

Appeal No. VA98/3/123

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

John O'Connell (Chemist) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Shop at Lot No. 19a Rose Inn Street, E.D. Kilkenny No. 2 Urban, U.D. Kilkenny,
County Borough of Kilkenny
Notification of Revision under Section 3, 1988 Valuation Act

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Barry Smyth - FRICS.FSCS

Member

Michael Coghlan - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 25TH DAY OF MAY, 1999

By Notice of Appeal dated the 5th day of August 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £43.00 on the above described hereditment.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the valuation is excessive, inequitable and bad in law".

The appeal proceeded by way of an oral hearing, which took place on the 17th day of May 1999 in the Council Chamber, Kilkenny County Council, Kilkenny. Mr. Eamonn Halpin B.Sc. [Surveying] ASCS ARICS MIAVI of Eamonn Halpin & Co. appeared on behalf of the appellant. Mr. Noel Norris a District Valuer, B. Commerce, Graduate Diploma in Planning and Development Economics, M.I.A.V.I., with 23 years experience in the Valuation Office, appeared on behalf of the Commissioner of Valuation. Mr. Martin Butler, Kilkenny County Council, gave evidence on behalf of Kilkenny Corporation, a Notice Party to this appeal. In accordance with practice and as required by the rules of this Tribunal the appellant and the respondent had prior to commencement of the hearing exchanged précis of evidence and submitted same to the Tribunal.

In this matter Mr. Halpin for the appellant raised the issue of notice under Section 3(4) (a) of the 1988 Valuation Act. Mr. Halpin made submissions that his client had not received notice of the application for revision by Kilkenny Corporation. Mr. Martin Butler, of Kilkenny County Council but who was, at the material time, employed by Kilkenny Corporation as Finance Officer, also made submissions on this matter. His submissions were to the effect that he was not able to show documentary evidence or any other evidence that the Corporation had issued a revision notice, as required by the Act, in relation to this particular property.

The Tribunal has in previous hearings dealt with the issue of notice on a number of occasions. In the case of VA97/2/033 - *Brendan Forde –v- Commissioner of Valuation*, the Tribunal stated that, when the issue of notice has been raised in a *bona fide* way by the appellant, the onus is on the respondent to prove service of the notice of revision. The Tribunal also stated in the case of VA95/5/015 – *John Pettitt* that the issue of notice is mandatory in terms of Section 3 (4) (a) of the 1988 Valuation Act.

Accordingly the Tribunal finds that the revision of the subject property was not properly made in accordance with the 1988 Act and therefore strikes out the revision.