Appeal No. VA98/1/003

AN BINSE LUACHÁLA

VALUATION TRIBUNAL

AN tACHT LUACHÁLA, 1988

VALUATION ACT, 1988

Donal Quinlan **APPELLANT**

and

Commissioner of Valuation **RESPONDENT**

RE: House at Lot No. 1A/20-621273-120-4, 4215 Coolgrean, Killarney U.D.C., Killarney Urban, Co. Kerry
Domestic valuation

B E F O R E

Liam McKechnie - Senior Counsel	**Chairman**
George McDonnell - F.C.A.	**Member**
Barry Smyth - FRICS.FSCS	**Member**

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 1ST DAY OF APRIL, 1999

By Notice of Appeal dated the 3rd day of January 1998 the appellant Mr. Donal Quinlan 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 said Notice of Appeal are that "I would refer to the 1986 Act which accepts a radical change as a basis for a revaluation. The rateable valuation of this property must reflect the altered circumstances".

The appeal proceeded by way of an oral hearing which took place on the 23rd day of March 1999 in Tralee UDC, Town Hall, Princes Quay, Tralee. Mr. Colman Forkin, a District Valuer with over 19 years experience in the Valuation Office appeared on behalf of the Commissioner of Valuation. The appellant Mr. Donal Quinlan appeared on his own behalf.

Mr. Quinlan is the owner and occupier of a dwelling house known as 20 Millwood Estate in Killarney. This is a semi-detached house of redbrick construction with 3 bedrooms, 2 reception rooms, a kitchen and a bathroom. It is one of several houses in that estate perhaps with a total number of thirty such houses. In 1994 a sign was erected at the entrance of the access road to the estate. The sign read "Caution – Children at play". Mr. Quinlan took the view that by the erection and continued presence of this sign, the amenities which previously, he enjoyed by reason of his ownership and occupation of this property, had been diminished, interfered with and taken from him. He accordingly made complaints to a number of bodies including the Local Authority and the Minister for the Environment. Being dissatisfied at their response or the lack of it, as the case may be, he then sought and had his property listed for revision.

This property being solely domestic in nature is exempt from the payment of rates but like all other hereditaments must have a valuation attached to it. The valuation history was that in 1990 or 1991 an R.V. of £13 was placed on it. As a result of the revision which issued in November 1996, that R.V. remained unchanged, as did the result of his appeal (The First Appeal) to the Commissioner with his decision on the 12th day of December 1997. As is the right of Mr. Quinlan, he appealed to this Tribunal by notice on the 3rd day of January 1998 and this morning in his presence this appeal has been heard by us. In ease of Mr. Quinlan and noting that he was not professionally represented and that he had to travel from Killarney to Tralee, the Tribunal took the view that it should indicate to him verbally what its decision on the appeal was and that a written determination, in accordance with the statutory procedure, would subsequently issue and be sent to him. I am now indicating what the decision of the Tribunal is.

The sole function and purpose of the Valuation Tribunal in so far as it is relevant to this appeal is to determine in accordance with well established statutory provisions and procedures, the appropriate rateable valuation attaching to any particular hereditament. The material provisions

in question are contained in Section 11 of the 1852 Act as amended by Section 5 of the 1986 Act. It has no function with regard to activities or with regard to circumstances or events, which do not directly or indirectly impinge upon the valuation of property.

It is Mr. Quinlan's case that by the erection of this sign in July 1994 that act resulted in a diminution in the exercise of the amenities then available to him and accordingly his property has been reduced in value. On being questioned he was unable to put any suggested figure on what the reduction should be or otherwise elaborate on how, in what way, or why his property should be so affected. During the course of the evidence we were confirmed that a reference was made to An Bord Pleanala under Section 5 of the 1963 Act for the Bord's determination as to whether or not the sign was an exempted development either under Section 4 of the 1963 Act or under the 1994 planning regulations. The Bord issued its decision on the 13th day of June 1995 and held that the sign was not exempted and that accordingly under the planning code there was no existing permission for it.

We have been informed by Mr. Quinlan and we accept, that within a matter of six months after that date, that is by the end of 1995, the sign was removed. The relevant date for the purposes of assessing the valuation in this case is November 1996, the date upon which the revised list issued. It is clear from the above summary of the evidence that this sign had been removed for a period of almost twelve months prior to that list being issued. Accordingly if there were no other factors involved in this case, we would be firmly of the opinion that it could not objectively or reasonably be said that this sign having been removed for the previous twelve months, could have had any detrimental affect on the valuation of Mr. Quinlan's property as of November 1996. If there was no other issue in this case we would therefore hold that in terms of valuation law and within the confines of our remit, it would not be possible to effect any reduction in the existing R.V. of £13.

The evidence of the Commissioner of Valuation is fully suppportive of this and such evidence clearly demonstrates the absence of any basis for such a suggested reduction. It will be observed of course, as I have previously said, that this is a domestic property and irrespective of the rateable valuation, the occupier does not presently pay any rates on it. In addition it will be

noted that the case being made by Mr. Quinlan is that once the sign went up children in the locality felt that they were authorised to play on the roads or in parts of this estate. The sign in question namely "Caution – Children at play" is a sign that must be seen in 90 or 95% of estates throughout the country where the residents consist of a mix of people ranging in age, ranging in occupation, in size and mix of family. At first sight it would be very difficult to see how such a sign in any circumstances, could have a reducing affect on property. I think people might take the view that it would have the opposite affect, namely that it would act as a caution to vehicular movement. One way or the other it is extremely difficult to see how in valuation terms it could have any affect. In any event it seems to us that Mr. Quinlan's major complaint is as he puts it himself, that he had or has some easement, that he has some right of safe access and peaceful living within the estate. These have been interfered with it is claimed. If this should be, and we make no comment whatsoever in this regard it seems to us that this is a matter of private law for which a solicitor of his choosing should be consulted. Certainly it does not appear to us that there is any point or principle in terms of valuation which could be said to be affected by the once presence of this sign and now its removal for over three years. In these circumstances the appeal by Mr. Quinlan against the rateable valuation of £13 does not succeed and the existing rateable valuation is hereby affirmed.