

Appeal No. VA98/3/071

AN BINSE LUACHÁLA
VALUATION TRIBUNAL
AN tACHT LUACHÁLA, 1988
VALUATION ACT, 1988

Bradys (Arvagh) Ltd.

APPELLANT

and

Commissioner of Valuation

RESPONDENT

RE: Garage/Filling Station/Yard at Map Reference 14B, Town: Drumalt, E.D. Arvagh, R.D. Cavan, Co. Cavan

B E F O R E

Con Guiney - Barrister at Law

Deputy Chairman

Finian Brannigan - Solicitor

Member

Ann Hargaden - FRICS.FSCS

Member

JUDGMENT OF THE VALUATION TRIBUNAL
ISSUED ON THE 6TH DAY OF JUNE, 2000

By Notice of Appeal dated the 30th day of July 1998, the appellant appealed against the determination of the Commissioner of Valuation in fixing a rateable valuation of £140 on the above described hereditament.

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

- "1. The valuation is excessive and inequitable
2. Bad in law".

The oral hearing took place at the Office of the Valuation Tribunal, Ormond House, Dublin on the 24th day of May 1999. Mr Alan McMillan ASCS ARICS MIAVI of GVA Donal O'Buachalla & Co Ltd. appeared on behalf of the appellant and Mr Ray McSweeney, a District valuer with 29 years experience in the Valuation Office appeared on behalf of the respondent.

VALUATION HISTORY

The property was first valued in 1984 and fixed at first appeal at RV £140. At 1984 First Appeal RV £140 was fixed on newly erected buildings. At the 1997/4 revision, the local authority listed the property for revision of valuation to take account of additional canopy and additional petrol pumps. The revising valuer inspected the property and calculated a revised valuation slightly in excess of £140 but recommended no change in valuation. A first appeal was lodged against this decision but no change was made in the 1997/4 first appeal and an appeal to Valuation Tribunal was lodged.

The Property

(a) *Situation*

The property is located on the eastern edge of Arvagh fronting onto the Cavan Road. Arvagh is a small rural town with a population of approx. 350, located some 21km southwest of Cavan town. This is a rural location close to the border of counties Cavan Longford and Leitrim. Longford town lies some 30km to the southwest.

(b) *Description and accommodation*

The subject comprises of a garage and showroom, built in 1983 on a sloping site with extensive frontage to the public roadway.

A paved forecourt area is provided to the front with circulation areas to the sides and rear. The rear yard is mainly hardcored. The buildings, which are clustered, comprise of a Workshop, Showroom and Service Buildings (offices, parts store, toilets and canteen).

The workshop is of steel portal frame construction with concrete floor under insulated corrugated asbestos-sheeted roof. The lower section of the in-fill wall is of concrete block construction with metal cladding thereafter to the eaves.

The headroom is approx. 4.8m (16ft.)

Floor Area 514.7 sq. m. (5,540 sq. ft.)

The Showroom is of similar construction to the workshop but incorporating extensive glazed walling (single glazing in aluminium frames).

The headroom is approx. 4m (13ft.)

Floor Area 422.2 sq. m. (4,545 sq. ft.)

The Service Block is located to the rear of the showroom and under the same roof and is again a steel portal frame construction etc.

Internally, the accommodation is partitioned to provide some small sales and administrative offices. The bulk providing parts storage and staff canteen and toilets.

Floor Area: 334.4 sq. m. (3600 sq. ft.)

Total Floor Area: 1,272.3 sq. m (13,695 sq. ft.)

The Tribunal was informed that the floor areas were agreed as between the parties.

THE APPELLANT'S CASE

Mr Alan McMillan adopted his précis and gave evidence and the following details were outlined:

The premises is a modest garage/showroom facility constructed about 15 years previously, on a spacious site adjoining Arvagh about 14 miles from Cavan town. The

floor areas are agreed. Arvagh has a population of 350 people and there is a small petrol pump with a small concrete apron. The valuation of the forecourt sales area has been agreed.

