

Appeal No. VA10/1/015

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

**Joe Woulfe**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2200555, Shop at Lot No. Unit 3, The Milltown Business Centre, Breaffy North, Milltown Malbay, Ennistymon, County Clare

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Fiona Gallagher - BL**

**Member**

**Patricia O'Connor - Solicitor**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**

**ISSUED ON THE 6TH DAY OF AUGUST, 2010**

By Notice of Appeal received on the 11th day of February, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €16 on the above-described relevant property.

The Grounds of Appeal are set out in the Notice of Appeal, a copy of which is attached at the Appendix to this judgment.

This appeal proceeded by way of an oral hearing which took place in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 31st day of May, 2010. The appellant, Mr. Joe Woulfe, represented himself and Mr. David Molony, BSc, MSCS, MRICS, a District Valuer represented the Valuation Office.

In accordance with the rules of the Tribunal the parties had, in advance of the hearing exchanged written submissions and submitted same to the Tribunal. At the oral hearing, written submissions were adopted as their evidence-in-chief given under oath.

### **Valuation History**

- 29<sup>th</sup> May 2009: Valuation Certificate issued. Rateable Valuation fixed at €16.00.  
Description: Shop.
- 20<sup>th</sup> July 2009: Mr. Woulfe lodged an appeal to the Commissioner of Valuation.
- 19<sup>th</sup> January 2010: The Commissioner issued his decision to make no change to valuation of €16.00
- 9<sup>th</sup> February 2010: Appellant lodged an appeal to the Valuation Tribunal.

### **Location**

The property is located on the Ennistymon Road approximately six properties distant from the junction of the main street in Milltown Malbay.

### **Areas**

Shop: 46.58 sq. metres, agreed.

### **Description**

The property comprises a ground floor gents hairdressing salon “Fabio’s Barber Shop” contained in a new development, “The Milltown Business Centre”, comprising in total of three ground floor retail units and three first floor office suites. The subject property is located in a courtyard setting and has no main road profile.

### **Condition**

The property is newly constructed and is in good condition both internally and externally.

**Services**

All main services are connected to this property.

**The Appellant's Case**

Mr. Joe Woulfe, having taken the oath, adopted his précis as his evidence-in-chief. He had no written comparisons in his submission and he relied on comparisons supplied by the respondent. He stated that his premises were in a third class location when compared with Main Street. Mr Woulfe said that the subject property is located in courtyard, with no parking, no public street lighting and no public litter bins, whereas businesses on Main Street have parking, public lighting and rubbish bins paid for by Clare County Council. Mr. Woulfe asserted that his premises cannot be seen from Main Street. He also asserted that Clare County Council have put double yellow lines on Main Street to stop people parking, which is another obstacle to his business. Mr. Woulfe informed the Tribunal that the RV on the surf shop within the courtyard is €23.00 and that the other shop, adjoining his premises, has an RV of €17.00. He said that these premises have road frontage. He also said that two shops located on the street beside his premises have now closed down.

**Cross-Examination**

When questioned by Mr. Molony, Mr. Woulfe stated that his premises is located a short distance from Church Street/Main Street and also that paid parking was in operation in the town. He also stated that most of his business was from passing and local trade and his opening hours were from 10am to 6pm. The lease on his premises commenced 2 years and 5 months ago and rent on the premises was €600.00 per month. He informed Mr. Molony that he borrowed €10,000 to fit-out the premises and that he has now vacated the premises. He also stated that a solicitor's office over his premises had also closed down. When asked by Mr. Molony why he had no comparisons, Mr. Woulfe stated that he was relying on Mr. Molony's evidence as he was more qualified.

**Respondent's Evidence**

Mr. Molony adopted his précis as his evidence-in-chief. Mr. Molony then dealt with the property in question which has already been outlined. He stated that the property is located in a courtyard setting and in a secondary location. There are 3 shops located in the courtyard which he valued. Mr. Molony valued the subject property and the surf shop at €68.31 per sq. metre. He valued the other shop, which has road frontage, at €75.14 sq. metre.

Mr. Molony then dealt with the two comparisons outlined in his précis:

**Comparison No. 1**

Property No: 1457848, Main Street, Milltown Malbay, Co. Clare.

