

Appeal No. VA04/1/060

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 2001
VALUATION ACT, 2001

Lorcan Brereton

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Studio at Lot No. 50/2, Kill Road, Deansgrange, Foxrock Beechpark, County Dublin

B E F O R E

John Kerr - BBS. ASCS. ARICS. FIAVI

Deputy Chairperson

Mairéad Hughes - Hotelier

Member

Michael McWey - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 29TH DAY OF SEPTEMBER, 2004

By Notice of Appeal dated 30th of March, 2004 the appellant appealed against the determination of the Commissioner of Valuation in fixing rateable valuation of €48.34 on the above described property.

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

" On the basis that the RV is excessive, inequitable and bad in law."

The property is located on the southern side of Kill Lane close to the junction with Deansgrange Road and Clonkeen Road. This photographic studio is attached to a private residence in a residential area and is in the Dun Laoghaire/Rathdown County Council area.

The Valuation Certificate was issued on the 15th August 2003, fixing the RV at €48.34. This Valuation was appealed and on the 3rd of March 2004 the Commissioner of Valuation issued the result of the first appeal with the Valuation unchanged.

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 19th July 2004. The appellant was represented by Mr. Eamonn Halpin, of Eamonn Halpin & Co., Chartered Valuation Surveyors and the respondent was represented by Mr. Damien Curran, a Valuer with the Valuation Office. Prior to the hearing both valuers exchanged and submitted to the Tribunal their respective précis of evidence and having taken the oath, adopted them as their evidence-in-chief.

Appellant's Case

The property comprises a narrow section to one side of the original residence, and is situated in the position of the original garage which was re-constructed. Internally, the studio comprises a reception area, WC, passage, store and a wider photographic studio built to the rear. Restricted planning permission was granted to the studio on the 15th of November, 2001 with Condition 8 stipulating that operation of the studio should be restricted to a member of the immediate family of the occupier of the main dwelling and that the link to the dwelling should be maintained.

Mr. Halpin argued that the R.V. is excessive and inequitable in view of the location of the studio being in a residential area. He also stated that the building does not compare with various doctors' surgeries as suggested by the Revision Officer.

Mr Halpin listed four Comparisons for consideration. These properties are situated as follows:

- (1) 144 Clonkeen Road, the total floor area of this former motor house turned office is 15.7 sq.m with a rental value assessed at €64.20 per sq.m.
- (2) Bray Road Cornelscourt, a shop of 63 sq.m with rent assessed at @ €70 per sq.m.
- (3) Lot 3a Deansgrange Road, a retail premises of 68.56 sq.m, rent assessed at €16.17 per sq.m.
- (4) A veterinary surgery across the road from the subject property. The assessment on this premises was carried out on a pre 1988 valuation basis.

Photographs of all four comparisons were provided by Mr. Halpin together with a map of the area in general.

Respondent's case

Mr. Curran, on behalf of the Valuation Office submitted three comparisons (all doctor's surgeries), none of which had been put forward by the appellant. Mr. Curran did not provide photographs of these comparison properties.

The first comparison listed by him was a surgery located at 1Ac-f Granitefield. This consists of 166.84 sq. m. total floor area with rent assessed at €5.68 per sq.m. He said that this is a modern surgery attached to the main residence and that the surrounding area is almost entirely residential.

Mr. Curran introduced two other comparisons chosen by him for consideration. Both are doctor's surgeries on the Lower Kilmacud Road. The first at 96A Lower Kilmacud Road has a total area of 74.88 sq.m. , rent assessed at €23.00 per sq.m., while the second at 24/26 Lower Kilmacud Road has a floor area of 119.47sq.m with assessed rental of €09.34 per sq.m..

Findings and Determination

The Tribunal has considered the submissions and the evidence adduced and the matters raised at the oral hearing by both the appellant and the respondent. Both parties have substantially relied on comparative evidence as the basis for their valuation. The comparisons provided by the Valuation Office relate to doctors' surgeries with apparent higher profiles and located in areas with higher traffic volumes, greater visibility and exposure. Regrettably, no photographs of the comparisons were provided by the Valuation Office nor was a map given to indicate those offered in the Lower Kilmacud Road area. It would appear from the comparisons offered by the Valuation Office that the surgeries are larger and are purpose built and/or with off-street parking as affirmed by **VA98/2/008 – Dr. Frances Sheehan** cited by the Valuation Office in their second comparison.

It was felt that in the absence of suitable comparisons (by the appellant and the respondent) of other photographic studios in the area, that those comparisons submitted by both parties were of limited value and assistance to the Tribunal.

With reference to Condition 8 of the Planning Permission granted by Dun Laoghaire/Rathdown County Council on the subject property, it was felt that such a restricted use would be considered as having a negative impact on the value a hypothetical tenant would apply to the property.

The Tribunal also took into account the design of the property i.e. the narrow passage that leads to the studio and which denies external access to the rear garden and the size of the studio effectively mitigates against any other professional use (if permitted) for example, an accountant's office or a doctor's surgery.

In the subject circumstances, it was felt inappropriate for the Appellant's consultant to apportion different notional rental values between the studio and the entrance, reception and passage.

Bearing in mind the foregoing, the Tribunal concluded that the first comparison of the Valuation Office was more than 100% larger than the subject property (described in the précis of evidence as a modern surgery) with an established rental rate of €5.68 per sq.m. as agreed at the first appeal stage.

The second comparison of the Valuation Office, similar in area to the subject property, was more useful to the Tribunal by virtue of the decision made in Appeal No.:

VA98/2/008- Dr. Frances Sheehan. Mindful of its use as a surgery with on-site parking for eight vehicles and in an effort to correlate evidence adduced in that case to the subject property, the Tribunal adopts the following approach in establishing the appropriate N.A.V. of the subject property:

Agreed floor area	= 71.91 sq.m.	
	@ €1.81 per sq.m.	
N.A.V.	= €163.85	

With the resultant calculation to produce an R.V. of:

N.A.V. €163.50 x 0.63%	= €2.53
R.V. (say)	= €3

And the Tribunal so determines.