

Appeal No. VA05/4/002 - 007

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

**Bus Eireann**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Bus Shelters at Lot No. 117(AT) (VA05/4/002), 116(AT) (VA05/4/003), 10(at) (VA05/4/004), 18 to 21 (at) (VA05/4/005), 12 to 17 (at) (VA05/4/006) and 110(at) (VA05/4/007), St Patrick's Street, Centre B, Centre West, Cork, County Borough of Cork

**B E F O R E**

**Fred Devlin - FSCS.FRICS**

**Deputy Chairperson**

**Joseph Murray - B.L.**

**Member**

**Frank O'Donnell - B.Agr.Sc. FIAVI**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 25TH DAY OF APRIL, 2006**

By Notices of Appeal dated the 2nd day of November, 2005 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €2 on each the above described relevant properties at Lot No. 18 to 21 (at) (VA05/4/005) and Lot No. 110(at) (VA05/4/007) and a rateable valuation of €1 on each of the remaining above described relevant properties.

The Grounds of Appeal are set out in a letter accompanying the Notices of Appeal a copy of which is contained in Appendix 1 to this judgment.

1. With the consent of the parties these appeals were held contemporaneously by way of an oral hearing held in the Tribunal Offices, Ormond House, Ormond Quay Upper, Dublin 7 on 6<sup>th</sup> day of January, 2006. At the hearing the appellant was represented by Mr. Joseph Bardon FSCS, FRICS of Bardon & Company and the respondent, the Commissioner of Valuation, was represented by Mr. Francis Twomey, a Valuer in the Valuation Office. Supplementary evidence on behalf of the appellant was given by Mr. Peter Cunningham and Mr. Paul O'Neill, Senior Surveyor and former Financial Manager respectively, C oras Iompair Eireann Group Property Management.

### **The Properties Concerned**

2. The properties concerned in these appeals are newly erected bus shelters on St. Patrick's Street, Cork, provided as part of a general upgrading of the street to coincide with Cork's tenure as European Capital of Culture. The new shelters which replace older structures are of polished tubular steel construction with perspex roof and sides and provide seating for waiting bus customers. Four shelters are of a uniform size whilst the other two (Appeal Ref. Nos. VA04/4/005 and 007) are double size shelters. The glazed sections of the shelters incorporate advertising panels which are separately valued.

### **Rating History**

3. On 14<sup>th</sup> February, 2005 Valuation Certificates in respect of each property were issued by the Revision Officer pursuant to Section 29(1) of the Valuation Act, 2001 to the effect that the standard sized shelters had been assessed at a rateable valuation of  1.00 and the double sized shelters at  2.00. Following representations by the appellant the Revision Officer issued Valuation Certificates in accordance with Section 29 (3). The effect of the Certificates was to affirm the rateable valuations as originally proposed. No change was made on foot of appeals to the Commissioner of Valuation and it is against these decisions by the Commissioner of Valuation that the appeals to this Tribunal lie.

### **The Appellant's Evidence**

4. Mr. Bardon having taken the oath adopted his written pr cis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

5. Mr. Bardon in his evidence said the appellant, Bus Eireann, was of the opinion that there was a long standing agreement in place with the Valuation Office that standard sized bus

shelters were to be valued at €0.63 (£0.50) regardless of location. Mr. Bardon said that to the best of his knowledge the agreement between CIE Group Property Management acting on behalf of Bus Eireann and the Valuation Office was arrived at sometime after the introduction of the Valuation Act, 1986 (now repealed) but there was no supporting documentary evidence available to this effect. Nonetheless, Mr. Bardon said, there was strong circumstantial evidence to support his contention that such an agreement was in place. In the early 1990's, he said, the Valuation Office attempted to increase the minimum rateable valuation of bus shelters from £0.50 to £1.00 "in order to facilitate the computer" which it was alleged could not cope with a rateable valuation of less than £1.00. This proposal was successfully resisted by Bus Eireann. In 1996 and 1997 revisions, Mr. Bardon, said the Valuation Office assessed 8 bus shelters in the Limerick City Council area and one in the Limerick County Council area at £1.00 each. Following appeals to the Commissioner of Valuation all these assessments were reduced to £0.50. Mr. Bardon said he acted for Bus Eireann at the time in respect of these appeals. In the light of these events it was clear, Mr. Bardon said, that there was some arrangement in place regarding the valuation of bus shelters on a nationwide basis and this arrangement represented the "tone of the list".

6. Mr. Bardon said that he had carried out a search on the Valuation Office website in relation to bus shelters in the Cork City Council and Cork County Council areas and 8 other Town Council areas. In all there were a total of 100 shelters in the valuation list, 92 of which showed Bus Eireann as the occupier and 2 others showed CIE as being the occupier. In total 92 of the shelters were valued at €0.63 each and 2 at €1.27 and it is assumed that these last 2 are double sized shelters. In total there were 68 bus shelters in the Cork City area including the 6 under appeal, he said, and 61 of these were valued at €0.63 and one at €1.27. It was clear from this search, Mr. Bardon said, that there was an established tone in the City Council area, whereby standard sized bus shelters were valued at €0.63 and double sized shelters at €1.27. That being the case, he said the Valuation Office could not now introduce a higher level of values as to do so would be contrary to the provisions of the Valuation Act.

