

Appeal No. VA99/3/053

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

Philip J. Arthur & Son

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Store at Map Reference 12Ab, Kenmare, Co. Kerry.

B E F O R E

Fred Devlin - FRICS.ACI Arb.

Deputy Chairman

Michael Coghlan - Solicitor

Member

John Kerr - MIAVI

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF NOVEMBER, 2000

1. By Notice of Appeal dated the 5th day of August 1999, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £15 on the above described hereditament.

The Grounds of Appeal as set out in the said Notice of Appeal are that; "the property was designated 12Ab by Kerry County Council and has never been identified properly to the appellant who does not know exactly to what this number and letters refer. When Kerry County Council agent indicated what he believed to be 12Ab to appellant he showed a building that is used in connection with a private house only".

2. This appeal proceeded by way of an oral hearing which took place in the Council Chamber, Tralee UDC, Town Hall, Princes Quay, Tralee on the 19th day of April 2000. Mr. Colm Murphy of Colm Murphy & Son, Solicitors appeared on behalf of the appellant. Mr. David Molony, a Valuer with 18 years experience in the Valuation Office appeared on behalf of the Respondent. The subject of this appeal is a single storey store of basic construction located just outside Kenmare on a private roadway leading to Kenmare sewerage works. The store has a gross external area of 3,175 sq. ft. (295m²).
3. In the context of this appeal the following are the relevant dates and events which are material to the Tribunal in determining the issue currently before us;
 - (i) In 1997 Kerry County Council requested the Commissioner of Valuation to value new buildings on Lot No. 12B Kenmare Townland and in response to this request the Commissioner assessed the rateable valuation of the subject at £22.
 - (ii) On foot of an appeal against this assessment the appeal valuer inspected the property and established that the building was in fact situated on Lot No. 12A Kenmare and recommended that the entry be struck out. The Commissioner of Valuation agreed with this recommendation and the rateable valuation was deleted.
 - (iii) In accordance with Section 3(1) of the Valuation Act 1988, the Commissioner made a request to the rating authority that the store occupied by Philip J. Arthur & Son on Lot No. 12A Kenmare be included in the 1998 Revision List. In due course the subject property was included in the 1998/4 Revision List and assessed at a rateable valuation of £15 and listed as being Lot No. 12Ab.
 - (iv) By letter dated the 3rd December Colm Murphy & Co. appealed against this assessment on behalf of Philip J. Arthur & Son and the grounds of appeal were stated as being;

- "(a) When our clients called to the offices of Kerry County Council neither our clients nor the servant or agent of Kerry County Council could locate Lot No. Ref 12AG.
 - (b) The plot of ground as indicated by a senior staff member of Kerry County Council as being 12AG consists of a private dwelling house which has been used as such for the last 100 years or more and could not be the subject of the revision of rateable valuation.
 - (c) Our clients are not aware of any "store" that they might have that could be subject to a revision of rateable valuation of £15"
- (v) By letters dated the 19th April and 17th May 1999, Mr. David Molony the Appeal Valuer wrote to Colm Murphy & Co. seeking a site map indicating the situation of the property so that he could investigate the grounds of the appeal. In the second letter he pointed out the necessity of having the information requested by the 28th May 1999 as otherwise the Commissioner of Valuation would issue his decision on the basis of the existing information before him. No response was received to either of these letters and the appeal valuer recommended to the Commissioner of Valuation that no change be made.
- (vi) On the 6th July the appellant company was notified of the Commissioner's decision to the effect that no change was made to the entry appearing in the Valuation List as Lot No. 12Ab with a rateable valuation of £15.
- (vii) On the 5th August 1999, Colm Murphy & Co. on behalf of the appellant company lodged an appeal to this Tribunal and the grounds of appeal are as set out in paragraph No. 1 above.
- (viii) On the 27th day of January 2000, the Tribunal advised the parties that the appeal would proceed by way of an oral hearing to be held at Tralee on the 19th day of April 2000 and requested that each party forward four copies of their précis of evidence to the Registrar on or before 5th April 2000 and that each party would

receive a copy of the other party's précis before the commencement of the oral hearing.

(ix) On the 12th April 2000, the Tribunal received the summary of Mr. John Arthur's evidence together with the supporting map and a request that the hearing be adjourned which request was refused.

