

Appeal No. VA98/3/009

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

Gaynor & McVeagh

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Garage/Filling Station and Yard at Map Ref: 201b, Templeogue Road, Townland:
Terenure, Templeogue Village, Templeogue, Co. Dublin

Quantum - Whether the display yard was valued at previous revision

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Ann Hargaden - FRICS.FSCS

Member

Marie Connellan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 12TH DAY OF JULY, 1999

By Notice of Appeal dated the 24th day of July 1998 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £135 on the above described hereditament.

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

- "1. The valuation is excessive and inequitable
2. The valuation is bad in law."

Oral Hearing

The appeal was heard by way of an oral hearing which took place in the Tribunal Offices in Dublin on the 21st June 1999. Mr Alan McMillan ASCS ARICS MIAVI of Donal O’Buachalla & Company appeared on behalf of the Appellant and Mr Patrick Berkery, a District Valuer appeared on behalf of the Respondent. Having taken the oath both valuers adopted as evidence in chief their respective written submissions which previously had been exchanged and received by the Tribunal. From the evidence tendered the following facts emerged as being material to this appeal.

Property Location

The property is located in Templeogue Village to the rear of the Statoil forecourt.

Description

The premises comprises a car repair workshop with ancillary office, showroom and parts stores, together with ancillary paved display and circulation areas/yard. The property is accessed via a right of way over the Statoil forecourt which formerly formed part of this premises but is now a separate hereditament.

Valuation History

The premises was revised in 1991 when the RV was fixed at £110. No appeal was lodged. The premises was again listed for revision in 1997/4 and the RV was increased from £110 to £135. The occupiers lodged an appeal and the RV remained unchanged at 97/4 first appeal and is now the subject of this appeal to the Tribunal.

The Appellants Case

Mr McMillan argued that the only change to the premises since it was revised in 1991 was that a small office and glazed porch were added to the front of the showroom. The additional amount submitted by the Commissioner devalued this space at £28 psf which was excessive. In his view

however the Commissioner had incorporated in this figure the yard which is used for display of cars and which was included in the 1991 valuation.

He stated that the purpose of the revision was to revise on the basis of the new office and lobby only. Mr Berkery cross-examined Mr McMillan and Mr McMillan confirmed as follows:

He agreed with the description of the premises as garage, showroom, workshop and yard. He stated that the property was only altered from 1991 by the addition of the front small office and glazed porch and that the yard had been included previously and was not an addition.

The Respondents Case

Mr Berkery then gave evidence and stated the following:-

The premises consists of a garage, workshop, showroom and yard. The property was valued in the 1997/4 revision and when an appeal was lodged, he as Appeal Valuer, checked that the valuation was completed properly and decided that the valuation of £135 was correct. He stated that as far as he was concerned the value of the yard was not taken into account in the 1991 assessment and that it was fair to include it now.

Mr McMillan cross-examined Mr Berkery who responded as follows:

The yard was in existence in 1991 and had not materially altered. However, it was a mistake not to include it in 1991. He confirmed that he had the breakdown of the 1991 valuation and that the notes on file from the Valuer then did not include the yard.

Submissions of the Parties

Mr McMillan then made final submissions on behalf of the Appellant and stated that in certain cases the yard would be deemed ancillary to the main premises and it would be reflected in the rates psf applied to the buildings.

He gave an example that if you had a building of 10,000 sq.ft. on 5 acres (of hardstanding) that of course you would have a rate on the land but that however, in this instance he would not value the yard as it was circulation space and ancillary areas. He stated that the Respondent had not demonstrated categorically that the Valuer in 1991 had not taken into account the yard, that there had been no change to the use of the property since 1991 or the occupation of the property and he strongly argued that the Commissioner of Valuation was valuing the yard twice in assessing an additional amount for it in 1997.

Mr Berkery accepted that the property was identical except for the new office and lobby area and indicated that he could not demonstrate that the Valuer in 1991 did not reflect the yard in the RV established.

Determination

The Appellant was involved in the case in 1991 and was familiar with the property as of that date and the basis of settlement of RV with the Valuer at that time. Although the Respondent had examined the file from that date, he could only supply the analysis on a rate per sq. ft. provided within the file. No evidence was provided to establish the approach of the original Appeal Valuer. As the property has not materially altered except for the addition of the small office and glazed porch, the Tribunal have no basis to add an additional value over and above that assessed in 1991 as the same base date for valuation purposes exists in both 1991 and 1997. Therefore we determine the rateable valuation as follows:-

Showrooms/Offices	120 sq. m. @ £48 sq. m.	=	£ 5,760
Reception/Canteen/Stores/Parts	161 sq. m. @ £35 sq.m.	=	£ 5,635
Garage/Workshop	219 sq. m. @ £27 sq. m.	=	£ 5,913
Entrance/Porch & Office	13 sq. m. @ £48 sq. m.	=	<u>£ 624</u>
TOTAL		=	<u>£17,932</u>

@ 0.63% = £112.97. **Say £113 RV**

The Tribunal therefore determines the rateable valuation to be £113.