7. Under cross examination, Mr. Bardon agreed that the valuation of €1.00 as put forward by the Revision Officer was reasonable. However, Mr. Bardon pointed out that this was not particularly relevant in that Section 49 of the Valuation Act, 2001 required the subject properties to be valued "*by reference to the values, as appearing on the valuation list relating to the same rating authority area as that property is situate in, of other properties*

*comparable to that property*” or in other words by reference to the tone of the list. That being so, the Revision Officer was incorrect in assessing the rateable valuation of the properties concerned at the levels of €1.00 per standard sized shelters and €2.00 for double sized shelters. Mr. Bardon further agreed with Mr. Twomey that as a general principle location was a major factor in determining value. Nonetheless, Mr. Bardon said, it was clear from the search he had carried out from the Valuation Office website that all standard sized bus shelters in Cork were valued at a uniform level of €0.63. In other words, there was no allowance for location.

### **Mr. Peter Cunningham’s Evidence**

8. Mr. Peter Cunningham said he was a Senior Surveyor in the CIE Group Property Management Department and that part of his function within the department was to monitor all matters in relation to the payment of rates. Mr. Cunningham said that he signed the original letter of appeal dated 3rd November 2005 which he said had been drafted in consultation with Mr. Bardon. Mr. Cunningham said that there was no documentary evidence in the CIE records to support Mr. Bardon’s contention that there was an agreement between CIE and the Valuation Office sometime in the early 1990’s regarding the valuation of bus shelters, nor indeed had he any personal knowledge of such an agreement as he was not working in CIE at that time. Mr. Cunningham said that the replacement of the old bus shelters and the design and location of the new shelters had been carried out by arrangement with Cork City Council. Whilst Bus Eireann had constructed the shelters at the agreed locations, no rent was paid for the site on which they stood nor was there any formal lease or licence agreement in place.

### **The evidence of Mr. Paul O’Neill**

9. Mr. Paul O’Neill said he had recently retired from CIE but that before his retirement he had worked in the Finance Department of CIE Group Management since 1990. Mr. O’Neill said that he had no professional knowledge of rating practice but nonetheless he was aware that generally speaking all bus shelters were valued at £0.50 (€0.63) on a nationwide basis.

10. When asked if he knew of any documentary evidence regarding an agreement with the Valuation Office in relation to the valuation of bus shelters Mr. O’Neill confirmed that to the best of his knowledge there was no such document. However, Mr. O’Neill did refer to an exchange of correspondence in April 1995 between Mr. James J. Gahan, the then Group

Property Manager of CIE and Mr. Des Killen of GVA Donal O Buachalla & Company Limited regarding the valuation of a bus shelter in the Whitehall district of Dublin at £5.00 at the 1993/2 revision. From this correspondence (which was made available to this Tribunal) it could be seen that there was a clear implication, said Mr. O'Neill, that the Commissioner of Valuation had agreed to reduce the rateable valuation from £5.00 to £0.50 following representations by Mr. Gahan. Mr. O'Neill said that as a matter of fact bus shelters throughout the country as far as he was concerned were valued at a uniform level of €0.63.

### **The Respondent's Evidence**

11. Mr. Twomey having taken the oath adopted his written précis and valuation which had previously been received by the Tribunal as being his evidence-in-chief.

12. In his evidence Mr. Twomey contended for a rateable valuation of €1.00 for the standard sized shelters and €2.00 for the double sized shelters. In support of his opinion of rateable valuation Mr. Twomey introduced 3 comparisons as set out in Appendix 2 attached to this judgment.

13. Mr. Twomey said the subject properties were situated on St. Patrick's Street which was the prime retail location in Cork. Mr. Twomey said that in his opinion location was a major factor that must be taken into account when valuing property and there was no reason why bus shelters should be excluded from this general principle of valuation. Furthermore, the rateable valuation of €1.00 represented a net annual value of less than €3.00 per week which by any criteria must be seen as being a purely nominal figure.

14. Mr. Twomey said that in arriving at his opinion of value he had regard to the comparisons contained in his précis and in particular comparison No. 2 which was a double sized bus shelter at Lavitt's Quay. This shelter, Mr. Twomey said, occupied a vastly inferior location to the properties concerned and he had taken this into account when arriving at his opinions of value.

15. Under cross examination Mr. Twomey said he was aware that standard sized bus shelters in Cork were valued at a uniform level of €0.63. Indeed, Mr. Twomey said, he had taken this fact into account in arriving at his valuations which in his opinion were very fair and reasonable having regard to their location on the prime retail street in Cork.

## Findings

The Tribunal has carefully considered all the evidence both written and oral and argument adduced at the oral hearing and finds as follows:

1. Whilst there is no documentary evidence to sustain the argument that there was an agreement in place between CIE Group Property Management and the Valuation Office regarding the valuation of bus shelters it is absolutely clear from the search carried out by Mr. Bardon that standard sized bus shelters are valued at a uniform level of €0.63. The results of Mr. Bardon's search were corroborated by Mr. O'Neill based on his lengthy experience in the Finance section of CIE Group Property Management.
2. It is clear from Mr. Bardon's evidence that standard sized bus shelters in the Cork City area are valued at a uniform level of €0.63 regardless of their location within the city.
3. Section 49 (1) of the Valuation Act, 2001 sets down in unambiguous words the method of determining a property's value under Section 28 (4). Effectively this Section directs the Revision Officer to value the property concerned having regard to the values of other properties comparable to the property being valued, i.e. the tone of the list.
4. Having regard to the foregoing the Tribunal is satisfied that the established tone for the valuation of bus shelters in Cork City area is €0.63 for standard size shelters and €1.27 for double sized shelters.

## Determinations

Having regard to the foregoing the Tribunal determines the rateable valuation of the below listed properties to be as follows:

VA05/4/002	€0.63
VA05/4/003	€0.63
VA05/4/004	€0.63
VA05/4/005	€1.27
VA05/4/006	€0.63
VA05/4/007	€1.27