4. At the oral hearing on the 19th April 2000, Mr. Murphy told the Tribunal that he and Mr. John Arthur had visited the rating department of Kerry County Council. They inspected the map which was referred to in Mr. Arthur's summary and Mr. Arthur had confirmed to him that there was no building on the area indicated as being Lot No. 12A on the said map. In the circumstances he argued that the valuation should be struck out.

After an examination of the various maps including those appearing in Mr. Molony's précis of evidence it was clear that Mr. Murphy and Mr. John Arthur had been looking at the wrong map as there was no doubt that the subject property was located on Lot No. 12A. Mr. Murphy requested that he be given time to investigate the map situation in greater detail and following some deliberation the hearing was adjourned and Wednesday 3rd May and the Tribunal Offices, Ormond House, Ormond Quay Upper, Dublin were set down as being the date and venue for the resumed hearing.

5. At the resumed hearing Mr. Murphy referred to the copies of the maps he had obtained from the Valuation Office and which he had forwarded to the Tribunal. Map annotated No. 1 is a large-scale map (1-1,000) and on it there is a small area of land numbered 12A Kenmare. This was the map he and Mr. Arthur had previously been shown by the County Council and it was a matter of fact that there was no new building on this area. Map No. 2 is a small scale map (1-10,560) and on it there is a much larger area also annotated Lot No. 12A Kenmare. This map he said had not been seen previously either by him or Mr. Arthur. Nonetheless from neither map was it possible to determine the actual location of the subject hereditament i.e. Lot No. 12Ab.

6. Mr. John Arthur, a part owner of the appellant company, Philip J. Arthur & Company, having taken the oath, outlined his involvement in the earlier 1998 appeal process and confirmed that he had been advised that the valuation was being struck out. Following the 1999 revision he visited the County Council Offices and was shown map No.1 as referred to above and knowing that there was no new building on the area numbered Lot No. 12A Kenmare thereon he lodged an appeal. He heard nothing further until he was notified of the Commissioner's decision to make no change in the rateable valuation of £15. In response to a question from the Tribunal, Mr. Arthur said he was aware of the location of the building that was in fact listed for revision.
7. Mr. Colm Murphy told the Tribunal that he had been appointed by the appellant at first appeal stage and on his behalf submitted the letter to Kerry County Council dated the 3rd December setting out the grounds of appeal. He also confirmed that he did not respond to the letters dated 19th April and 17th May received from Mr. Molony. He also submitted the appeal to this Tribunal and when notified of the proposed date for the commencement of the oral hearing he spoke to Mr. Molony on the phone and sought his agreement to an adjournment which was refused. A similar request for a postponement was also rejected by this Tribunal.
8. Mr. David Molony having taken the oath adopted his précis of evidence, which had previously been received by the Tribunal as being his evidence in chief. Under cross-examination by Mr. Murphy he agreed that the actual location of Lot No. 12Ab was not identifiable on any map and conceded that this may have given rise to some confusion.
9. At the hearing the matter of quantum was not raised and hence the grounds of appeal refer solely to the inadequacy of the mapping system. It is the appellant's case that since Lot No.12Ab could not be identified on the map examined at the County Council Office this gave rise to confusion and led to the conclusion that the revision was once again ill-founded and hence the valuation ought to be deleted.

Findings

10. It is not the first time that this Tribunal has had to deal with alleged inadequacies in the mapping system and in the circumstances the Tribunal considers it necessary to examine the system in some detail to see how the confusion that arose in this case may have happened.
11. Under the 1826 Valuation Act, a Commissioner of Valuation for each county was appointed and the unit of valuation became the town land. Under the 1836 Valuation Act, a Commissioner of Valuation for the whole of Ireland was appointed and under the Poor Relief (Ireland) Act 1838, the unit of valuation became the tenement or hereditament and the basis of valuation became net annual value.
12. Under the Valuation (Ireland) Act 1852, the Commissioner of Valuation is required to prepare a valuation list for each rating district and there is provision for revisions of valuation to be carried out from time to time. The rateable valuations of hereditaments, which appear in the valuation list, are referred to by street numbers in the larger urban areas and by map numbers or lot numbers in the rural areas. Where sub-divisions take place the parent lot number is retained and the newly created entries are referenced by using capital letters. Thus if Lot No. 2 is sub-divided the newly created entries appear as Lot No. 2A and 2B. Where there are buildings on the lot numbers each individual hereditament is referred to by using lower case letters i.e. a, b, and c. One of the advantages of this method of referencing is that the history of a hereditament can be traced back to its original entry.
13. If as part of a sub-division a land lot consists of two sections separated by another Lot No. the two constituent parts are braced across the intervening Lot No. Whilst this practice of map referencing may seem somewhat arcane in the days of digital mapping it

has stood the test of time and is well understood and accepted by practitioners in the rating field.

