

Appeal No. VA11/1/023

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

Usama Faisal

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2205865, Shop at Lot No. 76a Unit 1, Hawthorn House, Clonroad More (Pt of), Ennis Rural, Ennis, County Clare.

B E F O R E

John F Kerr - BBS, FSCSI, FRICS, ACI Arb

Deputy Chairperson

Mairead Hughes - Hotelier

Member

Aidan McNulty - Solicitor

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 5TH DAY OF SEPTEMBER, 2011

By Notice of Appeal dated the 9th day of March, 2011 the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €52 on the above described relevant property.

The grounds of appeal are in a letter attached to the Notice of Appeal, copies of which are attached at Appendix 1 to this judgment.

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 8th day of June, 2011. At the hearing the appellant represented himself, while Mr. David Molony, BSc, MRICS, a District Valuer in the Valuation Office, represented the respondent, the Commissioner of Valuation.

The Issue

The issue raised by the appellant was that he considered the rateable valuation of €52 on the subject relevant property to be too high.

Valuation History

A Valuation Certificate issued on 2nd June, 2010 with the RV fixed at €52. An appeal was filed by the appellant with the Commissioner of Valuation on 8th August, 2010, and a decision to make no changes to the rateable valuation issued on 10th February, 2011. An appeal to the Valuation Tribunal against this decision was lodged by the appellant by way of Notice of Appeal dated 9th March, 2011.

The Property

The property is located in a new development called 'Hawthorn House', situated at a roundabout on the west side of the main Ennis to Limerick road (the N18) and is approximately 2 km from Ennis town centre.

The subject property comprises a ground floor, front elevation, fully glazed, dual access, end of terrace food takeaway premises within a mixed development of 5 other ground floor commercial units, with apartments on two overhead floors.

The subject relevant property has dual access both from the front and the rear car park.

Accommodation

Floor areas are agreed as follows:

The property has a total area of 105.90 sq. metres

The Appellant's Case

Having taken the oath, Mr. Faisal adopted his précis, namely an undated one-page letter addressed to the Registrar of the Valuation Tribunal, (date stamped received by the Tribunal

on 27th May, 2011), attached hereto as Appendix 2, as his evidence-in-chief. The foregoing letter cites three reasons why the appellant believes the rates on the subject property are too high. He also provided a copy unsigned Statement of Accounts for Usama Faisal t/a Remix, for year end 31/12/2009. The appellant also attached various confidential copy letters addressed to him from the Bank of Ireland, Ulster Bank and Bord Gais.

He confirmed that he has a 35 year lease on the subject property, was trading for 2 years, but that because of the poor position of the premises, the distance of his unit from Ennis town centre, the low level of population residing in the area of his takeaway premises, and the current economic climate, he was finding it very difficult to trade successfully. He advised that the rent on the property has been reduced from €32,000 to €26,000 p.a. in the second year of his occupancy of the subject property. He described the relevant property as a commercial unit having a food takeout area as well as an internal seating area for 4 persons.

Mr. Faisal stated that there are six commercial units in Hawthorn House, and that two were currently vacant. He explained to the Tribunal that the position of the subject relevant property in effect compromises its profile to passing traffic on the nearby N18, i.e. the main route from Ennis to Limerick. The appellant also stated that the recently opened Ennis By-Pass now carries the majority of motor traffic passing from Limerick to Galway, the result of which has meant a devastating effect on his trade.

Comparisons

Mr. Faisal did not offer any comparison properties, either in his précis or in direct evidence to the Tribunal.

Respondent's Evidence

Mr. David Molony, having taken the oath, adopted his written précis as his evidence-in-chief. In his evidence the respondent contended for an RV of €52 calculated as set out below:

Ground Floor Shop 105.90 sq. metres @ €100 per sq. metre	= €10,590
NAV	= €10,590
@ 0.50%	= €52.95
RV, say	= €52

Comparisons

Mr Molony outlined the valuation history of the subject. In support of his opinion of net annual value on the subject property, he put forward two comparison properties, details of which are attached at Appendix 3 to this judgment. Comparison No. 1, namely a shop at Clarecastle is valued at €102.51 per square metre and Mr. Molony contended that it is situated at a poorer trading position than the subject. Comparison No. 2, namely a Lonsdale supermarket at Shannon Town Centre, is valued at €177.68 per square metre. A third comparison property in the respondent's précis was not considered as it is located outside the subject rating authority area.

Mr Molony noted that both the subject property and the adjoining hairdresser's shop in Unit No. 2, Hawthorn House, were valued in June 2010. He added that the business in Unit No. 2 is trading successfully and, accordingly, he concluded that the position of Unit 1, the subject property, was not particularly disadvantageous to trade.

Mr. Molony said that the subject is located in an attractive new development with a good profile on the N18, and was immediately adjacent to a number of housing estates in the immediate area. He said there was access to the premises and that there was adequate car parking both to the side and rear of the property.

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

Findings

The Tribunal thanks both parties for the submissions and the arguments made supporting their views during the course of the hearing and finds as follows:

1. The location of the subject relevant property is at the rear blind side of the development when considered in the context of profile and passing traffic on the N18.
2. Significantly, the map provided by the respondent illustrating the location of the subject does not include the new Ennis By-Pass.

3. The respondent did not challenge a statement made by the appellant that the new Ennis By-Pass carries the majority of traffic passing from Limerick to Galway and consequently that there are associated reduced traffic loads on the N18.
4. Witness for the respondent acknowledged that the property put forward as a third comparison on behalf of the respondent was not an appropriate comparison, having regard to the fact that it is located in a different rating authority and, accordingly, could not be considered.
5. The respondent acknowledged that his Comparison No. 2 property is located many miles from the subject, and unlike the subject, is at a specific destination centre (i.e. Shannon Town Centre).
6. The respondent further acknowledged a difficulty in establishing a tone of the list arising from the absence of suitable comparison properties within the subject rating authority area.
7. The Tribunal is mindful of the challenge faced by the respondent in identifying suitable suburban comparison properties.
8. The Tribunal is bound by and required to consider only the Valuation Act 2001, and, in the instant appeal, Section 49(1) thereof:

“49.—(1) 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.”

Determination

In view of the foregoing, the Tribunal determines that the valuation on the subject property should be reduced, and determines that the RV on the subject property should be calculated as follows:-

Ground Floor Shop: 105.90 sq. metres @ €87 per sq. metre = €9,213.30

RV @ 0.5% = €46.07

RV, Say €46

And the Tribunal so determines.