

Appeal No. VA07/1/012

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

Alex Kane

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Garage/Filling Station, Yard at Lot No. 13, Edgeworthstown, Meathas Truim, Granard, Longford, County Longford

B E F O R E

John Kerr - BBS. ASCS. MRICS. FIAVI Deputy Chairperson

Maurice Ahern - Valuer Deputy Chairperson

Mairéad Hughes - Hotelier Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 7TH DAY OF SEPTEMBER, 2007

By Notice of Appeal received on the 22nd day of March, 2007 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €175.00 on the above described relevant property.

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

"K&M Motors have 2 agencies Fiat & Peugeot, large showroom, workshop & offices. Our place should at least be the same. As we have already applied for planning to build new showroom, old building has been deemed as not suitable. Town bypassed and no proper entrance only one way to our property Because building is 50 years old and of poor standard and bypass of road to building. K&Ms valuation who have 2 agencies Fiat & Peugeot large showroom and office all new, so ours should be same."

The appeal proceeded by way of an oral hearing, at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 15th day of May, 2007. The Appellant represented himself at the hearing together with his Accountant, Ms. Mary Hayes Kane. The Respondent was represented by Mr. Malachy Oakes ARICS, a Valuer in the Valuation Office.

In accordance with the Rules of the Tribunal, the parties had exchanged their respective précis of evidence prior to the commencement of the hearing and submitted same to this Tribunal. At the oral hearing, both parties, having taken the oath, adopted their précis as being their evidence in chief. This evidence was supplemented by additional evidence given either directly or via cross-examination. From the evidence so tendered, the following emerged as being the facts relevant and material to this appeal.

At issue

Quantum.

The Property

The property, known as Kane's Garage, is described as an older, concrete block walled structure with corrugated asbestos roof over the workshop area, which contains car hoist and truck pit, together with a more recently constructed single storey showroom to the front, with a truck testing bay capable of handling two trucks set off to one side. At the relevant date, the property was used for the sale of second hand cars, jeeps and DOE testing of trucks.

The property is located on the western outskirts of Edgeworthstown, Co. Longford, on the former main Dublin – Longford road. The Edgeworthstown Bypass opened on 19th June, 2006. Access to the subject property is provided from the Bypass and the general area is characterised as industrial in nature.

Tenure

Freehold

Services

Connected to mains.

Valuation History

Following a request from Longford County Council, Mr. Oakes inspected the building on 23rd May, 2006. The Commissioner issued a proposed RV of €175 on 4th July, 2006. Following representations of the Appellant, the Final Valuation Certificate was issued unchanged, on 15th August, 2006.

Appellant's Case

Mr. Kane took the oath and provided the Tribunal with a review of his submission. He referred to his correspondence to the Tribunal dated 20th March, 2007; earlier correspondence of 14th August, 2006, sent by him to the Valuation Office; his undated Notice of Appeal to the Tribunal, received on 22nd March, 2007, and finally a one-page undated summary of his grounds of appeal, copies of which were handed to the Respondent and the members of the Tribunal on the date of hearing, i.e. 15th May, 2007.

The Tribunal notes that the foregoing materials contain some commercially sensitive information relevant to properties owned by persons not parties to the Appeal, and accordingly, said documents are not appended hereto.

In summary, Mr. Kane argued his case on the basis that the relevant property was built 50 years ago and is roofed with asbestos needing replacement. He noted that the condition of the building and the roof height in the showroom area contributed to the loss of his former Opel agency business, and that as a result, he has filed a planning application to replace same but expects the works not to be completed for a number of years. Mr. Kane contended that the access road had been closed for a year and recently reopened to one-way traffic only. He noted that there is no signage on display to the public thoroughfare to indicate an entrance to Edgeworthstown off the Bypass or the location of his test centre, and stated that his trade has decreased in recent times by about 75%. He stated that K & M Motors in Longford, with its new showroom, extended workshop and two main agencies is rated with an RV of €110, and accordingly felt that Kane's Autos should have its former RV reinstated at €101.58, or possibly reduced. Mr. Kane argued that his business had further decreased with the opening of a second test centre for trucks in the county, and that his petrol station business has been reduced by 75%. He declared that three other car sales operations in the area were not paying any rates and calculated that his rates bill has now increased, with an RV of €175, by an amount equivalent to €4,790.24 per year.