According to the valuation set by the Valuation Office, the letting value of the premises is £28,000 per annum but the owner Mr Brady could not let the premises at this figure which is clearly excessive taking the assumed valuation date of November 1988 into account in addition to the nature of the buildings and the location.

He said the appellant company held the franchise for VW, Audi and Mazda for Co Cavan but he wished to emphasise that the proprietor's success in retaining these franchises was due to his exceptional entrepreneurial skill and long family tradition in the business in this location and owed little to the location itself which is far from Cavan town, the hub of commercial activity in Co Cavan.

He said that typically a main dealership would be found close to the county town or another major town and that Cavan was no exception in that Nissan, Mitsubishi, Toyota, Renault, Ford, Opel, Honda and Peugeot dealerships are all located in or close to Cavan town. He submitted that the commercial reality must be given due weight in comparing the valuation of the subject premises to competitors located in Cavan town. Arvagh was not only a small town but had no significant town within a 20km radius of it. He further stated that Arvagh was on a very poor road network and did not lie on a principal national or secondary route between significant centres of population.

In Mr McMillan's opinion, the size of the subject premises was clearly too large in Arvagh terms. He asked that the Tribunal consider the premises as "vacant and to let" and not in the occupation of the appellant who due to his own personal skills and family tradition maintained his significant dealerships in the face of such locational adversity.

Mr McMillan referred to three comparisons, each located on the outskirts of Cavan town details of which are in Appendix 1 attached hereto. He gave a summary of his comparisons as follows:

| Property | Total Floor Area | Devalues |
|-----------------|-------------------------|---|
| Cavan Motors: | 15,334 sq. ft. | @ £1.97 psf (plus for Compound and Yard) |
| Erne Motors: | 7,116 sq. ft. | @ £2.20 psf (yard and Compound reflected) |
| Interparts Ltd: | 9,700 sq. ft. | @ £1.40 psf (plus for Yard) |
| SUBJECT: | 13,685 sq. ft. | @ £1.86 psf (plus £2,500 on Forecourt) |

He said that the subject was valued at equivalent rates to Cavan Motors (Nissan) and higher than Interparts, which is on the Dublin Road, Cavan. He said the subject property was twice the size of Erne Motors (Toyota), which has no petrol pumps and reflects valuable yardage and forecourt. Mr McMillan's estimate of RV was as follows:

| | | | | | |
|----------------|-----------------|---|-------------------|---|---------|
| Buildings: | 13,685 sq. ft. | @ | £1.25 per sq. ft. | = | £17,106 |
| Forecourt etc: | £2,500 (agreed) | | | | |
| NAV | | | | = | £19,600 |
| RV @ 0.5% | | | | = | £98 |

When questioned by Mr Sweeney for the respondent in relation to the fact that the valuation had remained unchanged since it was fixed in 1984, Mr McMillan stated that we were in a new era and that it was up to the Commissioner of Valuation to assess an NAV and apply the figure of .5% to it and not to rely on the old square metre basis.

Mr. Phil Brady of the appellant company was sworn and gave evidence and stated that he built a large Showroom in 1983 and following this his business went through a bad patch. He said that he still had the VW and Audi agency but he received a letter terminating his Mazda agency because they preferred to see him in Cavan town

On cross-examination he denied he was a Mitsubishi dealer and that it was his brother who was a Mitsubishi dealer. He said he would not agree that he was a major dealer in Cavan although he had advertisements every couple of months in the Anglo-Celt.

THE RESPONDENTS CASE

Mr. Raymond Sweeney a District valuer of 29 years experience in the Valuation Office adopted his summary of evidence and gave his evidence. He maintained that the property comprises an excellent garage premises and was in excellent condition and was structurally first class situate on the main Cavan/Longford Road on a landscaped and elevated site on the edge of Arvagh town. The premises was erected in 1983 and subsequently a canopy over the petrol pumps and further pumps were added.

