

Appeal No. VA10/1/019

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

**Phelim McGill**

**APPELLANT**

**and**

**Commissioner of Valuation**

**RESPONDENT**

RE: Property No. 2200217, Shop, Warehouse/Warerooms at Lot No. 20F/1, Bogagh Glebe, Kilcar, Glenties, County Donegal.

**B E F O R E**

**Maurice Ahern - Valuer**

**Deputy Chairperson**

**Michael F. Lyng - Valuer**

**Member**

**James Browne - BL**

**Member**

**JUDGMENT OF THE VALUATION TRIBUNAL**  
**ISSUED ON THE 20 DAY OF AUGUST, 2010**

By Notice of Appeal dated the 18th of February, 2010 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €165 on the above-described relevant property.

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

" Not valued in accordance with Valuation Acts. Comparisions relied upon do not reflect tone of list. NAV does not reflect 1988 values. No allowance for general decline in economy. Remote, rural limited catchment area. Locational disadvantage. Access is poor. Valuation excessive, valuation bad in law."

The appeal proceeded by way of an oral hearing which took place in the offices of the Tribunal, Ormond House, Ormond Quay Upper, Dublin 7, on the 20<sup>th</sup> day of May, 2010. The appellant was represented by Mr. Patrick McCarroll, MRICS, ASCS. The respondent was represented by Mr. Liam Murphy, Bsc, a Valuer in the Valuation Office. Both parties adopted their written submissions, which had previously been exchanged between them and submitted to the Tribunal, as being their evidence-in-chief given under oath.

### **The Property**

The subject property comprises a shop, warehouse and warerooms. The areas are agreed between the parties.

### **Location**

The property is located on the outskirts of Carrick village, just off the Carrick/Kilcar road in a rural location and is situate approximately 3km northwest of Kilcar village, 9km southeast of Glencolmcille village and 11km west of Killybegs town.

### **Tenure**

The property is held under a freehold.

### **Valuation History**

The rating authority is Donegal County Council. The property was the subject of a revision application by Donegal County Council, which requested the Valuation Office to value the subject property. A rateable valuation of €165 was assessed on the property and a proposed valuation certificate issued on 10<sup>th</sup> July, 2009. Mr. Patrick McCarroll, on behalf of Phelim McGill, lodged an appeal to the Commissioner of Valuation on 8<sup>th</sup> August 2009. After consideration by the Commissioner the valuation remained unchanged. A valuation certificate with an RV of €165 was issued on 29<sup>th</sup> January, 2010. An appeal was lodged with the Valuation Tribunal against the decision of the Commissioner of Valuation.

### **The Issues/Grounds of Appeal**

This is an appeal on quantum only.

### **The Appellant's Case**

Mr. McCarroll, having taken the oath, adopted his written précis which had previously been received by the Tribunal as being his evidence-in-chief.

In his evidence, Mr. McCarroll stated that the valuation placed on the property does not reflect the tone of the list. The property is in a remote rural area with a limited catchment area. Its location and access are very poor. He referred to the picture on page 2 of his précis to indicate the barrenness of the locality.

Mr McCarroll stated that the property was used extensively and not intensively. He referred to page 3 of his précis and stated that the areas are agreed but that he should have included the porch in the areas set out in his précis. Mr McCarroll stated that the current owner purchased the property from Donegal Creameries. The existing premises were opened in October 2008 and are used to supply building needs and to service small agricultural holdings. Both lines have been badly hit by the collapse in the building industry and by competition from businesses situated across the border in Northern Ireland.

Mr. McCarroll then referred to a previous valuation of Lot 20F/1 Bogagh Glebe (i.e. the subject property), which was appealed to the Valuation Tribunal in 1998, **VA98/3/090 – Donegal Creameries plc**. He referred to the Valuation Office report that described the property as *“The property the subject of this appeal is the Carrick branch of Donegal Creameries and consists of an agricultural goods and hardware shop together with a large store which doubles as a sheep mart when required. The buildings are mainly new or reconstructed and are well maintained and are of good quality. There is ample hard top parking.”* Mr. McCarroll said that the Tribunal referred to this in its determination. However, later he agreed with the respondent that the last part of the above quoted paragraph namely *“...and are well maintained and are of good quality. There is ample hard top parking”* was not in fact included in the Tribunal decision but was included in the Valuation Office's précis of evidence.

Mr. McCarroll contended for the following valuation, as set out at page 6 of his précis, but he accepted again that he had not included a valuation for the porch in his submissions and conceded that it should be included.

Ground Floor Retail	300.79 sq. metres	@	€20.50 per sq. metre	= €6,166.19
First Floor Store	294.04 sq. metres	@	€10.25 per sq. metre	= €3,013.91
Warehouse	647.25 sq. metres	@	€15.00 per sq. metre	= €9,708.75
Yard	1,000.00 sq. metres	@	€0.75 per sq. metre	= € 750.00
			NAV	€19,638.85
			RV @ 0.5% say	€ 98.00

His only comparison was that of Donegal Creameries PLC, Carrick branch, Bogagh Glebe, Co. Donegal which was set out at page 9 of his submissions – **VA98/3/90 – Donegal Creameries plc.**

#### **Cross-examination of Mr. McCarroll**

In cross-examination by Mr. Murphy, Mr. McCarroll accepted that the subject property is east of Carrick village. He asked Mr. McCarroll whether the subject property has a lower eaves height in comparison to the comparison property put forward by the appellant. Mr. McCarroll acknowledged that there was a difference in the quality of the building and that the building, which had previously been used as a sheep mart, had been replaced. Mr. McCarroll was questioned as to why he did not use a second comparison. He replied that he could only rely on properties that were similar to the tone of the list as established.

