land at Map Ref: 6d, Townland: Lackannashinnagh, E.D.:
Killadysert, R.D.: Killadysert, Co. Clare
Quantum - use of workshop commercial or domestic

B E F O R E

Veronica Gates

Barrister (Acting Chairman)

Fred Devlin

F.R.I.C.S. A.C.I. Arb.

Joe Carey

P.C. M.I.A.V.I.

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 13TH DAY OF FEBRUARY, 1995

By Notice of Appeal dated the 10th day of May 1994 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £20 on the above described hereditament.

The grounds of appeal were set out in the Notice of Appeal and in summary are that the building in question is used for private use only and has not been used for commercial use since August 1988.

The Property:

The property comprises a detached bungalow on the outskirts of Killadysert with adjoining workshop paved forecourt and a disused petrol pump. The bungalow of modern conventional construction amounts to about 1,323 square feet with some small domestic out offices attached. The workshop is plainly constructed with concrete block and single skin pressed steel roof on timber trusses of 1,334 square feet. The workshop was erected as a commercial building in 1980.

Valuation History:

<u>1974:</u>	New Bungalow erected.	
	R.V.	£110.00
	Description:	House and land
<u>1980:</u>	New repair garage and petrol tanks added:- "Maxol" Station.	
	R.V.	£25.00
	Description:	Ho, garage, petrol tanks and land
<u>1992:</u>	Listed to take account of change of use and portion being used as a shop.	
	R.V.	£20.00
	Description:	Ho, workshop and land

Written Submissions:

A written submission was received on the 13th of January 1995 from Mr. Gerard Finn, the Appellant. In his written submission Mr. Finn stated that a garage business was transacted on a site adjacent to the dwelling house at the above named property between 1980 and 1988. In August 1980 all business ceased and the petrol pumps and the petrol storage tanks were subsequently removed. Mr. Finn said that he was advised by Clare County Council that he would continue to receive a demand for rates but he could claim back a refund of same. In order to qualify for a refund of rates he was required each year to advertise the property in the local paper and to apply for a refund accompanied by a letter from an Auctioneer showing that the premises had been on their books during the year for letting or leasing. He was required to pay the amount of rates due which he was then refunded. Mr. Finn contended that as a full refund was given each year Clare County Council accepted that no business was being transacted. He also contended that he didn't wish to let or lease the premises used

which is used solely for private purposes. Mr. Finn was concerned that the procedure each year was costly and time consuming. Mr. Finn submitted that a remedy ought to be available as he did not intend to carry out any business at his premises in the future.

A written submission was received on the 12th January 1995 from Mr. Patrick Conroy, District Valuer with 20 years experience in the Valuation Office on behalf of the respondent. Mr. Conroy described the property and its valuation history as set out above. Commenting on the appellants grounds of appeal Mr. Conroy said that it appears that it was not within the Commissioners powers to offer a remedy to the appellant's problem based on his grounds of appeal. He said the decision to collect rates lay with the Local Authority irrespective of the description of the hereditament in the valuation lists. He said that the remedy appeared to be under the 1978 Local Government Financial Provisions Act. The appropriate avenue of appeal available to the rate payer being Section 7(1)(a)(ii) of the Act. Full remission of rates is allowed by Clare County Council he said, for qualifying vacant property.

Mr. Conroy said that the appellant had also compared his premises to a farm building. In Mr. Conroy's opinion this was an inappropriate comparison as the size of the holding on which the premises are located amounted to less than half an acre and by reason of its size and its use cannot be classified as a farm and derating under Section 14 of the 1852 Act as amended required a connection between the building and the farmland.

Oral Hearing:

The oral hearing took place in the Council Chambers of the Urban District Council office in Ennis on the 25th January 1995.

The appellant, Mr. Gerard Finn attended with his wife, Mrs. Mary Finn, accompanied by Mr. Thomas Bourke. The respondent was represented by Mr. Patrick Conroy, District Valuer. Ms. Mary Skeeahan attended on behalf of Clare County Council.

Determination:

The Tribunal accepts the evidence adduced by the applicant which was not refuted by the respondent that the former workshop building has been solely used for the past several years as a domestic store ancillary to the adjoining dwelling house and has now no commercial user. Having regard therefore, to the particular circumstances in this case including the size

of the former workshop and its proximity to the dwelling house the Tribunal is satisfied that this building is now used solely for domestic purposes and accordingly directs the Commissioner of Valuation to amend the description of the hereditament in the valuation list to give effect to this determination.