

Appeal No. VA04/2/012

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

James Mullins

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Workshop and Yard at Lot No. 18b, Roy, Dunmore South, Tuam, County Galway

B E F O R E

Frank Malone

Deputy Chairperson

Michael McWey - Valuer

Member

Michael F. Lyng - Valuer

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 30TH DAY OF SEPTEMBER, 2004

By Notice of Appeal dated the 6th of April, 2004, the appellant appealed against the determination of the Commissioner of Valuation fixing a rateable valuation of €100 on above described relevant property.

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

"Valuation is excessive and inequitable"

The appeal proceeded by way of an oral hearing that took place in the Tribunal Offices, Ormond House, Ormond Quay Upper, Dublin 7, on the 2nd day of July, 2004. Ms. Sheelagh O Buachalla, BA, ASCS, a director of G.V.A. Donal O Buachalla, Property Consultants, represented the appellant and Mr. Michael F. Keogh, Staff Valuer in the Valuation Office, represented the respondent. Mr. James Mullins, owner of the subject property also attended the hearing. Both parties exchanged précis of evidence and submitted copies of same to the Tribunal. At the oral hearing, each party, having taken the oath, adopted their précis as being their evidence-in-chief.

Description

The subject property comprises an engineering workshop which is used for repairing machinery and is located on the N83 two miles south of the village of Dunmore on the Galway to Sligo road. The property comprises two steel portal framed buildings constructed of part concrete block and part metal deck walls with metal deck roof and reinforced floors. The property comprises an Engineering Workshop, which is set out in two spans or blocks. The front block was erected in c. 1998 and was included in the assessment of RV €57.14 agreed on Appeal with Mr Mullins in 1999/4. The new block to the rear was erected in 2003 and is of similar modern construction. The new block replaces old hayshed type sheds, which were also included in the 1999/4 assessment and which were demolished in 2003 prior to the redevelopment of the site. Each block is fitted with a crane gantry which is used for the purpose of lifting heavy machinery.

The floor in part of the new block is unfinished

Valuation History

Prior to the 2003 Revision, these premises were assessed at RV €57.14 which was agreed with Mr. Mullins by Appeal Valuer, Mr. Frank O'Connor following an appeal in 1999. The Appeal Valuer assessed the R.V. as follows:

A- New Block 542 sq. m @ €17.08 per sq. m = €9,257.00

B- Old Sheds 244 sq. m @ €10.16 per sq.m = €2,479.00

NAV= €1,736 @ 0.5% = €8.68

RV rounded to €57.14 (equiv. to £45)

The current rateable valuation of €100 was assessed on Revision in 2003 following the redevelopment of the premises. Mr. Mullins lodged an appeal to the Commissioner of Valuation. Following the appeal the Commissioner affirmed the rateable valuation of €100.

Relevant Dates

7th October 2003 - Revision Officer inspected the premises and subsequently prepared a Valuation Report.

29th October 2003 - Valuation Certificate (Proposed) was issued to Mr Mullins. The subject premises were assessed at RV €85.00 (Proposed) (Increased from €7.14).

26th November 2003 - Representations, dated 24th November 2003 were received by the Valuation Office from Mr Mullins and receipt acknowledged.

2nd December 2003 (Valuation Date) - The Valuation Office, having considered the Representations, and following further telephone discussions with Mr Mullins, issued the Valuation Certificate to Mr Mullins and subsequently to Galway County Council. The subject premises were assessed at €€ €100 (Increased from €7.14).

9th January 2004 - An Appeal Application, dated 7th January 2004 was received by the Valuation Office from Mr Mullins.

9th March 2004 - The Commissioner of Valuation issued the determination of the Appeal.

6th April 2004 - The unchanged assessment of RV€100 was appealed to the Valuation Tribunal by Ms Sheelagh O Buachalla on behalf of Mr Mullins.

Tenure

The property is held freehold.

Areas

The Agreed Areas are as follows: - (measured Gross External)

Front Block	541.62 m ²	(Eaves 7.5m)
New Block	858.00 m ²	(Eaves 7.5m)
Total	1399.62 m²	(15,065 sq. ft.)

Services

Occupier's own services are connected

Appellant's case

Ms. O Buachalla, acting for the Appellant, stated that she wished to correct the valuation date in her précis to read 2nd December 2003. She then called Mr. James Mullins, owner, to outline the background to his setting up his Engineering Workshop. Mr. Mullins, having taken the oath, stated that he served his time with the Irish Sugar Company. Having finished his apprenticeship in 1981 he went to England for a few years. He came back home to the family farm and started up a small business in a hay shed on his father's land. The business developed from there.

Mr Mullins stated in reply to Ms. O Buachalla that the new section of the building is still incomplete. This is not fully utilised because the floor was never finished due to the fall away in business over the last few years. Now he finds he has enough space without the unfinished section. He stated that he has changed his business now from manufacturing to repairing machinery on-site rather than bringing the work back to the workshop.