For the purpose of clarification, the petrol sales or filling station operated by Mr. Kane, is not included within the relevant property subject to this Appeal.

Ms. Hayes-Kane also took the oath and informed the Tribunal that the truck test bay was built about two years ago and is not an NCT designated car testing centre. She reiterated the difficulty of ingress and egress to and from their premises resulting from the construction and opening of the new Edgeworthstown Bypass, and when the Bypass was opened, traffic on the adjoining slip road was then reduced to one-way travel over same.

Respondent's Case

Mr. Oakes took the oath and formally adopted his précis as his evidence-in-chief and reviewed his submission. In addition to the valuation history noted above, he provided the Tribunal with a verbal summary of the valuation history on the premises dating back from 1974 when first revised, and subsequent Appeal by Mr. Kane to the Circuit Court, revised again in 1976, and a reinstatement of a Circuit Court determined RV at £80, all of which preceded the revision of 2006.

Mr. Oakes noted that the revision followed construction of the showroom and the new truck test bays. He acknowledged that Mr. Kane, from the outset, expressed grave concern with the effects of the road works underway near his premises. Mr. Oakes confirmed that when considering the valuation on the new showroom and test bay, he had adjusted his figures to reflect the road works, which were to happen imminently at that time. He informed the Tribunal that jeeps, namely 4 x 4 vehicles and secondhand cars were being offered for sale on the premises. Mr. Oakes provided a summary of the issues raised by the Appellant at First Appeal, in response to which he determined that the property is rateable and should be in the Valuation List. He confirmed that the areas of the subject relevant property were agreed as follows:-

Showroom:	355.68 sq. metres
Workshop:	396.50 sq. metres
Older premises (Showroom / Offices):	371.00 sq. metres
Workshop:	992 .00 sq. metres

Mr. Oakes offered three comparison properties in his précis of evidence, the first being K & M Motors with its new showroom and workshop, which were rated on the basis of €44.42 per sq. metre and €20.50 per sq. metre respectively, which compared to €27.34 per sq. metre and €13.67 per sq. metre respectively on the subject relevant property.

His second comparison property was Michael Flynn Motors, located near Lanesboro on the Longford Road, a main auto agency similar to his comparison No. 1, with its showroom deemed to be rated again at €44.42 per sq. metre and workshop also at €20.50 per sq. metre.

The third comparison offered by Mr. Oakes was a joinery/workshop located behind commercial properties on Granard Road in Edgeworthstown, trading as Harewood Components, and featuring a mainly old asbestos roofed workshop with eave heights ranging from 2.7 metres to 4 metres, wherein the higher roofed portion of 58.6 sq. metres was deemed rated at €13.67 per sq. metre, which corresponds with the rate on the 396.5 sq. metre new workshop area and on the 992 sq. metre workshop area of the older portion of the subject relevant property.

Findings

The Tribunal has carefully considered all of the oral and written evidence provided by the parties, and the arguments adduced at the hearing, and makes the following findings:

1. The Tribunal is mindful of the various arguments made by Mr. Kane in his submissions and in person at the hearing, and in particular, notes the apparent reduction in the scale of his trading turnover at the relevant property, which appears to be primarily linked to the removal of the Opel Main Dealer status and may have been somewhat compounded by adjoining road works associated with the Edgeworthstown Bypass.
2. The Tribunal is satisfied with the evidence submitted by the Respondent with regards to the three Comparison properties, the details of which appear to provide a “tone of the list” reflecting similarly circumstanced properties within the same Local Authority Rating area.
3. The Tribunal is satisfied that the Respondent has complied with the terms of the Valuation Act, 2001.

4. The evidence, both written and verbal, provided by Mr. Kane and his Accountant, though of general interest and serving as a useful background to the case, was generally deficient, lacked focus and failed to provide the Tribunal with adequate comparative or supporting evidence for Mr. Kane's Appeal.

Determination

In reaching its Determination, the Tribunal has been required to consider only the evidence submitted and adduced. In so doing the Tribunal has made the foregoing findings and, in the light of those findings, determines that the valuation of the respondent is fair and reasonable. The Tribunal therefore affirms that valuation of €175.

And the Tribunal so determines.