

Appeal No. VA13/4/003

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

Kilkenny Co-Op Livestock Market Ltd

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Property No. 2212997, Conference Centre at Lot No. 10 C / 1/1, Leggetsrath East, Kilkenny Rural, Kilkenny, County Kilkenny.

B E F O R E

Niall O'Hanlon - BL

Deputy Chairperson

Patrick Riney - FSCSI, FRICS, ACI Arb

Member

Dolores Power – MSCSI, MRICS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 23RD DAY OF MAY, 2014

By Notice of Appeal received on the 26th day of November, 2013, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of €254 on the above described relevant property.

The grounds of appeal as set out in the Notice of Appeal are as follows:

"In comparison to similar properties, the restrictive use of the property and having regard to the NAV, we consider the RV to be excessive."

"The property is intrinsically linked to an adjoining property and as such cannot operate independently as a stand alone premises – thereby making it almost impossible to rent. The market for a stand alone conference centre is almost unattainable. Although categorised as a conference centre, the building is just really a large industrial building."

The appeal proceeded by way of an oral hearing, which took place in the offices of the Valuation Tribunal at Holbrook House, Holles Street, Dublin 2, on the 12th day of March, 2014. The appellant was represented by Mr John Kenneally MSCSI MRICS of Kenneally McAuliffe, and the respondent was represented by Ms Orla Lambe BSc. (Surveying), a valuer with the Valuation Office. Both representatives adopted their written submissions as their evidence in chief given under oath. This was supplemented by additional evidence given directly and via cross-examination under oath. From the evidence so tendered, the following emerged as being the facts relevant, and material to, this appeal.

At Issue

Quantum.

The Property

The subject property is an open plan industrial type building of block construction with double eave height of c. 9 metres. It is known as 'The Hub' and is attached to the Kilkenny Co-Op Mart building.

Location

The property is situated in a development known as 'Cillin Hill Business & Retail Park' on the N10 which has direct access to the M9 motorway.

Tenure

Freehold.

Floor Areas

The subject property was measured on a Gross External Area (GEA) basis. The agreed floor area is 1,585 sq. metres.

Valuation History

12th February 2013 – Draft Certificate issued at RV €259.00.

11th March 2013 – Representation Stage. Representations submitted by the agent, Mr John Kenneally of Kenneally McAuliffe. The valuation was reduced from €259.00 to €254.00.

19th March 2013 – Final Certificate issued at RV €254.00.

26th March 2013 – Subject property entered onto Valuation List.

24th June 2013 – Appeal submitted to the Commissioner of Valuation.

30th October 2013 – The valuation was not altered at appeal stage.

26th February 2014 – Appeal lodged with Valuation Tribunal.

Appellant's Case

Mr John Kenneally, for the appellant, took the oath and adopted his précis as his evidence-in-chief. He described the layout of the subject property as being an industrial type building, mainly rectangular in shape, and having an eave height of 8.7 metres. He stated that the subject property did not have the benefit of any services, including toilets, and that there was no fixed seating. Facilities – such as toilets and offices – were provided in the attached Kilkenny Co-Op Mart building.

He contended that the subject property was not a 'stand-alone' building, but was adjoining and complementary to the Kilkenny Co-Op Mart property, and that it is unique in nature. He further contended that there is no 'Tone of the List' for conference centres in the Kilkenny County Council Rating Authority area, and that a hypothetical tenant, not connected to the Mart, could not use the subject property 'as is'.

Mr Kenneally pointed out the restrictive use condition imposed on the property by An Bord Pleanála, i.e. *'the use of the development as a performance/conference centre shall be for agri-related purposes'* (sic).

Valuation by the Appellant

Mr Kenneally contended for an NAV as at November 1988 as follows:

Agreed gross external floor area 1,585 sq. metres x €21 per sq. metre = €166 RV.

Appellant's Comparison Properties

In support of his opinion of rateable valuation Mr Kenneally put forward two comparison properties with comment as follows:

1. Purpose built theatre style / tiered auction room in adjoining Kilkenny Co-Op Mart premises – seating capacity for 500, smaller quantum of *circa* 702 sq. metres – devalues at €32 per sq. metre 2008 Appeal. Forms part of property no. 2191556.
2. Michael Brannigan & Son Ltd., Talbots Inch, Freshford Road, Kilkenny, Property No. 201274 – 2000 Appeal. Warehouse portion of overall property 1,706 sq. metres, devalues at €27.35 per sq. metre.

Cross-examination of the Appellant

Mr Kenneally said that the subject property may at times be used for purposes other than that of a conference centre, but on his inspection it was being used for agri-related purposes. He contended that the building was an industrial style one and should be rated as such with the nearest and best comparables in his opinion being Kilkenny Co-Op Mart and Michael Brannigan & Son Ltd., and that quantum should be applied based on his comparables.

Mr Kenneally further pointed out that in Ms Lambe's submission she stated that 'ample car parking' is available to the subject property, but he said that this car parking was intrinsic to the Kilkenny Co-Op Mart premises.

Respondent's Case

Ms Lambe contended for a rateable valuation assessed at 0.50% of the Net Annual Value, which is in line with the basis adopted for the determination of other revised properties in the same rating authority as the subject.

Valuation

Conference Centre (9 metre eaves) 1,585 sq. metres @ €32 per sq. metre. NAV €50,720.

$€50,720 \times 0.005\% = €253.60.$

Say €254.

Respondent's Comparison Properties

In support of her opinion of rateable valuation Ms Lambe put forward four comparison properties, the details of which are attached to this judgment at Appendix 1.

Cross Examination of Respondent

Ms Lambe was asked by the Tribunal if the restricted use of the property had been taken into account in her assessment of the RV of the subject property.

Ms Lambe stated that she followed Section 49(1) of the Valuation Act, 2001. She stated that on the day of her inspection in December 2012 the property was in use as an ice rink.

Ms Lambe was also asked if she considered the eave height of the building to be a factor in her assessment of the RV. She stated that her assessment was based on the type of construction and the location of the subject property and compared to similar type properties in the Kilkenny Rating Area.

On further cross-examination, Ms Lambe agreed to discount Comparable 3 of her précis (industrial style unit at Bellview Port, Waterford). She also agreed that her Comparable 4 should, as stated in her comparable “*be treated with some degree of caution*”.

Summaries

The representatives of both the appellant and the respondent availed of the opportunity to provide summation statements which were a synopsis of the foregoing arguments and positions adopted by them in both their précis of evidence and the hearing.

Determination

The Tribunal has carefully considered the evidence adduced and submissions made by the parties and it accepts the argument of the appellant with regard to the unique nature of the subject property and, in particular, the restrictive use applying to same. In the circumstances the Tribunal determines that the Rateable Valuation of the subject property should be calculated as follows:

1,585 sq. metres @ €25 per sq. metre = €39,625 x 0.5% = €198.125.

Say €198.

And the Tribunal so determines.