

Appeal No. VA97/2/031

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

Francis P. Kiernan t/a F. Kiernan (Borris) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: House & Shop at Lot No. 27.28.29 Main Street, Borris, RD: Carlow, Co. Carlow
Quantum - Difficult trading and deficiencies of the building

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Barry Smyth - FRICS.FSCS

Member

Anita Geraghty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 28TH DAY OF APRIL, 1999

By Notice of Appeal dated the 20th day of April 1997 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £60.00 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the R.V. is excessive, inequitable and bad in law. The R.V. is out of line with similar type properties in similar location in Co. Carlow and adjoining area. The main building is old and requiring a new roof.

The relevant valuation history is that the subject hereditament was revised in April 1996 and a rateable valuation of £70 fixed thereon. The decision on appeal of the Commissioner of Valuation published in March 1997 was to reduce the rateable valuation to £60.00.

A written submission on behalf of the respondent prepared by Mr. Thomas Cuddihy B.Agr.Sc. was received by the Tribunal on 19th September 1997. Mr. Cuddihy is a District Valuer with 30 years experience in the Valuation Office.

Mr. Cuddihy's written submission set out the basis of the rateable valuation as follows:

Small shop	504 sq.ft. @ £5.00 p.s.f.	=	£ 2,520
Store	128 sq.ft. @ £2.00 p.s.f.	=	£ 256
Large shop	1,000 sq.ft. @ £4.00 p.s.f.	=	£ 4,000
	578 sq.ft. @ £3.00 p.s.f.	=	£ 1,734
Stores (rear & 1st flr)	1,022 sq.ft. @ £0.50 p.s.f.	=	£ 511
Domestic accommodation	worth		<u>£ 3,000</u>
			£12,021

Est. N.A.V. = £12,000 x 0.5% = R.V. £60.00

Mr. Cuddihy's written submission contained a schedule of three comparisons.

A written submission prepared by Mr. Eamonn S. Halpin B.Sc. (Surveying) ASCS, ARICS, MIAVI on behalf of the appellant was received by the Tribunal on 22nd day of September 1997.

Mr. Halpin's written submission employed three methods in arriving at a rateable valuation, a rental per week method, rate per sq.ft. method and capital value method. Mr. Halpin's written submission contended that a fair rateable valuation would be £35.

Mr. Halpin's written submission contained a schedule of four comparisons.

The oral hearing took place at the Tribunal's office in Dublin on 7th January 1998.

In his sworn testimony Mr. Halpin adopted his written submission as his evidence to the Tribunal. In his evidence Mr. Halpin said the subject property was old fashioned and needed maintenance. He said that in the last 20 to 25 years Borris has suffered in business terms due to its location near the two big towns of Carlow and Kilkenny. This had made the village unattractive to prospective tenants.

Mr. Halpin said two of his comparisons were in common with the Valuation Office namely the premises occupied by Briarscroft Ltd. on Main Street, Hacketstown and Lot No. 80, 81, & 82 Main Street, Borris. The comparison at Lot No. 80, 81 & 82 Main Street, Borris was located on the other side of the street close to the subject property. This was a new building. There had been an attempt to operate a retail premises there which had failed. Portion of the property was now used by an insurance broker. His third comparison, Lot 8B Main Street, Borris had been disposed of by the appellant in 1977. It was let at a low rent and was a good comparison. His other comparison was Lot 17, the Green Rathvilly which he described as good quality modern shop/supermarket located in the town of Rathvilly.

Mr. Halpin said that the 1996/3 revision amounted to almost a total revaluation of the village of Borris. He had settled a number of cases with the Valuation Office but the property in this appeal was different.

Mr. Frank Kiernan gave sworn testimony on behalf of the appellant. He said that in 1984 he had to close down the pharmacy in the subject property. He could not afford to employ a pharmacist and the rest of the business was subsidising the pharmacy to the extent of £3,000 per year. Mr. Kiernan said that in 1982/83 the turnover of his business was £240,000 per year and in 1997 the turnover was £200,000.

In his further evidence Mr. Kiernan said that in recent years a bus goes twice daily, six days per week from the village of Borris to Kilkenny, where one can shop in stores like Dunnes Stores.

Mr. Kiernan stated his premises were in a poor state of repair. He had been told fifteen years ago that the roof should have been replaced. He had not been able to do this. Also Mr. Kiernan said the out offices at the back of the premises were in poor repair.

Finally Mr. Kiernan said the population of the village was 1,000 people. He compared Borris to Thomastown, which had a population of 2,000 people, and an area headquarters for the Gardai was located there. Thomastown was also on the main Dublin to Waterford Road.

In his sworn testimony Mr. Cuddihy adopted his written submission as his evidence to the Tribunal.

Mr. Cuddihy said that an extensive re-valuation had been carried out in the village of Borris. In consequence of that relativity had been established between various properties including shops, public houses and restaurants.

Mr. Cuddihy said that virtually every property in the village is old and in varying states of repair. The Valuation Office had taken all this into account in fixing rateable valuations.

In further testimony Mr. Cuddihy stated that Borris was not unique in that people were travelling to the larger towns to do their shopping. This was now a feature of rural life and affected all small towns and villages. Tullow and Bagenalstown were small towns with a similar problem. In fixing rateable valuations in Borris the Valuation Office had also taken this into account.

Mr. Cuddihy then gave detailed evidence concerning his three comparisons.

The comparisons of Mr. Halpin and Mr. Cuddihy are annexed to this judgment at Appendix One.

Under cross-examination by Mr. Halpin, Mr. Cuddihy agreed that there was a loss of trade to small villages like Borris and this problem was more acute now than it was thirty years ago.

In his closing submission, Mr. Halpin stated that Borris had suffered due to shoppers going to nearby large towns. Furthermore he referred to the subject property as being old and unattractive to potential tenants.

Mr. Halpin stated that Mr. Cuddihy's first comparison was a modernised supermarket. There is only room for one such type of business in a small village like Borris. This modernised

supermarket had a good internal layout being a plain rectangle while the interior of the subject premises had an irregular layout.

The Tribunal has considered the written submissions of the appellant and the respondent. The Tribunal has also considered the evidence given by the appellant and the respondent.

The Tribunal finds that due to a cluster of adverse factors this is an unattractive property in terms of its letting potential. This finding is based on the evidence of the difficult trading conditions in Borris, the age and unattractiveness of the subject premises and its irregular internal layout.

The Tribunal therefore considers that this should be reflected in a lower N.A.V. and consequently reduced rateable valuation as follows:

Small shop	504 sq.ft. }		
Store	128 sq.ft. }	@ £45.00 per week	= £ 2,340
Large shop	1,000 sq.ft. }		
	578 sq.ft. }	@ £80.00 per week	= £ 4,160
Stores (rear & 1st flr)	1,022 sq.ft.	@ £0.50 p.s.f.	= £ 511
Domestic accommodation	worth		<u>£ 3,000</u>
			£10,011
		N.A.V. Say	= £10,000
		£10,000 x 0.5%	= £50.00 R.V.

The Tribunal therefore determines the rateable valuation of the subject hereditament to be £50.00.