14. The maps are prepared by the mapping section of the Valuation Office on current ordnance survey plans and maps and are kept up to date on a routine basis following periodic revisions. In the urban areas the 1-1,000 scale is used whilst in the rural areas the 1-10,560 scale maps are used. The Valuation Office provides a copy of the maps to the relevant rating authority but does not provide an updating service. Thus it is possible for a map held in a County Council Office to differ from that held in the Valuation Office and indeed it is quite possible that neither map may be fully up to date despite the best endeavours of the mapping section. Whether or not such inadequacies can invalidate a revision can only be determined upon the relevant facts of a specific case. Having regard to the decision of Mr. Justice Barron in the case of R & H Hall Plc. –v- Commissioner of Valuation given on the 16th December 1994 it would appear that there is no specific obligation to describe the property, the valuation of which is to be determined, by reference to Lot No.'s. As long as the list forwarded by the rating authority clearly identifies the hereditament to be valued then the Commissioner has the clear authority to proceed.
15. The facts in relation to this appeal are as follows;
 - (i) Arising out of the 1997 appeal, the Commissioner of Valuation requested Kerry County Council to include Lot No.12A in the 1998 revision list and at the 1998/4 revision the property was assessed at a rateable valuation of £15 and entered in the valuation list as being Lot No. 12Ab.
 - (ii) Mr. John Arthur went to Kerry County Council Offices and was shown Map No. 1 previously referred to, with the subject Lot No. 12A Kenmare thereon and since he knew there was no new building on this area, he lodged an appeal to the Commissioner of Valuation and engaged Colm Murphy & Co to act on his behalf. Despite two letters from the appeal valuer no discussions took place and on the 6th

July 1999 the appellant was notified of the Commissioner's decision that no change was being made. It is against this decision that the appeal to this Tribunal lies and on the morning of the oral hearing of the 29th May 2000, Mr. Murphy inspected Map No.1 at the County Council Offices and on the basis of this inspection he too formed an opinion that the rateable valuation of the entry known as Lot No. 12Ab should be deleted. Map No. 2 previously referred to was not shown to Mr. Murphy or Mr. Arthur on either occasion.

- (iii) At the resumed hearing copies of Map No's 1 & 2 were produced to the Tribunal and a careful examination of Lot No. 12A on the larger scale map clearly shows a brace linking Lot No. 12A on the small scale map across Lot No. 12B and Lot No. 11B and therein lies the source of the confusion. The fact that the western edge of the larger scale map coincides with the boundary of Lot No. 12A on the small scale map does not help the situation and it should also be pointed out that on neither map do the letters "a" or "b" appear.

Determination

1. The Tribunal has carefully considered all the facts and submissions relating to this appeal and determines as follows;
 - (i) Mr. Arthur by his own admission was aware of the physical location of the building that the Commissioner of Valuation was requested to value which without doubt is located on Lot No. 12A.
 - (ii) The Tribunal accepts that the map inspected by Mr. Arthur and Mr. Colm Murphy at the County Council Offices could give rise to some confusion particularly to persons not overly familiar with the map referencing system used by the Valuation Office. Nonetheless the brace at Lot No. 12A on the large-scale map is clear to be seen and further investigation would have clarified the matter beyond doubt.

- (iii) The fact that no discussions between the parties took place at first appeal stage and indeed prior to the oral hearing is regrettable for if discussions had taken place it is probable that the difficulties associated with the mapping could have been identified, addressed and the matter satisfactorily resolved.

- (iv) Whilst the letter 'b' does not appear on any of the maps adduced this is not of itself sufficient to render the revision invalid. On the basis of the evidence the property to be valued was clearly identified as being on Lot No. 12A and referred to as being occupied by Philip J. Arthur and Company. Mr. Arthur by his own admission was aware at all times of the physical location of the building which the Commissioner was requested to value. He may not have known that it was situated on Lot No. 12A.

Having regard to all of the evidence proffered and arguments adduced, the Tribunal dismisses this appeal and affirms the decision of the Commissioner of Valuation to the effect that the rateable valuation of the hereditament appearing in the valuation list as Lot No. 12Ab is £15.00.