It was then put to Mr. McCarroll that the Valuation Act required him to show comparisons. He responded by saying that *“this is my comparison, it is the best and it is the only one.”*

#### **Respondent’s evidence**

Mr. Murphy having taken the oath, adopted his written précis which had previously been received by the Tribunal, as being his evidence-in-chief.

Mr. Murphy contended for the following valuation:

Shop (ground floor)	300.79 sq. metres @	€30.73 per sq. metre	= €9,243.28
Shop (first floor)	294.04 sq. metres @	€25.00 per sq. metre	= €7,351.00
Warehouse (6m Eaves)	647.25 sq. metres @	€23.91 per sq. metre	= €15,475.75
Porch	10.53 sq. metres @	€13.66 per sq. metre	= € 143.84
Yard	1,000 sq. metres @	€1.37 per sq. metre	= <u>€1,370.00</u>
		Total NAV	= €33,583.87

RV: €33,583.87 x 0.5% = €167.92 Say, €165

Mr Murphy went straight to dealing with his 5 comparisons which are contained at pages 10 through 14 of his précis.

Mr. Murphy felt that the comparison put forward by the appellant was a poor comparison as the subject property was purpose-built and was built to a higher specification than the appellant's comparison property. He also felt that it was a poor comparison because there was a much better comparison available, i.e. the respondent's comparison number one at page 10 of his submission. Mr. Murphy submitted that his comparison number one was almost identical to the subject property, that it was a builder's providers and that it was agreed with that appellant at appeal stage. He emphasised that this comparison property was the most suitable and comparable when considering the valuation of the subject property.

He submitted that the subject property had been valued in accordance section 49(1) of the Valuation Act, 2001 and in line with other similar properties in accordance with the tone of the list.

### **Cross - examination of Mr. Murphy**

Mr. McCarroll questioned Mr. Murphy as to whether he agreed that the subject property was basic. Mr. Murphy stated that the property was not substandard but he did use the word "basic". He accepted that comparison no. 4 in the respondent's submission was a better property, in a better location and with a better catchment area than the subject property. Mr. Murphy also accepted that the subject property was used extensively and not

intensively; however, there was quite a lot of product used. He also accepted that the first floor was not in use on the date of inspection, but he did not accept that the loft in his comparison no. 1 was the same as a first floor. He felt that the first floor of the subject property was purpose-built.

### **Findings**

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

1. The Tribunal notes that the location, general description of the property and its size are agreed.
2. The Tribunal has considered the comparisons offered by both parties and notes that it must make any findings in accordance with Section 49 (1) of the Act.
3. The Tribunal notes the location of the subject property and accepts that the property is located in a rural, isolated area with a low catchment.
4. The Tribunal accepts that as a general rule the first floor of a property is valued at 50% of the value of the ground floor of the property and that in the present matter a sufficient allowance was not made for the first floor area of the subject property. However, the Tribunal is of the view that a full 50% allowance would also not be appropriate in this case.
5. The Tribunal accepts that the Valuation Act, 2001 which came into effect on the 2<sup>nd</sup> of May, 2002, set down the principles for valuing properties for rating purposes and the procedures for revision and first appeal stages. Section 49(1) sets down the basis for valuing properties at revision stage and dictates that values should be determined by reference to comparable properties in the same rating area.
6. The Tribunal accepts that in the absence of any definition in the Act as to what is comparable the word must be given its normal meaning and means equivalence, likeness or sameness. That being the case, comparable must be interpreted as being similar in use, location and nature of construction or any other factor which will have bearing on value.
7. In this respect the Tribunal is of the view that the comparisons put forward by both parties were of little assistance in determining a fair and reasonable valuation as they were not sufficiently similar to the subject property.

### Determination

In reaching its determination the Tribunal has been required to consider only the evidence submitted and adduced. Having heard all the oral evidence and submissions, and having considered the précis lodged herein the Tribunal has made the foregoing findings and, in light of those findings, determines that the valuation of the respondent is excessive. The Tribunal therefore varies the valuation as follows:

Shop (ground floor):	300.79 sq. metres @ €30.73 per sq. metre	= €9,243.28
Shop (first floor):	294.04 sq. metres @ €20.00 per sq. metre	= €5,880.08
Warehouse (6m Eaves):	647.25 sq. metres @ €18.00 per sq. metre	= €11,650.05
Porch:	10.53 sq. metres @ €8.00 per sq. metre	= € 84.24
Yard:	1,000.00 sq. metres @ €1.37 per sq. metre	= <u>€ 1,370.00</u>
Total NAV		€28,227.65
RV €28,228 @ 0.5%		= €141
Say		€140

And the Tribunal so determines.