

Appeal No. VA09/3/035

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

Connie Briody Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2198255, Retail Warehouse, Store, Yard at Lot No. 30a, Kilnaleck,
Kilnaleck, Cavan, County Cavan

B E F O R E

John Kerr - Chartered Surveyor

Deputy Chairperson

Brian Larkin - Barrister

Member

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

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 11TH DAY OF FEBRUARY, 2010

By Notice of Appeal dated the 16th day of August, 2009, the appellant appealed against the determination of the Commissioner of Valuation in fixing a valuation of €30 on the above-described relevant property.

The Grounds of Appeal as set out in the Notice of Appeal are "The Valuation is excessive and inequitable - Quantum only".

1. The oral hearing in relation to this appeal was held on the 8th day of December, 2009 at the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7.
2. At the oral hearing the appellant was represented by Mr. Alan McMillan, ASCS, MRICS, FIAVI, ACI Arb and the respondent, the Commissioner of Valuation, by Mr. Francis Twomey, Valuer, Grade 1 in the Valuation Office. Mr. Connie Briody, proprietor of the appellant company was also in attendance.

3. Issue

Quantum

4. The Property Concerned

Location: The property is located approx 350 metres from the village of Kilnaleck. The village is approx 10km from Ballyjamesduff and 16km from Cavan town.

Description: The property is a new development incorporating a retail warehouse and builders providers premises – 2 separate buildings. The first building incorporates a retail area selling general hardware, with a store to the rear. There is a showroom and a separate storage area on the upper floor. There is car-parking with a concrete surface to the front of this building. The second building incorporates the main warehouse used for storage of building materials. To the rear of this building there is a covered racking system for the storage of timber. There is a storage yard to the front of this building with a concrete surface.

5. Accommodation

The agreed accommodation is as set out below:

Retail	624 sq. metres
Store	312 sq. metres
Showroom (Upper Floor)	391 sq. metres
Store (Upper Floor)	225 sq. metres
Warehouse	930 sq. metres
Yard (Timber Storage)	540 sq. metres
Yard	1,500 sq. metres

6. Rating History

On the 23rd December, 2008, a valuation certificate pursuant to section 28(6) of the Valuation Act, 2001 was issued indicating a rateable valuation of €30. No change was made on foot of an appeal to the Commissioner of Valuation under section 30 of the Act. It is against this decision by the Commissioner that the appeal to this Tribunal lies.

7. The Appellant's Evidence

Mr. McMillan, prior to the oral hearing, forwarded a précis of evidence and valuation to the Tribunal, which was received into evidence under oath at the oral hearing. In his evidence Mr. McMillan contended for a rateable valuation of €18 as set out below:

Building No. 1

Ground Floor (Front) *	608* sq. metres @ €20.49	=	€12,458
Toilets, Stairs			
Rear Stores	312 sq. metres @ €17.08	=	€5,329
First Floor (Front)	391 sq. metres @ €13.66	=	€5,341
Rear *	222* sq. metres @ €13.66	=	€3,033

Building No. 2

Warehouse/Store	930 sq. metres @ €17.08	=	€15,888
Yard		=	<u>€1,588</u>
Total NAV		=	€13,633
RV €13,633 @ 0.5%	=		€18

* Amended by agreement at hearing to 624 sq. metres and 225 sq. metres, respectfully.

In support of his opinion of rateable valuation, Mr. McMillan introduced two comparisons, details of which are set out in Appendix 1 attached to this judgment. These relate to J.P. Brady & Son Ltd's premises in Virginia and Arvagh, Co. Cavan.

8. Mr. McMillan, at the outset, brought the attention of the Tribunal to his supplementary submissions in relation to floor areas and confirmed that they had been agreed with the respondent subject to some minor adjustments.

9. Mr. McMillan provided evidence in line with his précis as follows:

- a) The premises are located outside the village of Kilnaleck and were too large for the location.
- b) Trade is predominantly in the bulkier, lower margin products, unlike e.g. Woodies in Cavan Town (respondent's Comparison No. 3).
- c) Only 16 marked car-park spaces.
- d) It is not an industrial property unlike Airpacks Ltd (respondent's Comparison No. 2).
- e) Population statistics hereunder are highly significant:

	<u>2002 Census</u>	<u>2006 Census</u>
Kilnaleck	305	334
Arvagh	357	364
Virginia	1,093	1,734
Cavan*	6,089	7,883

*(incl. environs)

- f) There has been a general drift of business to Cavan town, including Lakeland and Kilmore Retail parks, both of which are on the Dublin road convenient to, or fronting, the N3 and adjacent to the Cavan by-pass.
- g) Thus the respondent's comparison with Woodies in Cavan is unfair, despite the application of a 20% discount on the rate per sq. metre applied in the valuation of Woodies. A rate of €41 per sq. metre may be typical for retail showroom accommodation in Cavan town, as exemplified in the respondent's précis, (Comparison No.4) but is certainly not justified in the environs of Kilnaleck.
- h) Put to him by Mr. Twomey in cross-examination that the Airpacks premises across the road from the subject was of similar construction and a tone-of-list comparator, Mr. McMillan rejected that proposition *inter alia* on grounds of differing function.