Occupier: Michael & Marie Fox.

Description: Shop.

Revision Assessment: Revision 2006.

Rateable Valuation: €22.00.

Valuation Assessment:

Shop: 31.1 sq. metres @ €81.97 per sq. metre = €2,549.27

Shop: 44.72 sq. metres @ €41.00 per sq. metre = €1,833.52

Store: 7.36 sq. metres @ €27.32 per sq. metre = €201.07

Estimated NAV €4,583.86 @ 0.50% = €22.91

RV Say €22.00

**Note:** This shop is located on the eastern side of the main street in Milltown Malbay and is in use as a drapery shop.

**Comparison No.2**

Property No: 2168980, Main Street, Milltown Malbay, Co. Clare

Occupier: Marie Kelly.

Description: Shop.

Valuation Assessment: Revision 2003.

Rateable Valuation: €88.00

Valuation Assessment:

Shop/dispensary/office/store: 183.2 sq. metres @ €55.67 per sq. metre = €10,200.00

Estimated NAV €10,200.00 @ 0.50% = €51.00

RV Say €88.00

**Note:** The property is situated in a prime position on the main street in Milltown Malbay and is in use as a chemist shop.

With regard to the secondary location of the subject property, as compared with the more favourable location of his two comparisons, Mr Molony observed that travelling south on Main Street one moves towards the centre of town, whereas north of Main Street commercial intensity in the town diminishes and hence attractiveness of properties to prospective tenants also diminishes. He stated that this location factor is reflected in the rates per square metre applied to the respective properties. Referring to the location map in his précis, Mr Molony asserted that Comparison no. 1 is in a less favourable location than Comparison no. 2 and that this is reflected in a percentage difference of approximately 13.5% between the rates per square metre applied to these properties. The subject property, he observed, is in an even less favourable location than Comparison no. 2 and this is reflected in a much higher percentage difference between the rates per square metre applied to those properties.

Mr. Molony stated further that, in all his years valuing property, especially retail property, in his experience the lowest rate per square metre applied in a valuation pertaining to a rural area is €68.31 per sq. metre, which is the rate per square metre applied to the subject property. Mr Molony said that the subject property is located in an urban area and that, regardless of its secondary location, to apply a rate per square metre lower than what would be applied in a rural area would be contrary to the tone of the list. Mr. Molony emphasised that the subject property is in a town location rather than in a rural area. (He defined a rural area as being a number of miles from a town or village, and with a sparse population.)

Mr. Molony contended for the following valuation:

Estimated Net Annual Value:

Shop: 46.58 sq. metres @ €68.31 per sq. metre = €3,181.88

Estimated NAV = €3,181.88 @ 0.5% = €15.91

RV say = €16.00

### **Cross-Examination**

When questioned by Mr. Woulfe, Mr. Molony stated that valuation rates were set at 1988 levels and that this formed a tone of the list for the area. He stated further that current economic conditions cannot be taken in account when valuing a property.

In summing up, Mr. Woulfe thanked the Tribunal for giving him the opportunity to express his views and he stated the Valuation Office should take the current economic climate into account when valuing premises.

Mr. Molony re-stated that the property is located in an urban area, that the minimum rate per square metre had been applied in accordance with the established tone of the list and that the RV of €16 should be upheld.

### **Findings**

Having regard to all the evidence and arguments adduced, the Tribunal makes the following findings:

1. No comparisons were submitted by the appellant, either in writing or at the hearing, to support his request that relief, in terms of a reduction on the valuation of the subject property, be granted.
2. The appellant did not provide calculations to support the reduced rateable valuation of €8 for which he had contended in his Notice of Appeal.
3. There was no disagreement between the parties as to the description, condition or location of the subject property.
4. The only comparisons adduced were introduced on behalf of the Commissioner of Valuation in the respondent's précis and the details accompanying same were considered by the Tribunal to be relevant and supportive of the respondent's case.

### **Determination**

Having regard to all of the foregoing, the Tribunal is satisfied that the rateable valuation of €16.00, as determined by the Commissioner, is fair and reasonable. Therefore, the Tribunal affirms the valuation.

And the Tribunal so determines.