In reply to Ms. O Buachalla regarding the present valuation, Mr. Mullins stated that Mr. Keogh came down and measured the premises and telephoned him later to inform him that the valuation would be €85. Mr. Mullins said that he could not afford this and that Mr. Keogh said that if he did not settle for that, it would be increased to €100. He stated that he then made representations on the appropriate form and again, after negotiations, a new Valuation Certificate was issued on the 9th March 2004 with a valuation of €100. Mr. Mullins had lodged an appeal dated 7th January 2004 and in his appeal he said he was prepared to pay €70. He felt this was reasonable due to the fact that the new section of the building is incomplete and not fully utilised. He also stated that if the shed was fully finished and the business in full production, he would consider the €85 valuation appropriate. In reply to Ms. O Buachalla, Mr. Mullins stated that he never agreed a valuation of €85 with Mr. Keogh and if he wanted to rent his sheds at the present time he felt it would be impossible due to the fact that many IDA sheds are unoccupied in his area

at the moment. He further stated that he was married with six children and that he was never grant-aided by anybody in his business and that he had been paying rates since 1988.

Ms. O Buachalla stated that as Mr. Mullins had given the history of the business she would concentrate on trying to tease out this new system of valuation under the 2001 Act which everyone was trying to come to grips with and learn from. She felt that the new system should be more transparent and that the ratepayer should have an opportunity to deal with appeals themselves. She stated that when the proposed valuation report is issued the ratepayer is entitled to a copy of it but that a copy of the report was not furnished in this case to Mr. Mullins.

Ms O Buachalla stated that the Valuation appearing in the Valuation Report was €85 and the Tribunal note that the Valuation Certificate (Proposed) dated 29th October 2003 contained a Valuation of €85. Ms. O Buachalla stated that the valuer reached this decision by dividing the property into two blocks and valuing each separately. Ms. O Buachalla also stated that, when valuing property, the valuer should value it in line with comparables in the area and make allowances for size, location and quality of building. In this case however, in her opinion, the fact that a section of the building was not floored was not taken into account by the valuer when issuing his valuation. Ms. O Buachalla also stated that she would accept Mr. Keogh's valuation on Block A and part of Block B but a reduced rate should be made for the area of Block B which is partially floored and could not even be used for storage. She would question Mr. Keogh's statement in his précis which says that the entire building is used for engineering works.

Under cross-examination by Mr. Keogh, Ms. O Buachalla agreed that it was only the old hay sheds (244 sq. metres) that were replaced and that the front block is the same as was valued in 1999. Ms. O Buachalla also agreed that the building now had two crane gantries. In reply to a question put by the Chairperson, Ms. O Buachalla replied that she was relying on section 49(1) of the Valuation Act, 2001 to substantiate her case.

Ms O Buachalla contended for a rate of €13.67 per m² on the property excluding an area of 342 m² which she said was unfloored and in respect of which she contended for a rate of €2.15 per m². This gave a Net Annual Value of €15,192 on which Ms O Buachalla sought a discount of 10% or €1,519 reducing the Net Annual Value to €13,673 which at 0.5% gave an RV of €68.36 say €68.

The Chairperson re-called Mr. Mullins to confirm the type of material in the un-floored section of Block B of the building. Mr. Mullins stated that it was the original ground clay and gravel in an area of 18m x 18m (324m²) which was there before any building started.

Respondent's case

Mr Keogh stated that the gantry runs the entire length of the building and is used for lifting heavy machinery. He said that when he carried out his valuation, he valued the building in its entirety taking everything into account including the un-floored area. He reached his valuation as follows.

Workshop-Front Block	541.62 sq.m @ €13.67 per sq.m.	= €7,403.95
Workshop-Rear Block	858.00 sq.m @ €13.67 per sq.m.	= <u>€11,728.86</u>
	Net Annual Value	€19,132.81
	RV @ 0.5%	= €95.66 Say €100

Mr. Keogh stated that, during his discussions with Mr Mullins, when carrying out the valuation, Mr. Mullins asked him to keep in touch with him and let him know what was the best he could do. After consideration, he told Mr. Mullins that his best would be €85 and he understood that Mr. Mullins was agreeing to this figure as he had a verbal agreement by telephone with Mr Mullins it. That verbal agreement was subject to the Appellant's writing in agreeing to it which he did not do so that there was, finally, no agreement. He put through his valuation at €85. However, when Mr. Mullins got the proposed Valuation Certificate he disputed the valuation of €85. As no agreement was reached, he (Mr. Keogh) had to revert to his original valuation of €100. He also stated that in carrying out his valuation he used Mr. Frank O'Connor's 1999 valuation of the property. He felt that if he used any other comparisons he would have difficulty getting

approval for his report as all other properties in this location would have a higher valuation and he was trying to be helpful to Mr. Mullins in what he did. Under cross-examination by Ms. O Buachalla, Mr. Keogh would not agree that the location of the subject property was not as good as Tuam. With regard to the unfloored area Mr Keogh stated that he could not say what material it was composed of.

Determination

The Tribunal, having considered all the evidence, including that in relation to comparisons, both in the written submissions and given orally at the hearing and taking into account the increased size of the rear block and the unfinished floor area, makes the following findings:

Workshop-Front Block 541.62 sq.m @ €12.24 per sq.m. = €6,629.42

Workshop-Rear Block 858.00 sq.m @ €12.24 per sq.m. = €10,501.92

Net Annual Value €17,131.34

RV @ 0.5% = €85.65

Say €85

Accordingly the Tribunal determines the rateable valuation of the subject property to be €85. The appeal is allowed to this extent and the determination of the Commissioner of Valuation is varied accordingly.

Appendices

1. Valuation Report - dated 13th October 2003
2. Valuation Certificate (Proposed) - issued 29th October 2003
3. Consideration of Representations by the Revision Officer I- dated 26th November 2003
4. Letter from Appellant to the Revision Officer – dated 1st December 2003