10. The Respondent's Evidence

Mr. Twomey, prior to the oral hearing, forwarded a précis of evidence and valuation to the Tribunal, which was received into evidence under oath at the oral hearing. In his evidence Mr. Twomey contended for a rateable valuation of €30 as set out below:

Retail	624 sq. metres @ €41.00 per sq. metre	=	€25,584
Store	312 sq. metres @ €20.49 per sq. metre	=	€6,392
Showroom (1 st Floor)	391 sq. metres @ €20.49 per sq. metre	=	€8,011
Store (1 st Floor)	225 sq. metres @ €13.66 per sq. metre	=	€3,073
Warehouse	930 sq. metres @ €20.49 per sq. metre	=	€19,055
Yard (Timber Store)	540 sq. metres @ €2.00 per sq. metre	=	€1,080
Yard	1,500 sq. metres @ €2.00 per sq. metre	=	<u>€3,000</u>
Total NAV		=	€66,195
RV €66,195 @ 0.5%	=	€330.97	
RV say	€30		

In support of his opinion of rateable valuation, Mr. Twomey introduced five comparisons, details of which are set out in Appendix 2 attached to this judgment.

11. Mr. Twomey in his evidence said that in arriving at his opinion of rateable valuation he had regard to the location of the property and the quality of construction. In his opinion the valuation put forward by him was fair and reasonable and well supported by the comparisons introduced by him.

12. Under cross-examination, Mr. Twomey insisted that Airpacks Ltd., which was his first comparison and located across the road from the subject, was his top comparator. He described it in terms of a “tone of the list” comparison, being factory premises of similar construction and location to the subject. In particular Mr. Twomey contrasted the subject premises with Woodies of Lakeland Retail Park in Cavan which was at the higher end of the spectrum. Mr. Twomey also dealt in depth with the rates per sq. metre applicable to the various elements of all his comparisons. Challenged by Mr. McMillan that any comparison with Woodies was unfair, Mr. Twomey replied that the 20% discount which he applied to the rate per sq. metre for Woodies when valuing

the subject property was a realistic reflection of the differential between the two premises. Disagreeing, Mr. McMillan stated that 20% was a substantial under-discount.

Findings

The Tribunal having carefully considered all the evidence including comparisons introduced by both parties and finds as follows:

1. The Tribunal accepts Mr. McMillan's evidence that the property concerned is located outside a rural village in an area of low population density.
2. The Tribunal accepts that premises in Cavan town and Ballyjamesduff enjoy a superior locational advantage to the subject premises in the remote Kilnaleck area.
3. The Tribunal accepts that trade in the subject premises is in the bulkier lower margin products compared to higher margin household type goods available in e.g. Woodies of Cavan and Brian Slowey's in Ballyjamesduff.
4. The Tribunal is of the view that while the subject is not completely on all fours with Airpacks Ltd., an industrial premise located across the road, a certain similarity exists. Airpacks Ltd. occupy a factory premises *simpliciter* while the subject premises is a builder's provider with associated warehousing. This, in the Tribunal's view lends credibility to the "tone of the list" case contended for by the respondent.
5. The Tribunal has examined in detail all the comparative evidence introduced by both parties and has arrived at the conclusion that Mr. Twomey did not take fully into account the locational deficits of the property concerned despite the application of a 20% discount off the Woodies of Cavan retail accommodation rate.

Determination

Having regard to the above findings, the Tribunal determines the rateable valuation of the property concerned to be €290, calculated as set out below:

Retail	624 sq. metres @ €32.00 per sq. metre	=	€19,968
Store	312 sq. metres @ €20.49 per sq. metre	=	€6,392
Showroom (1 st Floor)	391 sq. metres @ €20.49 per sq. metre	=	€8,011
Store (1 st Floor)	225 sq. metres @ €13.66 per sq. metre	=	€3,073
Warehouse	930 sq. metres @ €18.50 per sq. metre	=	€17,205

Yard (Timber Store)	540 sq. metres @ €2.00 per sq. metre	=	€1,080
Yard	1,500 sq. metres @ €2.00 per sq. metre	=	<u>€3,000</u>
Total NAV		=	€8,729
RV	€8,729 @ 0.5% =		€293.64
RV say	€290		

And the Tribunal so determines.