The buildings comprise Showroom 4,545 sq. ft. to the front with Offices/Canteen/Stores of 3,600 ft. to the rear and Workshop of 5,540 sq. ft. at the side. He stated that all measurements were agreed. He said there was good functional layout, extensive parking and circulation space on a spacious site.

He said that the RV of £140 on the property was unchanged since 1984 and in 1984 first appeal this figure was fixed on the newly erected buildings. At 1997/4 Revision the local authority listed the property for revision of valuation to take account of the addition of a canopy and additional petrol pumps but the revising valuer calculated the valuation at slightly in excess of £140 but recommended no change in valuation. A First appeal was lodged against the decision but no changes were made in the 1997/4 first appeal and an appeal to the Valuation Tribunal was lodged. He said he believed the decision of the revising valuer to be somewhat favourable to the appellant and that in the circumstances he could not negotiate a reduction. Mr Sweeney gave four comparisons details of which are contained in appendix number two attached. These comparisons were No. 1 - Cavan Motors, Ballinagh Road, Cavan. No. 2 - County Garages Cootehill, Co Cavan, No. 3 - McDaniel Motors, Kingscourt, Co Cavan and No. 4 Cootehill Motors, Cootehill, Co Cavan.

Mr. Sweeney commented on his comparisons saying that the Showroom valuations in respect of his comparisons varied from £3 to £4 psf for small to £2.50 for fairly large showrooms. The £2.25 psf adopted in respect of the subject premises was submitted by him to be reasonable on the basis of these comparisons.

With regard to the workshops he said that his comparisons varied from £1.50 to £2 psf for sizes varying from 2,222 sq. ft. to 5,754 sq. ft. and that the workshop basis of the subject property at £1.50 psf was reasonable in the circumstances.

With regard to the offices/canteen/parts store block in respect of the subject premises assessed at £2 psf this area was better than a workshop but not quite as valuable as a showroom.

He stated that the subject comprised a valuable property, spacious and well laid out on the edge of Arvagh Village, which is on the R.198 main Cavan to Longford Road. There was an extensive catchment area and the premises was considered to be superior to comparisons quoted in terms of structure/site. Mr Sweeney was cross-examined by Mr McMillan on his oral evidence and the contents of his précis and he disagreed that the respondents had failed to distinguish adequately between the skills of Mr Brady as an entrepreneur in making a success of the business and the value of the premises itself standing alone. Mr Sweeney said he believed the rates adopted were fair and that the premises was a good premises structurally.

With regard to his Cavan Motors comparison he said in answer to Mr McMillan's question that Cavan Motors was admittedly in a better location but was not as good structurally as the subject premises. He accepted that County Garages Cootehill which was his second comparison was approximately one third the size of the subject premises and that comparison number three McDaniel Motors Kingscourt was in a town which had an industrial base with a population of approx. 1,200. He stated that his fourth comparison Messrs Cootehill Motors of Cootehill was off the main road without main road frontage. When asked about Cavan town and the attractions of this location by Mr. McMillan, Mr. Sweeney stated that Cavan town was very competitive.

DETERMINATION

The Tribunal in considering both parties evidence accepts that the subject premises is a good structure but that it is in a bad location. The Tribunal considers that the success of the business is due in large part to the efforts of Mr Brady of the appellant company, rather than to the premises itself.

Having considered the various comparisons and evidence in relation to same given by both valuers and taking all other relevant factors into consideration the Tribunal determines the valuation as follows:

| | | | | | |
|------------------------|---------------|------------|----------|---|-------------|
| Showroom | 4,545 sq. ft. | @ | £1.75psf | = | £7,953.75 |
| Offices/Canteen/Stores | 3,600 sq. ft. | @ | £1.50psf | = | £5,400 |
| Workshop | 5,540 sq. ft. | @ | £1.00psf | = | £5,540 |
| Forecourt/fuel sales | Agreed | @ | £2,500 | | |
| Total | | | | | £21,393.75 |
| NAV | | | | | £21,393.75 |
| | | @ .5% | | = | £106.96 |
| | | say | | | £107 |

and the Tribunal so determines.