

Appeal No. VA11/2/001

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

Daniel Moore

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2114601, Hostel at 26de, Crobally Upper, Tramore Urban, Waterford 1, County Waterford.

B E F O R E

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

Deputy Chairperson

Fiona Gallagher - BL

Member

Niall O'Hanlon - BL

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF OCTOBER, 2011

By Notice of Appeal dated 4th day of April, 2011, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €120 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 to this Judgment.

An oral hearing in respect of this appeal took place in the offices of the Valuation Tribunal on the 15th of June, 2011. Mr. Henry G.S. Moore, Certified Accountant, appeared on behalf of the appellant and Ms. Rosemary Healy-Rae, Barrister-at-Law, instructed by the Chief State Solicitor, appeared on behalf of the respondent, the Commissioner of Valuation. Mr. Oliver Barry, MSCSI, a Valuer in the Valuation Office also attended.

The Subject Property

The subject property is located in Tramore, Co. Waterford.

The subject property comprises four blocks. Block 1, the main building, is a three-storey structure and on the ground floor contains a lounge, a kitchen/dining room, toilets and five bedrooms. The first floor contains ten bedrooms and the second floor contains four bedrooms. Block 2, the boathouse, comprises two storeys. The ground floor contains a living room, toilet and five bedrooms. The first floor contains three bedrooms. Block 3 is a laundry building. Block 4, a single storey structure, contains a recreation room and two bedrooms.

The Valuation History of the Subject Property

The property dates from the nineteenth century with later additions. In 1978 the property was valued as a Guest House with a rateable valuation of €72.39. A hostel was operated on the property from 2000 to May 2006. The property was then closed down and re-opened in March 2007.

On 21st May, 2008, following a revision request from Waterford County Council, a Revision Officer was assigned to the property. On 17th June, 2008, the property was inspected and on 30th July, 2008, a draft certificate was issued and the property was given a rateable valuation of €120. On 22nd August, 2008, representations were made to the Revision Officer and on 10th November, 2008, a final certificate was issued with a rateable valuation of €120 being assigned to the property. An appeal was not lodged in respect of the final certificate.

The appellant, by letter dated 1st December, 2009, wrote to Waterford County Council, requesting a “*revaluation*” [sic] of the property “*for domestic purpose*” on the basis; firstly, that “*The premises, is not a hostel and was not open to the public*”; secondly, “*It caters for families of which over half of them are school going children and are here long term*”, and;

thirdly, *“The original valuer never inspected the premises as to its use and the valuation was therefore flawed.”*

On 14th April, 2010, following a revision request from Waterford County Council, a Revision Officer was assigned to the property. On 5th August, 2010, the property was inspected and on 17th August, 2010, a Notice of Decision that No Material Change of Circumstances had occurred, was issued.

On 15th September, 2010, an appeal was lodged against the decision that no material change of circumstances had occurred. On 14th of March, 2011, a Notice of Decision to Disallow Appeal issued.

By Notice of Appeal received by the Tribunal on 8th April, 2011, the appellant appealed against the determination of the Commissioner of Valuation.

Written Submissions

Written submissions were received by the Tribunal from both the appellant and the respondent.

The Issues Arising on this Appeal

The appellant's sole ground of appeal was that the property, or parts thereof, should (pursuant to Schedule 4 of the Valuation Act, 2001) be considered to be relevant property not rateable, on the basis that it constituted domestic premises. The Tribunal notes that the written submissions of the appellant stated that the valuation of each property was not in dispute.

At the commencement of the oral hearing Mr. Moore indicated, for the first time, that the appellant wished to abandon this ground of appeal. In so doing Mr. Moore indicated that the appellant accepted the correctness of the argument, as set out in respondent's written submissions, that the said property did not constitute domestic premises.

Mr. Moore indicated that the appellant now wished to proceed on the basis of what was, in the view of the Tribunal, an entirely new ground of appeal, namely that the addition of an extension to Block 1 of the property constituted a material change of circumstances.

Ms. Healy-Rae indicated that the respondent was objecting to the variation of grounds now being sought by the appellant and in so doing referred the Tribunal to the provisions of section 35 of the Valuation Act, 2001 and the Valuation Act, 2001 (Appeals) Rules, 2008.

The Valuation Act, 2001 and the Valuation Act, 2001 (Appeals) Rules, 2008

Section 35 of the Valuation Act, 2001, and Rule 9 of the Valuation Act, 2001 (Appeals) Rules, 2008 require, *inter alia*, that the grounds of an appeal to the Tribunal be stated. Rule 10 of the said Rules provides:

“The Notice of Appeal shall set out exhaustively the Grounds of Appeal upon which the appellant intends to rely. These Grounds of Appeal may not be changed or extended (and liberty to amend will not be granted) save in exceptional circumstances. The Tribunal shall not entertain any amendments to the grounds of appeal at hearing and in particular the adducing of new grounds of appeal other than in exceptional circumstances. The Tribunal will adjudicate on such matters having regard to the Rules of the Superior Courts.”

Rule 11 provides:

“The Tribunal may waive compliance with a rule, or excuse non-compliance with a rule, if the Tribunal considers that to do otherwise would be likely to cause injustice or unreasonable expense or inconvenience.”

The Decision of the Tribunal in relation to the New Ground of Appeal

The Tribunal notes that no exceptional circumstances were advanced on behalf of the appellant as to why he should be allowed to introduce a new ground of appeal at the hearing of this matter and, accordingly, the Tribunal refuses liberty to the appellant to amend his grounds of appeal in the manner sought.

Further, the Tribunal does not consider that the conditions set out in Rule 11, under which it may waive compliance with a rule, or excuse non-compliance with a rule, have been satisfied in this instance.

In consequence thereof the appellant now has no grounds of appeal before the Tribunal.

Determination

Accordingly, the Tribunal disallows the appeal in the present proceedings and confirms the decision of the respondent. In consequence thereof the rateable valuation of the subject property remains fixed at €120.00.

And the Tribunal so determines.