

Appeal No. VA11/1/013

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

Michael Michaels

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2205479, Shop at Lot No. 74. 75/1, Killadysert, Killadysart, Killadysert, County Clare.

B E F O R E

Maurice Ahern - Valuer

Deputy Chairperson

Joseph Murray - B.L.

Member

Mairead Hughes - Hotelier

Member

JUDGMENT OF THE VALUATION TRIBUNAL

ISSUED ON THE 10TH DAY OF JUNE, 2011

By Notice of Appeal dated the 28th day of January, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €22 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 Appendix 1.

The appeal proceeded by way of an oral hearing held in the offices of the Valuation Tribunal, Ormond House, Ormond Quay Upper, Dublin 7 on the 27th day of April, 2011. At the hearing the appellant represented himself, while Mr. David Molony, District Valuer in the Valuation Office, represented the respondent.

At Issue

The issue between the parties was the appellant maintaining that the rateable valuation of €22 was too high.

Valuation History

The subject property was created when an existing property was subdivided into two units, resulting in a material change of circumstances as defined in Section 3 of the Valuation Act, 2001. The subject property was then revised by the Commissioner of Valuation. A Valuation Certificate issued on 27th April 2010 with an RV of €22. An appeal against this valuation was lodged with the Commissioner and 1st July 2010. On 5th November 2010 the Commissioner issued a decision to make no change to the RV and on 31st January 2011 this decision was appealed to the Valuation Tribunal.

Description and Location

The subject property comprises a double-fronted ground floor retail unit in use as a hairdressing salon. This property was formerly in use as a supermarket but was subdivided in 2010 into two separate units, one unit being the subject, while the other unit houses a veterinary shop and clinic. The property is located in the centre of Kildysart Village in Co. Clare.

Accommodation

Following discussion during the hearing, the areas of the subject property were agreed by the parties as follows:

| | |
|-------------|------------------|
| Shop | 63.20 sq. metres |
| Kitchenette | 8.50 sq. metres |

The Appellant's Case

Having taken the oath, Mr. Michaels adopted his précis as his evidence-in-chief. Contending for a rateable valuation of €18 on the subject property, Mr Michaels said that the rateable

valuation should be based on the whole unit less the domestic portion. He described the original building that currently houses the subject property as having traded as a supermarket up to June 2007. This supermarket closed and was subsequently subdivided into two separate units. Mr. Michaels said that he was unaware at the time of the subdivision that new valuations would be fixed on the subdivided properties. He said that under the revision process the subject valuation increased by 38% according to his calculations, while at the same time the rent had been reduced by him in order to make the subject viable. He further stated that considering the current recessionary times and the un-sustainability of the commercial market in a small village such as the location of the subject property, the Valuation Office should not have carried out a revision of valuation. However, Mr. Michaels later acknowledged that, although he was not aware of the Valuation Act, 2001, he now appreciates that the revision had to be carried out. However, he stated that his assessment of an RV of €18 is more in line with a shop in a small village such as the subject location. Mr. Michaels said that he was unaware that valuation levels for retail/shops and supermarkets fall into different categories with a lesser rate being applied to supermarket use.

Comparisons

Mr Michaels submitted no comparative evidence to support his opinion of rateable valuation.

Respondent's Evidence

Mr. David Molony, having taken the oath, adopted his written précis as his evidence-in-chief.

Mr. Molony contended for a rateable valuation of €22, calculated as set out below:

| | | | | |
|-------------|------------------|---|-------------------|----------------|
| Shop | 63.20 sq. metres | @ | €68.31 sq. metres | €4,317.19 |
| Kitchenette | 8.50 sq. metres | @ | €27.32 sq. metres | <u>€234.41</u> |
| NAV | | | | €4,551.87 |
| @ 0.50% | | = | | €22.76 |

RV, say €22

Comparisons

In support of his opinion of net annual value, Mr Molony introduced three comparisons: Property No. 2195811, Kildysart, Co Clare, a Hair Salon; Property No. 1443211, Kildysart, Col. Clare – a shop; and Property No. 1443195, Kildysart, Co Clare - the previous valuation

of the subject property as a supermarket. Details of the comparisons are attached at Appendix 2 to this judgment. Mr Molony stated that both comparisons have a rate of €68.31 per sq. metre for their retail portions, which is the same as the rate applied to the subject. Mr. Molony said that the valuation level on the subject conforms to the ‘tone of the list’ for comparable retail properties in Kildysart. He said that the valuation for the subject on revision increased by only 12.5%, rather than by 38%, as suggested by the appellant.

Mr Molony observed that the rating authority has made a reduction on the rateable valuation of the subject property for the domestic portion of the property. This observation was based on information contained in the appellant’s précis of evidence.

Both Mr. Michaels and Mr. Molony made brief closing submissions.

Findings

The Tribunal has carefully considered all the evidence and arguments submitted and adduced by the parties and finds as follows:

1. The statutory basis for valuing property on foot of a request of revision of valuation is set down in section 49(1) of the Valuation Act, 2001 which states:

“If the value of a relevant property (in subsection (2) referred to as the “first-mentioned property”) falls to be determined for the purpose of section 28 (4), (or of an appeal from a decision under that section) that determination shall be made 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 “

In other words the valuation of the property concerned is to be determined in accordance with what is known as the “tone of the list”, although this expression is not explicitly referred to in the Act.

2. In accordance with rating law and practice the onus of proving that a valuation of a property appearing on the valuation list is incorrect lies with the appellant. In

this case, the Tribunal notes that the appellant submitted no comparative evidence to support his opinion of the rateable valuation of the subject property.

3. Based on the comparative evidence submitted by the respondent, the Tribunal finds that the rateable valuation of the subject is similar to that of other comparable properties in the village of Kildysart.

Determination

In view of the foregoing, the Tribunal determines that the decision of the Commissioner of Valuation be upheld and that the rateable valuation on the subject property be affirmed at €22.

And the Tribunal so determines.